

HOUSE OF LORDS
APPOINTMENTS COMMISSION

Room G/39, 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 IR/2022/02
17/05/2022

By email: [REDACTED]

Dear [REDACTED]

Internal Review Reference: HOLAC FOI IR/2022/02
(Original Case Reference: HOLAC FOI 2022/3)

REVIEW OF REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000

Thank you for your email of 5 April 2022. You asked for an internal review of our response to your request for information, also of 17 March 2022. In your original request you asked:

I am sending this request under the Freedom of Information Act to ask for the following information:

- *The letter from Lord Bew to the Prime Minister Boris Johnson on 18th December 2020 on the subject of the Commission's decision not to support the nomination of Peter Cruddas to the House of Lords (referenced in the subsequent letter from the Prime Minister to Lord Bew
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/947211/Lord_Bew_signed_letter_001.pdf)*
- *The consent form that Peter Cruddas submitted to the Commission during his vetting process.*
- *The consent form that the Conservative Party submitted to the Commission during the vetting process of Peter Cruddas.*
- *The citation from Mr Johnson as Conservative Party leader giving the reason for the nomination of Peter Cruddas.*
- *The certificate signed by the Chairman of the Conservative Party confirming whether or not a donation, loan or credit arrangement has been made between the nominee and the party.*

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 17 March 2022.

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.

In addition to the reasoning provided to you in our response of March 2022, I would add 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:

In response to my request, you have engaged section 37(1)b, section 40(2) and Section 41 of the FOIA.

As you are aware, sections 40 and 41 are absolute exemptions in the FOIA, however you will be aware that both personal information and information provided in confidence can be disclosed if it is in the public interest to do so.

Under the DPA and GDPR, the processing of personal information is fair if it is in the legitimate interest of others - which is a de facto public interest test.

Regarding the information covered by section 41, you will be aware that if there is a public interest in the release of this information, then it cannot be deemed an actionable breach of confidence.

As I have demonstrated, there are public interest considerations to be made for the information that you have exempted under sections 40 and 41 and additionally section 37 is a qualified exemption. I therefore argue there is a strong public interest in releasing the information covered by all three exemptions for the following reasons:

- *The Commission has already acknowledged the "unusual circumstances" under which Lord Cruddas's appointment was conferred and the legitimate interest the public have in "fully understanding the context" of his appointment.*
- *Peter Cruddas donated £500,000 to the Conservative Party on 5 February 2021, after formally being introduced into the House of Lords on 2 February 2021. This was the largest cash sum that Lord Cruddas had ever donated to the Conservative Party. For this to have happened three days after his investiture raises serious questions about the integrity of the appointments process.*
- *The prime minister's letter to the House of Lord's Appointment Commission notes HOLAC's "historic concerns in respect of allegations made during Mr Cruddas's term as treasurer of the Conservative Party." The public have a right to know the scale and the nature of HOLAC's concerns with this appointment which were consequently disregarded by the prime minister.*
- *The prime minister's intervention by rejecting the advice of HOLAC was unprecedented and brings into question the effectiveness of HOLAC's oversight. This is particularly important as the appointment of Peter Cruddas as a peer is the first time the advice of HOLAC has been overruled by a prime minister. Complete transparency in the circumstances around his appointment is therefore necessary to assuage any public suspicion of impropriety.*
- *The public have a right to be confident in the integrity of the appointments process for members of the House of Lords. Whilst I fully understand that this information should not routinely be published, this specific appointment is so concerning for the reasons outlined above that the only way to secure public trust in the House of Lords is to have full transparency in this instance.*

For the reasons above, I believe that all the information I requested covered by all three exemptions should be disclosed.

We acknowledge that there is a strong public interest in this particular nomination 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 letter from the Prime Minister of 21 December 2020 and the letter from the Chair of the House of Lords Appointments Commission to the Public Administration and Constitutional Affairs Committee, dated 22 December 2021, were placed into the public domain in order to ensure that the public were aware of the advice provided to the Prime Minister in this case, and the Prime Minister's reasoning behind making the appointment.

It is our view that the publication of these letters satisfy the public interest test and that the rest of the information in scope of your request should be withheld under section 37(1)(b), 40(2) and 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