
Wendy \"found guilty\"

Posted by TLJ - 2008/06/14 22:45

<http://www.sundayherald.com/news/heraldnews/display.var.2342376.0.0.php>

LABOUR LEADER Wendy Alexander faces a Holyrood ban after a parliamentary sleaze watchdog found her guilty of breaking the rules on MSPs' conduct by not declaring donations to her leadership campaign.

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The revelation comes as the Electoral Commission, which regulates election finances, admitted it allowed Scottish politicians to break the law for five years before considering using its criminal sanctions. It believed politicians needed half a decade to "learn" about new laws governing their behaviour.

Devolved body v reserved body. We now know which one has principles.

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Re:Wendy

Posted by Levenax - 2008/06/15 08:21

TLJ wrote:

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Devolved body v reserved body. We now know which one has principles.

I can't say I'm surprised. Assorted officials, like judges, fiscals and police persons whose job it is to enforce the law do so just as the notion takes them. Some years ago when a crooked auctioneer defrauded me of £250, and many others of far more, the fiscal told me that "it wasn't in the public interest to prosecute" despite the fact that I had proof positive of his criminality. I had no recourse. When it becomes apparent that officials haven't been doing their job they should be disciplined and IMO heads should roll in this case.

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Re:Wendy \"found guilty\"

Posted by DavieDites - 2008/06/15 09:39

You couldn't make this up! I read this story with total disbelief. How can the officials tasked with enforcing laws controlling political donations decide not to enforce them? What was the purpose of employing them? What is their legal position?

And they can't count. A 5 year grace period would have expired after 5 years. Yet they still turned a blind eye.

And complex legislation? I have not had the benefit of any training yet I knew you couldn't accept donations from abroad. It was designed to stop Sean funding the SNP. For Wendy to write to somebody in Jersey thanking them for their cash, when they money had been channelled through a Glasgow company to avoid detection, is just, is just, is just

Words fail me.

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Re:Wendy

Posted by TLJ - 2008/06/15 09:42

DavieDites wrote:

How can the officials tasked with enforcing laws controlling political donations decide not to enforce them? What was the purpose of employing them? What is their legal position?

That's a discretion which all regulators have - even the police and the PF.

However, given the climate of suspicion which exist against politicians, in this case it's not the most circumspect of policies to adopt, is it ?

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Re:Wendy

Posted by Clare - 2008/06/15 10:00

TLJ wrote:

DavieDites wrote:

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However, given the climate of suspicion which exist against politicians, in this case it's not the most circumspect of policies to adopt, is it ?

TLJ, I'm not sure you're correct on that one. Remember the EC told us they had decided not to refer Wendy's conduct, BUT, they gave specific reasons for that. What they didn't say was that they had decided not to apply the Law for the first five years. That decision was not something that was within their discretion. They just can't do that.

Furthermore, they lied throughout that investigation, not just to the media but to individuals (like me) who made formal complaints about Alexander's conduct, by stating that investigations were continuing.

What they didn't say at any time was that nothing would come out of it because they had introduced a FIVE YEAR bedding in period for politicians to learn the new rules. That was never publicly stated by the EC but more importantly they didn't have the authority to introduce such a rule anyway.

I think we we will hear more about this matter and that the two spokespersons who feature in the Herald article will be out of a job. And so they should be.

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Re:Wendy

Posted by Levenax - 2008/06/15 10:38

TLJ wrote:

That's a discretion which all regulators have - even the police and the PF.

Ah, TLJ, there's the rub. Discretion on whether to prosecute or not, when exercised in private inevitably leads to abuse. These decisions must be transparent and in the public domain. It's why we desperately need elected chiefs of police, prosecutors and judges.

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Re:Wendy

Posted by TLJ - 2008/06/15 11:32

Clare wrote:

TLJ wrote:

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TLJ, I'm not sure you're correct on that one. Remember the EC told us they had decided not to refer Wendy's conduct, BUT, they gave specific reasons for that. What they didn't say was that they had decided not to apply the Law for the first five years. That decision was not something that was within their discretion. They just can't do that.

They can, Clare. Offences are not prosecuted for all sorts of reasons - but perhaps the EC should have been a bit more forthright at the time and explained about its 5-year "rule".

Re:Wendy

Posted by TLJ - 2008/06/15 11:35

Levenax wrote:

TLJ wrote:

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Ah, TLJ, there's the rub. Discretion on whether to prosecute or not, when exercised in private inevitably leads to abuse. These decisions must be transparent and in the public domain. It's why we desperately need elected chiefs of police, prosecutors and judges.

And you think elected chiefs of police, prosecutors and judges won't lead to abuse ?

