

APPENDIX A TO SECTION 21 NOTICE

Issued to Essex Partnership University NHS Foundation Trust (EPUT) on 22 April 2026

Requirement for a Position Statement in relation to failures, limitations and mitigations

The Inquiry requires EPUT to provide a Position Statement in the form of a witness statement signed by a statement of truth, together with associated supporting documents, to answer the questions set out below. For the avoidance of doubt, the Position Statement should be provided by **5pm on 26 May 2026**.

Request for Position Statement

1. The Chair of the Inquiry is concerned about a pattern of seeking extension requests and non-compliance by EPUT to meet deadlines set for Rule 9 Requests for evidence. This has led to the issue of a number of s21 Notices by the Inquiry to EPUT. The Inquiry has sought to engage constructively with EPUT and has sought assurances around EPUT's ability to meet the evidential requests of the Inquiry in a sufficiently detailed manner.
2. The Chair remains concerned that EPUT is not able to discharge its professional obligations to assist the Inquiry, and provide the evidence and information requested within deadlines set, including those deadlines proposed by EPUT itself. The Chair therefore requires EPUT to provide a position statement to explain, and to provide assurances in relation to:
 - a. The failures to meet deadlines to date;
 - b. The reasons for these failures, including the adequacy of resources dedicated by EPUT to meet the Inquiry's requests; and
 - c. The steps that have been taken to mitigate these issues, identify ongoing risks and ensure that the future needs of the Inquiry will be met in time and with sufficient detail.

3. The Chair requests that EPUT should include admissions within this position statement in line with its duty of candour. The Chair also expects a detailed, evidence-based response. High-level or generic answers will not be sufficient to reassure the Chair.
4. Given the significance and seriousness of this issue, the Chair is considering whether to hear oral evidence from EPUT in relation to this position statement in July 2026. Accordingly, the signatory of the statement and all those accountable for the actions of the Trust in engaging with the Inquiry are on notice that they may be required to attend to provide evidence to the Chair.
5. The Chair has set out below some specific concerns that should be addressed directly within the position statement provided. Paragraphs are numbered for ease of reference.

Lack of Confidence in Assurances provided to date

6. By letter dated 3 February 2026, the Inquiry provided a forward look document to EPUT which set out the information the Inquiry required as a priority for its July hearing, along with relevant deadlines. The Inquiry asked for an assurance from EPUT that EPUT would meet those deadlines. On Friday 13 February 2026 at 2.45pm, EPUT's legal representatives provided a written assurance by email that all deadlines would be met (including a deadline set for 5pm on 16 February 2026).
7. On Monday 16 February 2026 at 5.41pm, after expiry of the deadline referred to above, EPUT's legal representatives emailed the Inquiry stating that the deadline would not be met and that new deadlines would be proposed.
8. On Friday 20 February 2026, in response to a request from the Inquiry, EPUT's lawyers confirmed that when the assurance had been given on 13 February 2026, the administrative team had conducted the searches and that only quality control ['QC'] by the Associate Directors remained

outstanding prior to submission. It had not been anticipated that the QC check process would identify any issues. EPUT acknowledged that the QC process occurs too close to the deadline for submission, leading to breaches of deadlines, and that steps were being taken to improve this.

9. EPUT further recognised in that letter that missed commitments and unclear communication have affected the Chair's confidence in EPUT's ability to engage, and for that EPUT apologised to the Inquiry.
10. The Chair lacks confidence in any assurance now provided by EPUT. Accordingly, the Chair requests that EPUT explain:
 - a. Why the assurance was given to the Inquiry, considering the concerns which EPUT had in respect of the QC process;
 - b. When did it become apparent within EPUT that the deadline of 16 February 2026 could no longer be met;
 - c. What steps have been taken to address the issues which led to this unfortunate breach?

Lack of Effective Search Software

11. EPUT's response to Rule 9(7b) dated 21 March 2025 (paragraph 23) stated that the Trust does not have in place search software and that the Trust relied upon the documents being saved with the patient's correct spelling of name to identify relevant material. It was not at that time clear to the Inquiry whether it was possible for EPUT to search the body of a document.
12. On 4 September 2025, EPUT's legal representatives stated within a meeting with the Inquiry that the Trust lacks effective search software and is reliant on electronic searches of document titles and a manual review of documents, to respond to the Inquiry's Rule 9 requests for evidence.

