Witness Name: Professor Frank Smith
Statement No: RCS-00021

Dated: 26 February 2026

ELJAMEL INQUIRY WRITTEN STATEMENT OF PROFESSOR FRANK SMITH

I, Frank Smith, will say as follows:-

Part A Your roles and responsibilities

1. Please set out your qualifications. If there is more than one contributor to the statement, please set out the qualifications of each, with a description of which part(s) of the statement each one contributed and why.

1.1. My professional qualifications are BSc, MBChB, MSc, MD, FRCS (England), FRCS (Edinburgh), FRCS (Glasgow), FRCS (Ireland), FEBVS (Fellow of the European Board of Vascular Surgery), FHEA (Fellow of the Higher Education Academy).

2. Please explain your professional/ occupational background, in particular focussing on roles and the responsibilities which you held/ hold relevant to or potentially relevant the neurosurgical department of Ninewells Hospital or Mr Eljamel. If you wish, you may exhibit a CV/ CVs with your statement.

2.1. I am Emeritus Professor of Vascular Surgery and Surgical Education at the University of Bristol. I trained in vascular surgery in the West Midlands, Edinburgh and the South-West, undertaking travelling fellowships in Boston, Denver, Los Angeles and Seattle. I have been a Member of RCS England since 11 July 1990. I was first elected to RCS England Council in 2020 and was elected for a second term and to the role of Vice President and Trustee in July 2024. I have held the position of Chair of the Invited Review Mechanism (“IRM”) since July 2023. Prior to July 2023 I did not have any direct involvement with the governance and running of the IRM. I do not and have never had any role or responsibility relevant to the neurosurgical department of Ninewells Hospital or Mr Eljamel.

Part B – General role and responsibilities of the RCS

3. Please provide an overview as to the role, function and responsibilities of RCS over the relevant period, in particular with regard to functions of relevance to the provision of neurosurgical care at Ninewells Hospital, Dundee and in other hospitals under the control of NHS Tayside providing neurosurgical services.

3.1. The Royal College of Surgeons of England ("RCS England") was set up by Royal Charter in 1800 for the study and promotion of the art and science of surgery. We are one of the best-known medical professional membership organisations in the world, with a name and reputation that speak for excellence in the UK and across the globe. We provide education, assessment and development to over 27,000 surgeons and dental surgeons at all stages of their career; we set professional standards, facilitate research and champion world-class surgical outcomes for patients. RCS England's vision is to see excellent surgical care for everyone. We achieve this vision by enabling our members, in all their diversity, to deliver excellence in everything they do. In doing so we demonstrate our core values of collaboration, respect and excellence. RCS England has five strategic aims set out in the RCS England Annual Report and Accounts 2023-2024 [*RCS -00005*] which are:

- Leading our profession: by being the pre-eminent voice of surgery, and championing excellent surgical care by engaging the profession, policy makers, patients and the public;
- Improving practice: by continually improving the standards, safety and implementation of surgical care, and by developing the workforce across the UK;
- Engaging our members: by inspiring, supporting, educating and representing the professional interests of a growing, diverse membership;
- Embracing diversity: by building an inclusive profession where everyone's contribution is recognised and all feel welcome, demonstrating our commitment to fairness, gender equality and anti-racism; and
- Transforming our College: by building a sustainable, diverse, digital, forward-looking organisation, which plays its part in the world and is accountable for everything it does.

3.2. We deliver public benefit through a wide range of activities that influence and support the training and professional development of surgeons and the delivery of high-quality surgical services for the benefit of patients, surgeons and trainees. We provide strong leadership and support for surgeons in all matters relating to their surgical practice throughout their careers. Our activities and achievements, which all lead to public benefit, reinforce our strategic aims and demonstrate our commitment to maintain the highest standards of surgical practice and patient care.

3.3. In summary, RCS England is an independent professional membership charity that:

- Advises on standards for surgery;
- Educates, trains and examines surgeons and wider members of the surgical care team;
- Supports surgeons to assure the safety of surgical care and to improve its quality;
- Funds and facilitates surgical research;
- Works to influence and shape national and global surgical policy;
- Preserves and promotes the history and heritage of surgery for the wider public; benefit through our library, museum and archives; and
- Supports its members and fellows throughout every stage of their career.

Composition

3.4. RCS England's governing body is its Board of Trustees which is comprised of the:

- President;
- Vice Presidents;
- Dean of the Faculty of Dental Surgery;
- Four lay trustees; and
- Three surgeon trustees elected from Council.

3.5. Under its Charter and ordinances, the Board delegates matters relating to professional and public policy, and matters which support members, to the RCS England Council – RCS England Charter [*RCS-00010*] – RCS England Revised Ordinances [*RCS – 00011*] . Under the governing documents, the Board of Trustees delegate a number of their functions to committees of the Board. These are the Audit and Risk Committee, Finance and Investment Committee and People and Culture Committee (which until October 2021 was the Remuneration and Nominations Committee). Each has clear terms of reference and reports regularly to the Board.

3.6. The Council consists of 24 elected surgical members, 10 appointed surgical specialty association members and two dental surgery fellows elected by the Board of the Faculty of Dental Surgery. Surgical Council members are elected by ballot by fellows and members of the College. Surgical Specialty Association (SSA) members are appointed by a procedure that has been determined by their appointing surgical specialty association and approved by the College. All meetings of the Board and Council are chaired by the President. RCS England Council delegates a number of its main functions to standing committees and subcommittees which report to Council on a regular basis.

3.7. In terms of structure, the RCS England is made up of several Directorates, organised in four groups (People, Culture and Governance, Financial, Commercial and Infrastructure, External Affairs and Engagement, Professional Development Services). The Executive Director Team (EDT) is the Senior Management of RCS England and is chaired by the Chief Executive. The Board delegates to the Chief Executive responsibility for the day-to-day management of RCS England and the Chief Executive delegates management of specific functions to Executive Directors, each of whom is responsible for a portfolio of directorates.

3.8. A further 20 plus professional associations and expert groups exist to represent the interests of, and set standards for, surgical specialties, surgical approaches and wider patient needs. Although separate organisations with their own individual organisational structures and governance processes, the majority are based at the RCS England's Lincoln's Inn home. In particular, the 10 Surgical Specialty Advisory Committee defined Surgical Specialty Associations provide the surgical curricula and wider framework against which qualification within a specific surgical specialty is achieved. Given this role, each of these 10 Surgical Specialty Associations have a formal membership of the RCS England's Invited Review Oversight Group (see below).

Legal entity

3.9. RCS England is a professional membership organisation and registered charity (charity number 212808) funded through membership fees, income generated from its activities and investments and charitable donations, grants and legacies. RCS England is independent of the UK NHS and Government.

3.10. RCS England does not, and did not over the relevant period, have any formal oversight over the provision of neurosurgical care at Ninewells Hospital, Dundee and in other hospitals under the control of NHS Tayside providing neurosurgical services.

