

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 26 June 2023

**Public Authority:** Cabinet Office

**Address:** 70 Whitehall  
London  
SW1A 2AS

#### Decision (including any steps ordered)

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1. The Commissioner's decision is that the Cabinet Office is entitled to rely on section 37(1)(b) of FOIA, to withhold the requested information about the awarding of an honour to Mahfouz Marei Mubarak bin Mahfouz.
2. The Commissioner does not require the Cabinet Office to take any steps.

#### Background

3. Mahfouz Marei Mubarak bin Mahfouz was awarded a CBE in 2016<sup>1</sup>. In early September 2021, allegations of cash-for-honours were reported in the press. In February 2022, the Metropolitan Police launched an investigation of the allegations.

#### Request and response

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/581724/2016\\_Honorary\\_awards\\_V4.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/581724/2016_Honorary_awards_V4.pdf)

4. On 20 September 2021, the complainant wrote to the Cabinet Office and requested information in the following terms:
  - "All information held within the Honours and Appointments Secretariat relating to the awarding of an honorary honour to Mahfouz Marei Mubarak Bin Mahfouz".
5. The Cabinet Office responded on 13 October 2021, refusing to disclose the requested information on the basis of sections 37(1)(b), 40(2) and 41(1) of FOIA.
6. The complainant requested an internal review on 14 October 2021, and the Cabinet Office provided the outcome of that internal review on 4 November 2021. The Cabinet Office maintained its reliance on the exemptions previously claimed.

### **Scope of the case**

7. The complainant contacted the Commissioner on 5 November 2021 to complain about the way his request for information had been handled.
8. The Commissioner considers he has to determine whether the Cabinet Office was entitled to withhold the requested information from the complainant.

### **Reasons for decision**

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9. This reasoning covers the Cabinet Office's application of section 37(1)(b) to the information the complainant has requested.
10. Section 37(1)(b) states that information is exempt if it relates to the conferring by the Crown of any honour or dignity. Given that the request specifically seeks information relating to the awarding of an honour to a named individual, the Commissioner is satisfied that all of the withheld information clearly falls within the scope of the exemption at section 37(1)(b). The requested information is therefore exempt on the basis of section 37(1)(b). For clarity, the Commissioner can confirm that he has inspected the information in question.
11. Section 37(1)(b) provides a qualified exemption and therefore it is subject to the public interest test set out in section 2(2)(b) of FOIA. Having accepted that the exemption is engaged the Commissioner must go on to consider whether in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the withheld information. If the public interest is evenly balanced then the information must be disclosed.

Cabinet Office's Submissions

12. There is a public interest in disclosure, as it was reported in September 2021 that Mahfouz Marei Mubarak Bin Mahfouz's representatives had been lobbying the then Prince of Wales to support the nominee for an honorary award as far back as 2011, five years before his CBE was awarded. His representative was reportedly told by one of the then Prince of Wales' former aides that he would be given an honour if he donated certain amounts to the Prince's charities. If it is true that he made that offer, the aide was not in a position to deliver on such a promise, given the checks which all nominations go through. A police investigation was subsequently begun.
13. It fully appreciates the importance of transparency wherever possible and the public interest in understanding the workings of the honours system. However, the content of the process in relation to this nomination needs to remain confidential in order to maintain the integrity of the honours system and to ensure that assessment of nominations may continue to be taken on the basis of full and honest information.
14. It believes it is crucial that those who offer opinions may do so freely and honestly, in confidence, on the understanding that their confidence will be honoured. It believes that it is essential to the integrity of the honours system that the means by which nominations are assessed is kept confidential. It has always been the case that those involved in the system require the freedom to be able to discuss and deliberate individual honours cases in a safe space. The Commissioner has recognised 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 do so in a safe space away from external influence.
15. Parliament also recognised the particular sensitivity of releasing information about honours by expressly providing that the exemption relating to honours information does not expire after 20 years but instead remains applicable for 60 years after the date of its creation (see section 63(3) of FOIA). It believes that the public interest inherent in section 37(1)(b) is the protection and preservation of the integrity and robustness of the honours system. It does understand that section 37(1)(b) is not an absolute exemption and it does not impose this exemption without considering the merits of each case. However, in this case for the reasons above, it considers the public interest continues to favour withholding the information and that the confidentiality of this information is ongoing.

### Complainant's Submissions

16. He believes that the balance of the public interest favours disclosure, for the reasons below.
17. The extent of serious controversy and puzzlement over the appropriateness of the honour involved and the process for awarding it. For example, the article in the Sunday Times: <https://www.thetimes.co.uk/article/prince-charles-aides-fixed-cbe-for-saudi-tycoon-who-gave-1-5m-0b5cb7qf2> and the article in the Guardian <https://www.theguardian.com/politics/2021/sep/05/the-saudi-tycoon-at-the-centre-of-an-honours-controversy>
18. This calls into question the proper workings of the honours system and raises fundamental doubts about whether in this case the procedure was appropriate. The need for full transparency and accountability, as well as public understanding of what has happened in this particular case and why, requires public disclosure.
19. An Information Rights Tribunal decision in a previous case ([https://www.bailii.org/uk/cases/UKFTT/GRC/2021/2020\\_0050.html](https://www.bailii.org/uk/cases/UKFTT/GRC/2021/2020_0050.html)) confirms that there are circumstances involving honours where the public interest in transparency is greater than that in confidentiality. In his view this is another such case.

### Commissioner's Reasonings

20. The Commissioner considers that the public interest issue must be determined by reference to factors pertinent at the time of the request
21. There is a general public interest in having an honours system that is objective, accountable and transparent so that the public can understand how and why decisions are made.
22. If the public can see how the process works then they are more likely to have confidence that honours are conferred on merit, and not on the basis of other factors. For example, a candidate's connections or political views. It also helps reassure the public that the relevant decision-makers are not subject to any form of undue influence.
23. If disclosure would help to further public debate around the criteria for conferring awards, the arguments in favour of disclosure are likely to carry additional weight.
24. However the Commissioner concurs with the Cabinet Office's view that it is crucial that those who offer opinions may do so freely and honestly, in confidence, on the understanding that their confidence will be honoured.

This remains true (but by no means certain) even if there is serious controversy and puzzlement over the appropriateness of the honour as opined by the complainant. There must be a genuine robustness, not easily dislodged, to the understanding that confidences will be honoured. It is in this vein, that the Commissioner disagrees with the complainant that the public interest in transparency is greater than that in confidentiality in this case.

25. The Commissioner also factored into his considerations, the age of the withheld information. It is still relatively recent and therefore this adds weight to the public interest in maintaining the exemption.
26. On balancing the public interest factors the Commissioner has concluded that (at the time of the refusal) the public interest favoured maintaining the exemption in all the circumstances of this case. He has reached this conclusion given his view that disclosure of the requested information would undermine the confidentiality of the honours process. As set out above the Commissioner considers there to be a strong public interest in protecting the effective operation of the honours process. Accordingly, the Commissioner finds that the Cabinet Office was entitled to refuse the request by relying on the exemption at section 37(1)(b).
27. Having found that the Cabinet Office was entitled to rely on section 37(1)(b) to withhold the requested information, the Commissioner did not go on to consider the applicability of the other exemptions.

## **Right of appeal**

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28. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

29. 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.

30. 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 .....**

**Gerrard Tracey  
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Information Commissioner's Office  
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