

Cabinet Secretary for NHS Recovery, Health and Social Care

1. OPTIONS FOR CONSIDERATION IN REVIEWING PATIENT CASES, LEARNING AND IMPROVEMENTS IDENTIFIED AS A RESULT OF THE HARM CAUSED BY PROFESSOR ELJAMEL

1.1 Priority and Purpose

1. This urgent submission is seeking a decision from the Cabinet Secretary on which option he would like officials to progress in order to fully review the learning and clinical governance systems of NHS Tayside and individual cases of those treated by Professor Eljamel.
2. Urgent. A response by 30 May will allow the Cabinet Secretary to send a response to MSPs on 31 May [Redacted – Section 38(1)(b)].

1.2 Recommendation

3. That the Cabinet Secretary:
 - a. Reviews and considers the options presented below at paragraphs 12-15.
 - b. Approves the draft update to send to MSPs at Annex A.

1.3 Context and Issues

4. The Cabinet Secretary is aware of the background to this work and the long-standing issues which are being considered in this submission.
5. [Redacted – Section 30(b)(i)].
6. At a meeting with a small cross-party group of MSPs on 20 April, the Cabinet Secretary committed to deciding on the next steps and writing to MSPs in May to share his thoughts on a way forward and seek their feedback.
7. Since the meeting on 20 April, Liz Smith, Michael Marra and Willie Rennie have written separately to the Cabinet Secretary to request [Redacted – Section 38(1)(b)]. [Redacted – Section 38(1)(b)]. **A draft response to MSPs has been included at Annex A.**
8. [Redacted – Section 38(1)(b)]
9. [Redacted – Section 38(1)(b)]
10. NHS Tayside is undertaking a 'Due Diligence' review led by the Medical Director, [Redacted – Section 38(1)(b)] This is due to be completed by the end of May. [Redacted – Section 38(1)(b)].
11. [Redacted – Section 38(1)(b)].

1.4 Options Considered and Advice

12. The Cabinet Secretary requested officials look at two workstreams for this work to progress. A detailed description and possible next steps have been set out below. Each would need significant resource, and more detail is provided on this at paragraphs 22-24.

Review of individual cases

13. The Cabinet Secretary has asked officials to investigate the appointment of a person of eminent standing to review individual patient cases, meet with the patients, listen to their experiences; and work with NHS Tayside to support a resolution through open and collaborative dialogue, including seeking the answers former patients need. The individual appointed to carry out such a review would be expected to report back to the Cabinet Secretary upon completion of the process and would include the steps taken, issues identified and resolution, engagement with patients and NHS Tayside and a conclusion.

14. [Redacted – Section 30(b)(i)].

a. [Redacted – Section 29(1)(a)]

b. [Redacted – Section 29(1)(a)]

Review learning of systems and governance

15. In addition to reviewing individual patient cases, the Cabinet Secretary also asked officials to scope a review of learning systems and governance within NHS Tayside. This would seek to assure former, current and future patients that the learning and improvements that were identified over previous years have been actioned and implemented, and it would look at the wider learning from this case and management systems over the last 10-12 years. This would also enable any learning that has been identified to be shared nationally across NHS Scotland.

16. [Redacted – Section 30(b)(i)].

a. [Redacted – Section 29(1)(a)]

b. [Redacted – Section 29(1)(a)]

1.5 Assessment of Options

17. [Redacted – Section 30(b)(i)].

[Redacted – Section 30(b)(i)]

18. [Redacted – Section 30(b)(i)]

19. [Redacted – Section 30(b)(i)].

20. [Redacted – Section 30(b)(i)].

[Redacted – Section 30(b)(i)]

21. [Redacted – Section 30(b)(i)].

22. [Redacted – Section 30(b)(i)].

23. [Redacted – Section 30(b)(i)].

1.6 Bute House Agreement Implications

24. [Redacted – Section 30(b)(i)].

1.7 Financial and Legal Considerations

25. [Redacted – Section 30(b)(i)].

26. [Redacted – Section 30(b)(i)].

27. [Redacted – Section 30(b)(i)].

1.8 Sensitivities

28. This is a relatively high profile case that has gathered media and MSP attention.
[Redacted – Section 30(b)(i)].

29. [Redacted – Section 38(1)(b)]. Officials recommend former patients are updated at regular intervals – both through the MSP engagement process and via any other opt-in process agreed to by former patients.

1.9 Quality Assurance

30. This Submission has been **approved** by **Lynne Nicol**, Deputy Director, Planning and Quality Division.

1.10 Conclusions and next Steps

31. Following on from the Cabinet Secretary's commission that officials look into viable next steps for reviewing this work, we recommend the Cabinet Secretary:

- a. Reviews and considers the options presented below at paragraphs 12-16.
- b. Considers the Financial and Legal aspects at paragraphs 24-26.
- c. Approves and issues the draft update to send to MSPs at Annex A.

[Redacted – Section 38(1)(b)]

HQI: Safety, Openness and Learning Unit

[Redacted – Section 38(1)(b)]

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
Cabinet Secretary for NHS Recovery, Health and Social Care	X			
Minister for Public Health and Women’s Health				X
Minister for Social Care, Mental Wellbeing and Sport				X

Officials Copy List
DGHSC
CMO
CNO
Jason Leith
Linda Pollock
Lynne Nicol
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
Craig White
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
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[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
David Hutchison
Communications Healthier
Comms NHS Recovery, Health and Social Care

ANNEX A

[Redacted – Section 30(b)(i)].

Cabinet Secretary for NHS Recovery, Health and Social Care

OPTIONS FOR CONSIDERATION IN REVIEWING PATIENT CASES, LEARNING AND IMPROVEMENTS IDENTIFIED AS A RESULT OF THE HARM CAUSED BY PROFESSOR ELJAMEL

Priority and Purpose

32. This urgent submission is to provide the Cabinet Secretary with an update on his preferred options to review fully the learning and clinical governance systems of NHS Tayside and individual cases of those treated by Professor Eljamel.
33. **Immediate.** A response by **Friday 14 July** will enable Scottish Government to [Redacted – Section 29(1)(a)].
34. Advise about what information you would like shared with the public / patients of Professor Eljamel, in communication and letters, about next steps for the independent commission, as outlined in paragraphs **38 – 41**.

Recommendation

35. That the Cabinet Secretary:
 - a. Reviews and considers the [options](#) presented in paragraphs **26 – 29** (subparagraphs inclusive).
 - b. [Redacted – Section 30(b)(i)].
 - c. Review paragraphs **38 – 41** that focus on [Redacted – Section 30(b)(i)].

Context and Issues

36. The Cabinet Secretary is aware of the background to this work and the long-standing issues that are being considered in this submission.
37. [Redacted – Section 30(b)(i)].
38. [Redacted – Section 30(b)(i)].
39. [Redacted – Section 30(b)(i)].

40. At a meeting with a small cross-party group of MSPs on 20 April, the Cabinet Secretary committed to deciding on the next steps and writing to MSPs. After that meeting, he wrote to the MSPs, on 30 June, who had urged him to meet with [Redacted – Section 38(1)(b)].
41. [Redacted – Section 38(1)(b)].
42. [Redacted – Section 38(1)(b)]. Officials are actively seeking updates from NHS Tayside, however, as of this submission, we have not yet been provided with the information.
43. NHS Tayside is undertaking a ‘Due Diligence’ review led by the Medical Director, [Redacted – Section 38(1)(b)]. This was due to be completed by the end of May and, while officials have been in constant contact with NHS Tayside, the outcome of this has not yet been shared.
44. [Redacted – Section 36(2)].
45. [Redacted – Section 38(1)(b)].
46. [Redacted – Section 38(1)(b)].
47. The First Minister offered to meet [Redacted – Section 38(1)(b)]. Official support was provided by Professor Craig White (Directorate for Healthcare Quality and Improvement).
48. [Redacted – Section 30(b)(i)].
49. [Redacted – Section 38(1)(b)].
50. [Redacted – Section 38(1)(b)]. [Redacted – Section 30(b)(i)].
51. [Redacted – Section 30(b)(i)].
52. [Redacted – Section 38(1)(b)].
53. [Redacted – Section 30(b)(i)].
54. The First Minister directly asked NHS Tayside for assurance that no other former patients had been missed from their spinal surgery lookback since it has been implemented. This has not been received at the time of this submission.
55. Concerns around Professor Eljamel led FMQs on 29 June 2023. Douglas Ross MSP opened FMQs calling for a public inquiry on behalf of patients [Redacted – Section 38(1)(b)].
56. Mr Ross also referenced a FOI case published on 28 June 2023, that was issued in September 2022, which asked for specific “Correspondence regarding Professor Eljamel, former Neurosurgeon, NHS Tayside” during 2013. Mr Ross

asked for further clarification on what information the FM (as Health Secretary) has asked of NHS Tayside. [Redacted – Section 30(b)(i)].

Options Considered and Advice

57. [Redacted – Section 29(1)(a)].

58. The First Minister on 3 July emphasised the interface between the concerns of individual patients of Professor Eljamel and the decision-making, governance and timescales of the review work undertaken by NHS Tayside and the General Medical Council (GMC) previously. [Redacted – Section 29(1)(a)].

59. [Redacted – Section 29(1)(a)].

60. [Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)].

a. [Redacted – Section 29(1)(a)].

b. [Redacted – Section 29(1)(a)].

c. [Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)].

d. [Redacted – Section 29(1)(a)].

e. [Redacted – Section 29(1)(a)].

f. [Redacted – Section 29(1)(a)].

g. [Redacted – Section 29(1)(a)].

h. [Redacted – Section 29(1)(a)].

i. [Redacted – Section 29(1)(a)] [Redacted – Section 30(b)(i)].

j. [Redacted – Section 29(1)(a)].

k. [Redacted – Section 29(1)(a)].

l. [Redacted – Section 29(1)(a)].

m. [Redacted – Section 29(1)(a)].

n. [Redacted – Section 29(1)(a)].

- o. [Redacted – Section 29(1)(a)]. [Redacted – Section 30(b)(i)]. [Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)]

[Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)].

- a. In our previous submission on 25 May 2023, officials outlined two options. [Redacted – Section 29(1)(a)].
- b. [Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)].

