

London Borough of Barnet
2 Bristol Avenue,
Colindale,
London, NW9 4EW
3 August 2022
Our ref: 8349751

Thank you for your request received on 1 August 2022, for the following information:

re. Environmental Health/Housing Matter, please provide me with the following:

- 1. A copy of correspondence, notes, call logs, all information held regarding Environmental Health case ref: PHCP/22/05506**
- 2 A copy of the council's procedure(s)/policies for dealing with building works noise complaints**
- 3. A copy of council's procedure(s)/policies for dealing with noise complaints that are deemed to relate to ordinary domestic noise.**
- 4. Guidelines for investigating officers in how to determine whether noise is ordinary domestic noise or whether it is a statutory nuisance.**

This request does not require the divulging of information subject to Regulation 13, such as names and full address - these can be redacted referencing R13 when done so.

If you apply S12 of the Act to this request, please provide:

- 1. a list of relevant documents you hold**
- 2. a calculation as to how the cost limits were breached**
- 3. advice on how to narrow the request down so as not to breach these limits on a subsequent request**

Questions made under the EIR Act 2004 should be answered without the need for additional identity checks of the person asking the question

If you choose to withhold under any other section, in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the Act. I will also expect you to release all non-exempt material. I reserve the right to appeal your decision to withhold any information or to charge excessive fees.

I would prefer to receive the information electronically in the form of a .pdf, where possible.

We have processed this request under the Environmental Information Regulations 2004.

Response

I can confirm that London Borough of Barnet holds the information you requested. However, we believe that the exceptions detailed below apply to all of this information and this is withheld. Please see the Refusal Notice below.

1. A copy of correspondence, notes, call logs, all information held regarding Environmental Health case ref: PHCP/22/05506

Case ref: PHCP/22/05506 is still under investigation and has not been closed, please Refusal Notice below

2 A copy of the council's procedure(s)/policies for dealing with building works noise complaints

3. A copy of council's procedure(s)/policies for dealing with noise complaints that are deemed to relate to ordinary domestic noise.

4. Guidelines for investigating officers in how to determine whether noise is ordinary domestic noise or whether it is a statutory nuisance.

Please find attached

- Work Instructions Manual – Noise Nuisance Investigations
- Work Instructions Manual – Construction Noise & Vibrations

The information relevant to your request is published online at the following link:

<https://www.barnet.gov.uk/environmental-problems/noise/construction-sites>

<https://www.barnet.gov.uk/environmental-problems/noise/noise-neighbours>

Refusal Notice

R12 (5) (b) (The course of justice)

We consider that regulation 12 (5) (b) (The course of justice) applies to the information requested because we consider that disclosure of the information requested would adversely affect the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature. Until the outcome of the enforcement investigation has been formally determined the Council is not in a position to make available further details of the case available.

The public interest means what is in the best interests of the public not what is of interest to the public.

Factors in favour of disclosure

- Furthering the understanding and participation in the public debate of issues of the day.
- Promoting accountability and transparency by public authorities for decisions taken by them.
- Promoting accountability and transparency in the spending of public money.
- Allowing individuals, companies and other bodies to understand decisions made by public authorities affecting their lives.
- Bringing to light information affecting public health and safety.

Factors in favour of withholding

- There is a very strong public interest in protecting the law enforcement capabilities of public authorities.
- The enforcement investigation is ongoing and progress is reported through established mechanisms. If a formal Notice is served or any prosecution action taken only when these processes have been fully completed and appeal routes exhausted will this information will be made available into the public domain.
- Any information provided by third parties during the course of such investigations should be treated in confidence and only used for the purposes for which it was provided. We believe that people would be discouraged from providing information if they thought their information might be released publicly without a compelling reason to do so. It is therefore important that this information remains confidential.

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

We consider that regulation 13 (Personal information) applies to the information requested. Therefore, we have decided to withhold the information.

Refusal Notice

[Part 1 of Schedule 19](#) of the Data Protection Act 2018 amends the personal data exception Regulation 13 of the Environmental Information Regulations 2004. 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 EIR request.

We consider the information is subject to Regulation 13 because to release it would be a breach of the Data Protection Act 2018.

Personal Information is governed by the Data Protection 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

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.