

**Police Headquarters**

London Road

DEVIZES

Wiltshire

SN10 2DN

disclosure@wiltshire.police.ukDate 20th April 2023Our ref **FOI 2023/179**

Dear ***,

I write in connection with your request for information dated 3rd February concerning BMW cars with N57 engine.

I am required by the Freedom of Information Act 2000 to handle all requests in a manner that is blind as to the identity and motives of the requestor. Any information released as a response to a request is regarded as being published and therefore in the public domain without caveat.

Following receipt of your request, research was conducted by our Fleet Unit at Wiltshire Police.

Your request for information has now been considered and it is not possible to meet your request in full.

You wrote:

- 1) How many BMW vehicles with an N57 engine the does the force have and use?
These will include, but not be limited to, such models as the 330, 330d, 530d, 5 series etc. (All forces have been issued with guidance about cars with this engine, so the force will know which cars have it).
- 2) For what purpose are these cars used?
- 3) What restrictions, if any, has the force imposed on usage of these cars? Eg, including, but not limited to, setting an upper speed limit or advising drivers not to sit with the engine idling.
- 4) What special maintenance of these cars, if any, has been implemented? Eg, including, but not limited to, more frequent oil changes or inspections.

Response:

Question 1&2: Under the Freedom of Information Act 2000 s1, I can confirm that Wiltshire Police holds some relevant information in relation to the overt use of BMW Vehicles with an N57 engine. However, with regards to how many vehicles and the purpose of any vehicles, the information you are requesting is exempt by virtue of the following exemption:

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Section 31(1)(a) – Law Enforcement.

Section 31 is a prejudice-based, qualified exemption and therefore there is the requirement to articulate the harm that would be caused in confirming or not whether information is held as well as considering the public interest.

Evidence of Harm

To disclose any of the above requested information would cause subsequent harm to the Police service's ability to protect the public it serves and would prejudice its ability to perform core functions such as the prevention and detection of crime. Releasing such specific information about the number of vehicles affected and their roles would give individuals the intelligence required to disrupt police activity and give away the Police capability to criminals within Wiltshire.

The disclosure of information which would undermine the Police service's ability to serve the public in preventing and detecting crime can only be considered as being harmful to the public.

Public Interest Test

Factors in Favour of Disclosure

The disclosure of this information would lead to a better awareness of the Police Vehicle resources in the Force area and provide information and reassurance to the public that adequate resources are in place to protect the Community.

Factors against Disclosure

The disclosure of the details requested would compromise law enforcement tactics by identifying policing capabilities and resource, enabling criminals to easily identify vehicles that may be limited in their abilities to pursue. As a result, this would enable more crime to be committed and have an impact on police resources, thereby hindering the prevention and detection of crime.

Balance Test

The Police Service is charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. Whilst there is a public interest in the transparency of policing activity and providing assurance that the police service is appropriately and effectively resourced, there is a very strong public interest in safeguarding the integrity of police tactics and capabilities in order to ensure that the protection of the public is safeguarded. Therefore, it is our opinion that the balance of the public interest favours withholding the information.

Question 3:

- Vehicles that had not met the service perimeters were removed from service.
- NAPFN guidance was adhered to that included reducing engine idle time, reduced top speed, additional oil condition checks.

Question 4:

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- Vehicles that met the criteria were taken to BMW dealers for warranty inspection of the engine crank bearings.
- All BMW vehicles have a key read and a diagnostic check on every maintenance event (Manufactures original diagnostic equipment only).
- ECU updates to reduce the service life expectancy of the engine oil. (CBS)
- Additional oil changes after prolonged arduous driving or extended idle time.
- Condition based servicing program for engine oil as recommended by BMW.
- Guidance given to the end users to ensure the vehicles were presented for service/maintenance at the correct time, ensuring that no vehicle went over the BMW suggested service parameters.

Wiltshire police can neither confirm nor deny that it holds any information about covert vehicles in relation to your request as the duty in Section 1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the following exemptions:

Section 31(3) Law Enforcement

Section 31 is a prejudice-based, qualified exemption and therefore there is the requirement to articulate the harm that would be caused in confirming or not whether information is held as well as considering the public interest.

Evidence of Harm

To confirm or deny that any information is held in relation to any of the above requested information for covert vehicles would cause subsequent harm to the Police service's ability to protect the public it serves and prejudice its ability to perform core functions such as the prevention and detection of crime. Confirming or denying that such specific information about the Constabulary's vehicle fleet is held would give individuals the intelligence required to disrupt police activity and give away the Police capability to criminals. The confirmation or denial that information is held would undermine the Police service's ability to serve the public in preventing and detecting crime can only be considered as being harmful to the public.