- a. [Redacted – Section 29(1)(a)].
- b. [Redacted – Section 29(1)(a)].
- c. [Redacted – Section 29(1)(a)].
- d. [Redacted – Section 29(1)(a)].
- e. [Redacted – Section 29(1)(a)].
- f. [Redacted – Section 29(1)(a)].
- g. [Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)]

[Redacted – Section 29(1)(a)]

Bute House Agreement Implications

61. We do not see any implications from the Bute House Agreement.

Verity House Agreement Implications

62. We do not see any implications from the Verity House Agreement.

Financial and Legal Considerations

63. [Redacted – Section 30(b)(i)].

[Redacted – Section 29(1)(a)].

- a. [Redacted – Section 29(1)(a)].
- b. [Redacted – Section 29(1)(a)]:
- c. [Redacted – Section 29(1)(a)].
- d. [Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)]

- e. [Redacted – Section 29(1)(a)].
- f. [Redacted – Section 29(1)(a)].
- g. [Redacted – Section 29(1)(a)]:
- h. [Redacted – Section 29(1)(a)].

Risks and Sensitivities

64. This is a high-profile case that has gathered media and MSP attention. [Redacted – Section 30(b)(i)].
65. [Redacted – Section 38(1)(b)]. Officials recommend former patients are updated at regular intervals – both through the MSP engagement process and via any other opt-in process agreed to by former patients.
66. [Redacted – Section 30(b)(i)].
67. In earlier meetings and through correspondence with the MSPs, Liz Smith MSP has indicated that her preference for a review would be one conducted by an external organisation, outside Scotland, to work with patients and NHS Tayside to try to resolve remaining unanswered questions in an open and collaborative way.
68. [Redacted – Section 30(b)(i)].

[Redacted – Section 30(b)(i)]

69. [Redacted – Section 30(b)(i)].
70. [Redacted – Section 30(b)(i)].
71. [Redacted – Section 30(b)(i)].

72. [Redacted – Section 30(b)(i)].

Quality Assurance

73. This Submission has been approved by Professor Craig White, Associate Director, Healthcare Quality and Improvement, Planning and Quality Division.

Conclusions and next Steps

74. Following on from the Cabinet Secretary's request that officials look into viable next steps for this commission, we recommend the Cabinet Secretary:

- a. Reviews and considers the details provided for the proposed independent commission.
- b. Considers the Financial aspects and Risks at paragraphs **32 - 37**.
- c. Approves and issues the draft letter to [Redacted – Section 30(b)(i)].
- d. [Redacted – Section 29(1)(a)].

[Redacted – Section 38(1)(b)]

HQI: Safety, Openness and Learning Unit

[Redacted – Section 38(1)(b)]

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
Cabinet Secretary for NHS Recovery, Health and Social Care	X			
Minister for Public Health and Women's Health				X
Minister for Social Care, Mental Wellbeing and Sport				X

Officials Copy List

DGHSC

CMO

CNO

Jason Leith

Linda Pollock

Lynne Nicol

[Redacted – Section 38(1)(b)]

Officials Copy List

[Redacted – Section 38(1)(b)]

Craig White

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

David Hutchison

Communications Healthier

Comms NHS Recovery, Health and Social

Care

ANNEX A

[Redacted – Section 30(b)(i)]

NHS TAYSIDE ACTIONS FROM ISSUE OF OVERVIEW REPORT – 12/07/2023

Date	Action	Comment	
2022			
10 May	Draft Overview Report issued to NHS Tayside.	Factual accuracy comments requested back by 25 May 2022	
24 May	NHS Tayside confirm they won't meet deadline of 25 May for comments.		
8 June	NHS Tayside provide SG with factual accuracy comments and confirm they have started to develop an action plan to implement recommendations from overview report.	Recommendations include: [Redacted – Section 38(1)(b)]	
29 July	Final version of overview report shared with NHS Tayside.		
3 October	Cabinet Secretary (HY) meets with NHS Tayside.	In attendance: SG Humza Yousaf [Redacted – Section 38(1)(b)] (official support) [Redacted – Section 38(1)(b)] (official support) NHS Tayside Grant Archibald Pam Johnston Margaret Dunning Lorna Birse-Stewart	
4 October	NHS Tayside Executive team meet with [Redacted – Section 38(1)(b)] and Liz Smith.	In attendance: Patients [Redacted – Section 38(1)(b)] [Redacted – Section 38(1)(b)] Liz Smith MSP	Actions from meeting: <ul style="list-style-type: none"> • [Redacted – Section 38(1)(b)] • Gather outstanding information to answer unresolved queries, where possible, and

		NHS Tayside Grant Archibald Pam Johnston Margaret Dunning Lorna Birse-Stewart	<ul style="list-style-type: none"> Provide written apology to [Redacted – Section 38(1)(b)]. Deadline was two weeks from the date of the meeting.
12 October	NHS Tayside issue separate apologies to [Redacted – Section 38(1)(b)].		
12 October	[Redacted – Section 38(1)(b)].	Officials agree there is scope to improve the wording of the apology and offered to provide feedback to NHS Tayside on learning and best practice when drafting written apologies.	
15 October	[Redacted – Section 38(1)(b)].	Officials agree there is scope to improve the wording of the apology and offered to provide feedback to NHS Tayside on learning and best practice when drafting written apologies.	
16 October	[Redacted – Section 38(1)(b)].		[Redacted – Section 38(1)(b)]
16 November	NHS Tayside write to Prof Craig White to provide an update on their current communication with [Redacted – Section 38(1)(b)] and their proposed next steps.		
18 November	Officials send up advice to Cabinet Secretary and draft response to NHS Tayside. Cabinet Secretary (HY) issues response to NHS Tayside Chair, Lorna Birse-Stewart.		
28 December	Following seeking guidance from the Scottish Government on a suitable mediator NHS Tayside meets with [Redacted – Section 38(1)(b)] to seek [Redacted – Section 38(1)(b)] agreement to acting as an independent mediator.		
2023			

6 January	Confirmed to Scottish Government that NHS Tayside were going to appoint [Redacted – Section 38(1)(b)] as a mediator and seeking any guidance the Scottish Government might have regarding independent mediation frameworks/templates.		
19 January	NHS Tayside appoint mediator to support ongoing dialogue [Redacted – Section 38(1)(b)]. [Redacted – Section 38(1)(b)] was engaged as an independent mediator on a best estimate quotation based on his previous experience of working with patients in similar situations. This was required for the procurement process however [Redacted – Section 38(1)(b)] was not given a set/capped number of days. The basis of the agreement is that he has ongoing dialogue with NHS Tayside to ensure the patients needs are met.	[Redacted – Section 38(1)(b)] commissioned by NHS Tayside	
1 February	[Redacted – Section 38(1)(b)] to act as independent mediator.		
17 March	[Redacted – Section 38(1)(b)] provided a summary of positions in the mediation between [Redacted – Section 38(1)(b)].		
	Following receipt of the summary of positions a due diligence review was commissioned by NHS Tayside’s Medical Director to enable a full apology to be written.		
29 March	NHS Tayside inform SG that [Redacted – Section 38(1)(b)] to independent mediation to support ongoing dialogue.	[Redacted – Section 38(1)(b)] commissioned by NHS Tayside in May 2023.	
29 March	NHS Tayside provide Scottish Government with action plan updates		
20 April	Cabinet Secretary (MM) meeting with NHS Tayside and MSPs.	In attendance: Michael Matheson	

		<p>Tayside: Grant Archibald – Chief Executive Pam Johnston – Executive Medical Director</p> <p>MSPs: Michael Marra MSP Liz Smith MSP Willie Rennie MSP Graeme Dey MSP John Swinney MSP Shona Robison MSP</p>	
27 April	NHS Tayside issue letter providing information requested in meeting with MSPs.	<p>Letter content includes:</p> <ul style="list-style-type: none"> • Medical document retention timelines and local exceptions, • Types of records covered by retention schedule, and • Patient Liaison Response team contact details. 	
Week commencing 5 June	NHS Tayside Executive Medical Director receives the draft due diligence review report.	<p>Report is incomplete and requires further work to finalise.</p> <p>Medical Director is on leave, 7 – 21 June 2023</p>	NHS Tayside to share copy of report when finalised, within a few weeks.
15 June	[Redacted – Section 36(2)].		
29 June	NHS Tayside confirmed to [Redacted – Section 38(1)(b)] that they would provide [Redacted – Section 38(1)(b)] with an apology one week following receipt of [Redacted – Section 36(2)].		

HISTORICAL TIMELINE OF EVENTS

Date	Event	Output/Decision
9 October 1995	Professor Eljamel is appointed Consultant Surgeon.	
3 June 2013	Meeting held with Professor Eljamel, in attendance Clinical Director and AMD for Professional Governance	Discussion regarding escalating number of complaints and Significant Clinical Event Analysis. Performance issue raised and chosen to address at Clinical Director level in the first instance. Professor Eljamel had reflected and altered practice significantly. Agreement that any other issues would be dealt with within the appraisal and revalidation system.
20 June 2013	Meeting held with Medical Director, in attendance Clinical Director and General Manager	Concerns shared with Medical Director re Professor Eljamel. List of complaints which reflected emerging common themes about Professor Eljamel's practice with a particular focus on poor communication between Professor Eljamel, his colleagues and his patients. Medical Director informed Clinical Director and General Manager of a further case of wrong level surgery. Medical Director to seek to commission an external review into Professor Eljamel's practice through the Royal College of Surgeons (RCS) England. Practice adjustments and restrictions to be agreed and placed on Professor Eljamel's practice by Clinical Director and Clinical Lead for Neurosurgery.
21 June 2013	Meeting held with Professor Eljamel, in attendance Clinical Director, HR Business Lead and Consultant Anaesthetist	Professor Eljamel was advised that since the last meeting on 3 June 2013, two further complaints had been received and there was now a requirement to implement formal measures in response to the concerns raised. Advised of an external review commissioned by Medical Director. Advised that pending this review, measures will be implemented to support Professor Eljamel. Clinical Practice to be supervised by Clinical Lead. Advised he would not participate in on-call rota and junior staff were not to undertake cases on his behalf, teaching responsibilities to continue.

