

20 May 2020
Our ref: 6274288

Thank you for your request received on 29 April 2020, for the following information:
Dear Barnet Borough Council,

The Council Tax (Administration and Enforcement) Regulations 1992 (the "Regulations") confer a duty on the billing authority to exercise discretion under regulation 34(1) when deciding whether to institute a complaint to the Magistrates' court to enforce payment.

Regulation 34(1) as amended by Regulation 15 of SI 1992/3008 states, with the relevant part emphasised, as follows:

"If an amount which has fallen due under paragraph (3) or (4) of regulation 23 (including those paragraphs as applied as mentioned in regulation 28A(2)) is wholly or partly unpaid, or (in a case where a final notice is required under regulation 33) the amount stated in the final notice is wholly or partly unpaid at the expiry of the period of 7 days beginning with the day on which the notice was issued, THE BILLING AUTHORITY MAY, in accordance with paragraph (2), apply to a magistrates' court for an order against the person by whom it is payable."

Regulation 34(2) states as follows:

"The application is to be instituted by making complaint to a justice of the peace, and requesting the issue of a summons directed to that person to appear before the court to show why he has not paid the sum which is outstanding."

The following are examples (but by no means exhaustive) of what are reasonable factors a recovery officer should take into account in exercising discretion to institute a complaint to the Magistrates court under paragraph (2) of regulation 34 of the Regulations:

- 1. the level of debt outstanding**
- 2. any payments made subsequent to the full amount becoming due and time remaining of the financial year**
- 3. are circumstances indicative of the debt being settled without resorting to enforcement**
- 4. consider if enforcing the debt would unnecessarily subject the taxpayer to**

additional costs etc. and therefore amount to a penalty (see 3 above)

5. ensure monies have been prioritised to maintaining the in-year debt

6. allocate to the in-year any monies posted to arrears (or sufficient of it) that would if it had not been misallocated prevented the in-year liability also falling in arrears (see 5 above)

7. check for benefit claims or appeals already in the system and refrain from taking enforcement action where such genuine cases are unresolved

Q1. Does Barnet Borough Council exercise discretion before proceeding under regulation 34(2) of the Council Tax (Administration and Enforcement) Regulations 1992 to request a summons from a justice of the peace (it may be an automated process)

Q2. If yes to (1) what factors are taken into consideration

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

Response

The council holds the information requested and the answers to your questions are below:

Q1. Does Barnet Borough Council exercise discretion before proceeding under regulation 34(2) of the Council Tax (Administration and Enforcement) Regulations 1992 to request a summons from a justice of the peace (it may be an automated process)

Yes.

Q2. If yes to (1) what factors are taken into consideration

The following factors are taken into consideration:

The level of outstanding debt

Any payment made subsequent to the full amount becoming due and time remaining of the financial year

Circumstances indicative of the debt being settled without resorting to enforcement

Consideration given that if enforcing the debt is would unnecessarily subject the taxpayer to additional costs

Ensure that payments have been prioritised to maintaining the in-year debt

Allocation to the in-year any monies posted to arrears that would if it had not been misallocated prevented the in-year liability also falling into arrears

Checking for outstanding benefit claims or appeals already in the system and refrain from taking enforcement action where such genuine case remain unresolved

Please note: The above list isn't exhaustive and cases are considered on their own merits.

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

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. 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). There is no charge for making an appeal.