

London Borough of Barnet
2 Bristol Avenue,
Colindale NW9 4EW
26 July 2022
Our ref: 8325746

Thank you for your request received on 28 June 2022, for the following information:

Dear Barnet Borough Council,

Please confirm whether or not Council Tax payments are optional based on the UK Supreme Court ruling on 24th January 2017. Details below:

United Kingdom Supreme Court on 24/01/2017 in Miller & Anor, R (on the application of) v Secretary of State for Exiting the European Union [2017] UKSC 5 at paragraph 46 main points states:

1. By virtue of the prohibition Parliament has imposed on the making of any provision imposing taxation contained within Schedule 2;1(1)(a) of the European Communities Act 1972 the provisions of the Local Government Finance Act 1992 imposing the Council Tax are invalid and of no effect in the law of the UK.

2. By virtue of the prohibition Parliament has imposed on the Crown's authority or power to confer power to legislate contained within Schedule 2;1(1)(c) of the European Communities Act 1972 the provisions of the Local Government Finance Act 1992 imposing the Council Tax are invalid and of no effect in the law of the UK.

3. As the provisions of the Local Government Finance Act 1992 are not provisions of law, there is no 'obligation in law' to pay the Council Tax, and an individual can lawfully withhold payment of the 'Council Tax'.

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

Please confirm whether or not Council Tax payments are optional based on the UK Supreme Court ruling on 24th January 2017. Details below:

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1. By virtue of the prohibition Parliament has imposed on the making of any provision imposing taxation contained within Schedule 2;1(1)(a) of the European Communities Act 1972 the provisions of the Local Government Finance Act 1992 imposing the Council Tax are invalid and of no effect in the law of the UK.

2.By virtue of the prohibition Parliament has imposed on the Crowns authority or power to confer power to legislate contained within Schedule 2;1(1)(c) of the European Communities Act 1972 the provisions of the Local Government Finance Act 1992 imposing the Council Tax are invalid and of no effect in the law of the UK.

3.As the provisions of the Local Government Finance Act 1992 are not provisions of law, there is no 'obligation in law' to pay the Council Tax, and an individual can lawfully withhold payment of the 'Council Tax'.

We will always endeavour to answer queries relating to Council Tax however in this instance the Council will not be responding to every point raised in your request, the Council has limited resources.

Our authority to charge Council Tax comes from the Local Government Finance Act 1992. This statute, created by a democratically elected Parliament of the United Kingdom which has received the assent of the Crown and subsequent statutory regulations set out a local authority's rights to demand Council Tax to fund services and who is liable to pay. This means bodies such as the Corporation of London, London boroughs, metropolitan districts, shire districts and unitary councils are responsible for the billing and collection of Council Tax.

Council Tax is a creature of statute, and not a provision of law. Council Tax is charged and is payable by whoever the liable party is, which is determined by reference to the Local Government Finance Act 1992 and Council Tax (Administration and Enforcement) Regulations 1992.

Legislation

The legislation that covers Council Tax is freely available from the government website www.legislation.gov.uk , including:-

- Local Government Finance Act 1992
- Council Tax (Administration and Enforcement) Regulations 1992
- Council Tax (Demand Notices) (England) Regulations 2011

The above legislation allows Councils to demand and collect Council Tax. You do not have a choice of whether you are liable for Council Tax, as liability is determined in accordance with the statutory law.

Your liability for Council Tax is not dependant on and does not require your consent or the existence of a contractual relationship with the council. If you have any concerns over the charging of Council Tax, please seek proper independent legal advice, rather than relying on internet sources, before withholding payments. Should you withhold payments of Council Tax, the Council will continue its enforcement procedure in accordance with the above-mentioned legislation.

Challenging Your Council Tax

Information on how to challenge Council Tax can be found at <https://www.gov.uk/council-tax-appeals> and further information can be found at <https://valuationtribunal.gov.uk/council-tax-appeals/council-tax-liability-appeal/>

In view of this, we reserve the right to refuse to respond to lengthy spurious enquiries that focus on hypothetical arguments which use the council's resources at the expense of other taxpayers and future correspondence may be treated under the Council's persistent, vexatious complainant policy. If you have questions regarding other Acts of Parliament or laws, these should be directed to a legal professional, or your local Member of Parliament and not the council.

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.