The RCS England in 2013

3.11. RCS England's structure and governance in 2013 was analogous to the way it is run now. RCS England Council was responsible for the overall direction of the College and delegated the direction of specific functions to individual members of Council. The College management was organised on a directorate structure to suit the developing activities of the College. The Chief Executive was responsible for the overall management of the College and delegated management of specific functions to Directors, each of whom was responsible for a directorate working under the direction of a responsible member of Council.

3.12. The following objects and aims are described in the 2013 RCS England Annual Report [*RCS -00003*]:

3.12.1. **Mission statement**

The RCS is committed to enabling surgeons to achieve and maintain the highest standards of surgical practice and patient care.

3.12.2. **Core values**

We will:

- put the interests of patients at the heart of all we do;
- provide leadership and support for surgeons of all specialties;
- develop the potential of surgeons through education, training and research;
- work closely with the specialist associations and other organisations to achieve our mutual aims;
- foster and develop the College's employees;
- promote equality of opportunity and act against discrimination in all aspects of College life; and
- be fair, responsible, open and accountable for all we do.

3.12.3. **Strategic aims**

We will:

- provide strong leadership and support for surgeons in all matters relating to their surgical practice, throughout their surgical careers;
- work with patients, the general public and government to improve surgical services;
- consolidate the College's position as a leading national and international centre for surgical education, training, assessment, examination and research;
- lead the whole multi-professional surgical team in all matters relating to the care of the surgical patient, including the surgical treatment of children, and further develop its role in setting and maintaining standards of practice for all the members of that team throughout their careers;
- develop the College's structure and function to allow it to achieve its goals; and
- promote, by consultation and collaboration with other royal colleges, the specialist associations and other interested parties, the development of an effective single voice for surgery on relevant professional issues.

3.12.4. **Public benefit**

The RCS delivers public benefit through a wide range of activities that influence and support the professional development of surgeons and the delivery of surgical services for the benefit of patients, surgeons and trainee surgeons. We are committed to enabling surgeons to achieve and maintain the highest standards of surgical practice and patient care. We provide strong leadership and support for surgeons in all matters relating to their surgical practice throughout their careers. Our activities and achievements, which all lead to public benefit, reinforce our strategic aims and demonstrate our commitment to maintain the highest standards of surgical practice and patient care.

4. Please provide an explanation of the areas related to the care of Mr Eljamel's neurosurgical patients in which RCS (a) had exclusive responsibility; and (b) had shared competence with other government departments, agencies, public or private bodies over the relevant period for systems relating to the provision of neurosurgical care at Ninewells Hospital, Dundee and in other hospitals under the control of NHS Tayside providing neurosurgical services. As regards (b) please set out how RCS's responsibilities overlapped or interacted with the responsibilities of those other bodies in that regard.

4.1. Outside of a commissioned invited individual review (see below) RCS England did not have any exclusive responsibility or shared competence with other government departments, agencies, public or private bodies over the relevant period for systems

relating to the provision of neurosurgical care at Ninewells Hospital, Dundee and in other hospitals under the control of NHS Tayside providing neurosurgical services. To the best of my knowledge, based on a review of our records and discussions with colleagues, I am unaware of any wider involvement with RCS England beyond the invited review in relation to Mr Eljamel, the provision of neurosurgical care at Ninewells Hospital, Dundee and in other hospitals under the control of NHS Tayside providing neurosurgical services.

4.2. RCS England is not a healthcare regulator. Concerns about doctors', including surgeons', professional practice raised by healthcare organisations is usually, in the first instance, managed locally by their employing healthcare organisation through their internal processes. RCS England is able to support healthcare organisations in considering concerns about a surgical service, an individual surgeon's practice and/or an episode or series of episodes of patient care in an advisory capacity. Every UK healthcare provider, including NHS Trusts and Health Boards, has a Responsible Officer (RO) who has responsibility for overseeing medical governance, ensuring doctors are properly appraised, revalidated, and supported to deliver safe, high-quality care. The General Medical Council (GMC) is the regulator for doctors in the UK. Any individual and/or organisation can raise concerns about a doctor with the GMC. GMC Employer Liaison Advisers (ELAs) are a main point of contact between the GMC and healthcare providers. GMC ELAs assist healthcare providers manage concerns about doctors by offering advice, supporting local resolution where possible, and guiding when a referral to the GMC is necessary.

4.3. Healthcare Improvement Scotland (HIS) (founded 2011) is the systems regulator for healthcare in Scotland and inspects, reviews and enforces standards in Scottish Health Boards.

5. Please provide a high-level overview of the structure of RCS and a list of key individuals and their roles within RCS over the relevant period, insofar as relevant to the neurosurgical service provided by it and the matters covered by the Inquiry's Terms of Reference and List of Issues by way of organogram, if necessary.

5.1. The structure of RCS England and a list of key individuals and their roles with RCS England over the relevant period (i.e. the period in which the invited review took place) are included in the RCS Annual Reports for 2013 [*RCS -00003*] and 2014 [*RCS -00004*]. Internal oversight and governance of the IRM was provided by the Invited

Review Mechanism Joint Standing Committee (IRMJSC), subsequently known as the Invited Review Oversight Group (IROG) from November 2015. The Chair of IRMJSC during 2013-14 was the late Dame Clare Marx DBE DL FRCS followed by Mr Peter Lamont FRCS, once Dame Clare was elected as RCS President in 2014. The IRMJSC Society of British Neurological Surgeons ("SBNS") representative during 2013-14 was Mr Richard Kerr FRCS.

6. Please explain how the role of RCS over the relevant period fitted with the role/ remit of the following key organisations which did or could have had a role in the oversight of aspects of the professional practice of Mr Eljamel:

(a) NHS Tayside or its predecessor organisations;
(b) The Scottish Executive/ Scottish Government;
(c) Insofar as relevant to the provision of healthcare over the relevant period, the UK Government;
(d) Healthcare Improvement Scotland and its predecessor organisations;
(e) NHS Education for Scotland and its predecessor organisations;
(f) The Department for Medical Education;
(g) The University of Dundee;
(h) The Royal College of Surgeons (Edinburgh);
(i) Other Royal Colleges which may have had a role or a possible role in relation to the practice of neurosurgery within NHS Tayside over the relevant period;
(j) The General Medical Council;
(k) The British Medical Association;
(l) The Health and Safety Executive; and
(m)Any other bodies which held a remit relevant to matters falling within the Inquiry's Terms of Reference.

6.1. As set out previously in this statement, RCS England is a professional membership organisation and registered charity that provides education, assessment and development to surgeons, dental surgeons and members of the wider surgical and dental teams at all stages of their career; sets professional standards, facilitates research and champion world-class surgical outcomes for patients. While RCS England works with organisations including (but not limited to) UK NHS organisations, UK and Ireland Surgical Royal Colleges (Royal College of Surgeons of Edinburgh, Royal College of Physicians and Surgeons of Glasgow, Royal College of Surgeons in Ireland) in carrying out its functions, setting standards and influencing healthcare

policy, RCS England is not a healthcare regulator and did not, and does not, have any formal oversight over the professional practice of Mr Eljamel or the practice of Neurosurgery within NHS Tayside.

