

HOUSE OF LORDS
APPOINTMENTS COMMISSION

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Ref: HOLAC FOI IR/2023/03
7th September 2023

By email: [REDACTED]

Dear [REDACTED]

Internal Review Reference: HOLAC FOI IR/2023/03
(Original Case Reference: HOLAC FOI 2023/18)

REVIEW OF REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000

Thank you for your email of 23rd August 2023. You asked for an internal review of our response to your request for information made under the Freedom of Information Act 2000 ('the Act'), dated 26th July 2023. In your original request you asked for:

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.

You have requested an internal review of the decision on the following grounds.

It appears that the concerns you made are more aligned with Section 40 (Personal Data) than Section 37. The focus of your explanation was on the confidentiality of nominee information, which is a core aspect of personal data protection. However, even considering Section 40, I would like to address why these sections do not apply in this context:

- Section 37(1)(b) is related to the conferral of honours and dignities. The requested information pertains to the guidelines and procedures followed by the Commission for vetting and assessing nominees, not to the actual conferral of honours. The release of these guidelines would not lead to the improper disclosure of specific honours.

- Section 40 is concerned with personal data. The requested information is focused on the operational procedures and guidelines followed by the Commission for vetting and assessing nominees, and it does not necessarily involve the disclosure of personal data.

It would be highly unethical and inappropriate to include personal information belonging to any member of the public inside operating procedures and guidance. If there is personal information relating to your staff members, it could be redacted before release as it's of no interest to us.

Limited Disclosures Already in the Public Domain:

The information you've shared from the Commission's website highlights general aspects of the vetting process, such as the role of the Commission, the role of political parties, and the checks involved in the vetting process. However, it does not delve into the specific guidelines and standard operating procedures that we requested. This limited disclosure does not provide a comprehensive understanding of the procedures in question.

Inadequate Detail in Public Domain Information:

The information provided offers a high-level overview of the process and general principles of propriety. However, it lacks the depth and specificity that the requested guidelines and standard operating procedures would provide. Without access to the detailed procedures, it's difficult for the public to comprehend the meticulous steps involved in vetting nominees for life peerages.

Balancing Transparency and Confidentiality:

While the Commission rightly values confidentiality, it's essential to highlight that transparency is equally important, especially in matters concerning public appointments. The release of sanitised or redacted versions of the requested guidelines and procedures could serve the public interest by maintaining transparency without compromising sensitive information.

Clarification on General Procedures vs. Specific Guidelines:

The Commission's first link provides an overview of general procedures and principles. However, the requested guidelines and standard operating procedures

are specific documents that can offer a more detailed insight into the comprehensive vetting process. The requested information is distinct from the general information already available.

Enhancing Public Confidence Through Detailed Information:

By releasing the requested guidelines and procedures, the Commission can enhance public confidence in the appointments process. Providing transparent information about the thoroughness and fairness of the vetting process can reassure the public that appointments are made with the highest level of scrutiny.

Guidelines' Role in Accountability:

The guidelines and procedures play a crucial role in holding the Commission accountable for its decisions. Public access to these documents can facilitate external scrutiny and validation of the appointments process, ensuring that the Commission's actions align with its stated principles.

Depth of Information: The first document provided might offer insights into the Commission's operations, but it's unlikely that comprehensive guidelines and detailed procedures are explicitly outlined in the transcript. The requested guidelines and procedures are distinct from general discussions and could provide more specific insights into the vetting process.

Comprehensive Understanding: While the oral evidence session provides some information, it is unlikely to comprehensively address all the steps, criteria, and details involved in the vetting and assessment process. The release of the requested guidelines would offer a clearer picture of the Commission's procedures.

Specificity of Request: Our FoI request specifically seeks the actual guidelines and procedures followed by the Commission. The documents provided, while relevant, do not fulfil the request's focus on explicit and comprehensive guidelines.

Public Interest in Transparency: The public wants to see transparency and accountability when it comes to the appointment of life peers. The release of detailed guidelines and procedures can enhance public trust in the process and assure the public that appointments are carried out in a fair and transparent manner.

Balancing Confidentiality and Transparency: Our request pertains to the procedural aspects of vetting and assessment, rather than personal data or sensitive information related to nominees.

Section 37 of the Act

I have carefully reviewed the handling of your original request and I consider that the exemption at section 37(1)(b) of the Act was properly applied. I believe that the balance of the public interest was fully considered for the reasons set out in our previous letter. Having considered the public interest tests, we do appreciate the importance of transparency in the peerage appointments process that encourages public interest, and the public's awareness of how the peerage appointments are handled. We also recognise that there is a public interest in the workings of the

peerage system. While we acknowledge the weight of these public interest factors, I would maintain, however, that the public interest is in favour of withholding the information within scope of the request.

I have considered the points you make about the decision to withhold the information requested. You note in your response that as you did not request any information about any individual peerage, however, confidentiality does not only apply to individual peerage applications. The Information Commissioner's Office has provided clear direction that the interpretation of Section 37 includes the policies and procedures that underpin the process. The process by which peerage applications and nominations are considered needs to remain confidential in order to maintain the integrity of the system and to ensure that decisions about peerages may continue to be taken on the basis of full and honest information and that those who offer opinions may do so freely and honestly, in confidence, on the understanding that their confidence will be honoured..

Section 40 of the Act

I am further satisfied that the Commission has correctly determined that information within the scope of your request is exempt from disclosure under section 40(2) of the Act.

I have determined that information within the scope of your request constitutes personal data the disclosure of which would contravene any of the data protection principles and in particular, the requirement that the processing of data should be lawful, fair and transparent under Article 5(1) of the UK General Data Protection Regulation.

While I acknowledge a legitimate interest in the disclosure of the information requested, I do not consider that this outweighs the interests and rights of the individuals concerned. I am therefore satisfied that disclosure would not be lawful in this instance. I have also concluded that it would be neither fair nor transparent.

Section 40(2) is an absolute exemption, and is not subject to a public interest test. I am satisfied that it has been correctly applied in this case.

Summary

I have concluded that the exemptions detailed in our previous response have all been correctly applied.

If you are unhappy with the handling of your request for information you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

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

Yours sincerely,



Secretariat to the House of Lords Appointments Commission