13. On 16 September 2025, the Inquiry was informed that EPUT had procured Relativity to assist in responding to the Inquiry's requests for evidence and improve searchability of documents. However, material was only being uploaded to Relativity in relation to individual patient records and not broader areas subject to investigation.
14. On 11 November 2025, EPUT informed the Inquiry that it was unable to meet some upcoming deadlines due to an outage in the Netwrix system. This was the first time that the Inquiry became aware that there was in place at EPUT, a system that apparently could search the body of documents for key search terms.
15. Despite repeated requests by the Inquiry for confirmation and clarity around search facilities at EPUT, including by the request for a Data Assurance Statement, it remains unclear to the Chair what EPUT's electronic search abilities and/or limitations are. Whether there is any ability to search the body of a document, rather than just the title? This information is critical for the Inquiry to assess the fullness and accuracy of responses provided to Rule 9 Requests by the Inquiry. Please explain:
 - a. What software or systems are being used to respond to Rule 9 Requests from the Inquiry? Please set out in detail the scope and range of each system in place, including their ability to search within the body of a document and the material available on each system.
 - b. Specifically, please address how EPUT can be confident that in undertaking searches, it is identifying all potentially relevant material. Please confirm what risks exist in terms of completeness and accuracy of responses to requests from the Inquiry.
 - c. Which (if any) hard copy documents have been uploaded and transformed into a searchable format?
 - d. If more than one system is being used to respond to requests from the Inquiry, please provide a clear explanation of how these systems

interact (if at all), and whether searches are conducted across systems in an integrated or fragmented manner.

- e. What are the limitations to any such searches, including limitations identified in the Data Assurance Statement (e.g. an inability to conduct phrase searches, reliance on metadata, indexing constraints)?

16. EPUT has identified, including within its Data Assurance Statement, that certain categories of material (for example, email archives) have not been comprehensively searched on the basis that doing so was said not to be reasonable or proportionate given the scale of the task.

17. The Chair requires EPUT to set out clearly:

- a. What criteria are applied when determining whether a particular source or category of material will be searched;
- b. How EPUT ensures that decisions not to search certain materials do not result in the omission of relevant evidence; and
- c. Whether in each Rule 9 response, EPUT has identified any categories of material that have not been searched and the reasons for that approach; and, if not, which Rule 9 responses should be amended to reflect the accurate picture
- d. Whether any record is maintained of decisions not to search particular categories of material.

18. EPUT's search capabilities have evolved during the course of the Inquiry, including the introduction of Netwrix and Relativity. The Inquiry therefore requires EPUT to confirm:

- a. The date that EPUT started to use each of Netwrix and Relativity and whether the category or volume of material that each system was used with has changed over time.

- b. Whether earlier Rule 9 responses were prepared without the benefit of these tools;
- c. Whether EPUT has assessed the extent to which earlier responses may be incomplete as a result; and
- d. Whether any retrospective review, supplementation or validation of earlier responses has been undertaken or is proposed;
- e. Whether any Rule 9 responses should be amended to reflect the accurate picture.

Use of Technology and Automated Tools

19. The Chair understands from email correspondence sent by EPUT on 9 October 2025 and, more recently, in email correspondence dated 7 January 2026 in relation to Rule 9(25) that EPUT has utilised automated tools, including artificial intelligence or similar technologies, in the processing, summarising or review of documentation.

20. The Chair requires EPUT to set out:

- a. In what contexts such tools have been used, and for which Rule 9 responses;
- b. What safeguards, validation or quality assurance processes are in place to ensure accuracy;
- c. What limitations are inherent in the use of such tools as far as EPUT is aware; and
- d. What impact, if any, their use has on the reliability and completeness of material provided to the Inquiry.
- e. Whether any material provided to the Inquiry has been generated, summarised or materially influenced by such tools without human verification, and if so, to identify that material.

Delays in Correspondence to Next of Kin of those who have died

21. On 5 February 2026, the Inquiry provided 30 Next of Kin letters to EPUT, with a specific request for EPUT to forward those letters to the Nearest Relative, Next of Kin or other named contact of individuals whose death has been identified as falling within the scope of the Inquiry. The purpose of those letters was to provide an update on the progress of the Inquiry and to explain how those individuals can participate in the Inquiry, should they wish to do so. Those letters gave a deadline to those individuals for contacting the Inquiry of 20 February 2026.
22. On 10 March 2026, EPUT's legal representatives emailed the Inquiry stating that EPUT had failed to forward the Next of Kin letters to the relevant recipients. EPUT's legal representatives stated that this was due to an oversight, but also due to resourcing being directed to comply with s21 Notices and Rule 9 requests. This delay had a direct impact in delaying the ability of the Inquiry to liaise with bereaved families. The Chair requires clarification as to whether this arose from an oversight or was this a specific resourcing decision (if so, who made this decision) not to send the letters due to concerns regarding the risk and prioritising of responses to S21 and Rule 9 requests. In either case, why was the Inquiry not informed sooner?