7. **Please explain the main principles of policies and practices governing the role of RCS, including how and when these evolved over the relevant period, insofar as they were relevant or potentially relevant to the practice of Mr Eljamel, relating to:**

(a) Appointments of consultants over the relevant period, including but not limited to the process by which consultants' professional qualifications and competence are verified (ToR 1);
(b) Broad systems of clinical governance, in place over the relevant period and how they evolved, including corporate governance, professional governance and whistleblowing (ToR 3);
(c) Broad systems and rules about work patterns within the NHS, balancing work between the NHS and the private sector (ToR 2/ 3) and about supervision/ training of junior colleagues (ToR 2);
(d) Complaints and feedback systems within the NHS (ToRs 4 and 5);
(e) Internal and external information sharing systems, candour, including with professional bodies and the GMC (ToRs 7 and 13);
(f) Rules and practices relating to clinical supervision, suspension, dismissal and removal of the name of a neurosurgeon from the GMC medical register (ToRs 8 to 11);
(g) Investigations undertaken into the professional practice of consultants in the NHS in Scotland over the relevant period, such as those covered by ToR 12;
(h) The creation and maintenance of effective document management systems within health boards such as NHS Tayside over the relevant period and subsequently (ToR 14); or
(i) Any other matters falling within the ambit of the Inquiry's Terms of Reference or provisional List of Issues.

7.1. As set out previously in this statement, RCS England is a professional membership organisation and registered charity that provide education, assessment and development to over surgeons, dental surgeons and members of the wider surgical and dental teams at all stages of their career; sets professional standards, facilitates research and champion world-class surgical outcomes for patients. While RCS England works with organisations including (but not limited to) UK NHS organisations,

UK and Ireland Surgical Royal Colleges (Royal College of Surgeons of Edinburgh, Royal College of Physicians and Surgeons of Glasgow, Royal College of Surgeons in Ireland), the GMC in carrying out its functions, setting standards and influencing healthcare policy, RCS England is not a healthcare regulator and did not, and does not, have any formal oversight over the professional practice of Mr Eljamel or NHS Tayside. The latest published RCS England annual report for 2023-2024 sets out the broad objectives and aims of RCS England [*RCS -00005*].

7.2. RCS England's Invited Review Mechanism provides a fair, independent professional review which will support, but not replace, a healthcare organisation's existing local procedures for dealing with such matters (or the processes of any United Kingdom formal regulatory body). In certain circumstances where a healthcare organisation needs an external expert opinion, an invited review can provide expert independent and objective advice. An invited review supplements - but does not replace – a healthcare organisation's existing procedures for managing surgical performance or the processes of any formal regulatory body.

Part C – Mr Eljamel's links to RCS

8. Please set out any affiliations which Mr Eljamel has or had to RCS and the nature and duration of them, as well as the same information of which RCS is aware regarding Mr Eljamel's links with any other professional organisations, including Royal Colleges.

8.1. I am not aware of any affiliations Mr Eljamel had or has with RCS England or any links with any other professional organisations, including Royal Colleges (other than from publicly available information provided to the Inquiry that Mr Eljamel was a fellow and examiner of the Royal College of Surgeons of Edinburgh).

9. What professional accreditations, awards or achievements were granted to Mr Eljamel by RCS, including their nature and timing, as well as the same information of which RCS is aware regarding Mr Eljamel's accreditations, awards or achievements granted to Mr Eljamel by any other professional organisations, including Royal Colleges.

9.1. RCS England has no record of any professional accreditations, awards or achievements granted to Mr Eljamel by RCS England.

10. Was Mr Eljamel ever a member of any RCS body or committee? If so, please provide details.

10.1. Mr Eljamel has never been a member of RCS England or a member of any RCS England committee. To be on a RCS England committee, a surgeon would need to be an RCS England member.

11. With regard to any affiliation, accreditation, membership, award or achievement with or granted by the RCS: (a) What steps were taken to determine Mr Elamel's suitability or qualification for these? (b) What was the reasons these were awarded to Mr Eljamel? 14 (c) By whom were these decisions made? (d) What entitlement(s) or rights flowed from these?

11.1. Please refer to the responses to 9 and 10.

12. What professional training, if any, did Mr Eljamel deliver or complete with the RCS?

12.1. RCS England does not hold any record of Mr Eljamel being involved in delivering or completing professional training with RCS England.

13. What involvement did RCS have in any research projects in which Mr Eljamel was involved, including any funding provided? In this regard: (a) Please set out the nature and timing of the research. (b) Please set out the nature of any involvement on the part of RCS in any such research project. (c) By whom and how were any applications made to RCS by Eljamel relating to research determined?

13.1. RCS England does not hold any record of Mr Eljamel being involved in RCS England research projects.

14. What (a) reports were made to the RCS (by Mr Eljamel or others) and (b) assessment, if any, was undertaken by the RCS of Mr Eljamel relating to the following: (a) Mr Eljamel's technical surgical skills; (b) Mr Eljamel's patient care, including communication with patients; or (c) Mr Eljamel's workload management, including his commitment to private practice.

14.1. Other than in relation to the invited review that was commissioned in 2013 (which is covered further on), I am not aware of any reports made to RCS England and/or assessment relating to (a) Mr Eljamel's technical surgical skills; (b) Mr Eljamel's patient care, including communication with patients; or (c) Mr Eljamel's workload management, including his commitment to private practice.

15. Was any report made to the RCS by Mr Eljamel or others (including but not limited to NHS Tayside or other surgeons) of any adverse events occurring in or issues related to the care of his patients? If so, please set out details. What role could RCS have played in handling or advising on any such adverse events or issues

15.1. Other than in relation to the invited review (which is covered further on), I am not aware of any report made to the RCS by Mr Eljamel or others (including but not limited to NHS Tayside or other surgeons) of any adverse events occurring in or issues related to the care of his patients. As set out previously, RCS England is not a healthcare regulator. The only formal way in which RCS England can become involved in advising on such issues involving an individual's practice is through the IRM, which occurred in 2013 when Dr Andrew Russell, Medical Director at NHS Tayside wrote to the Chair of the IRM.

16. Please set out the identity of key individuals within RCS who had engagement with Mr Eljamel and the nature and timing of that engagement.

16.1. Other than in relation to the invited review (which is covered further on), I am not aware of any individuals within RCS England who had engagement with Mr Eljamel.

<u>Part D – Involvement of RCS with the professional practice of Mr Eljamel</u>

17. How might concerns regarding Mr Eljamel's professional practice have been brought to the attention of the RCS?

17.1. The only way in which RCS England could have become involved in providing advice on matters of Mr Eljamel's professional practice is through an invited review, which occurred in 2013.