25 June 2013	Email from Clinical Lead confirming restrictions of practice	Agreed that a joint ward round would take place on regular post-operative day with Clinical Lead and Professor Eljamel. Agreed that Clinical Lead would take clinical responsibility for patients under Professor Eljamel's care during this period.
26 June 2013	Medical Director completed Invited Review Mechanism pro-forma	Sent to the Royal College of Surgeons of England
18 July 2013	Dates for Invited Review Mechanism agreed and communicated to Professor Eljamel	Advised that dates for the review were to be 16 and 17 September 2013 and provided with a copy of the list of information required by the Review Team.
16 August 2013	Letters issued to non-medical staff to inform of Invited Review Process with request to participate from General Manager	Letter advised staff members of the aim of the visit; to assist NHS Tayside identify concerns within delivery of the service with a focus on medical practice. The emphasis will be on seeking positive resolution, however if any serious issues are identified they will be managed as appropriate. The review panel will undertake a series of interviews with specific staff members who work closely with or within the Neurosurgical Unit. Staff were advised that it would help the review panel by consenting to participate in a short confidential interview during their visit. Staff were further advised that the Invited Review Process is confidential. However, the reviewers may need to use the information given during interviews as a basis on which to make recommendations and may need to attribute comments to individuals. Staff were given a copy of the guidance that the reviewers would adhere to during the process.
23 August 2013	Letter from Royal College of Surgeons to Medical Director	Confirming that as Professor Eljamel would not be available for interview during the Invited Review Mechanism taking place 16 and 17 September 2013, he would be offered an opportunity to provide a written statement in advance of 16 September 2013 and would have a separate interview in London on 2 October 2013.
29 August 2013	Professor Eljamel wrote to Medical Director	Confirmed his agreement to the Invited Review Mechanism and aware of the purpose and arrangements for the review.
16-17 September 2013	RCS conduct on-site review.	RCS conduct on-site visit and interview relevant staff.
2 October 2013	RCS interview Professor Eljamel	Interview with Professor Eljamel is conducted by the RCS review team.
4 October 2013	RCS wrote letter to Medical Director following Professor Eljamel's interview with RCS	RCS recommend supervision of Professor Eljamel's spinal surgery continues pending completion of review report.

6 December 2013	RCS Report sent to NHS Tayside	RCS send, via Royal Mail first class, the final review report.
9 December 2013	Final Report received from Royal College of Surgeons dated 6 December 2013	Conclusions and Recommendations
10 December 2013	Meeting with Professor Eljamel, in attendance Clinical Director and Associate HR Business Lead	Discussion regarding report received from Royal College of Surgeons with regard to Fitness to Practice and Probity and advised that due to the nature of the allegations and pending GMC enquiry, he would be suspended with immediate effect.
10 December 2013	Letter to Professor Eljamel	Confirmation of suspension from duty pending outcome of the GMC enquiry and internal investigatory process by NHS Tayside
20 December 2013	Medical Director refers Professor Eljamel to GMC.	
27 January 2014	Follow-up on Recommendations provided to Royal College of Surgeons	<p>Advised that review of spinal cases over the last three years was in progress. 150 high risk spinal cases identified by cross match to Pain Clinic attendance. Approximately 90 cases reviewed at this point, one additional wrong level case identified. Patient to be informed. All previously identified patients have now been met with. Confirmation that a referral had been made to the GMC regarding fitness to practice and probity.</p> <p>Advised that approval for a Locum Consultant Neurosurgeon had been granted, and an advert placed. A bid had also been placed to appoint a fifth Neurosurgery Consultant appointment.</p> <p>Advised that review of current on-call arrangements for Neurosurgery should be undertaken as existing service model in place whereby Consultant on-call is in theatre; this was considered as less than optimum and does not allow continuity of care and ease of contact.</p>
13 February 2014	Letter from Associate Medical Director to Professor Eljamel	<p>Application indicating Professor Eljamel's retiral received. Intention to retire from the employ of NHS Tayside on 31 May 2014.</p> <p>Discussion with Medical Director and agreed that the internal investigation would not proceed. GMC enquiry outstanding and agreed inappropriate for Professor Eljamel to return to work in the intervening period prior to retiral.</p> <p>Current period of suspension from duty extended.</p> <p>Professor Eljamel confirmed his agreement to this in writing on 20 February 2014.</p>
26 February 2014	GMC Fitness to Practice Conditions added for Professor Eljamel	<p>Professor Eljamel may not work at any grade in the NHS including consultant.</p> <p>He must not undertake any private practice.</p> <p>He must not carry out any spinal surgery.</p> <p>He must inform the GMC if he applies for medical employment outside the UK.</p>

15 August 2014	Follow-up on Recommendations provided to Royal College of Surgeons	Advised that all recommendations had been completed.
7 August 2015	Letter from GMC to Medical Director	Approval granted for voluntary erasure for Professor Eljamel's from the GMC Medical register.
23 November 2018	NHS Lothian Medical Director requested to carry out review.	NHS Tayside ask Medical Director, NHS Lothian to carry out a review of the handling of the Professor Eljamel case and to determine whether the actions taken by NHS Tayside were reasonable, timely and appropriate.

Tayside NHS Board

Update on the actions from the review of outstanding and unresolved concerns regarding Professor Eljamel

Key	
Action Required	One person who is responsible for the action raised
Responsible	Completion date target
Target Completion Date	A measure focused on how you will know when the action has been implemented
Measures of Implementation	A measure focused on how you will know when the action has been implemented
Measures of Effectiveness	A measure focused on how will you know if the action had the intended impact or outcome
Progress Update	Narrative updates on progress over time and having taken account of the measures, the status of whether the action can be regarded to have been implemented and had the desired impact
Status	Status according to the categories below, with colour of the column to reflect that

Action Required	Responsible	Target Completion Date	Measures of Implementation	Measures of Effectiveness	Progress Update	Status
62. There should be mechanisms in place to ensure that anyone with an ongoing concern, interest or need for updates on the way in which learning, change and improvement	Medical Director	31 January 2023.	There are multiple ways in which individuals currently raise concerns or questions relating to any aspect of patient care or the experiences they have had as a patient, family member or carer. These include:	Individuals with concerns know how to contact NHS Tayside and evidence of this is available.	Reviewing the complaints process it was clear that a central point of contact into the Board for patients and families, that went beyond the completion of the	Complete

Action Required	Responsible	Target Completion Date	Measures of Implementation	Measures of Effectiveness	Progress Update	Status
<p>actions are being implemented can access this information and any support required.</p>			<ul style="list-style-type: none"> • Via individual members of frontline staff. • Through contact with the Complaints and Feedback Team. • Through the Scottish Public Service Ombudsman process. • Using Care Opinion. • As a result of Local Adverse Event Reviews (LAER) and Significant Adverse Event Reviews (SAER). • Through correspondence to Tayside NHS Board. • Through correspondence to elected members. • Through contact with external review teams such as Healthcare Improvement Scotland (HIS) inspection visits. <p>NHS Tayside recognises that individual patients can raise their concerns and questions in a number of ways and on multiple occasions, particularly when the issues being reviewed are complex and the matter is being investigated over a prolonged period. The experiences of [Redacted – Section 38(1)(b)] have raised points for learning and strengthening how NHS Tayside engages with those who are in contact with the Board through any feedback channel or process and also how they are kept informed about any changes and improvements made as a result of</p>		<p>complaints process and could be used more widely for those seeking updates on reviews/ actions taken by services for improvement was required.</p> <p>The formation of Patient Liaison Response Team provides this function, its Terms of Reference are written, there is a phone line and email address as a means of contact with the Board to direct patients and families to information and updates as required.</p>	

Action Required	Responsible	Target Completion Date	Measures of Implementation	Measures of Effectiveness	Progress Update	Status
			<p>their experiences.</p> <p>Although learning and actions from reviews are currently reported internally through the clinical governance structure across the organisation for staff learning and improvement, it is only patients and families who are involved in LAERs and SAERs who are routinely engaged and supported by the Patient Safety Clinical Governance and Risk Management team who share reports and action plans as part of the Statutory Duty of Candour process.</p> <p>Beyond this, there is no established, consistent mechanism or process at present in the governance procedures of the Board to ensure that learning, changes and improvements can be shared with those individuals who are directly involved in ongoing concerns.</p> <p>As a result, NHS Tayside is taking the following actions:</p> <ul style="list-style-type: none"> • The Medical Director is commissioning a review of the Complaints and Feedback process, with Patient Safety Clinical Governance input, with a view to ensuring the information available to patients and families on the learning, changes and improvements which have been made as a result of their concerns can be accessed. 			

Action Required	Responsible	Target Completion Date	Measures of Implementation	Measures of Effectiveness	Progress Update	Status
			<ul style="list-style-type: none"> The review will look at what information should be available to patients and families in terms of learning and improvements and how that should be shared with them. The review will ensure appropriate stakeholder engagement in the design and development of the process. 			
63. NHS Tayside should review the way in which it identifies and measures the implementation and effectiveness of actions arising from internal and external review processes such as those commissioned in respect of Professor Eljamel's practice. This should include action plan content and subsequent relevant assurance through clinical governance processes to the Board's delegated committee with responsibility for clinical governance. This should be overseen by clinicians with lead responsibility for clinical governance in services.	Medical Director		<p>Currently, all external and internal review findings trigger the development of a multi-disciplinary action plan to respond to recommendations and directions.</p> <p>These actions are then presented to and monitored through the regular clinical governance meetings which take place within each clinical service.</p> <p>All clinical governance indicators are presented at service-specific regular Quality Performance Review Meetings and reviewed against the acute clinical governance framework. They are then reported for further review and assurance at the Care Governance Committee. This is a formal Tayside NHS Board Standing Committee, chaired by a non-executive member of the Board supported by joint lead executives for clinical governance (the Medical Director and Nurse Director) which is held in public.</p> <p>The Care Governance Committee's role is to seek assurance on the clinical</p>	Care Governance Committee to receive progress update reports on action plans by request and completed action plans for assurance on effectiveness of implementation of actions.	<p>A standard Operational Procedure for External Inspections/Visits to NHS Tayside by Regulatory and Other External Bodies was agreed by the Executive Leadership Team on 24 April and the Care Governance Committee on 1 June.</p> <p>This procedure outlines the process to be used on notification from a Regulatory Body that they wish to carry out a visit or inspection. The procedure also provided clarity on who was responsible for linking with each regulatory body and would be the point of contact for any inspection/visits from these bodies.</p>	Complete

Action Required	Responsible	Target Completion Date	Measures of Implementation	Measures of Effectiveness	Progress Update	Status
			<p>governance performance of all services. This includes assurance on action plans being implemented to respond to external and internal reviews.</p> <p>Currently, the Care Governance Committee receives reports on the implementation of these action plans. The Committee scrutinises the proposed actions and timescales for completion to be assured that recommendations from internal and external reviews are being actioned. The Committee will escalate specific issues to the full Tayside NHS Board if there are any actions that cannot be addressed, or if actions are significantly delayed.</p> <p>The business of the Care Governance Committee is fully visible to the full Board of NHS Tayside through the Chair's Assurance Report which is presented to the Board of NHS Tayside in public – and through the Care Governance Committee minutes.</p> <p>Taking into account the experiences of [Redacted – Section 38(1)(b)], NHS Tayside has identified that there should now be a further focus on measuring the effectiveness of completed action plans.</p> <p>As a result, NHS Tayside is taking the</p>			