Pre-Merger Evidence Limitations

23. In his Position Statement dated 27 March 2025, Paul Scott states at Paragraph 30 that since joining EPUT, his work has been focused on acknowledging past failures and reducing the risks associated with delivering healthcare. In his oral evidence on 15 May 2025, Paul Scott agreed that in order to effect meaningful change, EPUT would need to obtain a good understanding of what had gone wrong in its predecessor Trusts.
24. It is clear to the Chair, based on the evidence provided by EPUT to date, that there are significant limitations on the information that EPUT is able to provide in relation to its predecessor Trusts: NEPT and SEPT. EPUT has repeated those limitations within the previous position statement, the Data Assurance Statement, most of the responses to Rule 9 requests to date and

during meetings (between legal teams and between EPUT's CEO and the Inquiry's Secretary).

25. By way of recent example, within its response to Rule 9(26), EPUT has set out limitations with respect of hard copy documentary archives (Paragraphs 60 & 62) and the Inquiry has also identified reliance upon conversations with colleagues (e.g. Paragraph 22) where the individuals concerned have not been identified and where EPUT does not distinguish clearly between documentary and recollection-based evidence.

26. EPUT has provided a Data Assurance Statement, at the Chair's request, dated 5 December 2025. That statement confirms that if the Inquiry Project Team do not locate a document, they cannot say with any certainty whether that is because it does not exist, or because it does exist but it was not possible to locate it (Paragraph 17).

27. In its Data Assurance Statement, EPUT identifies a number of systemic limitations affecting its ability to locate, retrieve and interpret information, including unstructured systems, document quality issues, incomplete records, and reliance on manual and qualitative review. Further, that the Inquiry Project Team is attempting to capture details of earlier and obsolete systems, to ensure awareness and the capability to search them, but this is limited by the availability of staff members with knowledge of them

28. In light of those limitations and others noted in this Position Statement Request, the Chair requires EPUT to set out clearly:

- a. What level of assurance EPUT considers it can reasonably and properly provide as to the completeness and accuracy of its Rule 9 responses;
- b. Whether EPUT accepts that there is a risk that relevant information has not been identified or disclosed;
- c. How that risk has been assessed, quantified or communicated; and

- d. Whether any steps have been taken to retrospectively review or validate earlier responses in light of those limitations.

29. Further, considering concerns around the lack of pre-merger documentation and information due to a lack of organisational intelligence above, please confirm:

- a. Is it EPUT's position that it lacks the corporate knowledge required to be able to speak reliably to the pre-merger position, beyond available documentation?
- b. Is it EPUT's position that it cannot be confident that all potentially relevant pre-merger documentation can be identified, located and retrieved?
- c. Is it therefore EPUT's position that, as a result of lack of corporate knowledge and documentary gaps as identified above, EPUT is not able realistically to address the pre-merger position with reliability?

30. If the above are not an accurate reflection of EPUT's position, EPUT should set out in detail the position addressing each of the above and acknowledging any limitations or admissions.

Resources Dedicated to the Inquiry

31. Towards the middle of 2025, the Chair grew increasingly concerned that EPUT had dedicated insufficient resources to meeting the Inquiry's requests. As such, on 19 September 2025 the Chair requested that EPUT provide a Data Assurance Statement. This was provided on 5 December 2025, after an Extension of Time was granted. Within that statement, EPUT stated that the Inquiry Project Team was established separately from other structures within the organisation to enable the Trust to continue to focus on providing services for patients (Paragraph 34). Furthermore, EPUT increased the clinical expertise within the Inquiry Team as the Inquiry progressed (Paragraph 36) and used temporary staffing to enable the

Inquiry Team to scale up quickly and manage the varying demands of the Inquiry (Paragraph 41).

32. The Chair notes that recently there has been an increase both in size and expertise within the Inquiry Project team and also in terms of the legal support which the Trust uses to respond to the Inquiry. Further the Chair understands, from correspondence dated 20 February 2026 and subsequent meetings, that there is no financial constraint on EPUT ensuring it can adequately resource its internal team and its legal support.

33. EPUT is the primary corporate core participant in a statutory Inquiry with wide-ranging Terms of Reference covering almost a quarter of a century. The Chair considers that given its obvious involvement in the matters under investigation, and its required role to assist the Inquiry, the scale and complexity of its obligations must have been anticipated from an early stage.

34. The Chair requires assurances that EPUT's Inquiry Project Team and legal team are now sufficiently resourced, or will be upscaled to be sufficiently resourced, to meet the increasing demands of the Inquiry. In particular:

- a. What is the current composition of EPUT's Inquiry Project Team?
- b. What is the current composition of EPUT's legal team?
- c. What measures have been put in place to ensure that deadlines do not lapse again due to a lack of resources?
- d. What quality assurance, governance, and escalation mechanisms are now in place to ensure accuracy, completeness, and timeliness of responses.