17.2. Concerns were brought to the attention of RCS England when, on 26 June 2013, Dr Andrew Russell, Medical Director at NHS Tayside wrote to the Chair of the Invited Review Mechanism to request an invited individual review of Mr Eljamel's practice; to review Mr Eljamel's clinical knowledge, technical skills and judgement as well as his interpersonal skills. Due to the passage of time and in line with our data retention policy, we do not have a copy of this correspondence. This information is provided in the invited individual review report dated December 2013.

17.3. RCS England is not a healthcare regulator. Concerns about doctors, including surgeons, professional practice raised by healthcare organisations should always, in the first instance, be managed locally by their employing healthcare organisation through their internal processes. RCS England is able to support healthcare organisations in considering concerns about a surgical service, an individual surgeon's practice and/or an episode or series of episodes of patient care in an advisory capacity. Every UK healthcare provider, including NHS Trusts and Health Boards, has a Responsible Officer (RO) who has responsibility for overseeing medical governance, ensuring doctors are properly appraised, revalidated, and supported to deliver safe, high-quality care. The General Medical Council (GMC) is the regulator for doctors in the UK. Any individual and/or organisation can raise concerns about a doctor with the GMC. GMC Employer Liaison Advisers (ELAs) are a main point of contact between the GMC and healthcare providers. GMC ELAs assist healthcare providers manage concerns about doctors by offering advice, supporting local resolution where possible, and guiding when a referral to the GMC is necessary.

17.4. Healthcare Improvement Scotland (HIS) (founded 2011) is the systems regulator for healthcare in Scotland and inspects, reviews and enforces standards in Scottish Health Boards.

18. Please set out a broad chronology of the involvement of RCS with or their knowledge of the professional practice of Mr Eljamel, including:

(a) The nature and timing of any intimation to them of matters relating to the professional practice of Mr Eljamel or any other matter falling within the ambit of the Inquiry's Terms of Reference or provisional List of Issues;
(b) The nature and timing of any meetings attended by or correspondence involving any representatives of RCS relating to the professional practice of Mr Eljamel or any

other matters falling within the ambit of the Inquiry's Terms of Reference or provisional List of Issues;
(c) The process leading to any appointment of Mr Eljamel to any roles within NHS Tayside covered by ToR 1;
(d) Mr Eljamel's clinical supervision, suspension, resignation from NHS Tayside or his removal from the GMC register (ToRs 8 to 11);
(e) Any of the investigations relating to Mr Eljamel or systems relating to his professional practice in NHS Tayside covered by ToR 12;
(f) The document management systems within NHS Tayside relating to the professional practice of Mr Eljamel over the relevant period or subsequently (as covered by ToR 14); or
(g) Any action or decisions taken by or involving RCS relating to the professional practice of Mr Eljamel or any other matter falling within the ambit of the Inquiry's Terms of Reference or provisional List of Issues, including the reasons for any such action or decisions. In setting out the chronology requested under above, please identify any key individuals within RCS involved in any of the listed matters and the nature of their involvement.

18.1. A chronology of the involvement of RCS England with, or its knowledge of, the professional practice of Mr Eljamel is as follows:

- 26 June 2013 – Request for an individual invited review of Mr Eljamel's practice received from Dr Andrew Russell, Medical Director at NHS Tayside.
- 16-17 September 2013 – Invited review visit at NHS Tayside took place. The members of the invited review team and those interviewed in the review are detailed in the invited review report – [*RCS – 00014*]. The review team consisted of Mr Neil Kitchen, FRCS representing RCS England, Mr Nicholas Phillips, FRCS representing SBNS (jointly "the clinical reviewers") and Ms Helen Carter ("the lay reviewer").
- 2 October 2013 – Mr Eljamel was interviewed by the invited review team.
- 4 October 2013 – An interim immediate advice letter was issued to the Medical Director of NHS Tayside, the details of which are summarised in the report.
- 6 December 2013 – Invited review report issued to NHS Tayside.
- 28 January 2014 & 22 July 2014 – Our review tracking system indicates that updates on the recommendations in the report were received from NHS Tayside.

- 20 November 2014 – RCS England IRM's involvement in the review concluded.
- 28 January 2019 – CID Tayside contacted RCS England with a request for information.
- 8 February 2019 – RCS England Head of Invited Reviews emailed CID Tayside attaching a copy of the report (after seeking permission to share the report from NHS Tayside).
- 5-6 October 2020 – Email correspondence between CID Dundee and RCS England Head of Invited Reviews regarding request for information.
- 29 January 2021 – 19 February 2021 - Email correspondence from CID Dundee requesting information on independent medical experts and responses from Head of Invited Reviews.
- February 2022 – Request received from Police Scotland for information held on Mr Eljamel and response provided by RCS England.

A copy of the correspondence between RCS England and Police Scotland as per the chronology set out above is produced at [*RCS-00015*] that confirms the only documentation relating to Mr Eljamel's practice at NHS Tayside on file was a copy of the invited individual review report in relation to Mr Eljamel dated December 2013.

19. To what extent could RCS have become involved in matters the professional practice of Mr Eljamel? What actions could RCS have taken in terms of their legal and regulatory responsibilities?

19.1. As described, the only formal way in which RCS England could have become involved in matters of Mr Eljamel's professional practice is through an invited review, which occurred in 2013. Invited reviews are advisory and it is the responsibility of the commissioning healthcare organisation (which here was NHS Tayside) to act upon the recommendations in an invited review. Invited review arrangements are not regarded as an abrogation of, or a replacement for, the healthcare organisation's own decision making and disciplinary procedures which must strictly be applied according to their terms. The healthcare organisation remains entirely responsible for all decisions or subsequent actions, upon which it is urged to seek appropriate legal advice. This includes an appropriate response to any actual or potential concerns that exist about patient care. This remains the case, before, during and after our review. RCS England has no regulatory or legal power of enforcement and is advisory in its role.

Part E – the Royal College of Surgeons report (2013)

20. How did the RCS's invited review mechanism work?

20.1. The Invited Review Mechanism ("IRM") was established in 1998 by the RCS England and the Surgical Specialty Associations (SSAs) to assist healthcare organisations to improve surgical standards. The service was established as a part of the College's work to support the surgical profession to respond to the tragic circumstances which led to the report of the public inquiry into children's heart surgery at the Bristol Royal Infirmary (BRI) 1984-1995, chaired by Professor Sir Ian Kennedy, published on 18 July 2001. It is intended that the RCS England's invited review process is seen as giving a fair, independent professional review which will support, but not replace, a healthcare organisation's existing local procedures for dealing with such matters (or the processes of any United Kingdom formal regulatory body). In certain circumstances where a healthcare organisation needs an external expert opinion, an invited review can provide expert independent and objective advice. An invited review supplements - but does not replace – a healthcare organisation's existing procedures for managing surgical performance or the processes of any formal regulatory body.

20.2. In general, RCS England is able to offer three types of invited review:

a) Service reviews assist healthcare organisations by providing independent expert advice on the way a surgical service is being delivered and how this might be improved.
b) Individual reviews assist healthcare organisations in identifying whether there is a problem to consider or case to be answered with regard to alleged unsatisfactory surgical practice of an individual surgeon.
c) Clinical record reviews provide an independent expert opinion on whether the management of a specific case or series of cases has met the required RCS/SSA standards. Clinical record reviews can range from a single episode of care to multiple episodes of care.
d) The invited review in relation to Mr Eljamel's practice was an individual review.