Action Required	Responsible	Target Completion Date	Measures of Implementation	Measures of Effectiveness	Progress Update	Status
			<p>following actions:</p> <ul style="list-style-type: none"> • The Care Governance Committee will receive a report once action plans in response to external and internal reviews are complete and at any time before completion, at their request, as progress updates. • This will provide further assurance to Care Governance Committee that all actions have achieved the intended outcomes and sustained improvements for clinical services. • These completion reports will be visible to the Tayside NHS Board through the Care Governance Committee Assurance Reports to the Board. 			
<p>64. NHS Tayside should outline what arrangements they have in place to ensure that all patients returning to theatre within 30 days are identified and discussed through relevant governance and improvement support processes.</p>	<p>Medical Director</p>		<p>NHS Tayside has established a Standard Operating Procedure (SOP) to outline the process for identifying an unexpected return to theatre within 30 days. This sets out:</p> <ul style="list-style-type: none"> • How patients are flagged up to surgical teams as they appear on the theatre system more than once within a 30-day period. • The alert which surgical teams receive includes the type of procedure, the surgical consultant and the surgical specialty. • When there is an alert of an 'unexpected return to theatre', it is 	<p>Standard Operating Procedure (SOP) established and implemented and reviewed on a three- monthly basis for learning and improvement.</p>	<p>There is a SOP for returns to theatre. The data is pulled every 60 days from the Opera system and sent to Clinical Leads for local review. It is planned to audit this data.</p> <p>In addition all unplanned returns to theatre, either following elective or unscheduled surgery, should have a Datix completed, again to be reviewed by the appropriate Care Group.</p>	<p>Complete</p>

Action Required	Responsible	Target Completion Date	Measures of Implementation	Measures of Effectiveness	Progress Update	Status
			<p>managed through the surgical team's clinical governance structure.</p> <ul style="list-style-type: none"> • The clinical team will review and action any escalation processes as required. • The alert also triggers a DATIX report, which is NHS Tayside's Risk Management Information System which collects and manage data on adverse events with the purpose of identifying learning and implementing improvement. • All DATIX reports are collected by the Clinical Governance team to provide a further layer of check and assurance for further action and/or escalation. • If the alert raises an issue with a medical member of staff, this would be escalated to the Responsible Officer Advisory Group – see the response to Recommendation 67 for its role and purpose. • The SOP is reviewed every three months for improvement and learning. 			
65. A session should be offered by the Chair and Chief Executive of NHS Tayside to [Redacted – Section 38(1)(b)] to discuss their experiences and consider ways in which the learning from all of the various reviews (and this report) can be implemented and provide robust assurance	Tayside NHS Board	4 October 2022	Meeting to be held with [Redacted – Section 38(1)(b)].	[Redacted – Section 38(1)(b)] content with outcome of meeting.	[Redacted – Section 38(1)(b)]	In progress

Action Required	Responsible	Target Completion Date	Measures of Implementation	Measures of Effectiveness	Progress Update	Status
that changes made are resulting in reliable delivery of these processes. This should also consider any further action that can be taken to investigate [Redacted – Section 38(1)(b)].						
66. [Redacted – Section 38(1)(b)] should receive an apology for the risks to patient safety that resulted from the decision-making about the scope and practical arrangements for the supervision of Professor Eljamel.	Tayside NHS Board		Letter of apology to be sent to [Redacted – Section 38(1)(b)].	[Redacted – Section 38(1)(b)] content with apology.	[Redacted – Section 38(1)(b)]	In progress
67. NHS Tayside should consider whether the current implementation of medical appraisal processes are sufficiently robust to ensure that the issues identified through the reviews relating to Professor Eljamel's practice are considered and captured in appraisal discussions and documentation, including the improved clinical governance processes that were reported to the Scottish Government in 2018.	Medical Director		<p>NHS Tayside recognised that the areas of clinical governance, assurance and patient safety required to be strengthened following the issues which were raised in the case of Professor Eljamel.</p> <p>There are now well-established, strengthened governance structures, processes and reporting in place including an alert system which triangulates issues of complaint and concerns about a clinician's performance from a number of sources across the system including complaints, medical appraisal, safety incidents reports such as LAERs, SAERs, DATIX reports, university concerns, peer concerns regarding behaviours and capabilities, legal issues, HR and other complaints</p>	The Responsible Officer Advisory Group (ROAG) and ROAG "early warning" process established as a key pillar in the clinical governance structure.	<p>NHS Tayside has now introduced an early warning process to highlight doctors who are potentially in difficulty to allow early intervention.</p> <p>This process triangulates information and data from 12 different sources which allows escalation through a structured process ultimately to ROAG.</p>	

Action Required	Responsible	Target Completion Date	Measures of Implementation	Measures of Effectiveness	Progress Update	Status
			<p>routes such as whistleblowing.</p> <p>This has recently been strengthened even further with the establishment of a Responsible Officer Advisory Group (ROAG):</p> <ul style="list-style-type: none"> • This is a new governance structure to support the Responsible Officer to manage concerns relating to medical and dental staff. • The ROAG is also providing education and training relating to roles and responsibilities to medical leadership teams when dealing with performance issues of medical and dental staff • The ROAG has recently established a standardised guide and set of processes to follow when addressing potential concerns about a doctor or dentist's practice. • The ROAG seeks to bring together all sources of data which may signal an issue with a clinician's performance into one place for discussion and action. • The ROAG comprises of the Medical Director, Deputy Medical Director, Associate Medical Director for Professional Governance, senior 			

Action Required	Responsible	Target Completion Date	Measures of Implementation	Measures of Effectiveness	Progress Update	Status
			HR representative and Associate Medical Director to represent diversity, to review all concerns every six weeks. This group then makes recommendations to the Medical Director for further action after processing through a validated risk assessment.			
68. NHS Tayside should ensure that [Redacted – Section 38(1)(b)] associated with their experiences of being treated by Professor Eljamel can be addressed. It should be recognised that this may need to be supported [Redacted – Section 38(1)(b)].			<p>This will be addressed with the individuals at the meeting on [Redacted – Section 38(1)(b)].</p> <p>The individuals will be provided with a designated point of contact for any ongoing issues, questions or concerns with NHS Tayside through the Board Secretary.</p>	<p>Individuals content with care and support.</p> <p>Board Secretary acting as point of contact.</p>	[Redacted – Section 38(1)(b)]	
69. NHS Tayside should recognise that it is only through respectful, personalised and ongoing dialogue with [Redacted – Section 38(1)(b)] that some of the unresolved and significant questions can be addressed in ways that help with the process [Redacted – Section 38(1)(b)].			<p>Tayside NHS Board to engage directly with the individuals following the session on [Redacted – Section 38(1)(b)].</p> <p>[Redacted – Section 38(1)(b)] to be provided with a designated point of contact for any ongoing issues, questions or concerns with NHS Tayside through the Board Secretary.</p>	Board Secretary acting as point of contact.	[Redacted – Section 38(1)(b)]	In progress

MINISTERIAL ENGAGEMENT BRIEFING: MICHAEL MATHESON

Engagement title	Meeting with MSPs who support the call for a public inquiry into patient safety concerns at NHS Tayside.
Engagement timing	10:00-11:00, 30 August 2023
Venue and full address	MS Teams
Background/Purpose include invitation history	<p>To provide MSPs with an update on the independent commission established by the Cabinet Secretary.</p> <p>This is part of a commitment from the Cabinet Secretary to keep MSPs up to date on how the work is progressing. This will support them in updating their constituents, provide an opportunity to ask questions and allow the Cabinet Secretary to reiterate the details of the commission.</p>
Relevance to core script	N/A
Key message	<p>This meeting provides an opportunity to update a small group of interested MSPs on the progress of the independent commission.</p> <p>I would like to hear any recent concerns raised by your constituents.</p>
Attendees	<p>MSP</p> <p>Liz Smith MSP (Con) Graeme Dey MSP (SNP) Willie Rennie MSP (Lib Dem) Michael Marra (Lab) Shona Robison (SNP) John Swinney (SNP) Jim Fairlie MSP (SNP)</p>
Annexes	<p>Annex A: Summary and background Annex B: [Redacted – Section 30(b)(i)] Annex C: [Redacted – Section 38(1)(b)] Annex D: Executive Medical Director Conclusions and Recommendations - NHS Tayside Due Diligence Review Annex E: Summary of FOI requests received</p>
Media Handling include mobile number(s)	[Redacted – Section 30(b)(i)]

Official Support include mobile number(s)	[Redacted – Section 38(1)(b)] Craig White [Redacted – Section 38(1)(b)] [Redacted – Section 38(1)(b)]

ANNEX A

SUMMARY

Background

2. Professor Muftah Salem Eljamel was a neurosurgeon at Ninewells Hospital, Dundee, between 1995 and 2014. Professor Eljamel was suspended by NHS Tayside on 10 December 2013, following concerns raised by patients who had been operated on by him. The Scottish Government received formal notification of his suspension on 19 December 2013. Professor Eljamel is now living and working abroad, outside of the jurisdiction of the UK.

3. The Cabinet Secretary is aware of the long-standing issues surrounding Professor Eljamel and the ongoing calls for Scottish Government to establish a public inquiry.

4. In the update letter sent to MSPs on 30 June following the meeting on 20 April with MSPs and NHS Tayside, the Cabinet Secretary committed to updating MSPs on progress of the independent commission over the summer. This meeting upholds that commitment. The MSPs expected to attend are:

- Liz Smith (Con)
- Michael Marra (Lab)
- Willie Rennie (Lib Dem)
- Graeme Dey (SNP)
- Shona Robison (SNP)
- John Swinney (SNP)

Current position

5. There are continued calls from former patients to establish a public inquiry. There has been an increase in the number of former patients coming forward to SG through correspondence directly received by the FM and Cabinet Secretary from members of the public and through correspondence from the Patients' Action Group. There also continues to be a steady flow of media queries coming into SG, [Redacted – Section 30(b)(i)].

6. Scottish Government has received a number of FOI requests and [Redacted – Section 38(1)(b)] Subject Access Requests recently relating to Professor Eljamel, requesting various pieces of information held by SG. Some have been sent in by former patients, while others have been received from parliamentary researchers. A list of the FOI requests and the information released, withheld or not held, can be found at **Annex E**.

