

London Borough of Barnet
2 Bristol Avenue,
Colindale,
London, NW9 4EW
7 October 2021
Our ref: 7637672

Thank you for your request received on 9 September 2021, for the following information:

Dear Sirs

The Statutory Guidance of the Secretary of State about the Civil Enforcement of Parking Contraventions contains the following:

An authority has a discretionary power to cancel a PCN at any point throughout the process. It can do this even when an undoubted contravention has occurred if the authority deems it to be appropriate in the circumstances of the case.

Under general principles of public law, authorities have a duty to act fairly and proportionately [footnote 66] and are encouraged to exercise discretion sensibly and reasonably and with due regard to the public interest.

Enforcement authorities have a duty [footnote 67] not to fetter their discretion, so should ensure that PNCs, NtOs, leaflets and any other advice they give do not mislead the public about what they may consider in the way of representations.

They should approach the exercise of discretion objectively and without regard to any financial interest in the penalty or decisions that may have been taken at an earlier stage in proceedings.

Authorities should formulate (with advice from their legal department) and then publish, their policies on the exercise of discretion. They should apply these policies flexibly and judge each case on its merits. An enforcement authority should be ready to depart from its policies if the particular circumstances of the case warrant it.

The guidance is at this location

<https://www.gov.uk/government/publications/civil-enforcement-of-parking-contraventions/guidance-for-local-authorities-on-enforcing-parking-restrictions#considering-challenges--representations--appeals>

This guidance says that enforcement authorities should formulate and publish

their policies on the exercise of discretion.

Please provide a copy of the enforcement authority's policies on the exercise of discretion for parking contraventions, and also if you have one for bus lane and/or moving traffic contraventions.

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 some/all of this information and this is withheld. Please see the Refusal Notice below.

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S31 - Law Enforcement

We consider that the qualified exemption set out in Section 31 (Law enforcement) subsection:

1(c) Administration of Justice.

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

- Transparency
- There is a legitimate public interest in understanding how Parking/Moving Traffic/Bus Lanes are enforced

Factors in favour of withholding

- High risk and likelihood of contravention of waiting/parking/moving traffic/bus lane restrictions (Part 6 of The Traffic Management Act 2004)
- Publicising this information could limit the effectiveness of parking enforcement.

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

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 Records & Information Management Service, Assurance Group, 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.