

What to do in the event of A POLICE SEARCH



Keeping the Balance™

Gamekeepers can sometimes find themselves the subject of unexpected raids and searches by the police. This advice bulletin explains what the law allows them to do and how to react. We suggest you keep it to hand in case of need.

Police searches

SOME OF YOU MAY HAVE HAD YOUR HOMES searched as a result of false and malicious reports to the police by those who may be opposed to game shooting. These searches can be upsetting and are certainly an invasion of your privacy.

Sometimes the police have not conducted these searches in the sensible

manner which should be expected, so the NGO is working to inform police forces about the professionalism and role of gamekeepers in rural management.

However, we must accept that if the police receive information of an alleged crime they have a duty to investigate. It is only by doing so that they can discover

that the information may be false.

With our solicitors, Messrs Barker Gotelee of Ipswich, we have produced this guide so you will be prepared and better able to remain calm and in control if your home is subject to a police search.

The Law

THE POLICE AND CRIMINAL EVIDENCE ACT 1984 lays down the basic law on the execution of search warrants. This is modified and extended by a Code of Practice (Code B) issued by the Home Secretary, which the police must follow.

Within the law and the Code of Practice, each police force has developed its own policy and procedures. It is not possible to say exactly how your county police will execute a warrant and how they will behave in any particular case. For example the Code of Practice says: “[a copy] of the warrant shall if practicable be given to the occupier before the search begins, unless the officer in charge

of the search reasonably believes that to do so would frustrate the object of the search or endanger the officers concerned ...”; therefore the officer in charge has considerable discretion. If the officer makes the wrong decision, a complaint can be made after the search. Getting into

legal arguments about your rights during a search may not help.

Please understand that both you and the police have rights and duties – stay calm, stay in control and co-operate with the police.

“Stay calm, stay in control, co-operate”

Who can search?

BASICALLY THE POLICE CANNOT ENTER AND search any private property/place unless they have *the occupier's consent or a search warrant*. There are exceptions. For example, they may enter private premises to prevent a breach of the peace, execute an arrest warrant, capture an escaped prisoner, prevent serious damage to property, save life or limb, or search for evidence relating to an arrest for an indictable offence; but their power to search is then limited to that which is reasonably required for the purpose for which they entered.

If the police ask to search your home you do not have to consent, but if they have a search warrant you cannot stop them. If no one is there, the police may break in, but must leave your property secured. You may be entitled to damages.

If someone is present the police should give that person a copy of the search warrant and a notice explaining your rights.

It is vital that you read and keep the warrant as it states for what the police are permitted to search, under what law, and any other conditions which limit the search.

Authorities, such as the RSPCA and a local authority, can obtain search warrants for specific purposes. They will ask the police to accompany them if they expect a breach of the peace.

When the police obtain a search warrant they may specify that they require civilian experts to help them.

If you find police and/or civilians on your doorstep with a search warrant, read the warrant carefully so that you understand whether it is the police who are conducting the search or some other body.

How the search should be made

A SEARCH MAY ONLY BE MADE WITHIN THE strict conditions set out in the warrant – so read it to see exactly what the police are seeking. If the police are looking for a shotgun, they cannot search your wife's cosmetic containers for poison.

If the warrant specifies a search for certain things, the search cannot continue once those things have been found, or after the officer is satisfied that they are not on the premises.

The officer cannot go on 'fishing'. A search warrant should be executed at a reasonable hour unless the police believe that would frustrate their investigations.

Searches must be conducted with consideration for the property and the privacy of the occupier of the premises without any unnecessary disturbance.

However, reasonable force may be used if it is necessary because the occupier refuses to co-operate, or co-operates insufficiently to permit the search.

You have a right to ask that an independent person shall witness the search. The officer in charge may refuse if he reasonably believes that this would seriously hinder the investigation or if it would cause unreasonable delay. You never know if you may be raided, so be prepared and warn someone nearby who is willing and will make a good witness. When you make the request, suggest that all your household join the officer in charge in one room while the rest of the police remain outside. In that way he can be satisfied that evidence will not be destroyed while waiting for the witness.

The police may seize anything they find that is covered by the warrant. They may also take anything else they believe is evidence of an offence, if it is necessary to preserve that evidence. You should insist on a full receipt if one is not offered.

Where the search warrant authorises the police to bring civilians, they should only do the task specified. An RSPB officer brought to identify eggs should only do that, he should not be involved in the search itself. In practice it is fairly common for such civilians to be involved in searching. It is perfectly reasonable to point out to the officer in charge that the warrant only authorises the police to search and not those accompanying them.

Children

PARTICULARLY IN THE COUNTRYSIDE, children are often left alone at home and the police may find themselves faced with

having to search premises occupied only by a child.

It is not against the law to leave a

child alone. If a child less than 14 years old is left alone, the parent will be liable for any harm that befalls it and may be subject to prosecution.

