

# **A Judicial Monsterring: Child Sex Abuse Cover Up and Corruption in Scotland**

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## **Chapter 8: Cancer Diagnosis and Disability Discrimination**

### *The Big C.*

This chapter sets out my personal experience of the abuse I suffered from Lady Smith, Chair of SCAI, when I was dangerously ill with cancer. It details abusive and cruel treatment of me by a public official, a judge, whose public responsibilities included the exercise of judgement in relation to the abuse of others. The chapter highlights the broader context in which this abuse happened and the underlying reason for it: the need to cover up, by ensuring non-investigation, of organised child sexual abuse and trafficking, apparently involving lawyers.

Anne Smith. The names of various retired and current judges were being spoken of during June and July of 2016 in the SCAI offices. During one discussion, Colin Macaulay advised a gathering of about 10 people in the kitchen area that “Anne Smith would be a disaster for the inquiry”. He was right. But that didn’t prevent him from sucking up to her, implicitly accepting her blatant cruelty and excesses after her appointment by Swinney. He had articulated a truth. Dangerous in a position of power. With media. Totally vindictive, as it turns out. She started as chair on 1st Augst 2016.

Whatever had been discussed with Swinney before her appointment, she lost no time in asserting her agenda with me. By that stage, I was the only remaining member of the Susan O’Brien set. Macaulay and Peoples had been sucking up to Jamieson & co. Summers had appeared back, despite her resignation. I was aware that I was quite ill by the start of August 2016. I was weak and unable to stay awake throughout the working day. I was unable to walk upstairs. I had no energy at all. I’d been ill all year, really. Macaulay, Peoples, Summers, Jamieson and others all knew it. I’d had a month

off in February-March time because of pneumonia. More on that later, but they all knew I was ill. So did Lady Smith.

I witnessed the rampant, viral spread of the already atrociously apparent groupthink that existed between Summers, Jamieson and their civil servant minions and ex-cop underlings. The contagion was now more viciously perpetuated by the presence of a new, right and honourable, unquestionable, but fundamentally flawed, leader. Lady Smith. Even Macaulay and Peoples were excluded, to an extent that didn't exist before, from some of the hours and hours of meetings. I was invited to none of them, having been directly asked to leave a previous one by Cullen just before it began. Something quite unusual was happening, at least in my experience. The groupthink was utterly exclusive. There was an unknown agenda which was pursued by the groupthink members with what looked like psychopathic, smiling, single-mindedness. Not only was I on the outside, suspicious, ill and anxious about my fate. I became incrementally aware that I was the subject of at least some of what was being discussed and group-thought. Even Macaulay and Peoples began to engage only sparingly with me. Both were guarded in any discussions.

I was ill. I had cancer. I didn't know it at that time. I had rights. Have you looked at the Equality Act 2010? As an Advocate in practice, the ultimate sole practitioner, I'd never really had rights before. Rights to do "protected acts". Like talking about disability discrimination, harassment, victimisation and the like in the workplace. That's what I'm doing just now, by the way. I also have rights as a whistleblower. That's quite a complicated area of the law in relation to the different hats I wear professionally, so to speak. But I think I've got a grasp of it. The public interest is also critically important. The detail of all of these matters I've been talking about is merely incidental to a huge issue in the public interest: cover-up of organised child sexual abuse and corruption in Scotland.

The other important aspect of the work set up was that Lady Smith was not acting as a "judge", as she insisted on being designed. Her powers now lay within the "four corners" of the Inquiries Act 2005. She was now only a panel. She was, eventually, the sole member of the panel. No need for other expertise or experience.

Lady Smith initially held meetings with each of the senior team members. A reasonable approach, you might think. Her first meeting with me was on 3rd August 2016.