The issue is one of transparency - something which can be achieved without resorting to having a justice system run by the tabloids and the lynch mobs.

Re:Wendy

Posted by Levenax - 2008/06/15 12:38

TLJ wrote:

And you think elected chiefs of police, prosecutors and judges won't lead to abuse ?

The issue is one of transparency - something which can be achieved without resorting to having a justice system run by the tabloids and the lynch mobs.

Well elected officials could hardly be worse than what we've got now. Fiscals can drop a case whenever they like and fob us off with "it's not in the public interest". It happened to me over £250 and that, although relatively trivial, was very unpleasant when I new the guy was guilty. It must be infinitely worse for the relatives of murder victims when they see the killer of their loved one getting away with culpable homicide and a trivial sentence as a result, when the offence was clearly murder that deserved at least 15 years. It's scandalous when a criminal walks away from a serious offence after some bungling, but highly paid official makes a cock up with the paperwork. When that happens "lessons are learned" but nobody gets their P45. Prosecutors and judges treat victims of crime with contempt and it's high time they were made to account for their actions. The threat of getting turfed out of their highly paid jobs would make them pay more attention to their duty. I'm no fan of the hang 'em & flog 'em brigade but criminals are running amok just now and nobody is doing anything about it.

Re:Wendy

Posted by TLJ - 2008/06/15 12:53

Levenax wrote:

It must be infinitely worse for the relatives of murder victims when they see the killer of their loved one getting away with culpable homicide and a trivial sentence as a result, when the offence was clearly murder that deserved at least 15 years.

Have you any particular case in mind or is this just your normal generalisation based upon selected newspaper reports and none of the detail ?

Re:Wendy

Posted by Clare - 2008/06/15 13:05

Levenax wrote:

TLJ wrote:

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I agree that the sentencing policies we are currently having to live with are outrageous. People are quite literally getting away with murder but that is for another thread I think. I have long been an advocate of a complete reform of the Criminal Justice system and particularly sentencing policy, not least the serving of only half the time scenario. It is absurd.

Anyway, on the Electoral Commission debacle my specific angle is this: the EC is a publicly funded body which was to investigate fully Alexander's conduct. That was their job and today, by their own admission, we now know they approached that investigation knowing that she would get away with it because of their policy not to prosecute within the first five years of the new laws. This means they lied to the public, who fund them, the media and everyone. It also means they themselves broke the law! TLJ, there is no separate "five year rule" here. No such thing! The law is the law and the EC is there to deal with breaches of the law. They didn't have the authority to decide by themselves not to apply the law for five years. They overstepped their authority and their remit. This law was not accompanied by get-out clauses for politicians. Parliaments make law, not the EC.

I would want sackings immediately of these two quoted today in the Sunday Herald and that's just for starters. I intend to take the matter up at once because I have emails from that Commission telling me that Alexander's conduct was being fully investigated by them. At no point did they tell me about their own wee secret policy, a policy they did not have the authority to introduce.

Re:Wendy

Posted by TLJ - 2008/06/15 15:39

Clare wrote:

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approached that investigation knowing that she would get away with it because of their policy not to prosecute within the first five years of the new laws. This means they lied to the public, who fund them, the media and everyone. It also means they themselves broke the law! TLJ, there is no separate "five year rule" here. No such thing! The law is the law and the EC is there to deal with breaches of the law. They didn't have the authority to decide by themselves not to apply the law for five years. They overstepped their authority and their remit. This law was not accompanied by get-out clauses for politicians. Parliaments make law, not the EC.

Politicians make the law but do not implement it. Those who do - not just the EC - are given flexibility in how they approach it, with "public interest" being one such consideration they must take into account when they regulate.

Don't get me wrong, I think that the EC should referred the issue to the PF (although that, in itself, would not guarantee a prosecution being taken forward). How they could claim that there was no public interest is beyond me !

Re:Wendy

Posted by Levenax - 2008/06/15 15:44

TLJ wrote:

Have you any particular case in mind or is this just your normal generalisation based upon selected newspaper reports and none of the detail ?

<http://news.bbc.co.uk/1/hi/scotland/533084.stm>

This was a particularly notorious one and it took all of 30 seconds to find it on the Beeb. There's plenty more where that came from.

Re:Wendy

Posted by TLJ - 2008/06/15 15:47

Levenax wrote:

There's plenty more where that came from.

Exactly as I suspected. A generalisation based on a news report rather than detailed consideration of the evidence.

Re:Wendy \"found guilty\"

Posted by scunnert - 2008/06/15 15:50

Does anyone really believe they would have stuck to their "five year bedding down" had the SNP been discovered fiddling? Nae chance. Electoral Commissions, wherever you find them, are bulwarks set up to protect the power elite from prosecution and as stumbling blocks for upstart parties who challenge the status quo.

