

**HOUSE OF LORDS
APPOINTMENTS COMMISSION**

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Ref: HOLAC FOI 2022/3

17 March 2022

By email: <REDACTED>

Dear <REDACTED>,

Freedom of Information Act

I am replying to your Freedom of Information request, which the House of Lords Appointments Commission (HOLAC) received on 17 February 2022.

You asked:

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

1. *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)*
2. *The consent form that Peter Cruddas submitted to the Commission during his vetting process.*
3. *The consent form that the Conservative Party submitted to the Commission during the vetting process of Peter Cruddas.*
4. *The citation from Mr Johnson as Conservative Party leader giving the reason for the nomination of Peter Cruddas.*
5. *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 am writing to advise you that following a search of our paper and electronic records, we have established that the information you requested is held by the House of Lords Appointments Commission (HOLAC).

Please note that the consent form you refer to in part 3 of your question is the same certificate referred to in part 5 of your request.

Some of the information in the scope of your request is being withheld 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. 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 disclosure, there is a strong public interest in knowing that the appointments process is accountable and transparent, and in maintaining public confidence in the system. The Commission further acknowledges the unusual circumstances under which Lord Cruddas's appointment was conferred and the legitimate interest that the public have in fully understanding the context.

In favour of maintaining the exemption, there is a strong public interest in protecting the confidentiality of the consideration of individual nominees. It is unlikely that individuals would be willing to put their names forward, or be selected through a political route, 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. We believe the same consideration applies to political nominees who are vetted by the Commission. Moreover, as noted in your first question, the Commission has already published its letter to the Public Administration and Constitutional Affairs Select Committee (PACAC) to indicate that it was unable to support the nomination of Peter Cruddas for a peerage. In doing so, the Commission feels that it has met the need for transparency about the outcome of its vetting of the individual whilst maintaining confidentiality about its assessments.

Taking all of the relevant factors into consideration, including the fact that the Commission already has placed a lot of information relation to this case in the public domain, I consider that the balance of the public interest lies in maintaining the section 37(1)(b) exemption in respect to information which has not already been put in the public domain by the Commission, the Government or the individual.

Some of this information is also withheld under Section 40(2) of the Freedom of Information Act. The name and other personally-identifying information about the nominee themselves, such personal information retained on documents and other identifiable information constitute personal data. Section 40(2) of the Act allows public authorities to withhold personal data if disclosure would contravene any of the data protection principles listed in the Data Protection Act 1998. It is for HOLAC to make a judgement in relation to whether the data protection principles would be contravened and the fairness of releasing data.

If it would not be fair to the data subject to disclose their personal data, an absolute exemption from disclosure applies. Even if the disclosure of personal data might be fair in some individual cases, further consideration is then given to Schedule 2 and 3 of the Data Protection Act, including whether processing might be necessary for the purposes of legitimate interests. HOLAC undertakes to treat nominations in confidence, thereby creating a reasonable expectation that their names or similarly personally-identifying information, will not be released publicly. To release personally-identifying information would be unfair and would therefore contravene the first data protection principle.

Personally-identifying information about nominees has therefore been withheld under section 40(2).

Finally, some of this information is also withheld under Section 41(1)(b) (information provided in confidence) which allows public authorities to withhold information where the disclosure of which would give rise to an actionable breach of confidence. At the start of the vetting process, the House of Lords Appointments 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 relating to nomination that is held by HOLAC 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, Alison Bennett, 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 HOLAC.

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