7. In addition to the increased correspondence at described above, [Redacted – Section 38(1)(b)] following the Lucy Letby trial and the UK Government's announcement that they intend to establish an independent, non-statutory inquiry into the circumstances behind the murders and attempted murders of babies at Countess of Chester Hospital. According to the UK Government website, the inquiry will look at the circumstances surrounding the deaths and incidents, including how concerns raised by clinicians were dealt with, and victims' families will be invited to both

engage and shape the inquiry, ensuring their views are heard throughout the process. [Redacted – Section 38(1)(b)].

8. [Redacted – Section 29(1)(a)].

9. [Redacted – Section 29(1)(a)].

10. [Redacted – Section 38(1)(b)]. [Redacted – Section 30(b)(i)].

11. [Redacted – Section 38(1)(b)] there has been a steady increase in the volume of correspondence received by Scottish Government. [Redacted – Section 30(b)(i)].

12. [Redacted – Section 38(1)(b)].

13. Officials have received an update on NHS Tayside’s action plan in response to the *Review of Unresolved and Outstanding concerns regarding Professor Eljamel, Former Consultant Neurosurgeon at NHS Tayside*, and the Due Diligence review. The Executive Medical Director conclusions and recommendations from this review can be found at **Annex D**. NHS Tayside Board will be considering the Due Diligence review at their next meeting which is due to take place on Thursday 31 August. They intend to write to 111 patients who were operated on during the period of inadequate supervision and officials have asked to see a copy of those letters. In addition, NHS Tayside will also be briefing the Non-Executive Directors and offering a briefing to the small group of MSPs who will be joining this meeting on Wednesday.

14. [Redacted – Section 38(1)(b)].

15. NHS Tayside have confirmed that the numbers of people who have contacted their Patient Liaison Response Team (PLRT) has increased due to the recent media coverage. [Redacted – Section 30(b)(i)]:

- 17 have signed the consent form to have their records reviewed by an independent review.
- [Redacted – Section 38(1)(b)] have the consent form and are to be returned.
- [Redacted – Section 38(1)(b)] have said they do not wish to participate.
- [Redacted – Section 38(1)(b)] have asked for a public inquiry.
- [Redacted – Section 38(1)(b)] phoned and did not leave any details.

16. [Out of Scope]

ANNEX B

- [Redacted – Section 30(b)(i)]

• [Out of Scope]

ANNEX C

[REDACTED – SECTION 38(1)(B)].

ANNEX D

EXECUTIVE MEDICAL DIRECTOR CONCLUSIONS AND RECOMMENDATIONS – NHS TAYSIDE DUE DILIGENCE REVIEW OF DOCUMENTATION HELD RELATING TO PROFESSOR ELJAMEL

The behaviour of individual doctors

The review has provided evidence that Professor Eljamel was not being open and honest with patients and colleagues. It was clear that he was not being truthful with his patients about procedures and he did not share mistakes with colleagues for learning and reflection in the well-established Mortality and Morbidity reviews. These behaviours are rare within the medical profession but there is a need to have systems in place to detect and act on these if they occur. This has been a challenge for all healthcare organisations because of the infrequent nature of the occurrence and because individuals may be evasive and untruthful.

It is important that:

- individual doctors are clear that they have a professional responsibility to adhere to the principles of the GMC's 'Good Medical Practice' (to note, the GMC has written to all registered doctors in the UK on August 23 2023 to let them know that an updated Good Medical Practice has been published and will come into effect on 23 January 2024 and the GMC has started an ongoing programme of comms to support doctors to become familiar with Good Medical Practice before it comes into effect)
- individual doctors are clear that NHS Tayside has a responsibility to monitor practice and that they are expected to participate in discussions to ensure professional governance
- individual doctors are clear about the difference between professional appraisal and performance management professional governance

The evolution of professional appraisal over the past decade and since Professor Eljamel practised in Tayside has highlighted the role of Good Medical Practice and the need to meet its conditions for all doctors.

Since Professor Eljamel practised in Tayside, NHS Tayside has overhauled the governance and alert systems in place for professional governance. Of note are the Professional Appraisal and Revalidation meetings, the development of ROAG, checklists to help managers identify and document concerns and a process for escalation. In addition, handbooks for new consultants and doctors taking up operational management positions help to introduce a consistent minimum expectation for medical staff.

Monitoring signals of poor practice or harm

The rarity of the issues related to Professor Eljamel necessitates monitoring systems that can detect infrequent signals, link them together and highlight them to managers to take action. In Professor Eljamel's case, there were multiple ways in which signals of poor practice could appear such as complaints and feedback, adverse event reviews and adverse clinical outcomes, however there was no evidence of triangulation of some of these signals.

Other methods of feedback, eg trainee surveys, may also contain information about safety issues and therefore these require to be visible in terms of governance processes and reporting routes, both to clinical teams and also across management lines. At the time Professor Eljamel was practising, these were not always seen by line managers.

Clinical Governance systems have evolved since the time that Professor Eljamel was employed in Tayside.

Triangulation of these systems is now recognised as essential in NHS Tayside in order to provide effective monitoring of alerts in the system.

NHS Tayside now has a proactive approach to triangulating potential alerts in the system through an Executive Director-led Safety Oversight Group which responds to emerging potential issues.

Guidance to ensure consistency in governance processes

Our reviews demonstrate that the organisational response to signals within the system at the time of Professor Eljamel's practice demonstrated variability. Some complaints led to formal investigation using governance processes, some did not and there was variation in response times.

Once multiple signals were triangulated in 2013, decision-making related to Professor Eljamel's practice was delegated too far down the organisation.

Restrictions in practice were not adequate and decision-making was not documented sufficiently well.

The level of supervision that was decided upon was not proportionate to the concerns being raised at the time and once implemented was not monitored effectively. Specifically, the supervision was indirect when, due to the nature of the concerns, direct supervision would have been appropriate. An advanced process for professional governance, from raising concerns to acting on these and ensuring clear documentation of decisions made was not present during the time of Professor Eljamel's employment. This has been addressed by NHS Tayside and there is now an established process in place.

Assurance that learning occurred and would be spread

The due diligence review found that there were many recommendations made from 2013 to 2022, however reliable documentation of actions related to these was not consistently present and monitoring and assurance routes for those actions were variable.

Revised systems around Professional Governance, Clinical Governance, Complaints, Whistleblowing, Feedback, and trainee feedback and raising staff concerns have greatly improved the opportunities to triangulate signals and adopt whole-system learning from events.

Service-led action plans which are developed from the recommendations of external reviews are now reported to Care Governance Committee for assurance.

Communication between NHS Tayside and those patients affected by the practice of Professor Eljamel

The communication with patients throughout the process has been of variable quality, fragmented and generally poor and there has been no central coordination to ensure a truly person-centred approach.

When concerns were raised by patients, the issue was managed through a small subset of the Acute Management Team with a lack of Board visibility, no governance routes to assure and scrutinise and no indications or reporting of improvement through action plans.

The establishment of the Patient Liaison response Team in early 2023 now gives patients who have long-running concerns relating to key issues a single point of contact which will build closer, respectful relationships with patients, promote consistency and understanding of individuals' worries and concerns, and achieve a more person-centred approach with the aim of more positive outcomes for all involved.

SUMMARY OF FREEDOM OF INFORMATION REQUESTS RECEIVED

Case Number	Information requested	Information issued	Exemptions applied	Comments
202300372703	[Redacted – Section 38(1)(b)] Prof E timeline	-	-	Issued 25 Aug 23. This is the Failure to Respond review – linked to 202300365326 (below) – [Redacted – Section 30(b)(i)].
202300368780 – not yet issued, due 28 Aug.	Emails from Prof E stating his desire to give up degenerative spinal surgery and emails in SG responding to the request.	Partial release	S17 – information not held. S38 – third party personal data.	SG does not hold emails related to Prof E’s desire to give up spinal surgery. Emails associated with this response have been suitably redacted for release. The same request was made of NHS Tayside.
202300367935	Minutes of meeting prior to Prof E meeting on 3 June 2013	No release	S17 – information not held.	SG does not hold a copy of the minutes requested. The same request was made of NHS Tayside.
202300359868	Provide all correspondence between NHS Tayside and/or SG Ministers and/ or SpAds in relation to Prof E – between 1 Jan 18 and 2 Jun 23.	No release – exceeded upper cost limit.	S12 – upper cost limit exceeded.	Advice provided on refining the request.
202300365326	Provide all correspondence between NHS Tayside and/or SG Ministers and/ or SpAds in relation to Prof E – between 3 May 07 and 25 Apr 23.	No release exceeded upper cost limit.	S12 – upper cost limit exceeded.	Advice provided on refining the request.

	Provide all correspondence between SG Ministers and/ or SpAds have sent and received in relation to Prof E – between 3 May 07 and 25 Apr 23			
202300365326 – initially due 4 Aug.	[Redacted – Section 38(1)(b)] Prof E timeline	Partial release	S38 – third party personal data.	<p>Closed on Micase as issued 25 Aug 23 as part of Failure to Respond review.</p> <p>This document was referred to in the Dr Lee Jordan letter.</p> <p>This was due on 4 Aug. It was due to be issued on 23 Aug following necessary clearances by Cab Sec, however, it is now subject to a Failure to Respond review and will be issued as a combined response.</p>
202300359545	Provide a copy of Dr Jordan Lee letter	Partial release	S38 – third party personal data.	Person identifiable information was redacted in the letter.

MINISTERIAL BRIEFING: MICHAEL MATHESON – 7 SEPTEMBER 2023

Engagement title	Meeting with former patients and statement to Parliament stating the Scottish Government’s intention to commission a public inquiry into the actions of Mr. Eljamel and NHS Tayside.
Engagement timing	<p>Meeting with former patients - 7 September, 10:45 – 11:15 (patients will be invited for 10:30). This meeting will take place in the Cabinet Secretary’s office in St Andrew’s House.</p> <p>Statement to Parliament – 7 September, 14:55 – 15:25</p>
Venue and full address	Parliament
Background/Purpose include invitation history	To announce the commission of a public inquiry into the actions of Mr. Eljamel while employed at NHS Tayside.

