

**HOUSE OF LORDS**  
**APPOINTMENTS COMMISSION**  
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**Ref: HOLAC FOI 2023/18**

23 August 2023

By email: [REDACTED]

Dear [REDACTED]

### **FREEDOM OF INFORMATION ACT REQUEST**

I am replying to your Freedom of Information request, which the House of Lords Appointments Commission (HOLAC) received on 26 July 2023.

You requested:

*1 The guidelines and standard operating procedures followed by the House of Lords Appointments Commission for vetting and assessing nominees for life peerages.*

*2 Any documented instances or protocols regarding the rejection of nominees for life peerages by the House of Lords Appointments Commission, and the reasons for such rejections.*

*3 Any policies or regulations that outline the authority and powers of the Prime Minister in the event that the Commission rejects a nominee for a lifetime peerage. I am particularly interested in understanding whether the Prime Minister has the capability to override the Commission's decision and, if so, under what circumstances and mechanisms.*

*4 Any communication or correspondence between the House of Lords Appointments Commission and the Prime Minister's office regarding the nomination and approval process for life peerages, especially concerning situations where the Commission has expressed reservations about a nominee.*

*5 Any documents, reports, or official communications that discuss the independence and impartiality of the House of Lords Appointments Commission in its role as an independent body responsible for assessing nominees for life peerages.*

The information requested in 1) 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 peerage appointments system. In favour of maintaining the exemption, there is a strong public interest in protecting the confidentiality of the consideration of

individual nominees and ensuring the potentially sensitive vetting information can be candidly assessed.

There is significant information around the vetting process available on the Commission's website (<https://lordsappointments.independent.gov.uk/vetting>) and in the oral evidence provided by the Chair of the Commission, Lord Bew, in April 2022 (<https://committees.parliament.uk/oralevidence/10107/pdf/>). The Commission considers, on balance, that there is sufficient information in the public domain, and therefore insufficient public interest to release the Commission's internal guidelines and operating procedures.

On point 2), it should first be clarified that the Commission does not 'reject' nominees, but instead provides confidential advice to the Prime Minister. I would draw your attention to a previous request for similar information ([https://lordsappointments.independent.gov.uk/wp-content/uploads/2022/06/2021\\_02-HOL-AC-FOI-1.pdf](https://lordsappointments.independent.gov.uk/wp-content/uploads/2022/06/2021_02-HOL-AC-FOI-1.pdf)) that is published on the HOLAC website. You will note from this response that we are able to release data on the number of nominees not supported. Some of this information is therefore considered to be reasonably accessible by other means under section 21 of the Freedom of Information Act. Since January 2021, this has happened in the case of 13 nominations.

The information relating to reasons for not supporting an individual 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 peerage appointments system. In favour of maintaining the exemption, there is a strong public interest in protecting the confidentiality of the consideration of individual nominees and ensuring the potentially sensitive vetting information can be candidly assessed.

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 to providing the reasons for not supporting previous nominees.

Some of this information is also withheld under Section 40(2) of the Freedom of Information Act. The names and other personally-identifying information about the nominees themselves constitute personal data. Section 40(2) of the 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 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 (including an individual's name) would therefore, in the Commission's view, be unfair and would therefore contravene the first data protection principle. 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.

For 3), as previously highlighted that the Commission's role is advisory to the Prime Minister. The Prime Minister is under no obligation to follow the advice provided. The Command Paper which established HOLAC ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/260760/4183.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/260760/4183.pdf)) outlines the function of the Commission, but the specific details on the role of the Prime Minister is a question for No.10. The relevant form to send such a request can be found at <https://contact.no10.gov.uk/>.

Question 4) is considered to fall under Section 12 of the Freedom of Information Act, which relieves public authorities of the duty to comply with a request for information if the cost of dealing with it would exceed the appropriate limit. The appropriate limit has been specified in regulations and for the central Government this is set at £600. This represents the estimated cost of one person spending 3 1/2 working days in determining whether the Department holds the information, and locating, retrieving and extracting it, below the appropriate limit. As currently posed, this request would require looking through all the correspondence between No.10, which would include both electronic and paper records, since HOLAC was established in 2000. It also covers an extremely broad range of content. This section of your request is therefore refused under that section of the Act. You are invited to refine the scope of your request, however I should inform you that the information requested may be exempt on separate grounds. This information is likely to fall within Sections 37(1)(b), 40(2) and 41(b) of the Freedom of Information Act.

For 5), our annual reports and meeting notes are published on the Commission's website, and the previously mentioned oral evidence from the Chair to PACAC is also in the public domain. This information is hence also considered to be reasonably accessible by other means under section 21 of the Freedom of Information Act.

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

Yours sincerely,

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