

Fresh anguish for Eljamel's private patients as his insurer says 'legally it can't take steps'

Union insists it must talk to rogue surgeon before it can act on claims against him – sparking MSP to pledge fight for extradition

By **Marion Scott**
CHIEF REPORTER

Medical insurers are refusing to consider claims from patients harmed by rogue neurosurgeon Professor Sam Eljamel without first speaking to him.

The Medical and Dental Defence Union (MDDU) says that it needs to take instruction from Eljamel – who has been uncontactable since moving to Libya 12 years ago.

It says it needs Eljamel's permission to waive timebar restrictions on cases against him.

Eljamel, who was head of neurosurgery at Dundee's Ninewells Hospital until his suspension in December 2013, harmed dozens of patients and left some with life-changing injuries.

His NHS patients have spent the last decade fighting against Tayside health board imposing the three-year timebar rule which would prevent compensation claims.

But, after health officials dropped timebar as a defence, Eljamel's insurers are trying to avoid a payout.

In a letter apologising to patients who were treated at the private Fernbrae Hospital near Dundee, MDDU's Dr Jo Galvin claimed the union has "no power" to take decisions on behalf of their client unless he gets in touch.

But, with police and prosecutors also wanting to speak to Eljamel, there is little chance of him coming back from Libya.

Patient campaigner Jules Rose said: "For a major insurer to come out with such a pathetic excuse is disgusting."

"The MDDU indemnified

Eljamel and took his fees, now they want to wash their hands of taking any responsibility for what their client has done.

"This will not wash. Through no fault of their own, victims remain trapped in limbo with no certainty about whether they will ever have their cases heard or at the very least access to a legal route for civil compensation.

"Many have already endured years of physical and psychological trauma and should not have to wait indefinitely because one individual refuses to respond.

"Patients deserve far more than 'updates' on why nothing can happen."

In the letter to patients, Galvin said: "Ordinarily, a member receiving a claim for compensation would contact us and ask us to represent them. Mr Eljamel has not contacted us.

"Because we recognise these are exceptional circumstances, we have made repeated attempts to contact him.

"To date, he has not responded. We are continuing to try to contact him. Without Mr Eljamel's instructions, there are steps we legally cannot take."

The letter added: "For claims relating to Mr Eljamel's private practice, Mr Eljamel is the defender. This means that, in order to deal with your claim, we must have Mr Eljamel's instructions to act on his behalf.

"The courts would not accept us making decisions about your case against Mr Eljamel if he hadn't agreed to it. This includes the decision on whether to waive the timebar. We cannot make that decision on Mr Eljamel's behalf. We recognise this will be a difficult answer to receive, and it is why

Sam Eljamel.

VICTIM'S STORY



Former teacher Fay Pelloie.

'I played golf regularly, but now I cannot stand for long enough to brush my teeth'

Retired teacher Fay Pelloie, 76, from Carnoustie, Angus, is one of Sam Eljamel's private patients.

She has endured 11 operations after being treated for trapped nerve by the neurosurgeon at Fernbrae Hospital near Monifieth between 2003 and 2011.

Eljamel operated seven times, and a further four operations were carried out to correct

his mistakes. Fay, 73, has been warned she could be left paralysed as a result and has had to undergo weeks of counselling to cope with that possibility.

She said: "Eljamel encouraged me to see him quickly and use private insurance.

"It was the start of a living nightmare where I live in constant pain and have been warned I could end up being completely paralysed.

I am beyond furious that the MDDU (Medical and Dental Defence Union) are attempting to wash their hands of private patients because they haven't spoken with Eljamel. How can that be fair? They accepted his fee and indemnified Eljamel, so their stance is unacceptable.

"I went to Eljamel with a simple trapped nerve and have been left facing paralysis. "I was an official

SFA coach and played golf regularly, but now I cannot even stand for long enough to brush my teeth.

"My health has been utterly destroyed, and I have to live with knowing I could end up totally paralysed.

"As a result of what Eljamel did to me, I had to give up teaching in my 50s, so I lost my health, my career and my future, as having to retire early affected my pension."

our efforts to reach him are ongoing."

Campaigners understand around two dozen private patients are affected.

Scottish Conservative Shadow Health Secretary Miles Briggs said: "This whole debacle is simply unacceptable. Something must be done to bring Eljamel back to Scotland to face questioning.

"I will be

calling on Secretary of State Douglas Alexander to use the powers of the UK Government to take steps to extradite Eljamel from Libya with all haste.

"I cannot understand why this has not already been done. I see no reason why Libya should not be contacted to ensure Eljamel is brought back here for questioning. At the very least we should be informing Libya about the injuries to Eljamel's patients. It

is unfathomable that this has not been done before now."

MDDUS said: "We are due to meet soon with the Circle Health Group, who acquired BMI Healthcare, the operators of Fernbrae Hospital until 2019, for further discussions."

They added: "We can only act when we are given clear and direct permission by our members, and this applies in every case."



media@eljamelinquiry.scot