Relevance to core script	N/A
Key message	Announcing public inquiry
Annexes	Annex A: Summary Annex B: Statement Annex C: Q&A
Media Handling include mobile number(s)	Comms will issue a statement and generate reactive lines. Comms contact: [Redacted – Section 38(1)(b)]- TBC
Official Support include mobile number(s)	Craig White, Associate Director of HQI: [Redacted – Section 38(1)(b)] [Redacted – Section 38(1)(b)] [Redacted – Section 38(1)(b)]

ANNEX A

SUMMARY

Background

1. The Cabinet Secretary is aware of the long-standing issues surrounding Mr. Eljamel and the ongoing calls for Scottish Government to establish a public inquiry.
2. A submission was sent to the Cabinet Secretary on Friday 1 September providing advice on commissioning a public inquiry into the concerns raised in relation to the practice of Mr. Eljamel while employed at NHS Tayside. Following your confirmation on Monday 4 September that officials should progress with *option 3 - concurrent independent commission and public inquiry*, a discussion took place with Cabinet on 05 September. Following the Cabinet's agreement, a statement in Parliament was planned for Thursday 7 September. Subsequently, an urgent FMQ from Michael Marra was received and the First Minister will answer to indicate the Cabinet Secretary will outline the Government's intention to establish a full public inquiry.
3. Former patients and parliamentarians' calls for a public inquiry started in November 2022 and have remained at a constant level until more recently when there has been an increase in these calls from affected patients and the interested groups of MSPs. There have also been a number of media articles over the past few months on this subject. [Redacted – Section 30(b)(i)].
4. As part of the commitment to keep MSPs updated on progress, on Wednesday 30 August, the Cabinet Secretary met with MSPs acting on behalf of their constituents who were treated by Mr. Eljamel. These were: Liz Smith (Con), Michael Marra (Lab), Willie Rennie (Lib Dem), Graeme Dey (SNP), Shona Robison (SNP), John Swinney (SNP), and Jim Fairlie (SNP). During this meeting, you heard from MSPs about a range of aspects related to their

constituents' concerns, and they conveyed that their constituents had little confidence in an independent commission. This lack of confidence was primarily based on the lack of powers a non-statutory inquiry would have to compel witnesses to provide evidence, including former executive directors and the former Chief Executive.

NHS Tayside Due Diligence Review report – August 2023

5. In March 2023, NHS Tayside began a *Due Diligence Review into Documentation Held Relating to Professor Eljamel*, to examine their own handling of these concerns. The report was published on Thursday 31 August following a Board Meeting where it was presented. This report followed the 'Review of Unresolved and Outstanding Concerns regarding Professor Eljamel, Former Consultant Neurosurgeon at NHS Tayside', which was commissioned by Ms Freeman [Redacted – Section 30(b)(i)], submitted to the then Cabinet Secretary in May 2022 and sent in final form to NHS Tayside in July 2022. The NHS Tayside due diligence review considered:
 - the systems to monitor for unsafe clinical practice,
 - internal signals of unsafe clinical practice,
 - the effectiveness in recognising and reacting to internal signals of concern,
 - actions taken to learn from external scrutiny, and
 - current clinical and professional governance arrangements.
6. The review confirms a key finding of the 2022 SG review, that the supervised practice arrangements put in place for Mr Eljamel were inadequate and that 111 patients were placed at potential risk of harm during **21 June 2013 to 10 December 2013** as a consequence. It identifies several weaknesses in corporate governance relating to assurance of the completion of actions required following other reviews (including the review by the Royal College of Surgeons of England) completed prior to the SG review in 2022. It also outlines analysis of other historical information available on the patterns of complaints and investigation into whistleblowing.
7. NHS Tayside activated the organisational duty of candour procedure having determined that these events constitute an unintended or unexpected incident that resulted or could have resulted in harm. This is consistent with their statutory obligation to do so upon becoming aware of any incident that occurred prior to this legislation coming into force on 01 April 2018.
8. More broadly on patient safety, on 26 August, after Lucy Letby was sentenced to a whole life order for the murder of seven babies in her care, you wrote to Health Board Chairs, instigating a review of patient safety processes. Initial findings are due back with us on 15 September. In addition, officials have put in motion plans for a Patient Safety Oversight Group, a strategic governance board to coordinate matters of patient safety and ensure co-operation between different parts of the healthcare system. This is due to meet for the first time at the end of next week.

[Redacted – Section 29(1)(a)]

9. [Redacted – Section 29(1)(a)].

10. [Redacted – Section 29(1)(a)].

PARLIAMENTARY STATEMENT

[Redacted – Section 25]

QUESTIONS AND ANSWERS

[Redacted – Section 30(b)(i)]

From: [Redacted – Section 38(1)(b)]
Healthcare Quality and Improvement
27 September 2023

Cabinet Secretary for NHS Recovery, Health and Social Care

17. Lord President’s Request re Approach to Serving Judge

17.1 Priority and Purpose

75. Urgent.

17.2 Recommendation

76. Recommends that you:

- a) Note the cost implications
- b) Note the SSI implications
- c) Write to the Cabinet Secretary for Justice and Home Affairs (**ANNEX A**)

17.3 Context and Issues

77. You wrote to the Lord President on 07 September asking for help in identifying a suitable chair for the public inquiry on Mr Eljamel and NHS Tayside.

78. On 13 September, the Office of the Solicitor General advised officials that the Lord President is continuing to seek a suitable Chair, [Redacted – Section 30(b)(i)].

79. [Redacted – Section 30(b)(i)].

Financial Implications

80. Costs for the Inquiry, including the costs of remunerating the chair at the rate applicable to a judge (currently around £1,000 a day), will fall to Health.

81. The Court of Session comprises of judges from both the Inner and Outer House. The annual cost of a judge from the Inner house (including salary, NI and pension) is £399,279 and is £350,503 for an Outer House judge. [Redacted – Section 30(b)(i)].

82. [Redacted – Section 30(b)(i)].

Scottish Statutory Instrument (SSI) Implications

83. [Redacted – Section 30(b)(i)].

84. [Redacted – Section 30(b)(i)].

85. [Redacted – Section 30(b)(i)].

86. [Redacted – Section 29(1)(b)].

17.4 Bute House Agreement Implications

87. We do not see any implications from the Bute House Agreement.

17.5 Verity House Agreement Implications

88. We do not see any implications from the Verity House Agreement.

17.6 Financial and Legal Considerations

89. As advised previously, the cost of any inquiry would fall to the health budget and would need to be factored into the forthcoming 2024-25 budget and subsequent spending reviews.

17.7 Quality Assurance

90. This Submission has been approved by Lynne Nicol, Deputy Director, Healthcare Quality and Improvement Division.

17.8 Conclusions and next Steps

91. The Cabinet Secretary is asked to note the implications of appointing a serving judge and agree to issue a letter to the Cabinet Secretary for Justice and Home Affairs.

**[Redacted – Section 38(1)(b)]
Healthcare Quality & Improvement**

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
Cabinet Secretary for NHS Recovery, Health and Social Care	X			

Officials Copy List
DG Health and Social Care
CMO
DCMO
John Burns
Jason Leitch
John Harden
Lynne Nicol
[Redacted – Section 38(1)(b)]
Craig White
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
Health Communications
John Paterson
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
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[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
Jennie Gollan

ANNEX A

[Redacted – Section 29(1)(b)]

From: [Redacted – Section 38(1)(b)]
Office of the Chief Operating Officer / Healthcare Quality and Improvement
20 September 2023

Cabinet Secretary for NHS Recovery, Health and Social Care

18. Arrangements for oversight of NHS Tayside actions in relation to Sam Eljamel

18.1 Priority and Purpose

92. This is a routine submission to provide advice to the Cabinet Secretary on arrangements for oversight of NHS Tayside actions in relation to Sam Eljamel.

18.2 Recommendation

93. Recommends that you consider and accept the recommendations below.

18.3 Context and Issues

94. The Cabinet Secretary for NHS Recovery, Health and Social Care has requested advice on measures that can be put in place by the Scottish Government to provide oversight and assurance of NHS Tayside's actions in relation to improved governance and completion of the recommendations made in various reviews already undertaken concerning Sam Eljamel. This issue was raised in Parliament during debate following the Cabinet Secretary's update on matters relating to Sam Eljamel (see details at Annex A).

95. NHS Tayside is actioning a series of recommendations related to prior reviews of actions and documentation in respect of the practice of Sam Eljamel while he was employed by them. These include:

- recommendations for NHS Tayside made in the Scottish Government's *Review of Unresolved and Outstanding Concerns regarding Professor Eljamel, Former Consultant Neurosurgeon at NHS Tayside*, which was commissioned by the former Health Secretary Jeane Freeman into the concerns of [Redacted – Section 38(1)(b)] former patients, submitted to Ms Freeman in May 2022 and sent in final form to NHS Tayside in July 2022; and
- the recommendations of NHS Tayside's *Due Diligence Review into Documentation Held Relating to Professor Eljamel*, published on Thursday 31 August following a NHS Tayside Board Meeting where it was presented.

Details of these recommendations are included at Annexes B and C.

Options Considered and Advice

96. In considering options for structured oversight of NHS Tayside, officials in the Safety, Openness and Learning team consulted with colleagues who have policy responsibility for NHS Boards in relation to cancer waiting times.

97. Taking a similar approach to that used for cancer waiting times would see officials engage in fortnightly meetings with NHS Tayside, using a standard reporting template underpinned by agreed measures of implementation and effectiveness.

98. [Redacted – Section 30(b)(i)].

99. [Redacted – Section 30(b)(i)].

100. Officials would use existing reporting structures to ensure that the National Planning and Performance Oversight Group (NPPOG) has appropriate oversight of the process, and that any concerns related either to NHS Tayside's engagement with the process, or to the pace and effectiveness of its implementation of all relevant recommendations, are considered by NPPOG in the wider context of any other concerns related to NHS Tayside, and escalated where necessary according to established processes (through the NHS Board Performance Escalation Framework).

18.4 Assessment of Options

101. [Redacted – Section 30(b)(i)].

102. [Redacted – Section 30(b)(i)].

18.5 Bute House Agreement Implications

103. We have identified no implications for the Bute House Agreement.

18.6 Verity House Agreement Implications

104. We have identified no implications for the Verity House Agreement.

18.7 Financial and Legal Considerations

105. None identified at this stage.

Sensitivities

106. [Redacted – Section 30(b)(i)]. This is offset by the regular channels of communication that have already been established between Professor Craig White and the Safety, Openness and Learning Unit with NHS Tayside's Medical Director, Pamela Johnston, and Board Secretary, Margaret Dunning. The proven effectiveness of similar work in relation to cancer waiting times, and effective connection with established processes for bringing forward any issues that require to be considered by the NPPOG, also provide assurance that such an approach could be effective.