So, the essential point to understand is this: if Lady Smith had been acting as a judge when she was being vicious to me, I had no lawful basis for complaint and no remedy. BUT. Although she says she's a judge, she's not protected in the same way when

acting as a panel in terms of the Inquiries Act 2005. Very important. Lady Smith could be sued. By me. But only for acts that fell outside the inquiry's terms of reference, care-based child abuse essentially. It's obvious that disability discrimination towards a subordinate isn't related to care-based child abuse. Isn't it? You can make up your own mind, but apparently not in the Lady Smith and groupthink zone.

When I met with her on 3rd August 2016, Lady Smith warned and threatened me that she (and other groupthink civil servants) might have irreconcilable difficulties in working with me as Leading Junior Counsel to the Inquiry. Lady Smith referred to previous dealings with me, which strongly suggested her difficulty was also of a personal nature. She accused me of leaking confidential information to the BBC. I explained that I hadn't. The allegation has never, ever, been mentioned again. Bogus, I infer. I question whether she had a proper basis for ever making it at all. She told me the senior inquiry team said they did not trust me. She told me to demonstrate that I could win their trust. I said I would.

Although I tried to keep my head down and get on with working as productively as possible, Lady Smith called me to another meeting on 19th August 2016. This time Lady Smith said that she had reached the view that I had an irreconcilable conflict of interest because of my previous employment in residential social work with young people in care at Wellington School, Penicuik, and St. Katharine's Centre, Edinburgh, between 1989 and 1996. She also tried to accuse me of not disclosing these details. This was part of the experience that I highlighted as justification for my appointment in the first place, as I was quick to tell her. Of course, I couldn't work on any issues affecting these units. But that didn't mean I had a conflict of interest on everything else within the terms of reference.

It turns out, by the way, that in the myriad of conflicts of interest affecting all SCAI personnel (especially the civil servants), Lady Smith's Godson, Duncan Batchelor, was the solicitor who represented the insurers of several of the institutions where abuse had been perpetrated over decades, such as Quarriers. Conflict of interest? Don't do as I do, do as I say. Very Lady Smith.

The meeting ended with voices raised. I'm not one to back down if I know I'm right. Lady Smith told me to consider my position. She wanted me to resign. I told her I wouldn't be resigning. She told me I'd better identify areas of work I could do that would accommodate her view of my "conflict".

I was warned in advance about Lady Smith requiring me to meet with her on 19th August 2016. I got an early morning email from Macaulay asking for me to meet

himself and Peoples at Parliament House first thing before going to the SCAI offices at Haymarket. We went for a coffee in the Lower Aisle Café at St. Giles. They told me that Lady Smith “wants rid of you and you’d better resign,” or words to that effect. I told both snakes I had no intention of resigning. It was clear by then that Macaulay and Peoples had agreed which side their bread was buttered on, even in relation to me.

Despite her expressed view of my “conflict of interest”, Lady Smith confirmed that I was to travel on 22nd August 2016 to East Sussex to take evidence. This is eloquent of the hypocrisy involved in setting up the “conflict of interest” scenario in the first place. Here’s a fine example of work I could comfortably undertake, even accommodating Lady Smith’s views. Although I was very unwell, I travelled to East Sussex and back and took the evidence with Colin Harkins, a former Lothian and Borders cop who was employed as a statement noter by the SCAI. We had interesting discussions about Fettesgate, the Magic Circle and much, much more. The journey was marked for me by my sheer exhaustion. It was obvious to me that something was very wrong with me by then. I was ill. I was also feeling under acute pressure from Lady Smith, Macaulay and Peoples, and the groupthink.

While I was away in East Sussex, a new SCAI policy on conflict of interest was circulated by Jamieson. Guess what? It was specially written for me. While I was travelling and undertaking sensitive work for SCAI. Prior social work involvement with children and families in Scotland was to be considered a fundamental conflict of interest. Poor old Prof Jay. She might be suitable for IICSA, but not for SCAI. The othering process was well advanced. It should also be noted, at this point, that one of the SCAI’s preferred quack “experts”, Martin Henry, is caught by this policy. But it wasn’t applied to him. Henry’s MPhil “Thesis”, published by Dundee University, is predicated on surveying the attitudes of one single team of Edinburgh social workers. Interesting, maybe, but not exactly a data set that much can be extrapolated from. You should read it. More about Henry later.