The officer's duty is to execute the search warrant. If he does so and distresses a child, he will justify his action on the grounds that if the child was under 14 it is the parents who are responsible for leaving it alone; if the child is over 14, then it was reasonable for the officer to assume that the child could understand the police instructions and co-operate without being upset.

“Stay calm, stay in control, co-operate”

Mistakes

THE POLICE MUST CONDUCT THE SEARCH IN a reasonable manner in the light of your behaviour and in accordance with the law and the Code of Practice. If they do not, a complaint to the Chief Constable is the correct procedure.

If you are unhappy about what is happening during the search, ring your solicitor and your NGO Regional Chairman.

In any case make sure that you obtain the copy warrant, the notice of your rights, a receipt for anything seized and a written acknowledgement of any damage

done by the police before they leave. As soon as possible make and keep a written record of what happened and who said

what to whom. Have your witness, and anyone else present, make and keep their own written records of the search.

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Do

BE PREPARED BEFORE IT HAPPENS:

- Have someone nearby primed and ready to be a witness.
- Keep your gun licences in order and available.
- Abide by all the rules relating to the use, storage and recording of firearms, veterinary medicines and pesticides, if these are kept at home.
- Build ‘bridges’ with the local police so that you are known and respected by them.

IF IT HAPPENS:

- Stay calm, be polite and co-operate with the police.
- Take, read and retain the copy warrant and the notice of your rights.
- Be clear about your rights and reasonable in explaining them to the police if they are not being respected.

- If asked, only give the police information to which they are entitled – and then only if you are completely comfortable about doing so. You can say you need to investigate and will respond later or you wish to consult your solicitor first.
- If at any point you are formally cautioned, consult your solicitor before answering questions or talking further to the police.
- Get a receipt for anything taken by the police and a record of any damage done by them. Make written notes immediately while events are fresh in your mind. Keep all these papers.
- Report the raid to your NGO Regional Chairman.

Do not

- Get into arguments with the police.
- Obstruct the police.
- Volunteer any information to the police in relation to their investigation until you have consulted your solicitor. Say as little as possible. Do not be embarrassed by silence.

Police search warrants

THERE IS NO STANDARD SEARCH WARRANT. They usually have the county police force name and crest at the top and must be signed by the magistrate who granted it.

All warrants must contain certain information. Look for this information on the copy of the warrant which must

be given to you. It limits the powers of the police:

WHO IS AUTHORISED TO SEARCH?

Usually this will specify ‘any *Constable*’ and may go on ‘*accompanied by such persons as necessary for the purposes of*

the search’ (or it may name such persons) if the police need civilian help with specific tasks.

THE PREMISES TO BE SEARCHED

The police are only entitled to search the premises stated. If this is your home

Police search warrants (continued)

address then the police may search your house and grounds and any garages or sheds thereon. They cannot search neighbouring or adjoining premises.

THE OBJECT OF THE SEARCH

This should relate to the Act under which they are authorised. For example they should not be looking for firearms if they are working under the 1971 Animals Act.

THE ACT UNDER WHICH THE POLICE ARE WORKING

This gives the legal authority for the search and will dictate, for example, whether the police are allowed to search and view only, or if they can also seize evidence.

IF CAUTIONED ☆ AND/OR ARRESTED ☆

☆ Do not resist.

☆ At an early stage you should be cautioned by the police against incriminating yourself by what you say. The words of the caution are:
“You do not have to say anything BUT it may harm your defence if you do not mention when questioned something which you later rely on in Court. Anything you say may be given in evidence.”

☆☆ Politely make it clear that you will not answer questions, make a statement or discuss anything about the allegations without your solicitor being present. Stick to this policy.

☆☆ If you cannot contact your solicitor or someone to arrange for another solicitor, ask to see the duty solicitor. The police must arrange this, (☆ but will usually do so at their police station).

☆☆ You may be kept waiting, (and if arrested, locked up) and left alone to encourage you to talk. Do not be drawn into apparently innocent conversations about your job, any items found or the events which may have given rise to the search (or arrest).

☆☆ When your solicitor arrives ask to meet in private. You can expect him

to insist that the police disclose why you have been searched and cautioned (and arrested), what evidence they have against you and what questions they wish to ask you. Then once you have spoken to your solicitor he can advise you on the basis of the facts of your case and you should rely on him.

☆☆ Do not be bullied or rushed. With your solicitor present ask the police: what the allegations against you are; what evidence they have and what they have been told by others. Write down their questions and say that you need time to investigate and will reply later. If, having heard all the allegations and evidence against you, you are convinced that you have nothing to hide and can prove your innocence, tell the truth. If not, despite the words after ‘BUT’ in the caution, say nothing unless advised by your solicitor to do so.

“Stay calm, stay in control, co-operate”

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The NGO aims to promote, improve and protect gamekeeping in the United Kingdom, and to promote the necessary role of the gamekeeper in countryside management conservation customs and regional heritage. Run by gamekeepers for gamekeepers, it was founded in 1997 and now has in excess of 10,000 members countrywide. This guide is the first in an NGO series designed to assist gamekeepers with their important work.