



2 Bristol Avenue,  
Colindale, NW9 4EW  
21 January 2021  
Our ref: 6937248

Thank you for your request received on 16 January 2021, for the following information:

**Freedom of Information request: empty, abandoned and derelict properties**

**I am writing to request information under the Freedom of Information Act.**

**Please can you provide a list of the current empty, abandoned and derelict private properties in the local authority area.**

**Please provide the following information:**

- Full address of property**
- Date since it has been empty or abandoned (if known)**

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 believe that the exemptions detailed below apply to all the information you requested and so we are withholding that information. Please see the Refusal Notice below.

## **Refusal Notice: Section 21**

We consider that the absolute exemption set out in Section 21 (Information accessible by other means) applies to the information requested because the information requested is already reasonably accessible elsewhere. The Empty Properties team may be able to put you in touch with owners who want to bring their empty properties back into use. Please see our website for further information:

[www.barnet.gov.uk/emptyproperties](http://www.barnet.gov.uk/emptyproperties)

Commercial properties: [www.open.barnet.gov.uk/dataset/2zlqv/empty-commercial-properties](http://www.open.barnet.gov.uk/dataset/2zlqv/empty-commercial-properties)

The Empty Properties page on the council's website <https://www.barnet.gov.uk/citizen-home/housing-and-community/privatehousing/landlords/empty-properties.html> provides information about the Empty Homes Team who are able to pass on the details of people interested in buying empty properties to owners interested in selling. The council can also take a proactive approach to these requests by routinely publishing lists of empty commercial properties and updating this as and when necessary.

The Housing Committee, Empty Property Task and Finish Group report can be found at:

<https://barnet.moderngov.co.uk/documents/s20760/Empty%20Properties%20Task%20and%20Finish%20Group.pdf>

The Council's Housing Strategy 2015-2025

<https://barnet.moderngov.co.uk/documents/s18649/Appendix%201%20-%20Draft%20Housing%20Strategy%202015.pdf>

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/>

### **Refusal Notice: Section 30**

**Section 31(1) (Law enforcement) subsection 1** applies to the information. Information is exempt if its disclosure would prejudice the prevention and detection of crime. A Freedom of Information Request response is a response available to the whole world. It is therefore not just given to the requester but is available to any other person who may request it. Whilst a requester may have bona fides in requesting information, there are likely to be others who have nefarious intent. Publishing a list of empty properties would be likely to prejudice anti-crime work and lead to an increase in crime. Squatting is a criminal offence and to publish a list of empty properties would be likely to lead to squatting. Additionally, squatting is often associated with other crimes such as criminal damage, or gangs that strip buildings of materials.

In the London Borough of Camden v The Information Commissioner & Yiannis Voyias [2012] UKUT 190 (ACC) the Upper Tribunal considered the appeal of a decision by the First Tier Tribunal (FTT) which ordered the Council to disclose a list of unoccupied dwellings that were not owned by individuals. The Upper Tribunal set aside this decision. It found that the FTT had taken too narrow a view of the criminal activity that would be a consequence of illegal occupation, eg there was the risk of the theft of electricity. It was also appropriate to take account of the cost of removing those illegally occupying properties. As well as the financial costs of crime there are social costs. In this case criminal damage reduces the quality of life in the area and neighbours would live in fear of further crime being committed. The Upper Tribunal also considered that the disclosure of the list could change the behaviour of other criminals to encourage them to steal fixtures and fittings from empty residential properties. The Upper Tribunal recognised that there was a limit to the consequences anyone could claim would result from breaking into empty properties which "...should take account of any consequences that can readily be anticipated as realistic possibilities."

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 council's commitment to openness and transparency

Factors in favour of withholding:

- There is a strong likelihood of release causing crime.
- It is not in the public interest to increase the risks of crime.
- A recent case held against disclosure and it is not in the public interest to act

against a decided case

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

### **Refusal Notice: Section 40**

We consider that the absolute exemption set out in Section 40 (Personal information) subsection 1 and 2 applies to the information requested. Therefore, we have decided to withhold the information.

#### **Refusal Notice section 40(1)**

[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.

The information you have requested is your own personal information. Under the Freedom of Information Act, responses to requests and the information released as part of responses is considered to be publicly available. The response and information released is considered to be published to the whole world. Anyone anywhere could request a copy of the response and the information released and the council would be obliged to provide it to them. This would be a breach of the Data Protection legislation as it would be unfair and unlawful processing of your personal data. Therefore under the Freedom of Information Act information that is the personal data of the requester is exempt.

The best method to obtain your personal data from the council is to make a subject access request. The forms are available here: <https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/information-management-policies.html> you will need to scroll down to 'SAR request pack' and click the link. This will take you to the form, and the guidance notes explain what ID will be required and the fee that is charged, and the circumstances under which you may not need to pay the fee. You can complete the form and return it to the address shown to be processed.

#### **Refusal Notice Section 40(2)**

[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.

### **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.