

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 October 2017

Public Authority: The Cabinet Office
Address: 70 Whitehall
London
SW1A 2AS

Decision (including any steps ordered)

1. The complainant submitted a request to the Cabinet Office relating to any possible award of an honour to the late musician George Michael. The Cabinet Office confirmed that it held information falling within the scope of the request but it considered this to be exempt from disclosure on the basis of the exemptions contained at section 37(1)(b) (the conferring by the Crown of any honour or dignity) and section 41(1) (information provided in confidence) of FOIA. The Commissioner's decision is that the public authority was entitled to rely on the exemption at section 37(1)(b).

Request and response

2. The complainant submitted the following request to the Cabinet Office on 27 December 2016:

'My request relates to the issue of Honours (awarded and or refused and or abandoned) for George Michael the pop singer who died on Christmas Day 2016.

Please note that the reference to the Cabinet Office/Downing Street should be taken to include The Cabinet Office and or Downing Street (including the Prime Minister's office) and or any relevant honours committee.

I believe there are strong grounds for disclosing information which is historic in nature.

1..Can you please supply copies of all correspondence between the Cabinet Office/Downing street and the aforementioned individual which in any way relates to the issue of honours and or titles. The correspondence could relate to an honour (s) or title (s) which was actually awarded or it could relate to honours and titles which were either refused and or not awarded.

2.. Can you please supply copies of all correspondence between the Cabinet Office/Downing street and the aforementioned individual's representatives and or employees which in any way relates to the issue of honours and or titles. The correspondence could relate to an honour (s) or title (s) which was actually awarded to the individual or it could relate to honours and titles which were either refused and or not awarded.

3.. Can you please supply copies of all correspondence sent by and or on behalf of a Prime Minister or Cabinet Minister and or a Government department which in any way relates to the subject of honours and or titles for the aforementioned individual. This documentation will include but will not be limited to correspondence with the honours committee as well as correspondence with civil servants.

4..Can you please supply copies of any Cabinet Office and or Downing Street documentation which outlines the case for an honour or award for the aforementioned individual. This will include but will not be limited to advice given by individual civil servants and or relevant honours committees to the Prime Minister of the day.

5..As far as the aforementioned individual is concerned can you please supply copies of any Cabinet Office and or Downing Street documentation which details responses (both internal and external) to the idea of an honour or title).'

3. The Cabinet Office responded to this request on 26 January 2017 and confirmed that it held information falling within the scope of point 3 of the request. However, it explained that it considered this information to be exempt from disclosure on the basis of section 37(1)(b) (honours) and section 41(1) (information provided in confidence) of FOIA.
4. The complainant contacted the Cabinet Office on 13 March 2017 and asked it to conduct an internal review of this response.

5. The Cabinet Office informed him of the outcome of the internal review on 13 April 2017. The review upheld the application of the exemptions cited in the refusal notice.

Scope of the case

6. The complainant contacted the Commissioner on 24 April 2017 to complain about the Cabinet Office's decision to withhold the information falling within the scope of his request. He believed that the public interest favoured disclosure of this information.

Reasons for decision

Section 37(1)(b) – the conferring by the Crown of any honour or Dignity

7. Section 37(1)(b) of FOIA states that information is exempt if it relates to the conferring by the Crown of any honour or dignity.
8. Given that the request specifically seeks information about the potential awarding of honours or titles to George Michael, the Commissioner is satisfied that the withheld information clearly falls within the scope of the exemption at section 37(1)(b). The information is therefore exempt on the basis of section 37(1)(b).
9. However, section 37(1)(b) is a qualified exemption and therefore subject to the public interest test set out in section 2(2)(b) of the FOIA. The Commissioner has therefore considered whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the withheld information.

Public interest arguments in favour of disclosing the withheld information

10. The complainant argued that there were strong public interest grounds for the disclosure of information. He noted that in the wake of Mr Michael's death there was a notable amount of public comment as to why he had not received a knighthood or another similar honour. The complainant emphasised that Mr Michael was one of the most successful singers of all time and donated millions of pounds to charity.
11. The Cabinet Office acknowledged that there was a general public interest in government being transparent about such matters in order to

aid the public's awareness of how the honours system works and the way in which such decisions are taken.

Public interest arguments in favour of maintaining the exemption

12. However, the Cabinet Office argued that it was against the public interest for the general public to be made aware of the details of individual honours cases. This was because such information needed to be kept confidential to protect the integrity of the honours system. The Cabinet Office argued that non-disclosure of information relating to individual cases, at whatever stage in the honours process, ensures that those invited to offer information or comment about a given candidate can do so freely and honestly on the understanding that their confidence will be honoured. The Cabinet Office emphasised that such confidentiality ensured that decisions about honours candidates continue to be made on the basis of comprehensive and candid information about the nominee.
13. The Cabinet Office explained that in reaching the decision that the public interest favoured maintaining the exemption it had taken into account the fact that at the point that the complainant submitted his request, Mr Michael had died. However, it remained of the view that disclosure of the information falling within the scope of this request was against the public interest as it may affect the future behaviour of those nominating, those nominated and those whose opinions are sought as part of the honours process.

Balance of the public interest arguments

14. With regard to the weight that should be attributed to maintaining the section 37(1)(b) exemption, as a general principle the Commissioner accepts the Cabinet Office's fundamental argument that for the honours system to operate efficiently and effectively there needs to be a level of confidentiality which allows those involved in the system to freely and frankly discuss nominations. Furthermore, the Commissioner accepts that if views and opinions, provided in confidence, were subsequently disclosed then it is likely that those asked to make similar contributions in the future may be reluctant to do so or would make a less candid contribution. Moreover, the Commissioner also accepts that disclosure of information that would erode this confidentiality, and thus damage the effectiveness of the system, would not be in the public interest.
15. Given that the withheld information relates to a nomination for a specific individual, Mr Michael, the Commissioner is satisfied that disclosure of the information would significantly undermine the confidentiality of the honours system. In reaching this finding the Commissioner acknowledges that at the point this request was submitted Mr Michael was deceased. However, the Commissioner notes that the complainant

submitted his request only two days after Mr Michael had died. As a result any discussions in respect of whether to potentially award Mr Michael an honour, or any nominations in respect of such an honour, could have been ongoing in the period immediately preceding the request. The Commissioner also acknowledges that Parliament recognised the particular sensitivity of releasing information relating to Honours - even when relatively old - by expressly providing that the exemption relating to Honours information does not expire after 30 years but instead remains applicable for 60 years after the date of its creation. She therefore believes that in the circumstances of this case there is a significant and weighty public interest in maintaining the exemption.

16. Whilst the Commissioner agrees that there is a clear public interest in ensuring that the honours system is accountable and transparent in order to ensure public confidence in the system, having had the benefit of examining the withheld information she believes that there is a limited public interest in disclosure of the information. The Commissioner has therefore concluded that the public interest favours maintaining the exemption contained at section 37(1)(b).
17. In light of this decision the Commissioner has not considered whether the withheld information is also exempt from disclosure on the basis of section 41(1) of FOIA.

Right of appeal

18. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504
Fax: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

19. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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Wilmslow
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SK9 5AF