



F/T: 0300 244 4000  
E: dfmcse@gov.scot

Rt. Hon. Lady Smith  
Parliament House  
Parliament Square  
Edinburgh  
EH1 1RQ

27 July 2016

*Dear Lady Smith,*

I am delighted to confirm your appointment as Chair to the Scottish Child Abuse Inquiry ("the Inquiry"). The Inquiry is being held under the Inquiries Act 2005 ("the Act") and is a Scottish Inquiry in terms of section 28 of the Act. This letter serves as the formal written instrument of your appointment as Chair to the Inquiry pursuant to section 4(1) of the Act.

Your appointment will commence on 1 August and will end when the Inquiry comes to an end, or on such an earlier date as may be determined in accordance with section 12 of the Act. You will wish to note the terms of section 12.

The Act sets out various statutory powers which Scottish Ministers have in relation to the Inquiry. The Chair too has statutory powers and duties under the Act, which you will be left to perform.

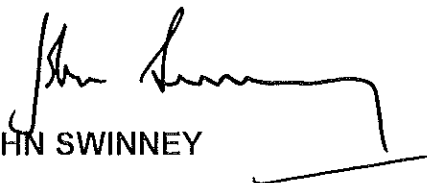
You will wish also to note the obligations under section 9(3) and (4) of the Act for you to notify Ministers if during the course of the Inquiry you become aware that you have any direct interest in the matters to which the inquiry relates, or a close association with an interested party, and for you to avoid participating in any activity which could reasonably be regarded as affecting your suitability to serve as Chair to the Inquiry.

I should be grateful if you would confirm in writing your willingness to accept this appointment by signing and dating the attached terms of appointment.

I have copied this letter to the Convenor of the Scottish Parliament's Education and Skills Committee, and a copy will be lodged with the Scottish Parliament Information Centre.

I am grateful for the commitment you have shown for this appointment and I trust that you will find it both interesting and rewarding.

*Yours,*

  
JOHN SWINNEY

Schedule of the Terms of Appointment of Rt. Hon. Lady Anne Smith to the Office of the Chair of the Scottish Child Abuse Inquiry by Scottish Ministers

**1. Status**

1.1 You are appointed as Chair of the Scottish Child Abuse Inquiry in accordance with and subject to the provisions of the Inquiries Act 2005 ("the Act"). In these terms and conditions, except where stated, "you" and related expressions refer to the holder of that office.

1.2 You are one of a number of appointees that constitute the Panel of the Scottish Child Abuse Inquiry ("the Inquiry").

**2. Interpretation**

2.1 Where relevant, statutory terms, conditions and other requirements of office also apply to you.

2.2 The terms and conditions contained in this Annex ("the terms") are to be read in a way that is consistent with any enactment. If such a reading is not possible, the terms do not apply to the extent that they are inconsistent with any such enactment.

**3 Functions**

3.1 Your main functions as Chair of the Inquiry are to fulfil the Inquiry's Terms of Reference (attached at Annex A) in accordance with the Act, including:

- close liaison with the Panel of the Inquiry, as well as members of the Inquiry team, throughout the term of the Inquiry;
- attendance at all necessary meetings of the Panel and the Inquiry team;
- effective preparation for and engagement in Panel and Inquiry hearings;
- to effectively produce any work necessary after hearing oral evidence;
- regular and effective attendance and contribution at Inquiry hearings;
- lead in the Inquiry's warning letter process;
- lead in and contribution to the writing of the Inquiry report;
- such other tasks that may be required.

#### 4. Accountability

4.1 You must act within and in accordance with the framework assigned to the Inquiry by the Scottish Ministers. You are individually accountable to the Scottish Ministers for your actions and decisions of office in terms of the Act and the Terms of Reference of the Inquiry.

#### 5. Duration of Appointment

5.1 You remain Chair of the Inquiry until the Inquiry comes to an end, or until such earlier date as may be determined, in consequence of your death, resignation or in terms of your earlier removal under section 12(3) of the Act.

5.2 You may resign from your appointment by giving written notice to the Scottish Ministers.

#### 6. Time Commitment and Remuneration

6.1 Your time commitment will vary over the course of the Inquiry, however you are expected to devote such time to the Inquiry and your role from time to time as you consider necessary given the requirements of your appointment. 6.2 In relation to the performance of your functions as Chair of the Inquiry, you will retain your current terms of appointment as a Senator of the Inner House, including remuneration and pension, as this appointment is to be considered to comprise a temporary assignment within the functions of your appointment as a Senator.

7.2 You are not entitled to any gratuity, allowance or compensation when your appointment to the Inquiry ends (whatever the reason).

#### 8. Expenses

8.1 You are entitled to be reimbursed for any reasonable expenses that appear to the Scottish Ministers to be necessary for the proper discharge of your functions as Chair.

#### 9. Removal from Office

9.1 The Scottish Ministers may at any time by notice terminate your appointment as Chair in accordance with section 12 of the Act, if the grounds in section 12(3) apply, that is —

(a) by reason of physical or mental illness or for any other reason, you are unable to carry out the duties of a Panel Member;

(b) you have failed to comply with any duty imposed on you by the Act;

(c) you have —

(i) a direct interest in the matters to which the Inquiry relates, or

(ii) a close association with an interested party,

such that your membership of the Inquiry panel could reasonably be regarded as affecting its impartiality;

(d) you have, since your appointment, been guilty of any misconduct that makes you unsuited to membership of the Inquiry panel.

## 10. Liability

10.1 You will have immunity from legal action in accordance with and to the extent specified in section 37 of the Act.

## 11. Confidentiality

11.1 You will exercise due care in the use of information to which you have access in the course of performing your functions or in consequence of your appointment, and you will protect information that you receive in confidence from unauthorised disclosure.

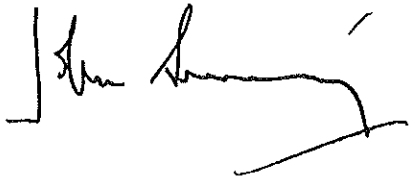
11.2 When your period in office ends (whatever the reason) you will continue to owe a duty of confidentiality to the Inquiry and to the Scottish Ministers in relation to information of a confidential nature to which you had access during your period in office.

11.3 If the Scottish Ministers are satisfied that you disclosed information, without authority (statutory or otherwise), that you received in the course of performing your functions or in consequence of your appointment, or used it for personal gain or advancement, this may constitute grounds for termination of your appointment as Chair in terms of section 12(3)(d) of the Act.

## 12. Impartiality

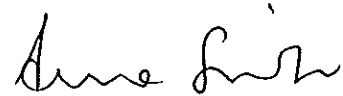
12.1 Under section 9(3) and (4) of the Act, you are required to notify the Scottish Ministers of information which might affect your impartiality during the course of the Inquiry and to avoid participating in any activities which might compromise your ability to serve as a Panel Member.

Signed:



Cabinet Secretary,  
A Member of the Scottish Government

Signed:



(Rt. Hon. Lady Anne Smith)  
Parliament House  
Parliament Square  
Edinburgh EH1 1RQ

28<sup>th</sup> July 2016