

HOUSE OF LORDS
APPOINTMENTS COMMISSION

Room G/39, 1 Horse Guards Road, London SW1A 2HQ
General Enquiries: 020 7276 6794
Internet: <http://lordsappointments.independent.gov.uk>
E-mail: enquiry@lordsappointments.gov.uk

Ref: HOLAC FOI IR2024/01
12/03/2024

By email: [REDACTED]

Dear [REDACTED]

Internal Review Reference: HOLAC FOI IR2024/01
(Original Case Reference: HOLAC FOI FOI2024/4)

REVIEW OF REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000

Thank you for your email of 7 March 2024. You asked for an internal review of our response to your request for information, of 6 March 2024. In your original request you asked:

This request is about instances when the Commission has written to the Prime Minister stating that it is unable to support a nomination or when the Commission has informed the relevant party leader that it would be unable to support a nomination and given the party leader the opportunity to submit a substitute nomination (I understand the latter approach has been adopted since 2013).

Please can you share the letters you have written for all of the above instances since January 2019?

I have carefully reviewed the handling of your original request and I consider that the exemptions at section 37(1)(b), 40(2) and 41(1)(b) of the Freedom of Information Act were properly applied with regards to the request for information in relation to Peter Cruddas's nomination. I believe that the balance of the public interest was fully considered for the reasons set out in our letter of 6 March 2024.

In order for the House of Lords Appointments Commission to discharge the role given to it effectively, the Commission must treat any information which may be

provided, for any potential nominees, in the strictest confidence. It is unlikely that individuals would be willing to put their names forward to the Commission for consideration if they could not rely on the Commission's confidentiality or if they felt that their personal information would be put in the public domain.

The Information Commissioner's Office has provided clear direction that the interpretation of Section 37 includes the policies and procedures that underpin the process for conferring honours and dignities. 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 recommendations about peerages may continue to be offered 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.

I have further considered the points you made in your internal review request where you have noted:

Regarding section 37 (1)(b), these are people being conferred for a peerage by the most powerful political figure in the land; and, if appointed, they will be able to directly influence lawmaking. This greatly increases the public interest of their cases, and you have not adequately reflected this in your balancing exercise. Even though these people have for the most part not subsequently been approved, the prime minister has made a decision to recommend them to yourselves for the honour - a clear act of political decision-making. I should hardly need to attest why there is an overwhelming public interest in the process being scrutinised regardless of eventual outcomes.

Regarding sections 40(2), you should provide the letters with redactions for the information which cannot be disclosed for reasons of GDPR. I have made a suggestion around names, dates etc but the burden is not on me to suggest the specific way in which you should redact the letters. If that precise method does not work, another may. I do not accept that every word and phrase in the letters is information covered by GDPR, neither do I accept that it can all be considered confidential especially where adequately anonymised.

With regards to section 37(1)(b), we acknowledge that there is a strong public interest in nominations made to the House of Lords and that there is a public interest in knowing that the appointments process is accountable and transparent, and in maintaining public confidence in the system. It was for this reason that the Chair of the Commission committed to writing to the Chair of the Public Administration and Constitutional Affairs Committee for instances where it is unable to support a nomination after carrying out its vetting, but where its advice is not followed by a Prime Minister and an appointment to the Lords is then made. These letters are then

placed in the public domain, via the Commission website, in order to ensure that the public were aware of the advice provided to the Prime Minister.

Confidentiality is fundamental to the Commission's ability to fulfil its core purpose of nominating individuals to sit on the crossbenches of the House of Lords. 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. Similarly, I consider there may be a chilling effect on the provision of free and frank discussions if participants in the vetting process for peerage nominees considered that their advice in relation to specific individuals might become public. In previous judgements, the ICO has acknowledged the importance of such confidentiality to the smooth functioning of the process.

With regards to your points regarding section 40(2), any information which may be in scope once redacted we consider exempt from release under sections 37(1)(b) and Section 41(1)(b) of the Freedom of Information Act.

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