

FORFEITURE AND DECEASED INDIVIDUALS

Introduction

1. Recent press coverage about the late Jimmy Savile has led to calls for a “change in the law” to allow forfeiture of honours from deceased individuals. This paper looks at the current position and the reasons for and against changing the policy to allow forfeiture of honours from deceased individuals.

Background

2. Jimmy Savile was awarded the OBE in 1971 and appointed a Knight Bachelor in 1990 for services to charity; he died in 2011, aged 84. He has since been accused of sexual abuse against under-age girls but was never charged with any such offences during his lifetime. Following a number of recent allegations, the Metropolitan Police has been appointed as the lead policy force and is assessing the case against Savile, although it is not yet a formal investigation. The BBC Director General, George Entwistle, has followed that up by saying that “outstanding questions” will be addressed by a BBC inquiry once the police have completed their investigation.
3. The Honours and Appointments Secretariat has also had correspondence about the late Father Cunningham who was awarded an MBE in 1998. Subsequently, it transpired in 2011 that he was involved in sexual abuse of young boys whilst he was stationed at St Michael’s Catholic Boarding School in Soni, Tanzania. The accounts are that Father Cunningham’s insignia was returned to the Palace before his death, but his honour was not forfeited.

Current Position

4. The existing policy is that an honour lasts for the duration of an individual’s lifetime. The Order of the British Empire is a living Order and individuals cease to be a member when they die:

“An Order of Knighthood is a society of persons with The Sovereign at their head, bound together by Statutes which define their rights and obligations inter se, as well as their relationship to the outside world. A dead man can take no place as a member of such a society of the living, and indeed it is death which removes the individual from the Peerage or from membership of an Order.”

Strictly speaking, Knights Bachelor are appointments rather than honours and so also cease on death.

5. Appointment to the Orders of Chivalry are normally for life, but appointments can be reviewed and cancelled when a recipient is deemed to have brought

the honours system into disrepute, on recommendation of the Forfeiture Committee. But this applies to living members only. For the same reason, an honour cannot be awarded posthumously as an honour can only be awarded to living members. Forfeiture is therefore currently considered not relevant or necessary for deceased individuals.

6. There is also no means by which members of an Order may resign their appointment. Members may drop all outward signs of the honour by ceasing to use the post nominal letters and by ceasing to wear or returning the insignia, but unless the appointment is cancelled by forfeiture, the individual remains a member of the Order.

Policy Choices

7. The reasons for maintaining the current policy line are based on convention and long-standing precedent: a deceased individual cannot surrender an honour; and the honour is no longer relevant once the individual is deceased as it only lasts for the duration of an individual's lifetime. The main practical argument for maintaining the current position is around where we would draw the line if the Forfeiture Committee agreed to consider the cases of deceased individuals – would the flood gates be opened and how far back in time would the Committee be expected to go when considering cases? We cannot find any precedents for forfeiting honours from deceased individuals.
8. We have consulted the Palace informally. They consider that the current policy should be maintained as they are firmly of the view that an individual is honoured in their lifetime and the honour is for the duration of an individual's life. The date of death should mark the closure of any affair. There is also the question of what advantage there would be in the Forfeiture Committee considering cases concerning deceased individuals. It may satisfy immediate media hunger for action to be taken, but it can be argued that forfeiting an honour after death would have a greater impact on the individual's family and friends – they would be the ones to suffer rather than the individual.
9. No change of law would be required and it does not appear that statutes would need amending if it were decided to change the current policy. But there are other practical and policy considerations:
 - Written representations – following the review of the Forfeiture Committee in March this year, it was agreed that individuals at risk of forfeiture should be permitted to submit written representations before the committee makes its final decision. Would written representations fall to the next of kin/family in the cases of deceased individuals? How would family/next of

kin be determined – eg in cases of more than one marriage, step children etc?

- What would the criteria be for the Forfeiture Committee considering such cases? Presumably the same as for those applying to living members of an Order and each would be considered on its merits, but would the Committee need to draw a line, a time limit, after which cases would not be considered to avoid representations being made for individuals of centuries past? We are researching which other deceased individuals might be drawn to the Committee's attention if a precedent were created with Savile.
- Would the notification of forfeiture for a deceased individual be published in the London Gazette as for a living member? The Palace have informally expressed a lack of enthusiasm about recording such forfeitures in the Gazette.
- If posthumous forfeiture were granted, then how would it be possible to resist calls for the posthumous granting of honours to those whom the media deem to have missed out in their lifetimes?

Media handling

10. In terms of handling the media attention around the late Jimmy Savile, the best approach seems to be to focus on the key issue ie the police investigation. This would reflect our approach if Jimmy Savile were still alive, namely that we would await the police investigation before taking any decision about the case going to the Forfeiture Committee. If the police investigation proves conclusive, the point can then be made again that the honour was for the individual's lifetime and there is technically no honour to withdraw.

Conclusion

11. On balance we recommend maintaining the current policy that the Forfeiture Committee considers only the cases of living members. But it might want to consider this paper at its next meeting, to demonstrate that it has not ignored the media interest in this issue.

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