Re:Wendy

Posted by Levenax - 2008/06/15 15:56

TLJ wrote:

Don't get me wrong, I think that the EC should referred the issue to the PF (although that, in itself, would not guarantee a prosecution being taken forward). How they could claim that there was no public interest is beyond me !

1. The EC should have referred this but they chose not to do so. The head of the EC should be arraigned before Parliament (is there such a facility? if not there should be) to account for his or her actions and if there is no satisfactory explanation they should be sacked.

Fiscals should prosecute all cases sent to them. If they don't, and obviously sometimes there may be good reasons why not, they should be obliged by law to give these reasons on a public web site. Fiscals are public servants and they

should be accountable for their actions or inactions. At the moment they can do whatever they want with impunity and that's not just.

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Re:Wendy

Posted by Levenax - 2008/06/15 15:59

TLJ wrote:

Exactly as I suspected. A generalisation based on a news report rather than detailed consideration of the evidence.

It would be terribly tedious to list dozens on this forum. Are you seriously suggesting what happened in the quoted case was justice?

=====

Re:Wendy

Posted by TLJ - 2008/06/15 16:15

Levenax wrote:

Are you seriously suggesting what happened in the quoted case was justice?

I don't know. I've read the report you linked to which contains some 450 words, of which probably about a dozen actually relate to the actions which led to the death.

That's hardly anything on which to base a conclusion.

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Re:Wendy

Posted by Clare - 2008/06/15 16:44

scunnert wrote:

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But Scunny, the point here is the EC didn't have the authority to apply this absurd "five year bedding in" period. The law had been passed and was in place. The EC can't just add on a clause allowing them to ignore it for five years. These people by admitting this today are in big trouble. It is bad enough they used their "discretion" to get Wendy off the hook but to now admit they had actually invented a policy to ignore the law itself for five years is dynamite considering it is not within their remit, nor do they possess the authority, to over-rule the law in the first place.

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Re:Wendy

Posted by scunnert - 2008/06/15 17:19

Clare wrote:

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As TLJ points out, all agents of the law have discretion in applying the law. The interesting point for me is that the EC is placed between the offender and the prosecuting authorities. This neuters the PF unless the EC refers the case.

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Re:Wendy

Posted by TLJ - 2008/06/15 18:48

Levenax wrote:

Fiscals should prosecute all cases sent to them. If they don't, and obviously sometimes there may be good reasons why not,

A wee bit contradictory, don't you think ? Either they should prosecute all cases or they shouldn't !

=====

Re:Wendy

Posted by Clare - 2008/06/15 19:34

scunnert wrote:

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As TLJ points out, all agents of the law have discretion in applying the law. The interesting point for me is that the EC is placed between the offender and the prosecuting authorities. This neuters the PF unless the EC refers the case.

NO, Scunny they didn't. That's not what the revelation today is about.

Yes the EC had the right to exercise "discretion" after doing their investigation.

What it did NOT have the authority to do was invent an informal policy, covering ALL investigations, which totally undermined the law itself by declaring that law wouldn't be enforced! That's what they did. That's what they are admitting today.

They aren't talking today about their decision not to refer Alexander's case. They have admitted that they had a policy not to take action on any breaches of this law for the first five years. That is a different thing altogether. That is what brings it, the EC, into conflict with the law itself.

Furthermore this truth has only emerged today for the first time. When it investigated Alexander the EC gave reasons (all of them complete mince of course) as to why it hadn't referred her conduct on for prosecution). What it DIDN'T say was that it was applying its own secret policy not to prosecute ANYONE during a five year period. So why was it costing us money by going through the motions of an investigation KNOWING it would not prosecute at the end of it?

The fact is Scunny that it has discretion to do certain things. Ignoring the law it is paid to investigate breaches of isn't one. It simply doesn't have the authority to set the law aside. No one does.

Now, consider this. The (existing) 28 day detention thing. Can you imagine the Police responding to that by saying, "We're not going to bring people in on those grounds and detain them. Potential terrorists need five years to get used to the new legislation."? No I can't either.

The fact is NO ONE can over turn a new law or decide to ignore it. Only Parliament can do that. No one else. The same principle applies to the Electoral Commission.

The new law on Political Party Funding was passed. The Electoral Commission had NO authority to decide informally that it wouldn't enforce that law for five years. The law in question was not introduced with any wee clauses which made its enforcement optional. That isn't how the law works.

The EC blatantly misled the entire country on this matter by claiming it had investigated Alexander without also revealing the existence of an informal policy of its own which meant that no prosecutions would take place anyway because it had decided not to enforce the law. It has been investigating various matters concerning various politicians all this time knowing all along about its own "policy" not to prosecute anyone, a policy it failed to reveal to the public, the same public that funds it. That is the issue here.