107. [Redacted – Section 30(b)(i)].

18.8 Quality Assurance

108. This submission has been approved by Lynne Nicol, Deputy Director, Healthcare Quality and Improvement.

18.9 Conclusions and next Steps

109. The Cabinet Secretary is invited to note the advice provided, and agree that an oversight process is established within the Safety, Openness and Learning Unit, that includes fortnightly meetings with NHS Tayside, using a standard

reporting template underpinned by agreed measures of implementation and effectiveness, and reporting to the NPPOG where required.

[Redacted – Section 38(1)(b)]

Healthcare Quality and Improvement, Office of the Chief Operating Officer

[Redacted – Section 38(1)(b)]

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
Cabinet Secretary for NHS Recovery, Health and Social Care	X			

Officials Copy List

DG Health and Social Care
 CMO
 DCMO
 John Burns
 Jason Leitch
 John Harden
 Lynne Nicol
 [Redacted – Section 38(1)(b)]
 Craig White
 [Redacted – Section 38(1)(b)]
 [Redacted – Section 38(1)(b)]
 [Redacted – Section 38(1)(b)]
 [Redacted – Section 38(1)(b)]
 Health Communications
 [Redacted – Section 38(1)(b)]
 [Redacted – Section 38(1)(b)]
 [Redacted – Section 38(1)(b)]
 [Redacted – Section 38(1)(b)]
 Nicola Barnstaple
 [Redacted – Section 38(1)(b)]
 James Boyce
 Jennie Gollan

Annex A

Extracts from the official report of the Meeting of the Scottish Parliament, 7th September 2023

[Redacted – Section 25]

Annex B

Recommendations for NHS Tayside made in the Review of Unresolved and Outstanding Concerns regarding Professor Eljamel, Former Consultant Neurosurgeon at NHS Tayside

NHS Tayside have developed a measurable action plan and are reporting to SG officials on the following recommendations:

- There should be mechanisms in place to ensure that anyone with an ongoing concern, interest or need for updates on the way in which learning, change and improvement actions are being implemented can access this information and any support required.
- NHS Tayside should review the way in which it identifies and measures the implementation and effectiveness of actions arising from internal and external review processes such as those commissioned in respect of Professor Eljamel's practice. This should include action plan content and subsequent relevant assurance through clinical governance processes to the Board's delegated committee with responsibility for clinical governance. This should be overseen by clinicians with lead responsibility for clinical governance in services.
- NHS Tayside should outline what arrangements they have in place to ensure that all patients returning to theatre within 30 days are identified and discussed through relevant governance and improvement support processes.
- A session should be offered by the Chair and Chief Executive of NHS Tayside to [Redacted – Section 38(1)(b)] to discuss their experiences and consider ways in which the learning from all of the various reviews (and this report) can be implemented and provide robust assurance that changes made are resulting in reliable delivery of these processes. This should also consider any further action that can be taken to investigate [Redacted – Section 38(1)(b)].
- [Redacted – Section 38(1)(b)] should receive an apology for the risks to patient safety that resulted from the decision- making about the scope and practical arrangements for the supervision of Professor Eljamel.
- NHS Tayside should consider whether the current implementation of medical appraisal processes are sufficiently robust to ensure that the issues identified through the reviews relating to Professor Eljamel's practice are considered and captured in appraisal discussions and documentation, including the improved clinical governance processes that were reported to the Scottish Government in 2018.
- NHS Tayside should ensure that [Redacted – Section 38(1)(b)] associated with their experiences of being treated by Professor Eljamel can be addressed. It should be recognised that this may need to be supported [Redacted – Section 38(1)(b)].
- NHS Tayside should recognise that it is only through respectful, personalised and ongoing dialogue with [Redacted – Section 38(1)(b)] that some of the unresolved

and significant questions can be addressed in ways that help with the process
[Redacted – Section 38(1)(b)].

Officials are currently considering feedback on the Board's Action Plan. NHS Tayside's reporting includes details of actions required, a named person with responsibility for each, a target completion date, measures of implementation, measures of effectiveness, a progress update and status (completed or still underway).

Annex C

Recommendations of NHS Tayside's Due Diligence Review into Documentation Held Relating to Professor Eljamel

[Redacted – Section 25]

From: [Redacted – Section 38(1)(b)]
HQI: Safety, Openness and Learning Unit
01 September 2023

Cabinet Secretary for NHS Recovery, Health and Social Care

19.

PUBLIC INQUIRY INTO THE ACTIONS OF PROFESSOR ELJAMEL, FORMER NEUROSURGEON AT NHS TAYSIDE

19.1 Priority and Purpose

110. **Immediate.** Ministers have asked for urgent advice around commissioning a public inquiry into the concerns raised in respect of the events relating to Professor Eljamel's practice while employed in NHS Tayside. A response by Monday 04 September will allow for officials to progress with next steps.

19.2 Recommendation

111. Recommends that you note the advice below and offer views on preferred options.

19.3 Context and Issues

112. The Cabinet Secretary is aware of the background to this work and the long-standing issues that are being considered in this submission.

113. On 12 July 2023, officials provided advice to the Cabinet Secretary on options for reviewing patient cases, learning and improvements as a result of the harm caused by Professor Eljamel.

114. [Redacted – Section 29(1)(a)].

115. NHS Tayside published their Due Diligence review report on Thursday 31 August following a Board Meeting where it was presented. This report followed the 'Review of Unresolved and Outstanding Concerns regarding Professor Eljamel, Former Consultant Neurosurgeon at NHS Tayside', which was commissioned by Ms Freeman into the concerns of [Redacted – Section 38(1)(b)] former patients of Professor Eljamel, and submitted to the then Cabinet Secretary in May 2022. The NHS Tayside due diligence review considered:

- the systems to monitor for unsafe clinical practice,
- internal signals of unsafe clinical practice,
- the effectiveness in recognising and reacting to internal signals of concern,
- actions taken to learn from external scrutiny, and
- current clinical and professional governance arrangements.

116. The review confirms a key finding of the SG review submitted in May 2022, that the supervised practice arrangements put in place for Mr Eljamel were inadequate and that 111 patients were at potential risk of harm during **21 June 2013 to 10 December 2013** as a consequence. It identifies several weaknesses in corporate governance relating to assurance of the completion of actions completed prior to the SG review in 2022. It also outlines analysis of other historical information available on the patterns of complaints and investigation into whistleblowing.

117. NHS Tayside activated the organisational duty of candour procedure having determined that these events constitute an unintended or unexpected incident that resulted or could have resulted in harm. This is consistent with their statutory obligation to do so upon becoming aware of any incident that occurred prior to this legislation coming into force on 01 April 2018.

118. You met on **Wednesday 30 August** from 10:00 – 11:00 with MSPs acting on behalf of their constituents who were treated by Professor Eljamel. These were: Liz Smith (Con), Michael Marra (Lab), Willie Rennie (Lib Dem), Graeme Dey (SNP), Shona Robison (SNP), John Swinney (SNP), and Jim Fairlie (SNP). During this meeting, you were able to hear from MSPs about a range of aspects related to their constituents' concerns, and they conveyed that their constituents had little confidence in an independent commission. This lack of confidence was primarily based on the lack of powers a non statutory inquiry would have to compel witnesses to provide evidence, including former executive directors and the former Chief Executive. You assured them that you would update them as soon as possible on next steps.

119. More broadly on patient safety, on 26 August, after Lucy Letby was sentenced to a whole life order for the murder of seven babies in her care, you wrote to Health Board Chairs, instigating a review of patient safety processes. Initial findings are due back with us on 15 September. In addition, officials have put in motion plans for a Patient Safety Oversight Group, a strategic governance board to coordinate matters of patient safety and ensure co-operation between different parts of the healthcare system. This is due to meet for the first time at the end of next week.

19.4 Options Considered and Advice

120. The Cabinet Secretary has 3 options to consider:

- i. [Redacted – Section 29(1)(a)]
- ii. [Redacted – Section 29(1)(a)]
- iii. [Redacted – Section 29(1)(a)]

[Redacted – Section 29(1)(a)]

121. [Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)]

122. [Redacted – Section 29(1)(a)].

123. [Redacted – Section 29(1)(a)].

124. [Redacted – Section 29(1)(a)].

125. [Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)]

126. [Redacted – Section 29(1)(a)].

127. [Redacted – Section 29(1)(a)]

128. [Redacted – Section 29(1)(a)].

129. [Redacted – Section 29(1)(a)]

130. [Redacted – Section 29(1)(a)].

131. [Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)]

132. [Redacted – Section 29(1)(a)].

133. [Redacted – Section 29(1)(a)].

19.5 Assessment of Options

134. [Redacted – Section 29(1)(a)].

[Redacted – Section 29(1)(a)]

- 135. [Redacted – Section 29(1)(a)].
- 136. [Redacted – Section 29(1)(a)].
- 137. [Redacted – Section 29(1)(a)].
- 138. Redacted – Section 29(1)(a)].
- 139. [Redacted – Section 29(1)(a)].
- 140. [Redacted – Section 29(1)(a)].
- 141. [Redacted – Section 29(1)(a)]:

[Redacted – Section 29(1)(a)]	[Redacted – Section 29(1)(a)]	[Redacted – Section 29(1)(a)]
[Redacted – Section 29(1)(a)]	[Redacted – Section 29(1)(a)]	[Redacted – Section 29(1)(a)]
[Redacted – Section 29(1)(a)]	[Redacted – Section 29(1)(a)]	[Redacted – Section 29(1)(a)]
[Redacted – Section 29(1)(a)]	[Redacted – Section 29(1)(a)]	[Redacted – Section 29(1)(a)]
[Redacted – Section 29(1)(a)]	[Redacted – Section 29(1)(a)]	[Redacted – Section 29(1)(a)]

142. [Redacted – Section 29(1)(a)]

19.6 Bute House Agreement Implications

143. We do not see any implications from the Bute House Agreement.

19.7 Verity House Agreement Implications

144. We do not see any implications from the Verity House Agreement.

19.8 Financial and Legal Considerations

145. [Redacted – Section 30(b)(i)].

146. [Redacted – Section 30(b)(i)].

147. [Redacted – Section 30(b)(i)].

Communications and Engagement

148. Whichever option Ministers choose, a thorough communications and engagement plan will be developed. [Redacted – Section 30(b)(i)]. The principles

underpinning this – of clarity, communication and prioritisation of those people directly affected, and support for former patients – will be at the core of any communications plan reflecting Ministers’ choices from the options above.