Extension Requests and Missed Deadlines and Late Applications

35. The Inquiry has sought to be flexible to EPUT's requests for additional time and in light of the pressure of service delivery to patients has historically permitted all first instance requests for an extension of time, as at January 2026. Although extensions may be justified in individual cases, the

cumulative effect of repeated requests (particularly on the same Rule 9s) has materially undermined the Chair's confidence in EPUT's ability to plan, assess workload, and deliver within agreed timelines. It has materially impacted on the Inquiry's ability to progress its investigations.

36. The Chair further notes that in more recent correspondence (April 2026), EPUT has articulated additional constraints relating to feasibility proportionality, confidentiality protections, and limitations in relation to search and disclosure capability, in the context of responding to Rule 9 and Section 21 notices. The Chair remains concerned about the ability of EPUT to meet all deadlines set by the Inquiry. The Chair requires clarification as to the point at which such issues are identified within EPUT's internal processes and whether the timing of their emergence is consistent with effective forward planning and timely compliance with Inquiry deadlines.
37. Across the period of EPUT's engagement, the Chair observes a recurring pattern whereby issues relating to capacity, feasibility, proportionality, and system limitations are raised progressively during the course of engagement and, in some instances, only after deadlines have been set or missed. The Chair requires EPUT to assist in clarifying whether this reflects the timing of internal issue identification, or whether it reflects evolving assessments of capability during the response process.
38. The Chair is concerned that there is a pattern of deadlines being proposed by EPUT, which are then missed. Further, applications to vary being made late, without notice of the intention of the application or the delay in being provided to the Inquiry. A recent example relates to the s21 notice issued in relation to R9(4a), in respect of which an application was submitted to vary the terms of the s21 late, with no indication provided in advance to the Inquiry team. Again, this leads the Chair to doubt the reliability of EPUT to meet the Inquiry's needs or to engage with the Inquiry in a fully transparent manner.

Senior Leadership Transition and Evidential Continuity

39. The Chair understands that Paul Scott is due to leave EPUT in June 2026.

Given his senior role in the running of the Trust during the relevant period, the Chair requires assurance that there will be reliable evidential continuity.

40. In particular, EPUT is required to confirm:

- a. Whether EPUT adopts, without qualification, the entirety of the evidence previously provided by Paul Scott, including his position statements, and oral evidence, both before the Inquiry and its predecessor non-statutory Inquiry;
- b. Who within EPUT now holds responsibility for matters previously addressed by Paul Scott;
- c. That those individuals will have sufficient knowledge, access to information, and authority to:
 - i. Speak to the content of previous evidence;
 - ii. Provide further evidence where required; and
 - iii. Be examined at any oral hearing.
- d. What steps have been taken to ensure effective handover of knowledge, including whether any formal handover documentation, briefing materials, or audit trails have been created;
- e. That Paul Scott will remain available to support EPUT in responding to Rule 9 requests and/or give further evidence to the Inquiry if required;
- f. That Paul Scott will retain access to relevant systems, documents and information necessary to fulfil that role;
- g. What steps EPUT has taken to mitigate the loss of his knowledge and ensure that no evidential gaps arise as a result;
- h. That EPUT accepts that changes in senior personnel create a risk to consistency, completeness and reliability of evidence, and that EPUT is taking appropriate steps to ensure that risk is being mitigated and appropriately managed.

Reflections

41. In light of all of the above the Chair requires EPUT to set out clearly and expressly in the Position Statement any further admissions, explanations or reflections that EPUT would like the Chair to consider in relation to:

- a. Compliance to date;
- b. Failures in compliance to date;
- c. Resourcing;
- d. Limitations in engagement with the Inquiry;
- e. Systemic issues identified across EPUT's processes, systems, or governance which are materially affecting EPUT's ability to engage with the Inquiry and/or the reliability of response;
- f. Any retrospective reviews undertaken of earlier Rule 9 responses including any areas where EPUT considers previous responses may be incomplete or unreliable
- g. Steps taken to mitigate any of the above.

42. The Chair requires that this position statement is verified by a statement of truth from an appropriate senior officer(s) of EPUT. The statement should also address:

- a. That all reasonable steps have been taken to ensure that the information provided is complete and not misleading, in accordance with their duty of candour;
- b. Any limitations in the evidence provided in responding to this request for a position statement, have been clearly identified and explained; and
- c. EPUT understand that the position set out in this statement may be relied upon by the Inquiry and tested in oral evidence; and
- d. EPUT adopts the contents of this statement as its formal position in response to the matters identified, subject only to any expressly identified limitations.