



London Borough of Barnet,  
North London Business Park,  
Oakleigh Road South,  
London  
N11 1NP  
1 October 2019  
Our ref: 5609272

Thank you for your request received on 6 September 2019, for the following information:

I believe that information now exists which would be captured by a request substantially similar to the one made in December 2018, I therefore submit this as a new request:

***1) Does the council have any templated letters, templated wording or templated paragraphs that can be used by council officials, when composing letters to either accept or reject representations made in respect of Penalty Charge Notices for parking, bus lane or moving traffic contraventions?***

***2) If the answer to question 1 is yes, I ask for a copy of all such templated letters or paragraphs.***

We have processed this request under the Freedom of Information Act 2000.

## **Response**

I can confirm that London Borough of Barnet holds the information you requested.

However, we consider that the following exemptions apply to some of the information requested. The remaining information is not withheld and is attached.

***1) Does the council have any templated letters, templated wording or templated paragraphs that can be used by council officials, when composing letters to either accept or reject representations made in respect of Penalty Charge Notices for parking, bus lane or moving traffic contraventions?***

We consider that the absolute exemption set out in section 21 of the Freedom of Information Act (information obtainable by other means) applies to this information, as you have received this in response to a previous FOI request.

***2) If the answer to question 1 is yes, I ask for a copy of all such templated letters or paragraphs.***

We consider that the absolute exemption set out in section 21 of the Freedom of Information Act (information obtainable by other means) applies to some of this

information, as you have received this in response to a previous FOI request. The vast majority of the relevant template paragraphs were sent to you, with only a minimal number being withheld.

However, we have reviewed the relevant information and consider that an additional paragraph is suitable for release, as the relevant exemptions do not apply. This is attached.

We consider that the qualified exemption set out in Section 31 (Law enforcement) subsection 1(g)2(c) applies to the remainder of the information information requested. Therefore, we have decided to withhold the information.

The council is relying on section 31(2)(c) - the purpose of ascertaining whether circumstances exist which would justify regulatory action in pursuance of any enactment exist or may arise. This is contingent on 31(1)(g), which references information the release of which would be likely to prejudice to the exercise by any public authority of its functions for any of the purposes specified in subsection (2). The function in this case being the council's statutory authority to conduct Parking Enforcement.

The release of the relevant paragraphs would be likely to prejudice this activity as the paragraphs apply to situations where public knowledge could affect the behaviour of motorists, either before the issue of a penalty charge (by potentially engineering situations where discretion would be applied despite the contravention having occurred) or after the issue of a penalty charge (by tailoring a plea of mitigation so that discretion would be applied).

As such disclosure would be likely to reduce the effectiveness of parking enforcement, both in the application of penalties and the application of discretion where this is felt necessary, thus prejudicing the service's ability to ascertain the necessity of regulatory action.

Parking Enforcement is a statutory function of London Borough of Barnet, and we believe the release of this information would have a prejudicial impact on this statutory function. Not only in the taking of enforcement action when it is merited, but also in the application of discretion when it is thought appropriate.

It should be noted that, while some of the information requested may be, at least to some extent, considered in the public domain, this consists solely of private correspondence to individual appellants. In addition, it may be the case that some of these paragraphs have not yet been used in such correspondence. In addition, it is not stated in this correspondence whether the discretion used is taken from a template, as the use of templates is in itself discretionary.

The nature of the exemptions used here is contextual. Once this information is released under the class of 'template paragraph' to a much wider audience, the nature of the information, and its potential misuse, changes and the exemptions apply.

In applying this exemption, we have had to balance the public interest in withholding the information against the interest in favour of disclosure.

#### **Factors in favour of disclosure**

- The general public interest in local authorities being open and transparent has been taken into account.
- In addition, there is a legitimate public interest in how parking authorities carry out

their enforcement activities and that these are being conducted properly.

- There may be a public interest in individuals knowing where they may receive discretion for honest mistakes made resulting in enforcement action.

### **Factors in favour of withholding**

- There is a strong public interest in not prejudicing Parking enforcement activities. An inability to properly enforce Parking is likely to lead to congestion, obstructions, environmental harm, serious health and safety concerns and the infringement of the rights of disabled motorists.
- There is an additional public interest inherent in the fact that the release of these paragraphs would make it very difficult for the council to ascertain the difference between honest mistakes and those cases which involve dishonesty and/or fraud. This would limit the council's ability to apply discretion and have a knock-on effect to those motorists that have made genuine errors.

In all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

### **Further information**

If you are interested in the data that the council holds you may wish to visit Open Barnet, the council's data portal. This brings together all our published datasets and other information of interest on one searchable database for anyone, anywhere to access. <http://open.barnet.gov.uk/>

### **Advice and Assistance : Direct Marketing**

If you are a company that intends to use the names and contact details of council officers (or other officers) provided in this response for direct marketing, you need to be registered with the Information Commissioner to process personal data for this purpose. You must also check that the individual (whom you wish to contact for direct marketing purposes) is not registered with one of the Preference Services to prevent Direct Marketing. If they are you must adhere to this preference.

You must also ensure you comply with the Privacy Electronic and Communications Regulations (PECR). For more information follow this Link [www.ico.org.uk](http://www.ico.org.uk)

**For the avoidance of doubt the provision of council (and other) officer names and contact details under FOI does not give consent to receive direct marketing via any media and expressly does not constitute a 'soft opt-in' under PECR.**

### **Your rights**

If you are unhappy with the way your request for information has been handled, you can request a review within the next 40 working days by writing to the Information Management Team at: [foi@barnet.gov.uk](mailto:foi@barnet.gov.uk). Or by post to Information Management Team (FOI) London Borough of Barnet, 2 Bristol Avenue, Colindale, NW9 4EW

If, having exhausted our review procedure, you remain dissatisfied with the handling of your request or complaint, you will have a right to appeal to the Information Commissioner at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF (telephone: 0303 123 1113; website [www.ico.org.uk](http://www.ico.org.uk)). There is no charge for making an appeal.