149. It is outlined above that Ministers will have obligations to advise Parliament as soon as is practicable if a public inquiry is to be commissioned. We would advise that those people directly affected are informed first, assuming this is appropriate (advice will be sought on this point).

150. If the Cabinet Secretary is minded to commission a public inquiry, consideration on timelines around an announcement should be considered. Further advice will be provided in consultation with Communications colleagues.

19.9 Sensitivities

151. [Redacted – Section 30(b)(i)].

19.10 Quality Assurance

152. This Submission has been approved by Craig White, Associate Director of Healthcare Quality and Improvement & [Redacted – Section 38(1)(b)], Healthcare Quality and Improvement Division.

19.11 Conclusions and next Steps

153. The Cabinet Secretary is asked to note the advice above and offer views on a preferred option from:

- i. [Redacted – Section 29(1)(a)]
- ii. [Redacted – Section 29(1)(a)]
- iii. [Redacted – Section 29(1)(a)]

154. [Redacted – Section 30(b)(i)].

From: [Redacted – Section 38(1)(b)]
 HQI: Safety, Openness and Learning Unit
 01 September 2023

Cabinet Secretaries and Ministers Copy List	For Action	For Information Portfolio interest	For Information Constituency interest	For Information General awareness
Cabinet Secretary for NHS Recovery, Health and Social Care	X			

Officials Copy List

John Paul Marks, Permanent Secretary
Caroline Lamb, DG Health and Social
Care
CMO
Richard McCallum
Gillian Russell
Julie McKinney
John Burns
Jason Leitch
John Harden
Lynne Nicol
[Redacted – Section 38(1)(b)]
Craig White
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
Health Communications
[Redacted – Section 38(1)(b)]
John Paterson
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
David Hutchison
Jennie Gollan

From: [Redacted – Section 38(1)(b)]
DCOO: Safety, Openness and Learning
06 November 2023

Cabinet Secretary for NHS Recovery and Health and Social Care

20. Update on the Public Inquiry and Independent Clinical Review of the Individual Cases of Former Patients

20.1 Priority and Purpose

155. To update the Cabinet Secretary on developments related to the NHS Tayside and Eljamel public inquiry and the independent clinical review of the individual cases of former patients

20.2 Recommendation

156. Recommends that you:

- a. Note the update on the discussion with [Redacted – Section 30(c)].
- b. Note the draft terms of reference for the independent clinical review of the individual cases of former patients.
- c. [Redacted – Section 30(c)].
- d. Confirm agreement with the proposal to discuss the further actions to be taken to identify a Chair for the Public Inquiry.

20.3 Context and Issues

Public Inquiry

157. Professor Craig White met with [Redacted – Section 30(c)] following an approach from the Solicitor General.

158. During the meeting Professor White provided a verbal summary of the history of the public inquiry. He had previously shared the documentation shared with [Redacted – Section 30(c)], including a letter received from [Redacted – Section 30(c)], the Due Diligence Review, and NHS Tayside’s Medical Director’s findings and recommendations. [Redacted – Section 30(c)].

159. [Redacted – Section 30(c)].

160. In conclusion, Professor White confirmed that he would make the Cabinet Secretary and Solicitor General aware of [Redacted – Section 30(c)] points of feedback and confirm the requested discussion had taken place.

Independent clinical review of the individual cases of former patients

161. On Thursday 02 November 2023, officials from Healthcare Quality and Improvement division met with [Redacted – Section 30(c)] to discuss the independent clinical review.

162. [Redacted – Section 30(c)].

163. Professor Craig White had subsequently written to [Redacted – Section 30(c)]. These thoughts have been incorporated into draft Terms of Reference (can be found in **Annex B**) [Redacted – Section 30(c)].

164. During the meeting on 02 November 2023, [Redacted – Section 30(c)].

Financial Considerations

165. [Redacted – Section 30(b)(i)].

166. [Redacted – Section 30(b)(i)].

20.4 Quality Assurance

167. This Submission has been approved by [Redacted – Section 38(1)(b)] of Healthcare Quality and Improvement, Directorate of the Chief Operating Officer.

20.5 Conclusions and Next Steps

168. In view of the concerns about the interface between the public inquiry and the independent clinical reviews, it would be beneficial to appoint a chair of the independent clinical reviews and agree their remit as soon as possible. Following appointment, the draft terms of reference will be shared with that individual for further discussion and agreement.

169. It is recommended that once the remit is agreed, a discussion takes place between the Cabinet Secretary and the Solicitor General to ensure there is clarity on any further discussion or action required to progress the appointment of a Chair for the Public Inquiry. Officials will liaise with PO to arrange such a meeting once the independent clinical reviews ToRs are agreed.

170. The size of the independent clinical reviews is still unknown. Once the chair of the independent clinical review process is identified and terms of reference agreed, the first step will be to identify all those patients eligible in a review. Subsequently, there will be a need to establish a process to reach out to former patients of Sam Eljamel and identify who is interested in participating.

171. The Cabinet Secretary is asked to:

- Note the update on the discussion with [Redacted – Section 30(c)].
- Note the draft terms of reference for the independent clinical review of the individual cases of former patients.
- [Redacted – Section 30(c)]
- Confirm agreement with the proposal to discuss the further actions to be taken to identify a Chair for the Public Inquiry.

ANNEX A

[Redacted – Section 30(c)]

ANNEX B

Draft Terms of Reference for the Independent Clinical Reviews

[Redacted – Section 29(1)(a)]

From: [Redacted – Section 38(1)(b)]

Sent: Thursday, November 30, 2023 4:22 PM

To: Cabinet Secretary for NHS Recovery, Health and Social Care <CabSecNRHSC@gov.scot>

Cc: First Minister <FirstMinister@gov.scot>; [Redacted – Section 38(1)(b)]; [Redacted – Section 38(1)(b)]; Craig White <Craig.White@gov.scot>; Lynne Nicol <Lynne.Nicol@gov.scot>;

Communications NHS Recovery, Health and Social Care
<CommunicationsNHSRecoveryHealthandSocialCare@gov.scot>

Subject: RE: To Note - Cabinet Secretary for NHS Recovery, Health and Social Care - Update on NHS Tayside and Eljamel Developments

PS/ Cabinet Secretary for NHS Recovery, Health and Social Care,

[Redacted – Section 38(1)(b)]

There is no action or decision for the Cabinet Secretary, this is an update to correct the record.

[Redacted – Section 36(2)]

Thank you,
[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
Openness & Learning | GER | St Andrews House | Edinburgh | EH1 3DG

From: [Redacted – Section 38(1)(b)] **On Behalf Of** Cabinet Secretary for NHS Recovery, Health and Social Care

Sent: Tuesday, November 14, 2023 4:45 PM

To: [Redacted – Section 38(1)(b)]; Cabinet Secretary for NHS Recovery, Health and Social Care
<CabSecNRHSC@gov.scot>

Cc: First Minister <FirstMinister@gov.scot>; [Redacted – Section 38(1)(b)]; [Redacted – Section 38(1)(b)]; Craig White <Craig.White@gov.scot>; [Redacted – Section 38(1)(b)]; Lynne Nicol <Lynne.Nicol@gov.scot>; Communications NHS Recovery, Health and Social Care <CommunicationsNHSRecoveryHealthAndSocialCare@gov.scot>

Subject: RE: To Note - Cabinet Secretary for NHS Recovery, Health and Social Care - Update on NHS Tayside and Eljamel Developments

This email is for the official record and confirms a Ministerial Decision. This email must be placed in the official record (eRDM) by your team in line with SG records management policy.

Hi [Redacted – Section 38(1)(b)]

Mr Matheson has noted and is content, thanks.

Kind regards,

[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]
[Redacted – Section 38(1)(b)]- Cabinet Secretary for NHS Recovery, Health and Social Care, Michael Matheson MSP
Scottish Government, Room 1.E.10 St Andrews House, Regent Road, Edinburgh, EH1 3DG
Tel: [Redacted – Section 38(1)(b)]

E-mail: CabSecHSC@gov.scot

All e-mails and attachments sent by a Ministerial Private Office to any other official on behalf of a Minister relating to a decision, request or comment made by a Minister, or a note of a Ministerial meeting, must be filed appropriately by the recipient. Private Offices do not keep official records of such e-mails or attachments.

From: [Redacted – Section 38(1)(b)]

Sent: Friday, November 10, 2023 4:50 PM

To: Cabinet Secretary for NHS Recovery, Health and Social Care <CabSecNRHSC@gov.scot>

Cc: First Minister <FirstMinister@gov.scot>; [Redacted – Section 38(1)(b)]; [Redacted – Section 38(1)(b)]; Craig White <Craig.White@gov.scot>; [Redacted – Section 38(1)(b)]; Lynne Nicol <Lynne.Nicol@gov.scot>; Communications NHS Recovery, Health and Social Care <CommunicationsNHSRecoveryHealthAndSocialCare@gov.scot>

Subject: To Note - Cabinet Secretary for NHS Recovery, Health and Social Care - Update on NHS Tayside and Eljamel Developments

PS/Cabinet Secretary,

There are two separate issues we would like to update the Cabinet Secretary on, in relation to NHS Tayside and Sam Eljamel. The First Minister's PO has also been copied to reflect Mr Yousaf's involvement in the second issue.

Update on NHS Tayside Oversight Arrangements

Officials from Healthcare Quality and Improvement Division met with NHS Tayside this week to begin more formal oversight arrangements regarding the recommendations from NHS Tayside's Due Diligence Review of Documentation Held relating to Mr Eljamel (August 2023) and the Scottish Government's Review of Unresolved and Outstanding Queries (May 2022).

The following discussion took place:

- We agreed the new oversight arrangements with NHS Tayside and will meet with them on a monthly basis with a view to completing all outstanding actions by March 2024.
- [Redacted – Section 38(1)(b)]
- We discussed the need to align communications so that messaging to former patients and the wider public in relation to the public inquiry and independent clinical review process is clear and consistent, and for NHS Tayside to engage with former patients and relay their progress on actions related to the Due Diligence Review.
- SG provided updates on progress with the processes for establishing the public inquiry and independent clinical review of individual cases of former patients.

The Cabinet Secretary is asked to note this summary. The record of the meeting is available if the Cabinet Secretary would find it useful to see.

[Redacted – Section 38(1)(b)]

[Redacted – Section 30(b)(i)].

Thank you,

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

[Redacted – Section 38(1)(b)]

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