Henry also has enduring and concerning links to the Catholic Church in Scotland. This is another obvious conflict of interest. He was held out as the “Special Adviser” to Cardinal Keith Patrick O’Brien. However, he gave evidence to the McLellan Commission in a different capacity. This apparent lack of candour remains concerning. The detail is contained in the Report of the McLellan Commission dated August 2015.



On 29th August 2016, I had a further brief meeting with Lady Smith. She was going on holiday to Canada for two weeks. I was assuring her of my commitment to SCAI. She seemed not to want any trouble while she was away. Almost human in conversation. But for a purpose.

Things were quiet while Lady Smith was on holiday, but I was aware of the groupthinkers continuing to plot my downfall in early September 2016. Daily lengthy meetings that I wasn't invited to. Macaulay and Peoples were involved in these too. When Lady Smith returned, the groupthinkers upped the ante. On 26th September 2016, I got another early morning message from Macaulay asking me to meet himself and Peoples at Parliament House before going into the SCAI office. When we met, Macaulay told me that Lady Smith was going to call me in that day and try to make me resign. He said it was about her conflict of interest concerns. Macaulay and Peoples were actually trying to put me under pressure to resign. I politely told them that I would not. They told me that Lady Smith had a pre-prepared large folder of papers assembled by Jamieson and Summers.

Lady Smith duly called me in to meet with her, without prior arrangement, on 27th September 2016. Macaulay was to be present too. He told me that I shouldn't speak. I think I always made it more difficult for Lady Smith to attempt to assert herself when I spoke, funnily enough. I agreed on the basis that Macaulay was going to explain to

Lady Smith that there were areas on which I could still work on SCAI, even in light of Lady Smith's corrupt, groupthink, conflict of interest analysis. Lady Smith said that I had an irreconcilable conflict of interest because of my previous work with young people in care. Macaulay set out areas I could still work on. This included Crown Office policies. It was all set out in a big email blast by Lady Smith. I worked within that remit and eventually produced my Note for SCAI dated 1st April 2019. More to follow on that.

Jamieson, Summers, Cullen & co obviously had a pretty clear understanding that I was meant to be forced to resign by Lady Smith on 27th September 2016. You see, there is no provision in the Inquiries Act 2005, or subordinate legislation, to sack counsel to an inquiry. The appointment of counsel is confirmed by the relevant minister, on the recommendation of the panel. That was the basis of my appointment in September 2015. It's still in place and hasn't been revoked, believe it or not. Big financial claim. It's in my galaxy of litigation.

Anyway, Jamieson had my name removed from the SCAI website on 30th September 2016 without any authorisation or prior warning. I only saw it when I went home at night. A Friday night. Utterly farcical othering. I am counsel to a public inquiry. A public office. Ministerial Determination in my favour. These are civil servants. I emailed Macaulay immediately. He said he didn't know anything about it but would find out. He sent an email to the groupthinkers that night. A ridiculous, insulting and untruthful explanation was sent to me by Jamieson on the afternoon of Monday, 3rd October 2016. She wrote:

"I am sorry that this has caused upset. This practical measure was put in place as a result of your discussions with Lady Smith. We had (incorrectly) assumed that you were aware that your name would be taken off the website.

There certainly was no intention to hide anything from you."

Liars. Groupthink-generated cancellation was the intention.

And so things trundled along for a few days with my SCAI coat on a shooglie peg. I had to walk the whole length of the office every morning, past tens of others, who all knew, to varying extents that I was being targeted – othered - as next for removal. My office was right at the end, just past Lady Smith's room on the right. I shared with Peoples. He became miraculously sparing in his verbiage, given his propensity to spraff it. I welcomed the relative peace of not having to listen to his boring stories and overthought legal analysis of any issue, which seemed never to come to any clear conclusions.

