

2 Bristol Avenue, Colindale, NW9 4EW

20 March 2024
Our ref: 11790644

Thank you for your request received on 20 March 2024, for the following information:

Please could you give the name, email address and job title of the person in charge of your Accessible Transport Team. To clarify this is the team who is in charge of transporting SEN Children and adults to and from their place of learning or residential/day care.

If this is outsourced, please can you advise the name of the company who this is contracted too.

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.

Please could you give the name, email address and job title of the person in charge of your Accessible Transport Team. To clarify this is the team who is in charge of transporting SEN Children and adults to and from their place of learning or residential/day care.

If this is outsourced, please can you advise the name of the company who this is contracted too.

[you need to specify the exemption being applied to each part of the response. You can set this out by referring to each part of the request separately or by applying exemptions/exceptions to the whole request where relevant]

PLEASE TAKE CARE TO USE THE CORRECT RESPONSE IN YOUR SPECIFIC REQUEST AND DELETE THE REST

Section 40 (Personal data) includes three types of exemption.

Section 40(1) where the **applicant is requesting their own information**. Because disclosure to one person under FOI is considered the same as disclosure to the whole world, we cannot disclose a requestors personal information to them under FOI. They need to make a subject access request under DPA instead. People often find this perplexing, so an early refusal, some helpful advice and assistance explaining the position and sending them the subject access forms attached to the

refusal notice is good practice. Please see link <https://www.barnet.gov.uk/your-council/open-data-and-information-requests/subject-access-request>

Section 40(2) where the **information concerns a third party (someone that is not the requestor)** and disclosure would breach one of the data protection principles e.g. the information includes a complaint about named individuals or gives contact details for a company's junior admin staff. It might also include descriptions such as "my next door neighbour", or "the old lady over the road" if that would allow someone to be identified. LBB staff details are sometimes included under this section.

Section 40 (5) allows the council to neither confirm nor deny that it holds the information.

S40(1) Data Protection

USE THIS WHEN INVOLVES THE PERSONAL INFORMATION OF THE REQUESTOR e.g., I WANT A COPY OF MY SOCIAL SERVICES FILE

We have concluded that the information held by the London Borough of Barnet constitutes personal data about you. Therefore, we have also concluded that this information is exempt from the provisions of the Freedom of Information Act 2000 (FOIA) by virtue of the exemption set out in section 40(1) of that Act which applies to personal data relating to person making the request.

This is an absolute exemption and the public interest test does not apply.

However, while it is exempt under FOI, the information held by the London Borough of Barnet falls for consideration under the data subject access provisions of the Data Protection Act 2018 (DPA).

I will write to again on or before XX XXXX with the response to be provided under the DPA.

S40(2) identification of junior employees

USE THIS WHEN REMOVING NAMES FROM REQUEST RESPONSES

We have also redacted the names of individuals by virtue of section 40 (2) of the Freedom of Information Act 2000 (FOIA), as disclosure of this information to the public generally, in the Council's view, would not be consistent with the data protection principle found in Article 5.1(a) of the General Data Protection Regulation (GDPR) lawfully, transparently and fairly. We have considered whether disclosure is lawful and fair and whilst it may be lawful under Article 6.1(f) GDPR (legitimate interests) it would not be fair to the individuals concerned who would not expect the names of junior employees to be disclosed as part of such a request.

S40(2) identifying individuals through statistical tables (5 or less)

USE THIS WHEN REMOVING FIGURES FROM A STATISTICAL TABLE

The information you require is attached, but some information has been redacted. This is because in some instances, owing to the low numbers of individuals involved (5 or less) disclosing this data may make it possible for individuals to be identified. This information is therefore exempt by virtue of section 40 (2) of the Freedom of Information Act 2000 (FOIA), as disclosure of this information to the public generally, in the Council's view, would not be consistent with data protection principles in

Article 5 of the General Data Protection Regulations. This is an absolute exemption and the public interest test does not apply.

Refusal Notice Section 40(2)

USE THIS FOR MORE GENERAL REDACTIONS

[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.

[For council staff add in](#): because individuals working for the council have a reasonable expectation of privacy and do not expect that the council would disclose their names or contact details in response to a freedom of information request, especially as they are relatively junior and not in public facing roles. The council's redaction policy states that officers' names and contact details under the level of Assistant Director will generally not be released. All of the posts redacted are under the Assistant Director level.

S40(5) – Neither Confirm Nor Denying

USE THIS WHEN TO SAY YOU HOLD THE INFORMATION WOULD DISCLOSE SOMETHING ABOUT AN INDIVIDUAL THAT WOULD NOT OTHERWISE BE KNOWN e.g., IS MR SMITH SUBJECT TO A LAW ENFORCEMENT ACTION, ANSWER WE CAN NEITHER CONFIRM OR DENY

Other than as recorded, we are neither confirming nor denying whether any information is held, by virtue of section 40 (5) (b) (i) of the Freedom of Information Act 2000 (FOIA). We have concluded that confirmation or denial that this information exists would not be consistent with data protection principles in the Data Protection Act 2018 (DPA).

This is not an absolute exemption and requires a public test to be performed. We have considered our obligation to keep the public aware of such activities; however, this legitimate interest is outweighed by the risk of the prejudice that might arise in relation to the legitimate privacy interests of individuals whose personal data might be identified. Therefore, we have concluded that the exemption should be maintained in order to protect privacy of data subjects.

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.