

Written Ministerial Statement: House of Lords appointments

Minister for the Cabinet Office:

On behalf of Her Majesty's Government, I am laying today before Parliament a set of documents **HC 204** in response to the Humble Address motion of the House of Commons passed on 29 March 2022, in respect of the appointment of Lord Lebedev to the House of Lords.

The Humble Address procedure

A Humble Address to Her Majesty is a request of Parliament to make its desires and opinions known to the Crown. The Government occasionally makes use of the Humble Address to deposit materials before both Houses, but when the House seeks to use the procedure to call for papers, it is for the Government to consider what documents are suitable for release

The Humble Address of 29 March, seeking documents related to the nomination of an individual to the House of Lords (on which the Prime Minister advises the Sovereign to exercise the power conferred in the Life Peerages Act 1958), needs to be considered in the context of the Government's responsibility to consider any adverse effect of releasing materials, including on the processes relating to the awarding of honours and dignities by the Crown.

Access to information and the public interest

The Government is and remains committed to openness and transparency to ensure that Parliament is able to scrutinise and hold the Executive to account. However, it is also the case that when considering requests for information from Parliament, the Government has a responsibility to consider whether it is the public interest to place information into the public domain.

This is a position set out in the Government's response to the Public Administration and Constitutional Affairs Committee's (PACAC) Fifteenth Report: "Status of Resolutions of the House of Commons" in March 2019 (HC 1587).

The Government noted:

"One of Parliament's key roles is to scrutinise the actions of the Government. In order to do this effectively, it is important that Parliament is able to access information from the Government. In providing information to Parliament, as set out in the Ministerial Code, 'Ministers should be as open as possible with Parliament', 'refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with the relevant statutes and the Freedom of Information Act.' This principle was endorsed by Parliament in the Resolutions on Ministerial Accountability, passed by

both Houses in 1997. [Footnote: The motion passed by both Houses stated “ministers should be as open as possible with Parliament, refusing to provide information only when disclosure would not be in the public interest, which should be decided in accordance with relevant statute, and the government’s Code of Practice on Access to Government Information”. The Code of Practice was superseded by the Freedom of Information Act].

“The consideration of whether it will be in the public interest to place information into the public domain always involves a careful balancing exercise, weighing up the need for transparency and openness against other important and long standing, and often competing, principles and legislation (such as the Data Protection Act). Ultimately, Ministers have a duty not to release information where it is not in the public interest to do so. The use of the motion for return procedure to call for papers gives rise to a potential tension with that duty.

“The Government has been put in a very difficult position by some of the recent motions for return. The Government has in responding sought to balance competing pressures of providing information to Parliament and protecting the public interest. It has been possible to find this balance where Ministers have been able to agree with Select Committee Chairs the appropriate information to disclose and how. However, the Government would suggest that motions of returns which seek sensitive information to be made available in a way that makes that information public are not in the public interest and a threat to good governance.”

The March 2022 motion recognised the need for non-disclosure on grounds of national security. However, as the Government made clear during the debate in resolving not to oppose the motion, this does not override or restrict the Government’s need to also consider the wider public interest.

In passing the Freedom of Information Act 2000, Parliament and the then Labour Government both recognised that from time to time, the principle of transparency is secondary to a competing public interest in favour of non-disclosure of certain information. In the March 2019 response to PACAC, the Government noted that “the Government is under an obligation to balance...[the] competing interests” of transparency and other public duties but will “seek to find a way to balance these tensions and provide as much information as possible to the House.

It is in this context that, in responses to other Humble Addresses in this Parliament (on Westferry planning consent and Randox contracts), the Government has duly applied Freedom of Information principles when assessing what documentation is appropriate to release into the public domain. This approach to Parliamentary scrutiny also reflects the long-standing approach of successive administrations as set out in the Osmotherly Rules (paras 39-40).

It also reflects the Ministerial Code provisions (noted above) that Ministers should refuse to provide information “only when disclosure would not be in the public interest, which should be decided in accordance with the relevant statutes and the Freedom of Information Act 2000”.

As laid out in today's House of Commons paper, the disclosure of these documents reflects the need to protect national security, to maintain integrity in the system for the awarding of honours and dignities by the Crown, the vetting of nominees for probity and the data protection rights of individuals.

