

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 November 2019

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 seeking information regarding David Bowie and any honours nominations that he received. The Cabinet Office provided some details regarding the nomination for a CBE that Mr Bowie received in 2000, but withheld the remainder of the information falling within the scope of the request on the basis of sections 37(1)(b) (honours), 40(2) (personal data) and 41(1) (information provided in confidence) of FOIA. The Commissioner has concluded that the withheld information is exempt from disclosure on the basis of section 37(1)(b) and that in all the circumstances of the case the public interest favours maintaining the exemption.
2. The Commissioner does not require the Cabinet Office to take any steps.

Request and response

3. The complainant submitted the following request to the Cabinet Office on 9 February 2019:

'You will be aware that I previously submitted a request about David Bowie shortly after his death in 2016.

This request has been inspired by new allegations that the late star may have had sex with a number of under age 'groupies' at various stages of his career.

I enclose a link to a feature which appeared in...The Daily Mail...

<https://www.dailymail.co.uk/news/article-6684325/Two-women-reveal-flings-David-Bowie-aged-15.html>

I believe that these and other similar allegations mean there is a strong public interest case for disclosure.

The public has right to know if individuals involved in the Honours process were ever alerted to this type of behaviour and whether this information was properly considered during any Honours deliberations which featured the late singer.

Please note that my reference to the Cabinet Office in the questions below should include Downing Street (including but limited to The Prime Minister's office); the relevant Honours committee (s) and any Cabinet Office employee with specific responsibility for the Honours process and/or any involvement in the deliberations about David Bowie.

1...Can you please list each and every occasion when David Bowie (aka David Robert Jones) was nominated and or recommended and or considered for an Honour? In each case can you identify the relevant Honours List, the year and the Honour. Please do list all recommendations and nominations irrespective of whether the Honour was approved or rejected or not proceeded with for whatever reason.

2...In the case of the aforementioned Honours recommendations and nominations can you say which individual body recommended/nominated the singer. Please feel free to withhold the names of any member of the public. But please do identify any Prime Minister, Secretary of State, Government Minister, MP, civil servant or member of The Royal Family who made a recommendation/nomination. Similarly please identify whether the nomination was made by a Government Department or another outside body such as national broadcaster, charity or record company. Please identify the body.

3...If the Cabinet Office holds a file or similar on the subject of Honours for David Bowie can you please supply a copy of that file and its contents.

4...Can you please supply copies of all correspondence and communications (including emails) between the Cabinet Office and David Bowie on the subject of Honours. I am interested in those correspondence and communications (including emails) which were written by David Bowie to The Cabinet Office as well as those written correspondence and communications (including emails) by The Cabinet Office to David Bowie. Please include correspondence to and from Mr Bowie's representatives including his agent, publicist and lawyer.

5...Did the Cabinet Office ever receive written objections to the idea of David Bowie receiving an honour. If so can you please provide a copy of these objections including emails. Please include all objections irrespective of whether they refer to allegations of sexual misconduct.

6...Did The Cabinet Office ever consult the police in relation to the idea of an Honour for David Bowie. If the answer is yes can you please provide copies of The Cabinet Office's correspondence and communications (including emails) with the police as well as The Police's correspondence and communications (including emails) with the Cabinet Office. I am interested in receiving all correspondence and communications irrespective of whether it refers to allegations of sexual misconduct or not.

7...Can you please provide copies of any other documentation and correspondence held by The Cabinet Office which in any way relates to the issue of Honours for Mr Bowie.'

4. The Cabinet Office responded on 28 February 2019. It explained that it did hold some information falling within the scope of the request but it considered this to be exempt from disclosure on the basis of sections 37(1)(b) (honours), 40(2) (personal data) and 41(1) (information provided in confidence) of FOIA.
5. The complainant contacted the Cabinet Office on 1 March 2019 and asked it to conduct an internal review of this response.
6. The Cabinet Office informed him of the outcome of the internal review on 8 April 2019. In relation to part 1 of the request, the Cabinet Office explained that David Bowie was nominated for a CBE in the 2000 Birthday Honours list and that no further information falling within the scope of this part of the request was held. In relation to part 2 of the request, the Cabinet Office explained that David Bowie was recommend to the relevant Honours Committee by DCMS and that all the nominations on file were from members of the public. In relation to parts 5 and 6 of the request the Cabinet Office explained that it did not hold any information of this description and nor did any of the information which it did hold reference the concerns raised by him, ie the allegations referenced in the preamble to his request. Finally, the Cabinet Office explained that it did hold information falling within the

scope of parts 3, 4 and 7 of the request but it considered this to be exempt from disclosure on the basis of section 37(1)(b) of FOIA.¹

Scope of the case

7. The complainant contacted the Commissioner on 13 April 2019 in order to complain about the way his request for information had been handled. He argued that there was a compelling public interest in the disclosure of the information the Cabinet Office has sought to withhold.