Time was given to all Parties to familiarise themselves with the new law. The Labour Party got £180,000 or so to educate its own people on the law so why the EC felt it was authorised to grant a further FIVE YEARS before being willing to punish guilty politicians is something they need to explain themselves. The additional fact that they chose to endorse such an unauthorised policy without informing the public is a matter for them to explain also for nowhere in the legislation does it say that was how the new law was to work.

I have written to the EC today on the subject and I'm going to open a Blog on it on Scotsgait. Today we have conclusive proof that a government funded body, a body charged with investigating misconduct by politicians blatantly ignored legislation for a set period and by doing so brought itself into conflict with that legislation. We know too that it misled the taxpayer by lying to us and wasted funds from the taxpayer to run lengthy "investigations" which it knew it had already "ruled" informally on by deciding not to act in such cases.

One politician - Alexander - made a great play of being "exonerated" by the EC did she not? We had to suffer her repeated claims that she had been found "innocent". Yet still the EC said nothing of the existence of that pre-determined verdict of theirs which meant they couldn't find her guilty anyway! That is despicable, it is dishonest and it simply isn't acceptable.

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Re:Wendy

Posted by Levenax - 2008/06/15 21:31

TLJ wrote:

A wee bit contradictory, don't you think ? Either they should prosecute all cases or they shouldn't !

Yes, you're right to point that out. What I meant to say was that there should be a presumption that a case will be prosecuted not abandoned because they're too busy or it's somebody's pal. Obviously if the police screw up as they often do or if a witness dies or whatever they will have to give up but if that happens it should be transparent and reasons for it placed in the public domain.

A good example of failure to prosecute what is a clear breach of the law is the so called peace camp at Faslane. It's illegal, it's been there for years and nothing has been done to close it.

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Re:Wendy

Posted by LYDIA REID - 2008/06/16 17:58

Levenax wrote:

TLJ wrote:

<http://www.sundayherald.com/news/heraldnews/display.var.2342376.0.0.php>

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I can't say I'm surprised. Assorted officials, like judges, fiscals and police persons whose job it is to enforce the law do so just as the notion takes them. Some years ago when a crooked auctioneer defrauded me of £250, and many others of far more, the fiscal told me that "it wasn't in the public interest to prosecute" despite the fact that I had proof positive of his criminality. I had no recourse. When it becomes apparent that officials haven't been doing their job they should be disciplined and IMO heads should roll in this case.

Levanax

Check out this link this is the organisation you should have gone to with a complaint about any public body if they do not cannot or will not follow guidelines. Labour changed this organisation from a department that a member of the public could use to complain, to the useless Labour run white wash that it is now.

http://epetitions.scottish.parliament.uk/view_petition.asp?PetitionID=232

I did not manage to watch the debate in the public petitions committee, they may very well change this organisation. I hope so.

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Re:Wendy

Posted by LYDIA REID - 2008/06/16 18:17

Levanax wrote:

TLJ wrote:

Have you any particular case in mind or is this just your normal generalisation based upon selected newspaper reports and none of the detail ?

<http://news.bbc.co.uk/1/hi/scotland/533084.stm>

This was a particularly notorious one and it took all of 30 seconds to find it on the Beeb. There's plenty more where that came from.

I know from experience that corruption exists in our legal system but it is worrying when it extends to physical violence of this magnitude and rape, murder, and pedophiles.

I discovered that when a law exists to say a pathologist cannot remove parts of a persons body without permission the police will not charge them when the pathologists says. "We were only trying to protect the public from distressing information".

I can see how the system would band together to save the country from paying £ millions in compensation, the above case and others says it must be that money is changing hands to allow people to avoid going to jail.

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Re:Wendy

Posted by LYDIA REID - 2008/06/16 18:30

Levanax wrote:

TLJ wrote:

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There are no laws that rule the Procurators Fiscal office. Scotland has no constitution and they do not come under the jurisdiction of Parliament.

Try making a complaint against them. They do not have a formal complaints procedure. They do not have a complaints department. The public could at one time complain to the Scottish Ombudsman until Labour changed that department. Scottish Labour removed the right of the public to complain about Parliament and any law makers.

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Re:Wendy

Posted by dws - 2008/06/16 18:32

Levenax wrote:

Assorted officials, like judges, fiscals and police persons whose job it is to enforce the law do so just as the notion takes them.

Oh really? That's me well and truly bliddy pigeonholed then.:unsure:

Thanks mate, what do you do?

As it happens I believe the law should apply to all, irrespective of who they are of who they know. Maybe that's why I'm not Chief Copper yet.

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