20.3. The IRM is overseen by the Invited Review Oversight Group, made up of representatives from the RCS England Council, the ten SSAs and the Faculty of Dental Surgery. The only oversight group members who would have had any dealings with the invited review in relation to Mr Eljamel would have been the Chair (the late Dame Clare Marx DBE DL FRCS, followed by Mr Peter Lamont FRCS) and the SBNS representative (Mr Richard Kerr FRCS). The Group also includes co-opted representatives from the Royal College of Surgeons in Ireland (RCSI) and Practitioner Performance Advice (PPA). This Group oversees invited review activity and the development of the service. Members of the group may also provide advice on the handling of requests for reviews and support reviewers in their role. The invited review mechanism advice is provided on a private contractual basis between the commissioning healthcare organisation and the RCS England. In commissioning a review, the healthcare organisation must agree to the conditions of the review as set out in the RCS England's "Invited Review Handbook 2018" [*RCS-00006*] and its previous iteration "Invited Review Handbook 2014" [*RCS-00007*]. Prior to this – and at the time of the invited review - there were standalone regulations and guidance for healthcare organisations – "Individual Review Regulations" [*RCS – 00012*] and "Individual Review Guidance for Hospitals" [*RCS–00013*]. The healthcare organisation commissioning the review pays a fee to the RCS England for the review. The fee depends on the nature and scope of the review. The invited review service can be used across the NHS and the independent sector in England, Scotland, Wales and Northern Ireland as well as the Republic of Ireland and Crown Dependencies. Invited reviews are delivered through a partnership between the RCS England, the SSAs and, in service and individual reviews, lay reviewers representing the patient and public interest.

20.4. **Engagement with commissioning healthcare organisations and process for undertaking reviews**

20.5. An invited review is initiated when a formal request is made by a healthcare organisation. To do this, a review request form must be completed by the organisation's Chief Executive or Medical Director/Chief Medical Officer (or person of similar standing) and returned to the Chair of the IRM with a covering letter. As part of this request, they confirm they agree to the conditions of the invited review as set out in the RCS England' Invited Review Handbook or if pre-2014, "Individual Review Regulations" [*RCS–00012*] and "Individual Review Guidance for Hospitals" *[RCS–00013*] . The completed review request and any supporting documentation provided

by the healthcare organisation is considered by the Chair of the IRM and the relevant SSA member of the Invited Review Oversight Group and a decision will be made as to whether a review can be offered. It should be noted that because this is a privately contracted service rather than a public function, there can be circumstances when a request to undertake a review is declined by the RCS England.

20.6. The healthcare organisation commissioning the invited review is required to indemnify the RCS England, the SSA and the reviewers undertaking the review by signing a Deed of Indemnity. In addition to the requirements of the Deed of Indemnity there are several conditions attached to a review. These are set out in detail in the Invited Review Handbook. Having agreed to undertake a review, the RCS England and SSA will identify an appropriate review team based on specialty and sub-specialty, who will be appointed to provide an independent and expert view on the circumstances under review. The invited review team will usually be comprised of two clinical reviewers who are surgeons, (one representing the RCS England, one representing the relevant SSA) and, in service and individual reviews, one lay reviewer. Each review has clear and bespoke terms of reference that are jointly agreed by the commissioning healthcare organisation, the review team and the RCS England, before the review takes place. If the review team identify any circumstances where an individual surgeon's performance is unsatisfactory and patient safety may be at risk, appropriate recommendations will be made in their report for consideration and action by the healthcare organisation commissioning the review. Where the matter concerned is urgent, immediate advice about the review team's view will be provided to the Medical Director/Chief Medical Officer of the healthcare organisation (or their nominated deputy) at the conclusion of the invited review visit. This advice will then be confirmed in writing by letter prior to the review team's production of their report, so that the healthcare organisation can take any recommended action as necessary to protect patients, staff and in some circumstances the surgeons themselves. The healthcare organisation commissioning the review remains responsible for patient safety at all times. Following the conclusion of the review visit the RCS England provides a report to the commissioning organisation's senior personnel (usually the individual who has commissioned the review) setting out the information gathered and the reviewers' conclusions and recommendations.

20.7. Prior to release to the commissioning organisation, the draft report is quality assured by:

- The Chair of the IRM (or Deputy Chair);
- A designated representative of the SSA(s);
- In the case of service and individual reviews, a lay person representing the patient and public interest.

20.8. Once the final report has been forwarded to the commissioning healthcare organisation, it becomes the organisation's property and responsibility to act upon. The Invited Review Handbook is clear that invited review arrangements are not regarded as an abrogation of, or a replacement for, the healthcare organisation's own decision making and disciplinary procedures which must strictly be applied according to their terms. The healthcare organisation remains entirely responsible for all decisions or subsequent actions, upon which it is urged to seek appropriate legal advice. This includes an appropriate response to any actual or potential concerns that exist about patient care. This remains the case, before, during and after our review. One of the reasons for this is that the hospital has all the information available within the organisation about the care that is being provided and the circumstances being addressed; the RCS England review is often only one part of this wider patient safety picture. The RCS England, the SSA and/or the reviewers reserve the right to disclose (in the public interest but still in confidence) to a regulatory body, such as the General Medical Council (GMC), the Care Quality Commission (CQC) (in England), Healthcare Improvement Scotland (HIS) (in Scotland) or any other appropriate recipient, the results of the review and any advice or recommendations made to the healthcare organisation if we are not satisfied that an organisation has taken sufficient steps to address the recommendations made, and/or is not fulfilling its statutory duties to patient safety. In practical terms, however, this disclosure is extremely rarely made directly. This is due to any disclosure required, being made first by the healthcare organisation that has commissioned the review. Following issue of an invited review report, RCS England will periodically (typically two-months post-report and then at regular intervals) request updates from the commissioning healthcare organisation on the actions taken to address any recommendations made in the report, until which point RCS England's active involvement in the review can be concluded. We ensure that the Medical Director/other organisational leadership confirm that they understand and accept the recommendations of IRM reports and have addressed them and / or have an action plan in place to address them. Concluding active involvement does not necessarily mean all the required work is complete and the service/situation is

problem free – as with every organisation this will be an ongoing piece of work where the situation on the ground evolves day to day and will always remain the responsibility of the commissioning healthcare organisation's senior leaders. In the event that the commissioning healthcare organisation requires any further advice, support or follow up from RCS England we remain available to provide this.

21. By whom was the 2013 review ordered?

21.1. The 2013 invited review was commissioned by Dr Andrew Russell, Medical Director at NHS Tayside on 26 June 2013.

22. What information and/ or concern had led to the 2013 review being ordered?

22.1. Full details of the concerns that led to the review being commissioned are laid out in the invited review report ("the report") issued on 6 December 2013 [*RCS–00014*]. As set to in the report [*RCS–00014*], in section 7, there were eight patient complaints received by the Trust between January 2013 and September 2013, which was an increase from four complaints in 2012 and three complaints in 2011. Within the complaints, themes of poor performance, wrong site surgery, lack of interpersonal engagement with patients and relatives and poor junior staff supervision were identified.

