

HOUSE OF LORDS
APPOINTMENTS COMMISSION
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Ref: HOLAC FOI 2023/12

24 July 2023

By email: [REDACTED]

Dear [REDACTED]

FREEDOM OF INFORMATION ACT REQUEST

I am replying to your Freedom of Information requests, which the House of Lords Appointments Commission (HOLAC) received on 26 June 2023. The two requests will be responded to together.

You asked:

- 1) *Can I please request any emails, records, reports, memos, letters, and/or assessments that were prepared, received, transmitted, collected and/or maintained by the House of Lords Appointments Commission relating to the nomination of Nigel Adams for a life peerage.*

And

- 2) *Can I please request any emails, records, reports, memos, letters, and/or assessments that were prepared, received, transmitted, collected and/or maintained by the House of Lords Appointments Commission relating to the nomination of Charlotte Owen for a life peerage.*

Question 1) falls within section 37(2) of the Freedom of Information Act, which is a qualified exemption and we have considered the balance of public interest in neither confirming nor denying whether we hold this information against the public interest in us confirming or denying whether the information is held. The Cabinet Office recognises that there is a public interest in the management and process for resignation lists and, specifically, life peerage nominations. We also recognise that there is a public interest in confirming whether or not the Cabinet Office holds information.

However, the Cabinet Office considers that confirming whether or not we hold the requested information would in itself disclose information that would otherwise be exempt under section 37(1)(b), subject to a public interest test. Since 2002, crossbench and party political life peerage nominations to the House of Lords have

been vetted by the independent House of Lords Appointments Commission. The Commission seeks advice from Government Departments and agencies where appropriate and these vetting procedures and the advice to the Prime Minister are confidential. HOLAC does not comment on whether or not individuals have been nominated and this is a long standing position. Confirming or denying that information is held could enable an inference to be drawn about the nature of the advice that was given to the Prime Minister, undermining the confidentiality of the process by which crossbench and party political life peerage nominations are managed. We have therefore determined that, in all the circumstances, the public interest in neither confirming nor denying whether we hold this information outweighs the public interest in us confirming or denying whether it is held.

The information that you have requested in 2) 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 the advice given by the Commission to the Prime Minister for Boris Johnson's resignation peerage list.

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.

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

Yours sincerely,

Secretariat to the House of Lords Appointments Commission