

HOUSE OF LORDS
APPOINTMENTS COMMISSION

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Ref: HOLAC FOI IR/2023/01
07/08/2023

By email: [REDACTED]

Dear [REDACTED]

Internal Review Reference: HOLAC FOI IR/2023/01
(Original Case Reference: HOLAC FOI 2023/11)

REVIEW OF REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000

Thank you for your email of 24 July 2023. You asked for an internal review of our response to your request for information, on 19 July 2023. In your original request you asked:

copies of the citations provided by Boris Johnson for those individuals included in his resignation honours list. For the avoidance of doubt, I am only asking for those who ended up receiving peerages, not any that were left off the list.

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

- 1. There is a stronger-than-usual public interest in disclosing the citations in this case given the concern that has accompanied the announcement of Mr Johnson's resignation honours. The qualifications of a number of peers, specifically Baroness Owen, Lord Kempson and Lord Ranger, have been questioned extensively, with many members of the public unclear as to why they have been appointed to a position in the legislature for life. The Leader of the House herself, Penny Mordaunt, has raised concern over the "debasement of the honours system" (See Hansard, June 19 2023, [Column 585](#)) and others have said the appointments have brought the whole honours system into disrepute. By providing the citations – which set out why an individual has been nominated – HOLAC would help explain the appointments, strengthening confidence in the system, as well as provide the public with reassurance that the commission was doing its job effectively. This would also be much more helpful for public confidence than the general*

information already provided, given it would show how this works in practice in relation to some of the most contentious appointments of recent memory.

- 2. I note that one of the reasons you have identified for deciding the public interest test in favour of withholding the information is that it ensures that sensitive vetting information can be assessed. In response to this, I wish to stress that my request relates only to the citations. I am ***not*** seeking sensitive information regarding finances, conduct or anything else that the HOLAC process has turned up – only the reasons put to the commission as to why these nominees were considered suitable. I assume that this is, broadly, a list of their achievements and contribution to public life, something that the successful nominees are unlikely to object to being in the public domain as it casts them in a positive light and could not be considered sensitive.*
- 3. I note also the reliance on s.41(1)(b) in order to withhold some of the information. In response to this, I submit that any action brought for breach of confidence would be unlikely to succeed (one of the requirements set out in the ICO's guidance on s.41 [here](#) – an action has to be likely to succeed, not merely brought). Partly, this is because there would be no detriment to the confider, as the request relates only to citations rather than sensitive personal information. Again, this is likely to cast the nominees in a positive light and in any case is likely to relate to contributions to public life that are already in the public domain – for instance, roles in government or providing advice to the Prime Minister. Secondly, I would argue that for the reasons set out above, there would be a strong public interest defence available to any action. Disclosure would further public understanding of, and participation in the debate of issues of the day and enable individuals to understand decisions made by public authorities affecting their lives (in this case, the identity of people charged with making laws for, in some cases, possibly the next 50 years).*
- 4. The impact on the interests of the confider – in this case, the successful nominees – is likely to be extremely limited, further strengthening a public interest defence. Again, the citations will show the nominees in the most positive light possible, meaning disclosure is unlikely to affect others' willingness to go through the appointments process (while the benefits of a lifetime seat in the House of Lords would further limit the likelihood of people being put off). It is also submitted that a person's elevation to the House of Lords is not a matter of their private interests, but one of public interest given their role as legislators.*

I have carefully reviewed the handling of your original request and I consider that the exemption at section 37(1)(b) of the Freedom of Information Act was properly applied. I believe that the balance of the public interest was fully considered for the reasons set out in our letter of 19 July 2023. Having considered the public interest tests, we do appreciate the importance of transparency in government that encourages public interest, and the public's awareness of how the honours system works, and the way in which such decisions are taken. 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.

Confidentiality is important in order to protect the integrity of the system and without which the system could not function. It ensures that those involved can take part in the understanding that their confidence will be honoured and that decisions made are taken on the basis of full and honest information.

Secondly I would also like to confirm the role and remit of the House of Lords Appointments Commission in relation to political peerage appointments. HOLAC vets nominations for life peers, including those nominated by the UK political parties to ensure standards of propriety; the Commission does this at the request of the Prime Minister. The Commission carried out their vetting duties and made their recommendations to the Prime Minister. It is not within the Commission's remit to advise on suitability of nominations - as this is a matter for both the current Prime Minister and the Prime Minister submitting their nominations. Therefore in relation to your request that citations be provided in order to provide the public with reassurance that the Commission was 'doing its job effectively', I believe that given its role and remit (as above) releasing the citations would not be a relevant case for this request.

In addition, the information that is provided to the Commission, including on resignation honours, is obtained from another person and with their consent, is shared with the Commission members. It is only on this basis that the information is shared. Therefore, not only does the above exemption apply to upholding the necessary confidentiality of the system and Commission members, but also to the nominees submitted to HOLAC (whether successful or otherwise). This therefore applies to both exemptions section 37(1)(b) but also section 41(1)(b) and as per the guidance that you shared, its disclosure would 'constitute a breach of confidence'.

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