22.2. The report goes onto detail that, following this, two meetings were held with Mr Eljamel and Mr Philip Loughlin, Clinical Director for Special Services where the pressure Mr Eljamel was under was discussed. On 20 June 2013, Mr Loughlin, Mrs Audrey Warden (General Manager for Specialist Services) and Dr Andrew Russell (Medical Director) met to consider matters further. As detailed in the report [*RCS–00014*], Dr Russell suggested the Trust commission a Review by RCS England and that a meeting should be held with Mr Eljamel to look at restricting his practice during the period of investigation.

23. What was the remit of the 2013 reviews/ investigations? Was its remit adequate to meet the concerns which had prompted the review being commissioned? Further:

(a) How and why were 14 case note reviews selected for specific review? How representative of the practice of Mr Eljamel were they?

(b) How and why were 7 cases with anonymised patient names allocated to them selected for specific review? How representative of the practice of Mr Eljamel were they? and
(c) To what extent was the RCS in a position to make recommendations about service delivery within the NHS Tayside neurosurgical service more generally?

23.1. The remit of the 2013 invited review is set out in the terms of reference for the review which are contained in the report issued on 6 December 2013 [*RCS–00014*] - and which were agreed between RCS England and NHS Tayside. These were:

a) *To consider concerns about the clinical work of Professor Sam Eljamel, Consultant Neurosurgeon, with specific reference to:*
   - *Clinical knowledge, skills, surgical competency and clinical decision making*
   - *Interpersonal skills and communication skills with patients, relatives and colleagues.*

   These concerns were raised following a series of clinical incidents resulting in a high volume of complaints, including some from patients who had already sought a second opinion.

b) *If applicable: NHS Tayside would be receptive to recommendations in relation to wider aspects of service delivery and team cohesiveness within the Neurosurgery Department that may emerge from the context of the review.*

c) *If a case note review is required:*
   To review 7 specific patient case notes and corresponding complaints where concerns have been raised by patients and NHS Tayside, and to extend this review to additional case notes if deemed appropriate during the review process.

   The reviewers will then make recommendations for the consideration of the Chief Executive and Medical Director of NHS Tayside as to:
   - *whether there is a basis for concern about Professor Sam Eljamel's practice in light of the findings of the review;*
   - *possible courses of action which may be taken to address any specific areas of concern which have been identified.*

a) **How and why were 14 case note reviews selected for specific review? How representative of the practice of Mr Eljamel were they?**

a. As the commissioning organisation (NHS Tayside) is responsible for this selection, they are best placed to assist the Inquiry in relation to their reasoning. In relation to how representative these cases were of Mr Eljamel's wider practice, unfortunately we are not in a position to assist the Inquiry as we can only comment on the clinical records that were reviewed and this commentary can be found in our report.

b) How and why were 7 cases with anonymised patient names allocated to them selected for specific review? How representative of the practice of Mr Eljamel were they?

b. As above.

c) To what extent was the RCS in a position to make recommendations about service delivery within the NHS Tayside neurosurgical service more generally?

c. RCS England was commissioned to undertake an invited individual review of Mr Eljamel's practice as set out in the terms of reference for the review. The review RCS England was commissioned to undertake was not a review of the neurosurgical service at NHS Tayside but instead focused on Mr Eljamel's individual practice. In the terms of reference it was stated that NHS Tayside would be receptive to recommendations in relation to wider aspects of service delivery and team cohesiveness within the Neurosurgery Department that may emerge from the context of the review. The recommendations we were able to make on the basis of the information gathered in the review are set out in the report. These recommendations primarily cover points that were specific to Mr Eljamel's practice but also include recommendations that are designed to assure safety and improve quality within the wider service in which he worked.

Conduct of the review/ investigation

24. What were the main findings, conclusions and recommendations of the 2013 review and what was the reasoning behind them?

24.1. The findings, conclusions and recommendations of the 2013 review, and the reasoning behind them are detailed in the report issued on 6 December 2013 [*RCS–00014*].

24.2. The high-level findings and conclusions are summarised as follows:

- Overall, there was cause for concern with Mr Eljamel's clinical practice.
- Of the 14 patient records that were provided by the Trust for review, four cases included wrong level procedures having been carried out by, or under the supervision of Mr Eljamel.
- There was a lack of transparency and openness with colleagues around errors which raised concerns about Mr Eljamel's probity.
- Issues were raised in relation to Mr Eljamel's approach to team working.
- It was found that Mr Eljamel delegated a lot of his responsibilities to 'junior' colleagues and there were issues with Mr Eljamel's supervision of trainee surgeons. It was considered that care provided to Mr Eljamel's patients was not sufficiently consultant-led.
- Communication with patients was found to be lacking and was considered to be a weakness of Mr Eljamel.
- Findings relating to wider aspects of the neurosurgery department at NHS Tayside were identified in relation to clinical governance, job planning, on-call rotas and morbidity and mortality (M&M) meetings.

24.3. A number of recommendations were made for NHS Tayside to consider as well as immediate recommendations provided at the conclusion of the review visit:

- Six prioritised patient safety actions relating to Mr Eljamel's practice were made, including sharing the concerns set out in the report with NHS Tayside's GMC Employer Liaison Adviser (ELA).

- It was the review team's view that, subject to the outcome of the six recommendations and in particular any action taken by the GMC to consider his ongoing fitness to practise, Mr Eljamel should not be able to return to practising independently in spinal surgery without, as a minimum, a longer term continuation of the supervisory arrangements that were in place in relation to his surgical practice.
- The review team were also of the view that the supervisory arrangements should not be lifted until such time as Mr Eljamel's practice had been subject to comprehensive audits of his surgical outcomes and long-term data had been collected that provided NHS Tayside's management with sufficient reassurance that his practice was safe and within the national normal parameters for surgical outcomes
- Eight recommendations were made for Mr Eljamel's improved practice.
- Four recommendations were made for NHS Tayside relating to the neurosurgical department more widely.

25. What materials/ information was provided to the RCS to inform the 2013 review? To what extent were these reviews or investigations into the professional practice of Mr Eljamel undermined by a lack of available documents or reasonably accurate written information?

25.1. The documentation provided to RCS England to inform the 2013 review is listed on page 6 and 7 of the report [*RCS – 00014*]. Further information was gathered during the review visit on 16 and 17 October 2013 by interviewing staff at NHS Tayside listed on page 5 of the report. Mr Eljamel was interviewed on 2 October 2013. The interviews, including that of Mr Eljamel, were carried out by the review team. The report comments on the information available to the review team as part of the review and as described in the review report. Due to the passage of time that has elapsed from the review, not being personally involved in the review and the fact that all contemporaneous documentation, with the exception of the review report, was deleted in line with our retention policy, The retention policy is set out in the Invited Review Handbook [*RCS-00006*]. I am not in a position to comment further on any wider information other than to confirm that the report shows the review team was able to address the review's terms of reference on the basis of the information that was supplied to them.

