

**HOUSE OF LORDS**  
**APPOINTMENTS COMMISSION**  
Room G/38, 1 Horse Guards Road, London SW1A 2HQ  
General Enquiries: 07355 021 584  
Internet: <http://lordsappointments.independent.gov.uk>  
E-mail: [enquiry@lordsappointments.gov.uk](mailto:enquiry@lordsappointments.gov.uk)

**Ref: HOLAC FOI 2024/15**

10 January 2025

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 (The Commission) received on 10 December 2024.

You asked:

*I'm aware there is a Memorandum of Understanding (MoU) for access to HMRC information to assist the House of Lords Appointments Commission in its vetting duties for appointments to the House of Lords.*

*The MoU refers to individuals who may have poor or negative tax behaviour, or to have "[failed] to comply with their tax obligations voluntarily".*

*For Lords appointments and considered appointments over the last five years, please tell me how many individuals were found to have such issues in their tax affairs.*

*For each individual, please state the issues discovered, and clarify whether the individual was still approved to become a member.*

Your request has been treated in two parts:

- 1) The number of individuals who were found to have issues with their tax affairs during the last five years;
- 2) For those individuals, to provide the issues discovered and confirm whether they were subsequently supported by the Commission.

I should firstly clarify that, as outlined in the Commission's [MOU](#) with HMRC, the Commission does not receive any underlying detail about the tax affairs of an individual, and instead is provided with a risk rating of either 'low', 'medium' or 'high' for all individuals who are being considered for a peerage.

In regards to 1), it is therefore taken to mean that you are requesting the number of individuals who received a 'medium' or 'high' risk rating in the Calendar years 2020 to 2024 (inclusive). In that period, there have been less than 15 individuals who have received a rating of 'medium' and less than 5 individuals who have received a rating of high. Specific figures have not been provided, as we consider that Section 40(2) of the Freedom of Information Act applies in those cases where it may be possible to identify individuals. The names and other personally-identifying information about the nominees themselves constitute personal data. Section 40(2) of the FOI Act allows public authorities to withhold personal data if disclosure would contravene any of the data protection principles listed in the Data Protection Act 2018. It is for the Commission to make a judgement in relation to whether the data protection principles would be contravened and the fairness of releasing data.

For 2), as highlighted above, the Commission does not receive specific detail on the tax affairs of any individuals, and therefore that information is not held. For information about whether the individuals included in part 1) were supported by the Commission, this is considered to fall under section 37(1)(b) of the Freedom of Information Act (information relating to the conferring by the Crown of any honour or dignity). The information you request relates exclusively to processes relating to the conferring by the Crown of a dignity, as a peerage is a dignity for the purposes of the Act. Section 37(1)(b) is, however, a qualified exemption. I have therefore balanced the public interest in maintaining the exemption against the public interest in disclosing the information.

In favour of disclosing information, there is a strong public interest in knowing that the appointments process is accountable and transparent, and in maintaining public confidence in the peerage appointments system. In favour of maintaining the exemption, there is a strong public interest in protecting the confidentiality of the consideration of individual nominees and ensuring the potentially sensitive vetting information can be candidly assessed. The Commission also must consider the legal basis by which it information, as set out in HOLAC-HMRC MOU:

*“HM Revenue and Customs has specific legislation within the Commissioners for Revenue and Customs Act (2005) which covers the confidentiality of information held by the department, when it is lawful to disclose that information and legal sanctions for wrongful disclosure. For HM Revenue and Customs, disclosure of information is precluded except in certain limited circumstances (broadly, for the purposes of its functions, where there is a legislative gateway or with customer consent. Unlawful disclosure relating to an identifiable person constitutes a criminal offence. The criminal sanction for unlawful disclosure is detailed at section 19 of the Commissioners for Revenue and Customs Act 2005”*

It is the Commission's view that the disclosure of information of this nature, beyond its intended purpose to provide confidential advice to the Prime Minister on the propriety of individuals being nominated for a peerage, would constitute an unlawful disclosure. Taking all of the relevant factors into consideration, I consider that the balance of the public interest lies in maintaining the section 37(1)(b) exemption in

respect of confirming whether specific individuals were or were not supported by the Commission.

Additionally (as mentioned in 1) ), we are not obliged, under section 40(2) of the Act, to provide information that is the personal information of another person if releasing it would contravene any of the provisions in the Data Protection Act 1998 (DPA). In this instance we believe that the release of this information would contravene the first data protection principle and therefore section 40(2) is engaged. The terms of this exemption in the Freedom of Information Act mean that we do not have to consider whether or not it would be in the public interest for you to have the information.

Finally, this information is also withheld under Section 41(1)(b), information provided in confidence, which allows public authorities to withhold information, the disclosure of which would give rise to an actionable breach of confidence. At the start of the vetting process the Commission informs nominees that any information provided by them and any information the Commission obtains in the course of its further enquiries of other bodies will be treated as confidential. The information therefore has the necessary quality of confidence and there is no overriding public interest that would allow it to be disclosed in breach of that confidence. Section 41 is an absolute exemption, therefore there is no requirement to consider whether the public interest in disclosing it outweighs the public interest in maintaining the exemption.

If you are unhappy with this response to your request, you may write to the Secretary to the Commission 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 the Commission.

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**