

Ratcliffe-on-Soar activists furious as no disciplinary charges brought over withheld tapes

Recordings made by police spy Mark Kennedy were crucial to case but hidden from environmental protesters' defence



📷 The activists were wrongfully convicted of attempting to break into the power station in Ratcliffe-on-Soar. Photograph: David Sillitoe for the Guardian

Rob Evans and Paul Lewis

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No prosecutors or police officers are to be disciplined over a miscarriage of justice in which environmental activists were wrongly convicted of plotting to break into a power station.

The only prosecutor who was subject to a disciplinary inquiry over the failure to disclose secret surveillance tapes recorded by police spy **Mark Kennedy** has retired from the Crown Prosecution Service, it has emerged. His retirement last month brings the inquiry to an end.

The development follows Wednesday's verdict by the police watchdog that no police officers were guilty of misconduct over the controversy. **The Independent Police Complaints Commission** had criticised police officers **for**

"collective failings" for withholding the Kennedy tapes from lawyers representing the activists.

This and another official inquiry had blamed both senior prosecutors and police officers for withholding the tapes, which were crucial to the activists' defence.

While working as an undercover policeman, Kennedy had covertly recorded a private meeting of environmentalists while they discussed breaking into Ratcliffe-on-Soar, one of Britain's biggest power stations, in 2009.

The convictions of 20 environmentalists were quashed last year after three appeal court judges ruled that the contents of the tapes were vital to their defence. Judges ruled that the activists had been convicted "following a trial in which elementary principles which underpin the fairness of our trial processes were ignored".

The withholding of the tapes also forced prosecutors to abandon a trial of another six activists last year.

On Thursday, a spokeswoman for the Crown Prosecution Service (CPS) confirmed that Cunningham, the senior lawyer in charge of the prosecution, had "retired from the CPS while the disciplinary process was ongoing. He was 60 in January".

Last December, an inquiry by Sir Christopher Rose, a retired high court judge, ruled that the secret tapes had not been revealed to the activists' lawyers because of "failures, over many months and at more than one level, by the police and the CPS".

Rose said Cunningham had to bear "primary responsibility" for the failure to hand over the tapes. Keir Starmer, the director of public prosecutions, ordered a disciplinary inquiry into his conduct.

On Thursday, Danny Chivers, one of the activists whose prosecution was abandoned, said: "Given there was an unambiguous miscarriage of justice involving 20 people, and a £1m second collapsed trial, it is astonishing that nobody is to be held to account."

"I was lucky, in the months before my trial Mark Kennedy was discovered as an undercover police officer. If Kennedy had remained a state secret, critical evidence would have been withheld from my trial and I could have been the victim of a miscarriage of justice.

"The number of people who were not as lucky as me is unknown, which is why a public inquiry is needed to expose the murky world of suppressing evidence from the courts to public scrutiny."

Last summer, the lord chief justice, Lord Judge, and two other judges, overturned the convictions of the 20 environmentalists as they were "unsafe because of significant non-disclosure" of the secret tapes.

"It is clear that there was a non-disclosure of material which would have been supportive of [the defence case advanced](#) at trial," said Lord Judge.

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