A Humble Address to Her Majesty is a message from Parliament to make its desires and opinions known to the Crown and is related to the exercise of Her Majesty's Royal Prerogative. This link to the Royal Prerogative supports the need for Her Majesty's Government in responding to such an Address to consider any adverse effect in relation to the exercise of other powers by Her Majesty such as the awarding of honours and dignities by the Crown.

The Intelligence and Security Committee

In the Government response to the Procedure Committee's Ninth Report of Session 2017-19, "The House's power to call for papers: procedure and practice", HC 190, the Government noted:

"The Government recognises that where it is in the public interest to provide sensitive information to Parliament, sharing information with select committees is a well established and effective mechanism for parliamentarians to review such information and ensure that information is disclosed in an appropriate way, or restricted if in the public interest."

"Where the House resolves that information should be shared publicly with the House as a whole, it removes the possibility that arrangements can be made to share information confidentially with the relevant select committee. The Government maintains that the existing mechanisms that enable the sharing of information with select committees is a more appropriate way for sensitive information to be shared with Parliament."

In that light, I can confirm that the Government has provided a response to the Intelligence and Security Committee, following a separate request from them for information relating to any national security matters arising. This has been provided in accordance with the Committee's statutory remit as set out in the Justice and Security Act 2013 and the accompanying Memorandum of Understanding.

Whilst separate to the formal Humble Address response, I believe this sharing of information illustrates the Government is acting in good faith in responding to Parliament's request for information. It also reflects a request made by the Shadow Home Secretary to the Prime Minister.

Vetting by the House of Lords Appointments Commission

Since 2002, crossbench and party political life peerage nominations to the House of Lords have been vetted by the independent House of Lords Appointments Commission. The Commission

seeks advice from Government Departments and agencies where appropriate and these vetting procedures and the advice to the Prime Minister are confidential.

I can assure Parliament that proper consideration would be given to any information which indicated national security concern arising from a prospective appointment before a decision was made.

Were the Prime Minister to recommend a peerage against the Commission's formal advice on propriety, the Commission has previously undertaken to write publicly to the relevant Parliamentary Select Committee. This has happened in one case before in December 2020. The Chair of the Commission, Lord Bew, has noted in evidence to PACAC last month that was not the case in this appointment. He has also noted that no pressure was exerted on the Commission on this matter. The conclusion of the Commission's deliberations are clear.

The process by which an individual is nominated to the House of Lords is an established one. It is essential that the confidentiality of these arrangements are maintained as it is this that ensures the vetting procedures are suitably robust and command confidence, whilst also protecting the private and personal data of those individuals who have entered into the vetting process. The routine disclosure of such confidential information would undermine the Commission's and Crown's ability to consider the probity of those nominated for a peerage and have long-term and damaging consequences for the peerage appointments system, and to individuals.

Such confidentiality also applies to recommendations for political peerages made by opposition parties. Hon. Members should be conscious that requests for information on the internal correspondence of the Commission could also be applied to such opposition recommendations (including those which are rejected or withdrawn). I do not believe it would be in the public interest for such internal correspondence to be used in the future for political point scoring.

The House of Lords has a valuable role to play as scrutinising and revising Chamber. The preservation of these established arrangements is necessary to ensure that those nominated to the Lords are subject to a vetting process which is both fair and sufficiently robust to ensure high ethical standards are applied to holders of public office. Constitutionally, it is for the Prime Minister to recommend appointments to the Sovereign.

Good standing of Lord Lebedev

Lord Lebedev is a man of good standing. His public and personal works are reflected in the citation deposited in the House today as part of the Humble Address. No complaint has been made about his personal conduct. He has been vocal in his criticism of the Putin regime. Indeed, it was the Leader of the Opposition who personally congratulated him on his appointment as a peer.

Conclusion

Her Majesty's Government and the Prime Minister have been resolute in resisting Russian Government aggression and interference. These are matters of great import and in lockstep with our allies, we are introducing the most severe economic sanctions that Russia has ever faced, and provided significant military support via the Ministry of Defence. We have also strengthened our domestic legislation to target those living and operating in the United Kingdom who support, enable, or facilitate Putin's regime,

We are working to cripple Putin's war machine and, as set out in the Queen's Speech, we will be bringing forward legislation that will provide intelligence agencies and the police with new powers to tackle any hostile state activity, including from Russia. This Government will be resolute in defending our democracy and our allies.