

HOUSE OF LORDS
APPOINTMENTS COMMISSION
Room G/38, 1 Horse Guards Road, London SW1A 2HQ
General Enquiries: 07872 828699
Internet: <http://lordsappointments.independent.gov.uk>
E-mail: enquiry@lordsappointments.gov.uk

Ref: HOLAC FOI 2024/8

1 May 2024

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 15 April 2024.

You requested:

I note that it has since been reported that Mark Littlewood was nominated for a peerage but that HOLAC recommended against it and that he was not, in fact made a peer.

I now request, pursuant to the FOI Act 2000, copies of all information held by HOLAC on and occasioned by Mr Littlewood's nomination. Obviously I would expect you to redact any personal data that should properly be excluded from disclosure under the DPA 2018.

Whether or not the media reports that an individual has been nominated, HOLAC does not report on cases where an individual has not been appointed as a peer. As such, we consider that this request engages Section 37(2) of the Freedom of Information Act, which refers to the duty to confirm or deny whether information is held if it would otherwise be exempt (in this instance) under Section 37(1)(b), where the information refers to the conferral by the Crown of any honour or dignity. As a peerage is a dignity, and as Section 37 is a qualified exemption, we have carried out a public interest test on whether to confirm if this information is held.

In favour of confirming whether information is held, there is a public interest in understanding how the peerage appointments system works and why specific individuals have been appointed to serve in the House of Lords. There is also an interest in making the peerage appointment system as accountable and transparent as possible, and understanding the process that would lead to an individual not being supported on propriety grounds. In favour of not confirming, it is important to the integrity of the system that unsuccessful candidates have a right to privacy, and there are legal provisions around confidentiality and personal data that continue to

apply in such cases. It would not be a fair precedent to say that individuals who the Commission does not support will then be named publicly, with their confidential information shared. Additionally, the public interest is considerably lower in cases where an individual has not been appointed, as they will not be taking on the responsibilities associated with being a member of the House of Lords. To confirm an unsuccessful nomination would be to invite speculation about potential probity issues, with resultant reputational consequences for the individual - even were their appointment not ultimately made for other reasons (such as withdrawal from the process; a change in the anticipated role they might play in the House; or timing reasons).

On balance, it is therefore our view that the public interest supports neither confirming nor denying whether the Commission holds information in the scope of your request.

Additionally, and as you have noted, there may be other data protection principles in play, were the Commission to confirm or deny an unsuccessful peerage nomination. These include section 40(2) protecting the information of the data subject, which is an absolute exemption; and section 41, information provided in confidence. The Commission's forms and website make clear that nominee material will be held in confidence.

It is worth also noting that under paragraph 15 of Part 2 of Schedule 2 to the Data Protection Act 2018, an unsuccessful peerage nominee would not themselves be eligible to receive the information you have requested. Paragraph 15 disapplies the requirement under Article 15 UK GDPR to respond to subject access requests when personal data is processed for the purposes of the conferring by the Crown of any honour or dignity. It would be invidious for the data subject to be unable to access material about themselves under the DPA, which is then provided to a requestor under FOIA.

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