26. How and by whom was the 2013 review conducted? In particular, what were the respective roles of the RCS and the Society of British Neurological Surgeons? What roles did each individual involved play, in particular the 3 named reviewers?

26.1. The 2013 review was conducted by RCS England and the Society of British Neurological Surgeons ("SBNS"). As previously stated, the review team appointed to carry out the review was Mr Neil Kitchen, FRCS representing RCS England, Mr Nicholas Phillips, FRCS representing SBNS (jointly "the clinical reviewers") and Ms Helen Carter ("the lay reviewer"). Invited reviews are run by the RCS England IRM. Each invited review is delivered in partnership with one (or more than one in the case of cross-specialty reviews) of the 10 Surgical Specialty Associations. For the 2013 review, the SBNS lead on the Invited Review Oversight Group would have agreed the review request (along with the Chair of the IRM), nominated a clinical reviewer to represent SBNS and quality assured the draft report. Invited service and individual reviews include a lay reviewer (lay is defined as having a non-medical/non-clinical background) to provide the patient/public perspective. The role of the reviewers is to gather information from the invited review to make conclusions and recommendations, prepare an advisory report and to review and provide feedback on updates provided by commissioning healthcare organisations following invited reviews. Further information on the roles of reviewers is included in the attached role profiles [*RCS-00008*] [*RCS-00009*]. A member of RCS England staff was present at the review visit to coordinate the review and take notes of interviews and assist in preparing the invited review report. When staff perform this role, they are not a reviewer and do not have any input into the report's conclusions and its recommendations This member of staff has since moved roles and is no longer working for RCS England.

27. Was evidence from the point of view of former patients of Mr Eljamel or their relatives taken into account in the 2013 review? If not, why not?

27.1. No patients were interviewed in the 2013 review. Patients are not routinely interviewed in invited reviews because invited reviews are peer reviews of surgeons and/or surgical services and/or episodes of patient care by surgeons. Patient perspectives are considered in an invited review according to a review's terms of reference. In this 2013 review patient complaints were reviewed as per the terms of reference and as listed in the documents reviewed as set out on page 6 and 7 of the report.

28. To what extent was the 2013 review undermined by a lack of available documents or reasonably accurate written information? If it was, what difference would adequate records of what happened have altered the outcomes of the 2013 review?

28.1. The 2013 invited review was able to comment on and address the terms of reference set by its commissioning organisation, NHS Tayside, and its advice on each point of these terms of reference is set out in the report along with the findings and conclusions of the review. The report speaks for itself in this context based on the information the review had access to at that time. It would not be appropriate for me to comment further or to speculate the wider questions you raise here as I am only able to speak to the circumstances that actually occurred. The report was 'signed off' by the invited review team prior to issue to NHS Tayside which demonstrates that they were satisfied with the content of the report.

28.2. I have not sought input and advice from the invited review team in relation to this issue as I do not consider it will assist the Inquiry. The advice (with its strengths and limitations) is set out clearly in the review which was done at the time based on the records available and interviews held as stated in the report [*RCS -00014*]. There is no mention of any problem in the report [*RCS -00014*] or any expression of concern in relation to the documentation available. The review team signed off the report [*RCS -00014*] and deemed the information available sufficient to comply with the terms of reference.

<u>Outcome of the 2013 review</u>

29. What involvement did the RCS have in the implementation of the recommendations contained within the 2013 report?

29.1. Following the conclusion of the invited review RCS England disposed of all correspondence and documentation associated with the review in line with our retention policy (as described in the Invited Review Handbook) with the exception of the report. As a result we cannot comment on the detail of our involvement at this time distance. Our review tracking system [*RCS -00016*] shows that follow-up information was received from NHS Tayside on 28 January 2014 and 22 July 2014, and subsequently RCS England's active involvement in the review was concluded on 20 November 2014 (see the chronology set out at 18.). Our practice in invited reviews at

the time involved gaining formal confirmation that the Medical Director/hospital leadership a) understood and accepted the report and its recommendations b) that they had addressed the recommendations especially the patient safety recommendations including involving external organisations as recommended and c) were working through an action plan aimed at addressing wider recommendations.

30. To what extent is the RCS aware of whether/ how the recommendations made in the Royal College of Surgeons report in 2013 were actioned/ implemented by NHS Tayside?

30.1. As contemporaneous documentation was disposed of in line with our retention policy (see above), RCS England cannot comment in detail here beyond confirming our follow-up of recommendations and when this took place. We note the published information about how the recommendations made in the report in 2013 were actioned/ implemented by NHS Tayside (e.g. the NHS Tayside Due Diligence Review of Documentation Held Relating to Professor Eljamel: Executive Medical Director Findings and Recommendations to Tayside NHS Board' dated 25 August 2023 and presented to the Tayside NHS Board on 31 August 2023) [*RCS-00019*]

31. Is the RCS aware of what communication of the remit, methodology and findings of the 2013 review took place with patients or their representatives?

31.1. Contemporaneous documentation was disposed of in line with our retention policy as set out above. We note the information about communication of the remit, methodology and findings of the 2013 review that took place with patients or their representatives that is described in the NHS Tayside Due Diligence Review of Documentation Held Relating to Professor Eljamel: Executive Medical Director Findings and Recommendations to Tayside NHS Board' dated 25 August 2023 and presented to the Tayside NHS Board on 31 August 2023 [*RCS-00019*]

<u>Part F – complaints and concerns</u>

32. **To what extent, on what grounds and by whom could complaints or concerns about the professional practice of a consultant neurosurgeon, such as Mr Eljamel, have been raised with RCS over the relevant period or subsequently? In particular: (a) What action or censure was RCS empowered to take with regard to such issues? (b) Were any such systems of raising complaints or concerns available to members**

of the public, including patients? (c) What whistleblowing opportunities/ mechanisms did RCS provide for other surgeons regarding the performance or conduct of neurosurgical consultants, like Mr Eljamel?

32.1. RCS England is available to anyone who wishes to seek advice on any aspects of surgical practice or surgical care, and we have advice and guidance available to assist with this as well as a range of wider services. As an advisory and not a regulatory body we are only able to have formal involvement in circumstances of this type if we are commissioned to through our Invited Review Mechanism.

33. **Were any such complaints or concerns raised? If so, (a) By whom? (b) When? (c) What was the nature of the complaint or concern? (d) What process or investigation took place? (e) What was the outcome/ how were the complaints or concerns resolved?**

33.1. I am unaware of whether any complaints or concerns were raised other than the communication that led to the 2013 invited review. RCS England does not hold any patient complaints on file. If, at any time preceding or following the invited review in 2013 RCS England had received patient complaints, they would have referred to NHS Tayside to address.

