

• FOR IMMEDIATE RELEASE •

31st October 2023 @ 0900 – Updates since Public Inquiry announcements.

The Patients' Action Group seeking a Public Inquiry into the actions of NHS Tayside and their surgeon, Sam Eljamel, wish to provide an update on activity since the announcements made by the Scottish Government on Thursday 7th September in the Scottish Parliament Chamber.

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The Scottish Government is now committed to two separate processes:

1. A Public Inquiry
2. An 'individual clinical review' for each patient¹

In securing this milestone we wish to thank all our patients, their families, and our supporters in the group – they are why we do this. We also thank Liz Smith, MSP, for her unwavering support of our cause across many years, and we thank her for bringing together the cross-party MSP group that formed around her including Michael Marra, Willie Rennie, Jim Fairlie.

This Group looks forward to providing input to the establishment of both processes and will be tracking progress.

We expect to be included in establishing the Terms of Reference that will set the scope and limitations of the Public Inquiry to ensure that these are in terms our patients and their families agree with, to best serve the needs of those patients and families, and to ensure the health and wellbeing of the people of Scotland. We look forward to confirmation that the Public Inquiry will commence imminently.

We were pleased to be informed by Michael Matheson, Health Secretary, that the individual clinical review for each patient is separate to the Public Inquiry and will be provided by healthcare organisations that are independent of the Public Inquiry. We look forward to discussing how this will work in practice, including confirmation that the reviews will begin swiftly.

Talking about the announcements the lead patient of the group, Jules Rose, said

"It is testament to the determination and perseverance of our courageous patients, their families, and supporters that we've been able to secure a Public Inquiry and a promise of help for the patients through the individual clinical reviews. We will make every effort to ensure the Public Inquiry leaves no stone unturned, no evidence unexamined, no participant unquestioned – investigating every topic to the satisfaction of our group." – Jules Rose

Following the welcome announcement from the First Minister, this group changes from **seeking** a Public Inquiry to **tracking** the set-up of the Public Inquiry and the correct establishment of a fair and independent individual clinical review system for the patients.

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¹ "...a person-centred, trauma-informed review of each patient's own clinical case, addressing their individual needs and circumstances and attempting to offer answers in a bespoke and personalised way that an inquiry may not." – <https://www.gov.scot/news/public-inquiry-on-former-nhs-tayside-surgeon/>

Following these announcements, we sought clarity on the 'individual clinical review' from Michael Matheson. We asked him to urgently provide clarification of the function, format and aim of these individual clinical reviews.

We wanted to ensure the aim of the reviews was to evaluate the need for and facilitate access to future medical care only.

We also sought clarification that the individual reviews would treat the patients with respect and keep their information confidential to the those directly involved in the review, and that no information coming out of the review would be shared with any other party for any purpose whatsoever beyond the individual review.

We also reminded him of his promise to us, in a meeting on the 7th of September, that reviews would not be handled by NHS Tayside – with time to reflect on his promise we have now advised that we believe that reviews can only be led by an organisation suitably independent of the upcoming Public Inquiry to avoid conflicts of interest and to satisfy the lack of trust that our patients feel towards those involved in their harm.

We closed by asking him to clarify when the reviews would begin.

Our Lead patient, Jules Rose, asked Michael Matheson on 26th of September via email² and received an email response³ on the 16th of October. The response provided no real answers to our requests. We will continue to chase for answers to these fundamental concerns.

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On the 29th of September one of our founding patient campaigners, Pat Kelly, received word from the UK's Information Commissioner's Office (ICO) that answers to his requests made to the General Medical Council (GMC) must be disclosed⁴. The GMC had previously rejected Pat's Freedom of Information requests as being of 'personal information' and therefore exempt to be divulged (section 40-2 of the Freedom of Information Act⁵). Pat is seeking from the GMC the numbers of complaints that they had received regarding surgeon Sam Eljamel during his employment at NHS Tayside.

Responding to the ICO decision, Pat Kelly said

"I feel this is another major step to get at the truth of who knew what and when. It is a wake-up call for all medical organisations who think they can keep their secrets hidden away from public scrutiny." – Pat Kelly

He originally requested the information on 26th June 2023. On 29th September 2023 the Information Commissioner has now required the GMC to "disclose the requested information" and given them 35 calendar days to do so, there are legal implications for the GMC if they fail to do so.

² Jules Rose email to Michael Matheson : <https://ln-k.me/ovqk>

³ Email from Michael Matheson to Jules Rose regarding clarification sought: <https://ln-k.me/WnkK>

⁴ ICO Decision Notice to Pat Kelly regarding GMC evasion: <https://ln-k.me/Hemt>

⁵ Section 40-2 of the UK's Freedom of Information Act 2000 (enacted):
<https://www.legislation.gov.uk/ukpga/2000/36/section/40/enacted>

This gives them until the 3rd of November to answer Pat's questions – we are monitoring the situation, what is it that the GMC doesn't want us to know?

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Finally, an update on the progress of the Police Scotland investigation. Patients were advised in a statement⁶ in mid-October that the investigation was moving from the present investigating unit, led by a Detective Chief Inspector (DCI), and upgraded to the Major Investigations Team (MIT). In the statement the outgoing DCI stated that Police Scotland suspect the announcements by the Scottish Government “will inevitably generate a significant amount of work for Police Scotland and as a consequence, in order to manage this, the investigation has now been passed to officers within the Major Investigation Team (MIT) who are well equipped to deal with the demands that this extra work will make.”

The investigation has been open since September 2018, with little progress until recently when an independent neurosurgeon was engaged to review medical records and clinical notes regarding a significant number of the patients.

A complaint was lodged previously with Police Scotland regarding the unacceptable delays to the investigation – patients and their families are still awaiting.

We also are seeking clarity from Police Scotland about how the ongoing investigations will sit alongside the preparations for, and feed into, the Public Inquiry and the planned ‘individual clinical reviews’. We are concerned that there will be further unexpected, and unnecessary, delays.

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As usual, we always believe that ...

- to achieve transparent, unbiased, and honest answers.
- to have essential learning and enact real change.
- to hold to account those responsible.
- to help and support those patients living with what happened.
- to rebuild public trust in our healthcare organisations, to care for them, even now.

...is by having a thorough and independent **Public Inquiry**.

**We must get to the truth as soon as possible,
to safeguard all patients who rely on healthcare in Scotland.**

We are demanding a Public Inquiry *that accomplishes these goals*. We will not give up.

=== ENDS ===

⁶ The Courier 20th October 2023 coverage of the statement from Police Scotland: <https://ln-k.me/TZIY>