Reasons for decision

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

8. 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.
9. Given that the request specifically seeks information about the awarding of honours to David Bowie, 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).
10. 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 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

11. In his submissions to the Commissioner the complainant argued that the fact that some information about Mr Bowie and the subject of honours is already in the public domain undermines the case for continued secrecy in respect of the withheld information. In support of this point the complainant noted that in the days following Mr Bowie's death in 2016 it

¹ During the course of the Commissioner's investigation she established that the Cabinet Office did not in fact hold any information falling within the scope of part 4 of the request.

was widely reported that he had turned down first a CBE in the Birthday Honours List of 2000 and then a Knighthood in 2003. In a 2003 interview with *The Sun* newspaper, the complainant noted that Mr Bowie expressed his own feelings about a Knighthood while at the same time addressing Mick Jagger's decision to accept one.

12. The complainant argued that the age of the material also undermined the case for continued secrecy. The papers relating to the CBE and Mr Bowie's subsequent decision to turn it down are almost twenty years old and any papers that do relate to the Knighthood which was allegedly offered to him but declined, are at least 16 years old.
13. The complainant also argued that there are strong public interest grounds for releasing this and other information which relates to the issue of honours for Mr Bowie. He explained that he hoped that documentation held by the Cabinet Office would shed light on allegations surrounding Mr Bowie's private life. In particular, the complainant explained that he hoped that the withheld information will be able to prove or disprove allegations that he had sexual relations with underage girls. The complainant suggested that Mr Bowie was one of the most flamboyant and controversial characters in the history of entertainment. The complainant suggested that the Cabinet Office would no doubt have followed its own well established procedures to check that Mr Bowie was a fit and proper person when it considered him for an honour(s) and that this process will have involved consultation with the police and other law enforcement agencies. The complainant argued that the extent to which the Cabinet Office holds any relevant information could be decisive in establishing the validity of the aforementioned claims.

Public interest in favour of maintaining the exemption

14. The Cabinet Office explained that in its view it was essential that all those involved in the honours system are given the courtesy of confidentiality for a period of time after their case has closed and it emphasised that the exemption relating to honours information which does not expire until sixty years after the date of its creation. It argued that the public interest inherent in section 37(1)(b) is the protection and preservation of the integrity and robustness of the honours system. Furthermore, the Cabinet Office argued that disclosure of the withheld information would undermine the confidentiality of the information, which is ongoing, and disclosure may affect the future behaviour of those nominating, those nominated and those whose opinions are sought as part of the process.
15. The Cabinet Office acknowledged that section 37(1)(b) is not an absolute exemption and it did not impose this exemption without considering the merits of each case. However, in this case for the

reasons above, it considered the public interest continues to favour withholding the information. In particular, it argued that there was no public interest to be served in releasing the names of those who nominated Mr Bowie. Whilst on the one hand, it accepted that there is a need for transparency in the honours process, it disputed the need for details of the content of all individual cases to be disclosed. It accepted that people might be interested in knowing who nominated a celebrity for an honour, but it considered a general interest in that information to be significantly different from the public interest. The Cabinet Office argued that the people who were involved in the process took part on the understanding that their contribution was confidential and would be treated as such.

Balance of the public interest test

16. 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, which would not be in the public interest.
17. Turning to the specific circumstances of this case, the Commissioner acknowledges that some press reports have emerged regarding the nomination for a CBE that Mr Bowie received in 2000. However, in the Commissioner's view the information which is in the public domain does not affect the confidentiality of the withheld information which is different in content – focussing as it does on the public's nominations for Mr Bowie – than the information identified by the complainant. With regard to the age of the information the Commissioner acknowledges that at the point the request was submitted Mr Bowie had been nominated for a CBE some 19 years earlier in 2000. However, some of the information falling within the scope of the request is more recently dated than this. Moreover, given the content of the withheld information the Commissioner is not persuaded that the passage of time materially affects its confidentiality.
18. In terms of the specific allegations referred to by the complainant the Commissioner acknowledges that these are clearly serious ones. However, as the Cabinet Office noted at the internal review stage, the withheld information does not include any comments about such

allegations. Consequently in the Commissioner's view such allegations do not add any weight to the public interest in disclosure of the withheld information in this case. In terms of attributing weight to such interests, the Commissioner accepts that there is a general public interest in the transparency of the honours process. However, she agrees with the Cabinet Office that whilst the public may be interested in information about who nominated celebrities for honours, there is a limited public interest in the disclosure of the information.

19. Taking the above into account, the Commissioner has concluded that the public interest favours maintaining the exemption contained at section 37(1)(b) and withholding the information falling within the scope of the request.
20. In light of her findings in relation to section 37(1)(b), the Commissioner has not considered the Cabinet Office's reliance on sections 40(2) and 41(1) of FOIA.

Right of appeal

21. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

22. 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.
23. 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
Water Lane
Wilmslow
Cheshire
SK9 5AF