

Dawn Raids by HMRC

The Government (and the CPS) said in 2010 that their aim was to raise the number of tax cases prosecuted 'five-fold' by the end of tax year 2014/15. Accordingly HMRC's criminal investigations activity - interviews under caution, arrests, and searches of premises under warrant - has been dramatically stepped up. This briefing note provides a short practical guide to dealing with searches of premises under warrant by HMRC - sometimes called 'dawn raids' as they are often carried out first thing in the morning. This note is not a substitute for legal advice. If HMRC turn up with a warrant, call a specialist lawyer with practical experience of raids immediately. The Fieldfisher 24 hour emergency number is 0161 981 0989.

You

- Ask the HMRC team leader to speak to your lawyer on the phone.
- Ask for a copy of the search warrant.
- Ask HMRC to wait until your lawyer arrives on the premises before starting their search. HMRC do not have to wait but may do so if you ask.
- If HMRC refuse to wait, ask them not to take anything away until your lawyer arrives, and ensure one of your staff shadows each member of the search team and takes a detailed note of what they are doing.

Your staff

- Your staff should be told not to physically obstruct the search team and not to destroy or conceal information or documents. All of these can be criminal offences and can lead to arrest.
- However, the search team cannot interview anyone at the premises about the alleged offences which have led to the issue of the warrant. Questions asked of your staff should be restricted to matters relating to the search (i.e. 'where would I find document x?', 'what is the password for y?').
- The search warrant may allow HMRC to search your staff without arrest. Searches must be carried out by an officer of the same gender.
- An HMRC officer can arrest any member of your staff - without a warrant - if they have reasonable grounds for suspecting that an offence has been committed and that that person is guilty of it.
- It is possible that members of staff may have been arrested at home in advance of the search of the premises. If this is the case, they will also need legal advice, including about whether to answer questions in any interview under caution.

Your data

- HMRC are entitled to remove or copy documents stored electronically as well as in paper form. They will usually take an image of your server on-site, but they can take it away instead if they wish. Mobile electronic devices - including personal devices which receive work communications - routinely will be confiscated for imaging later.
- You are unlikely to see any document or device the search team do take away for some months. Ensure that you have offsite or cloud storage of all your data.
- If you have documents (including electronic documents) which may be protected by legal professional privilege, that should be asserted. Where HMRC do not agree that privilege should apply, the item should be held separately ('blue-bagged') until its status is determined.
- Ideally, your risk management procedures should encompass a critical incident strategy (including a communications strategy) that covers raids by HMRC. We are happy to advise on such strategies and to provide 'raids training' where appropriate.

Contacts



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