Public Interest Test

Factors in favour of confirming or denying information is held

The confirmation or denial that this information is held would lead to a better awareness of the Police Vehicle resources in the Force area and provide information and reassurance to the public that adequate resources are in place to protect the Community.

Factors against confirming or denying information is held

Any disclosure under FOI is a release to the public at large. Whilst not questioning the motives of the applicant, confirming or denying that any information relating to the covert use of vehicles would show criminals what the capacity, tactical abilities and capabilities of the force are, allowing them to target specific areas of the UK to conduct their criminal activities. Confirming or denying the specific circumstances in which the Police Service may or may not use covert vehicles would lead to an increased risk of harm to covert investigations and compromise law enforcement. This would be to the detriment of providing an efficient policing service and a failure in providing a duty of care to all members of the public.

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Factors favouring confirming or denying that any other information is held

Confirming or denying whether any further information is held would lead to an increased public awareness of these issues, allowing the Force to be held accountable and show us as being as open and transparent with the public as possible.

Factors against confirmation or denying that any other information is held

Confirming or denying any details of covert vehicles would hinder the prevention and detection of crime, as law enforcement tactics would be compromised enabling criminals to easily identify covert vehicles. This would enable more crime to be committed and have an impact on police resources.

Balance Test

Wiltshire Police are charged with enforcing the law, preventing and detecting crime and protecting the communities we serve. The security of the country is of paramount importance, and we will not divulge whether any other information is / is not held if doing so would place the safety of the public at risk.

Whilst there is a public interest in transparency and openness between the Force and the public, in addition to the public seeing how the Force are engaging with the threat from criminals, there is a stronger interest in safeguarding the integrity of the Police in knowing that policing activity is appropriate and balanced. This will only be overridden in exceptional circumstances. Therefore, it is our opinion that the balance of the public interest favours neither confirming nor denying information is held.

No inference can be taken from this refusal that information does or does not exist.

Section 17 of the Freedom of Information Act 2000 requires the Constabulary, when refusing to provide information (because the information is exempt) to provide you the applicant with a notice which: (a) states that fact, (b) specifies the exemption in question and (c) states (if that would not otherwise be apparent) why the exemption applies.

In accordance with the Freedom of Information Act 2000 this letter acts as a Refusal Notice for those aspects of your request.

Exemptions applied:

Section 31(1)(a)(3) – Law Enforcement

I am satisfied that all the relevant information has been passed to me and been considered in the light of your request and I apologise for the delay in answering your request.

Wiltshire Police would like to thank you for the interest that you have shown in the Force.

Yours sincerely

Force Disclosure Decision Maker

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Wiltshire Police offers a re-examination of your case under its review procedure.

Force Disclosure Unit

Wiltshire Police HQ, London Road, Devizes, Wiltshire SN10 2DN

Freedom of Information Request Appeals Procedure

1. Who Can Ask for a Review

Any person who has requested information from Wiltshire Police, which has been dealt with under the Freedom of Information Act, is entitled to complain and request an internal review, if they are dissatisfied with the response they received.

2. How to Request a Review

Requests for review of a Freedom of Information request must be made in writing to the:

Force Disclosure Unit
Wiltshire Police Headquarters,
London Road, Devizes,
Wiltshire,
SN10 2DN

Email at disclosure@wiltshire.police.uk.

The reference number, date of the request and details of why the review is being requested must be included. Requests for review should be brought to the attention of the Force Disclosure Unit within 20 working days of the Force's response to the original FoI request.

3. Review Procedure

Receipt of a request for review will be acknowledged in writing to include confirmation of the reasons for the review. The review will be conducted by another Decision Maker, who is independent from the original Decision Maker. The Force Disclosure Unit will set a target date for a response. The response will be made as soon as is practicable with the intention to complete the review within twenty working days. In more complex cases the review may take up to 40 working days.

The Independent Decision Maker will conduct a review of the handling of the request for information and of decisions taken, including decisions taken about where the public interest lies in respect of exempt information where applicable. The review enables a re-evaluation of the case, taking into account the matters raised by the complaint.

4. Conclusion of the Appeal

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On completion of the review the Independent Decision Maker will reply to the complainant with the result of the review. If the complainant is still dissatisfied following the review they should contact the Information Commissioner to make an appeal. The Information Commissioner can be contacted via the following details:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Tel: 01625 545 700
Fax: 01625 524 510
Email: mail@ico.gsi.gov.uk

Please note that the ICO's offices will be closed for the foreseeable future and are therefore unable to receive correspondence via post.

If you should wish you contact them, please visit <https://ico.org.uk/global/contact-us/>