Part G – documents

34. Please set out the broad locations of where documents thought to be relevant to the requests made in this rule 8 request were stored, including hard copy or electronic systems, and the identity of the party who or which controls or administers such systems.

34.1. RCS England holds an electronic and hard copy of the report. However, RCS England is not the owner of the report. NHS Tayside, as commissioner of the invited review, is the owner of the report and data controller. It is RCS England's understanding that NHS Tayside has provided the Inquiry with the report which represents the entirety of our advice on the circumstances we were commissioned to review under the terms of reference for the review. SBNS have confirmed that they have searched their records and there is no record of the invited review of Mr Eljamel on file from that time.

35. As far as the searches for documents undertaken by RCS as per the request made in Appendix C below are concerned, as regards of the categories of documents which has been requested:

a) Please indicate what searches for documents have been undertaken for each category, including where such searches were undertaken and why these searches were thought to be comprehensive as regards the documents sought in each category, including details of search terms used on electronic systems of document storage;

a. As described previously, all correspondence and documentation associated with the invited review, with the exception of the report, was disposed of in line with our retention policy as set out above. Our review tracking system [*RCS-00016*] shows that this took place on 15 January 2018 , well in advance of any inquiry into Mr Eljamel's practice. A further search of RCS England's electronic systems of document storage was made in 2022 following a request for information held on Mr Eljamel from Police Scotland. There was no material information held on Mr Eljamel identified from the search. There is an email produced at [*RCS-00015*] from the former Head of Invited Reviews to CID Dundee dated 8 February 2019 confirming that all correspondence from the review had been deleted.

b) If there are significant classes of documents which were thought to have existed at some point relevant to a search category which no longer exist or are no longer held by, on behalf of or under the control of RCS, please identify what these are;

b. RCS England would have, prior to 2018 or 2019, held electronic and/or hard copy documents relating to the commissioning, planning, report production, quality assurance and issuing of the report, review fees, follow-up actions in relation to the report recommendations and conclusion of the review. As above, these have been disposed of in line with our retention policy as set out above.

c) If there are significant classes of documents which were thought to have existed at some point relevant to a search category which no longer exist or are no longer held by, on behalf of or under the control of RCS, please identify broadly what has happened to them (including whether they have been lost or destroyed and, if so, when and why); and

c. As above, all correspondence and documentation associated with the invited review, with the exception of the report, was disposed of in line with our retention policy as set out above. The individual members of the invited review team, the Chair of the IRM and relevant members of SBNS would have held electronic and/or hard copy documents relating to some of the above in b) but would have been requested to destroy these documents following conclusion of the review. Confirmation that SBNS holds no documentation relating to the review of Eljamel's practice at NHS Tyneside was provided by Professor Peter Hutchinson, President of SBNS, on 06 February 2026 [*RCS-00020*].

d) If there are significant classes of documents which were thought to have existed at some point relevant to a search category which no longer exist or are no longer held by, on behalf of or under the control of RCS and RCS is aware of these being held by or on behalf of another party, please indicate the nature of these documents and by whom RCS believes them to be held.

d. NHS Tayside, as commissioner of the invited review, may hold documentation relating to the commissioning, planning, review fees, follow up actions in relation to the report recommendations and conclusion of the review that RCS England no longer retains. NHS Tayside may have shared some of this documentation in confidence with third parties for instance the General Medical Council (GMC). For the avoidance of doubt, SBNS have confirmed that they do not hold any documentation in relation to the invited review.

36. Please certify that the documents which have been produced in response to this rule 8 request are, to the best of RCS's knowledge and belief, all documents held by RCS, on its behalf or under its control.

36.1. The documents which have been produced in response to this rule 8 request are, to the best of RCS England's knowledge and belief, all documents held by RCS England, on its behalf or under its control.

Part H - Conclusions

37. Please state what the RCS considers the key challenges were, its understanding of the reason for those challenges, what went well and what did not (either as was apparent at the time or in hindsight), and whether RCS identified (at the time or subsequently) things that could or should have been done differently in the way that systems which existed to promote the best interests the former patients of Mr Eljamel over the relevant period or subsequently.

37.1. The RCS England IRM's role was to undertake an invited review for the specific purposes as defined by the terms of reference for the review, as stated on page 3 of the review report. It is RCS England's view that the advice of the review team on the circumstances contained in the report provides the totality of RCS England's perspectives on those circumstances.

38. What lessons, if any, has RCS learned from its/ their involvement in the systems which existed to promote the best interests the former patients of Mr Eljamel over the relevant period.

38.1. RCS England is committed to learning and applying continuous improvement from its involvement in invited reviews. Our Learning from Invited Reviews publication and wider resources ('Learning from invited reviews — Royal College of Surgeons' [*RCS -00018*] provides information about our learning from 100 invited reviews that took place between 2008 and 2017. This document builds on our previous document Learning from Invited Reviews published in 2013 – 'Improving surgical practice: Learning from the experience of RCS invited reviews' [*RCS-00017*].

39. Please refer to anything else RCS considers/ consider may be of substantial interest to the Inquiry in relation to the systems which existed to promote the best interests of the former patients of Mr Eljamel over the relevant period. In addition, please identify any key areas/ systems/ practices which RCS considers/ consider worked well, and any key areas in which you/ they consider there were issues, obstacles or missed opportunities.

39.1. Although NHS clinical governance processes and wider systems safety processes have substantially improved during my time as an NHS consultant surgeon, it remains the case that the responses to potential and actual patient concerns across

the NHS and wider UK healthcare could substantially improve. RCS England is committed to working with all relevant advisory and regulatory bodies as part of this process and to achieve our core aim of excellent surgical care for everyone who needs it. Our invited reviews, which are advisory, enable expert teams, including a lay person representing the patient and public interest, to determine whether there is cause for concern about surgical practice or a surgical service, and/or individual episodes of care, and to make recommendations for improvement. Our unwavering commitment to patient care is why we offer healthcare organisations an invited review service

40. Please set out what, if anything, RCS considers/ consider can be done to improve systems which existed to promote the best interests the former patients of Mr Eljamel over the relevant period for the benefit of future patients like the former patients of Mr Eljamel in which RCS played a part/ of which it has knowledge.

40.1. We consider that substantial further investment could be made into the training of clinical directors and medical directors of surgical teams to assist them in their work to identify and respond to actual or potential concerns about surgical practice as soon as possible. We also believe that substantial further investment could be made in providing training to surgeons and other healthcare staff about the circumstances that can arise when delivering healthcare and how aspects of practice can diverge from the norm, how this can be spotted at the earliest opportunity and how these circumstances can be put back on track, prior to patient harm occurring. We are committed to continuing to support this learning and skills development as exemplified by our Learning from Invited Reviews publication and wider work programmes (including events and workshops) that support this.

Statement of Truth

I believe that the facts stated in this written statement are true.

Signed 

Date 26 February 2026

Appendix C

Index of documents provided to the inquiry

I confirm that we have provided all documents which we hold to the Inquiry under Appendix C.

Signed 

Date 26 February 2026