

**HOUSE OF LORDS  
APPOINTMENTS COMMISSION**

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Ref: HOLAC FOI  
2020/5

20 August 2020

By email: <REDACTED>

**Freedom of Information Act**

I am replying to your Freedom of Information request, which the House of Lords Appointments Commission (HOLAC) received on 10 August 2020.

You asked:

- 1. Any documents relating to the appointment of Claire Fox to the House of Lords;*
- 2. Any correspondence or communications between the Lord Paul Bew and the Member of Parliament for Warrington North Charlotte Nichols MP;*
- 3. Any correspondence or communications between the Lords Appointments Commission and the Member of Parliament for Warrington North Charlotte Nichols MP;*
- 4. Any documents containing the words “revolutionary communist party” or “communist party” written or dated between 1 January 2019 to 10 August 2020;*
- 5. Any correspondence between the Cabinet Office and the House of Lords Appointments Commission relating to the appointment to the House of Lords of Claire Fox.*

In relation to all five questions, I consider that section 37(1)(b) of the FOI Act (information relating to the conferring by the Crown of any honour or dignity) applies. The information you request relates exclusively to processes relating to the conferring by the Crown of a dignity. Section 37(1)(b) is, however, a qualified exemption. I have therefore balanced the public interest in maintaining the exemption against the public interest in disclosing the information. In favour of disclosure, 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. It is in the public interest, and fundamental to the Commission's ability to fulfil its core purpose of nominating individuals to sit on the crossbenches of the House of Lords, that individuals of high professional standing are willing to nominate themselves or be nominated. It is unlikely that individuals would be willing to put their names forward if they could not rely on the Commission's confidentiality in handling their nomination or if they otherwise felt that their personal details or personally-identifying aspects of the Commission's consideration of their case would be put in the public domain.

Taking all of the relevant factors into consideration, including the fact that the Commission already places a great deal of information about its working practices in the public domain to reassure the public that these are sufficiently rigorous, I consider that the balance of the public interest lies in maintaining the section 37(1)(b) exemption in respect of the names of nominees and other personally-identifying information about them which has not already been put in the public domain by the Commission, the Government or the individual.

Some of this information is withheld under Section 40(2) of the FOI Act. 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 1998. It is for the Commission to make a judgment 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 (including their names) 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 HOLAC minutes.

Personally-identifying information about nominees has therefore been withheld under section 40(2).

Some of this information is also withheld under Section 41(1)(b) (information provided in confidence), which allows public authorities to withhold information, the disclosure of which would give rise to an actionable breach of confidence. At the start of the vetting process the Commission informs nominees that any information provided by them and any information the Commission obtains in the course of its further enquiries of other bodies will be treated as confidential. The information therefore has the necessary quality of confidence and there is no overriding public

interest that would allow it to be disclosed in breach of that confidence. Section 41 is an absolute exemption, therefore there is no requirement to consider whether the public interest in disclosing it outweighs the public interest in maintaining the exemption.

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 HOLAC.

The Information Commissioner can be contacted at:

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

**Secretariat to the House of Lords Appointments Commission**