I knew where I was going with the restricted remit Lady Smith had given me. I also knew there was likely to be resistance to it. I suspected even then that the issues I thought obvious and important might be the whole reason for the Scottish Government's need to undermine and get rid of Susan and her panel. Organised trafficking of children in care. I now know I was absolutely bang on correct. Glenn Houston was still trying to hang on in there. Unfortunately, he was trying too hard to be pals with the groupthink. It was obvious he was getting it too. That eventually happened. Lady Smith later decided that he had a conflict of interest. Sounds familiar? He sat on an embryology quango in Northern Ireland. Conflict of interest? Lady Smith's first-line weapon of choice. But she has a full armoury, as you'll see. Not even a whimper from Glenn.

I'd previously discussed the issues now focused on in my Note dated 1st April 2019 with Jamieson, Peoples and Summers. I discussed them in detail with Colin Harkins at Gatwick Airport, waiting for our plane back from East Sussex in August 2016. He knew a lot about the background issues from his time as a Lothian and Borders cop. When I say discussed, I mean specifically that Hardie's name was mentioned. I never discussed it with Macaulay. Macaulay was always telling stories about characters and happenings at the Bar, as if it was the ultimate working environment to be aspired to. One day, in about October 2015, he went on and on to me about what a great guy Andrew Hardie was. He told me that Hardie had looked after him when he was a young Advocate and had got him work. He was obviously a big Hardie fan, so I body-swerved any chatter about any need to investigate Hardie for anything.

On 10th October 2016, I had a colonoscopy at the BGH, the Borders General Hospital. It was the colonoscopist's first day at the BGH, and I was the first colonoscopee of the day, a Monday morning. She was keen to show me a particular apparently remarkable finding, which appeared on the screen like a little blip. Immediately after, I was asked to sit in a waiting area. Then the colonoscopist and a male colleague came in. Both looked serious, ashen-faced, to the extent that I felt sorry for them. They told me they had bad news. They were sure the colonoscopy had shown a cancerous tumour on the upper right side of my colon. I knew from their manner that they thought it was serious. That explained the constant illness, anaemia and falling asleep during different parts of the day. It was suggested that I should go home and get my affairs in order, check insurance policies and that sort of thing. I had only the most general idea that I had life cover in place. I hadn't checked exactly what cover I had since I took the policies out, way back in about 1996-97 when I was first becoming self-employed. Very scary advice to be given. One of life's real moments of reckoning, although I've had a few more since then, usually courtesy of Lady Smith, Dunlop and the groupthink. You have to process news like that. It's a shock no-one wants to experience. It's a lot more complicated when bullies like Lady Smith and the

others are breathing down your neck and trying to cancel you. I'd have to think carefully about when to tell them. I had this very intense feeling that this was my private business, nor to be trodden upon by Lady Smith and the groupthink.

On the 12th of October 2016, Macaulay contacted me and told me Lady Smith was again raising issues about my "conflict of interest" and was now firmly of the view that I would have to resign. No chance. I said I wouldn't. I emailed Angela Grahame, then Vice Dean of the Faculty of Advocates. I knew Angela reasonably well. We'd been in Crown Office together. I'd also spoken to her repeatedly about what was happening to me. She was sympathetic and appeared to fully understand what Lady Smith and the groupthink were doing and how unfair it was. Although she was a QC, I'm not at all confident that she grasped how unlawful it was. She knew how Lady Smith worked. Just about everyone does. Just like nearly everyone in the Faculty knows something about Hardie. But no-one says anything, except in the gossip-sphere that is the local currency in Parliament House. Knowledge about others, your competitors, is power. *Suum Cuique*. The motto of the Faculty of Advocates.

