

**HOUSE OF LORDS
APPOINTMENTS COMMISSION**

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Ref: HOLAC FOI 2022/10

08 June 2022

By email: <REDACTED>

Dear <REDACTED>,

Freedom of Information Act

I am replying to your Freedom of Information request, which the House of Lords Appointments Commission received on 11 April 2022. I am sorry that there has been a delay in the Commission responding to your request.

You asked:

This is a freedom of information request:

- 1. For each of the years 2021 to and including 2010, as well as for 2022 so far, please can you say how many times the House of Lords Appointments Commission has advised a prime minister it has concerns over a nomination for a life peerage?*
- 2. For each of the years 2021 to and including 2010, as well as for 2022 so far, please can you say how many times the House of Lords Appointments Commission has advised that it does not support a nomination?*
- 3. For each of the years 2021 to and including 2010, as well as for 2022 so far, please can you say how many times the House of Lords Appointments Commission has advised the relevant select committee that it has either raised concerns or not supported a nomination, but the prime minister has exercised their right to recommend it anyway?*

I am writing to advise you that following a search of our paper and electronic records, we have established that the information you requested is held by the Commission.

All of the information that you have requested falls within section 37(1)(b) of the Freedom of Information Act, which relates to the conferral of honours and dignities. A peerage is a dignity for the purposes of the Act. Section 37 is a qualified exemption which is subject to a public interest test. In favour of disclosing information, there is a strong public interest in knowing that the appointments process is accountable and transparent, and in maintaining public confidence in the system. In favour of maintaining the exemption, there is a strong public interest in protecting the confidentiality of the consideration of individual nominees. We judge that the balance of public interest favours disclosure of overall figures. To protect the confidentiality of the Commission's discussions and the confidentiality of candidates' personal data -

and in line with standard practice - the Commission is not disclosing annual figures fewer than five people.

With regards to question 1, the Commission highlights issues of concern to the Prime Minister which it judges fall short of probity concerns which might prevent an appointment, but which it considers nonetheless constitute relevant propriety or presentational considerations, were an appointment to be made. Since 2010, this has happened on 36 occasions. In providing the following figures, the Commission neither confirms nor denies that the individuals about whom issues of concern were highlighted were ultimately appointed as life peers. Please note that information is not held in relation to 2010 - 2013 as the practice of highlighting these concerns to the Prime Minister only began in 2014.

Year	Number of Cases
2010-2013	Information not held
2014	< 5
2015	< 5
2016	5
2017	< 5
2018	< 5
2019	8
2020	11
2021	< 5
2022	< 5

With regards to question 2 of your request, since 2010, the Commission has been unable to support 16 nominations. This includes instances where the Commission could not complete its vetting process. Information is not held in relation to 2010- 2012. A yearly breakdown is not held for 2013 - 2015.

Year	Number of Cases
2010-2012	Information not held
2013-2015	5 (information on individual years not held)

2016	< 5
2017	< 5
2018	< 5
2019	< 5
2020	7
2021	< 5
2022	< 5

For both questions 1 and 2 where we have not given specific figures, we consider that Section 40 (2) of the Freedom of Information Act also applies as it may be possible to identify individuals. In this case we believe that it may be possible to identify individuals based on media speculation at the time. The names and other personally-identifying information about the nominees themselves constitute personal data. Section 40(2) of the FOI Act allows public authorities to withhold personal data if disclosure would contravene any of the data protection principles listed in the Data Protection Act 2018. It is for the Commission to make a judgement in relation to whether the data protection principles would be contravened and the fairness of releasing data.

If it would not be fair to the data subject to disclose their personal data, an absolute exemption from disclosure applies. Even if the disclosure of personal data might be fair in some individual cases, further consideration is then given to Schedule 2 and 3 of the Data Protection Act, including whether processing might be necessary for the purposes of legitimate interests. The Commission undertakes to treat nominations in confidence, thereby creating a reasonable expectation that their names, or similarly personally-identifying information, will not be released publicly. To release personally-identifying information would therefore, in the Commission's view, be unfair and would therefore contravene the first data protection principle. This view was accepted by the Information Commissioner's decision in relation to a previous FOI request relating to Commission minutes. Personally-identifying information about nominees has therefore been withheld under section 40(2).

In respect to your third question, there has only been one occasion, in 2020, where the Commission has been unable to support a political nominee and the Prime Minister chose to continue to exercise their right to recommend an appointment.

If you are unhappy with this response to your request, you may write to the Secretary to the Commission, Alison Bennett, to ask for an internal review by another person not involved with this request. Please note that we will not normally accept an application for internal review if it is received more than two months after the date that the reply was issued.

If you are not content with the outcome of your internal review, you may apply directly to the Information Commissioner for a decision.

Generally, the Commissioner cannot make a decision unless you have exhausted the complaints procedure provided by the Commission.

The Information Commissioner can be contacted at:

The Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Yours sincerely,

Secretariat to the House of Lords Appointments Commission