



London Borough of Barnet,
2 Bristol Avenue,
Colindale,
London NW9 4EW
22 May 2020
Our ref: 6110788

Thank you for your request received on 24 February 2020, for the following information:

We had submitted an FOI request on the subject to which we only received a reply to historical prosecutions under section 179(1) and (2) of the T&CPA.

The council omitted to include replies to current prosecutions which have yet to be disposed of the courts by either (a) a plea of guilty, (b) a finding by the court, (c) sentence still to be pronounced by the court or (d) a referral to the Crown Court for sentencing.

By way of an FOI request will you please respond to the following:-

- 1) The number of summonses applied for by your council and issued by the Magistrates Court alleging offences under section 179(1) and/or (2) (as amended) of the Town and Country Planning Act 1990 since 1st January 2018**
- 2) Date of issue of the Enforcement Notice giving rise to the summons**
- 3) The reference number of the Enforcement Notice giving rise to the summons**
- 4) A copy of the summons issued by the court**
- 5) Details of the information laid before the Magistrates**
- 6) Name and address of the court that will hear the summons**
- 7) The date that the summons is/was due for hearing**

I look forward to hearing from you as soon as possible and when responding, please do so with up to date information to the date of reply

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

Response

There are two main reasons why we are unable to provide the requested information to you. Firstly, some of the requests would require us to disclose personal information contained in the summons which we cannot do as most of our criminal cases are not in the public domain except in rare circumstances when the press are involved (questions 4, 5 and 6). Secondly the cost of compliance exceeds the time limit of 18 hours (questions 1, 2 and 7).

1) The number of summonses applied for by your council and issued by the Magistrates Court alleging offences under section 179(1) and/or (2) (as amended) of the Town and Country Planning Act 1990 since 1st January 2018

Individual cases will have to be opened to extract the relevant information required to determine whether we hold the information, finding the requested information for over 2 years since the beginning of 2018. Top line IKEN (the case management system used by HBPL) search information does not show whether or not a summons has been issued.

See Refusal Notice below, under Freedom of Information Act 2000 Refusal Notice, section 12 (exceeds appropriate time limit)

2) Date of issue of the Enforcement Notice giving rise to the summons

The officer would need to locate the enforcement notice on each file and may necessitate the officer having to read through a witness statement to find the relevant exhibit.

See Refusal Notice below, under Freedom of Information Act 2000 Refusal Notice, section 12 (exceeds appropriate time limit)

3) The reference number of the Enforcement Notice giving rise to the summons

This information is already accessible in the section 188 of the planning register, use advanced search and click on Enforcement Tab to identify cases.

<https://www.barnet.gov.uk/planning-and-building/planning/find-and-comment-planning-applications>

4) A copy of the summons issued by the court

5) Details of the information laid before the Magistrates

6) Name and address of the court that will hear the summons

We cannot disclose personal data which is contained in the summons and the security of personal information can be compromised by providing reference numbers for the enforcement notices as this is unique to the property/individual concerned. Similarly details of information laid before the court would be identical to the summons so would contain personal information. See Refusal Notice below, under Freedom of Information Act 2000 section 40 - personal information exemption applied.

7) The date that the summons is/was due for hearing

We would also require similar amounts of work to determine date and venue of hearing as cases would have to be individually opened and summons accessed to find the relevant information.

See Refusal Notice below, under Freedom of Information Act 2000 Refusal Notice, section 12 (exceeds appropriate time limit)

Refusal Notice

Section 40(2) - Personal Information

[Part 1 of Schedule 19](#) of the Data Protection Act 2018 amends the personal data exemption under section 40 of the Freedom of Information Act 2000(FOI). These are consequential amendments designed to ensure that the correct provisions of the GDPR and the new Act are referenced instead of the now repealed DPA 1998. They will not fundamentally impact when personal data can, and cannot, be disclosed in response to an FOI request.

Personal Information is governed by the Data Protection Act legislation and is defined as any information relating to an identified or identifiable natural person ('data subject'). It adds that: an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location number, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

The withheld information is exempt because disclosure would contravene the first data protection principle which requires that personal data is processed fairly and lawfully. Disclosure of the requested information would breach this principle and in particular the requirement of fairness.

Section 12 (Exceeds appropriate limit)

We are refusing your request under section 12 because we estimate that compliance with your request will exceed the "appropriate limit" under section 12. The appropriate limit is £450 which is equivalent to 18 hours at £25 per hour. The per hour figure is set by Regulations rather than actual salary paid to any officers handling requests. The appropriate limit includes the time it will take the council to discover if it holds the information requested, to locate it, extract it and collate it as well as putting it into any particular format requested by the requester.

Individual cases will have to be opened to extract the relevant information required to determine whether we hold the information, finding the requested information for over 2 years since the beginning of 2018

We have calculated that it will take over 18 hours to comply with your request as all planning enforcement requests for legal advice and their associated casefiles would need to be reviewed in the period for the reasons stated above.

Advice and Assistance

There is no further advice we can offer in narrowing down your request.

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.