Macaulay wanted me to meet with himself and Peoples again at Parliament House. He had confirmed on 11th October 2016 that it was ok for me to work at home. He had checked this with Lady Smith. I had my restricted remit, committed to writing in Lady Smith's email dated 27th September 2016. I was unwell, and he knew I was undergoing tests at hospital. I had permission to work at home. But now he wanted me to come into PH to meet again. A reasonably long journey, and day, for a sick guy. I knew what was coming. I phoned him on the Wednesday night in response to his email. I couldn't track him down. Nor could his wife. He seemed to be "in Glasgow". All very mysterious. So, I left a message telling him I'd been diagnosed with cancer and that I needed Lady Smith and the groupthink to back off and act as human beings. He acknowledged my message the next morning, and I spoke to him. I specifically told him to tell Lady Smith. I'm pretty sure that Lady Smith and the groupthink, and possibly Macaulay and Peoples, thought I was faking it, or telling a whopper.

Anyway, the point is this. They didn't back off. Neither did Lady Smith. In fact, Lady Smith and the groupthink pressed harder to try to make me resign. In the knowledge that I'd been diagnosed with cancer. This is blatant, calculated, disability discrimination, harassment and victimisation. What kind of people are these morons? Macaulay and Peoples too. Can you imagine this happening to someone else and me not having the guts to stick up for them?

Macaulay spent the next couple of weeks trying to arrange for me to meet with himself and Peoples, at least initially, and latterly just with Lady Smith. When I was told that I was to have abdominal surgery on 31st October 2016, I just kept that date to myself. That was private stuff and not for the consumption of enemies. Macaulay



himself kept going on about how his sister-in-law had had laparoscopic surgery for bowel cancer, and it was really straightforward. Just a key-hole surgery job. I'm sure that was the groupthink vision of what was to happen if they believed it at all. It wasn't that serious. Macaulay knew all about it. He always considered himself some clinical expert because he'd been involved in a big clinical negligence case. Fool. I underwent full abdominal surgery. It was no joke. No easy job. It was very, very serious. And sore. And scary.

I stayed at home after that, working at my desk during the day and worrying about how things might shape up for me in total. I was worried about the future and how Lady Smith was trying to cancel me. In fact, she was actually trying to capitalise on my illness to bring things to a head and make me resign. Lady Smith was actually trying to take advantage of my cancer diagnosis to exert more pressure on me to resign. I was never, ever, going to do that. The thing is, as all self-employed Advocates and Barristers know, you're only as secure as the work you have in your diary for next week. I should have been in a relatively secure position as a self-employed Advocate with a critical illness, life-changing or ending, diagnosis. I had a ministerial appointment at a set fee rate of £140 per hour. Until the end of the inquiry. Instead of being looked after by those responsible in my working environment, I was being hounded in attempts to make me resign. With complete insecurity and total uncertainty ahead of me. Not just for my next gig. For my life.

Macaulay was telling me that Lady Smith and the groupthink now said there was an additional issue. By a remarkable coincidence, just when they wanted me to resign, I was being told that an applicant to the SCAI wanted to be assured that no one who had worked in residential social work would be working on the inquiry. Sure. I wasn't allowed to see the detail. I was just to accept Lady Smith's view. Not a chance. She misrepresented the facts. I have it in writing. Way too convenient. And they're such a bunch of liars. Just another opportunity and excuse to escalate the "conflict of interest" cancellation campaign. So very Scottish Government. So very Lady Smith. So very groupthink.

In the end, Lady Smith made me agree to meet with her on 20th October 2016. This was intended to be the final push to try to force me to resign. I wouldn't have resigned, no matter what she said. By that stage, I fundamentally did not trust her or any of the others. She emailed me a few times with arrangements, then changed arrangements. I replied immediately. Every time. Didn't want her to think I was moping about feeling sorry for myself and worrying about whether I was going to die. I wanted her to see that I was working at home, and away from the immediate pressures she and the groupthink were putting me under every single day. Lady Smith even thanked me for my prompt replies.

