

Our Ref: IM-FOI-2022-0261
Date: 17 February 2022



FREEDOM OF INFORMATION (SCOTLAND) ACT 2002

I refer to your recent request for information which has been handled in accordance with the Freedom of Information (Scotland) Act 2002.

For ease of reference, your request is replicated below together with the response.

Can you please advise how many BMW vehicles Police Scotland currently operate with the N57 engine?

I would first of all advise that all Police Scotland vehicles are part of a national fleet.

In relation to the *marked* fleet I can advise you that there are 55 BMW vehicles with N57 engines.

With regards to information relating to the *unmarked* fleet, I would advise you that under Section 18 of the Freedom of Information (Scotland) Act 2002 (the Act), Police Scotland can neither confirm nor deny that it holds the information requested by you.

Section 18 applies where the following two conditions are met:

- It would be contrary to the public interest to reveal whether the information is held
Whilst we accept that you may have a particular personal interest in being informed as to whether or not the information sought is held, the overwhelming public interest lies in protecting individuals' right to privacy and the expectation of confidence that the public have in Police Scotland as regards their information.

- If the information was held, it would be exempt from disclosure in terms of one or more of the exemptions set out in sections 28 to 35, 38, 39(1) or 41 of the Act, which are listed below:

Section 35 (1) (a) & (b) - Law Enforcement

Information is exempt information if its disclosure under this Act would, or would be likely to prejudice substantially the prevention or detection of crime and the apprehension or prosecution of offenders.

If this information was disclosed and placed in the public domain, experience has also shown that it would allow those intent on committing crime or causing disorder to gauge the likelihood of detection or to take measures to negate the likelihood of detection.

Specifically it would allow criminals to measure and identify covert police resources and this would provide the means to allow determined individuals to engage or occupy those resources in an effort to maximise their chances of committing serious crime.

In summary, disclosure would have an adverse impact on the ability of the Police to carry out its law enforcement role effectively, and thereby prejudice substantially the prevention and detection of crime.

This is a non-absolute exemption and requires the application of the public interest test.

Section 39(1) – Health, safety and the environment

The release of this information would circumvent the efficient and effective provision of law enforcement by the police service for the reasons described above. This would in turn increase the risk to the personal safety of individuals and to the safety of the police officers responding to incidents.

This is a non-absolute exemption and requires the application of the public interest test.

Section 2(1) & (2) of the Act provide that information can only be considered exempt in terms of the exemptions set out above to the extent that the public interest in disclosing the information is not outweighed by that in maintaining the exemption.

Public Interest Test

I recognise that public awareness would favour a disclosure as it would contribute to the public debate surrounding the overall nature of vehicle resources available for deployment by the Police.

I would, however, contend that the efficient/effective conduct of the service and public safety favours retention of the information as it cannot be in the public interest to release information that would prejudice law enforcement or which is likely to have an adverse impact upon public safety.

This explanation should not be taken as indicative or conclusive evidence that the information you have requested exists or does not exist.

If you require further assistance or are dissatisfied with the way in which Police Scotland has dealt with your request, you are entitled, in the first instance, to request a review of our actions and decisions.

Your request must specify the matter which gives rise to your dissatisfaction and it must be submitted within 40 working days of receiving this response - either by email to foi@scotland.pnn.police.uk or by post to Information Management (Disclosure), Police Scotland, Clyde Gateway, 2 French Street, Dalmarnock, G40 4EH.

If you remain dissatisfied following the outcome of that review, you are thereafter entitled to apply to the Office of the Scottish Information Commissioner within six months for a decision. You can apply [online](#), by email to enquiries@itspublicknowledge.info or by post to Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife, KY16 9DS.

OFFICIAL

Should you wish to appeal against the Office of the Scottish Information Commissioner's decision, there is an appeal to the Court of Session on a point of law only.

As part of our commitment to demonstrate openness and transparency in respect of the information we hold, an anonymised version of this response will be posted to the Police Scotland Freedom of Information [Disclosure Log](#) in seven days' time.