So the scenario is this. I was diagnosed with cancer on 10th October 2016. I'm devastated and worried out of my mind. On 12th October 2016, Macaulay is communicating the latest manufactured escalation in the campaign to force me to resign. At this stage, they all know that I'm very ill but don't have a diagnosis as far as they know. I tell Macaulay on the evening of 12th October 2016 about the cancer diagnosis. He tells Lady Smith the next day. I've been allowed to work at home from 11th October 2016 because I'm unwell. This is the matrix of knowledge for the responsible, rights and trauma-aware, experienced decision maker who, at that point, is also an experienced judge of the Court of Session. Oh, and of the Employment Appeal Tribunal. You know, concerned with rights in the workplace?

What does this responsible and knowledgeable decision-maker do?

There is a range of measures based on the rights and responsibilities set out in the various scenarios provided for in the Equality Act 2010. Cancer is an automatically qualifying disability. So failure to make reasonable accommodations for someone who's been diagnosed with cancer may well amount to disability discrimination if you're the decision maker. Or worse, maybe. Harassment or victimisation under the act's provisions about disability discrimination. What do you do? What does the responsible, trauma-informed, right and honourable, decision maker do?

I sent an email to Lady Smith at 9.02 am on 21st October 2016, the day I was supposed to be meeting with her. I attached a letter from my GP informing that I was suffering from acute anxiety because of my cancer diagnosis and the constant pressure from Lady Smith and the groupthink to resign. I told her I wouldn't be coming into the office to meet with her. I also asked about the inquiry's policy on sickness and leave of absence. I knew that there was no such policy. An honest answer might be to say so.

Lady Smith replied by email at 11.17 am. This is the material part of her reply:

“Regarding your ongoing work, please would you just email Colin with what you have done so far. In light of the clear advice in your GP's letter to stop work immediately, you need to refrain from working at all. Also, had we met this morning, if our discussions had not concluded, I would, because of the concerns set out in the email I sent you on Monday, have directed you to stop doing Inquiry work in the meantime.

I am not sure why you are asking about the Inquiry's policy on sickness and absence. Such policies apply to employees but you are not an employee. Nor are

you, in employment law terms, a worker. Indeed, your appointment letter states expressly that your appointment does not constitute an offer or contract of employment and does not attract any salary, pension or similar benefits. Nor does it have any of the features of a contract of employment. I should, perhaps, reiterate that, as I mentioned to you before, I consider that your position in relation to the Inquiry is that you have a ‘zero hours’ appointment with your rights limited to the entitlement to be paid, at the determination rate, for such work done that you have been asked by the Inquiry to do.”

As you can see, in the first paragraph, Lady Smith was trying to achieve, because of my cancer, what she had been unable to do while I could resist. Stop me working on the inquiry. Disability discrimination, not to mention that it’s unconscionably callous. A cruel and very, very dangerous person. Apparently devoid of a normal component of compassion for others. And what about the law?

But the second paragraph really shows how dangerous she is. You’re in the position of power, the decision maker. You’re dealing with a person facing the trauma and scary uncertainty of a cancer diagnosis with all of its implications for the future, or no future, and what it all might look like.

If you’re Lady Smith, you cannot resist the opportunity to put the boot in. What about that? Someone who can act like that in this situation is a danger to cancer sufferers in the workplace. That’s because how you’re treated shouldn’t depend on whether she likes you or not. A zero-hours contract? This is a reference to a Ministerial Determination determining that my working hours on the inquiry would be uncapped (in contrast with Peoples, whose hours were thankfully capped at 40 per week) and paid at £140 per hour until the end of the inquiry. This Determination is still in place, now in 2023. It’s never been rescinded. To try to classify that as a zero-hours appointment is typically perverse and very, very nasty. Moreover, it’s a really stupid thing to put in writing. Someone might include it in a publication about you. It makes you look as cruel as your behaviour demonstrates you to be. Fundamentally lacking in the responsible and balanced decision-making context. And with a defective analysis in law, which appears to be entirely oblivious to the relevant provisions of the Equality Act 2010.

Is this reply to a cancer sufferer what you would expect from a trauma-informed “judge” in a child abuse inquiry? You decide.

I didn’t reply. To be honest, although I was usually able to dismiss Lady Smith as a bully, I found this quite upsetting.