EVERSHEDS SUTHERLAND

First response

A quick reference guide to Domestic Dawn Raids

Reception and security

Step 1
Contact Legal

- contact the legal team or a senior company representative on the premises and ask them to come to reception
- contact external counsel as instructed
- ask the Officials to wait until the legal team or senior manager arrive

Step 2
Documentation

- copy the Officials' documentation and email to the legal team and external counsel
- ask the Lead Official for his/her mobile number and share this with the legal team and external counsel
- follow any instructions given by the legal team or external counsel

Step 3
Ask Officials to wait

- sign in the Officials as you would with any other visitor, but do not record the purpose of the visit
- find an empty room for the Officials to wait in until a member of the legal team or senior manager arrives

Step 4
List the officials

- make a list of all of the Officials and the authority they are from
- pass this information on to the legal team

Step 5
Arrange meeting rooms

- book three meeting rooms for the entire day (which do not contain documents or provide access to the company's IT system)
- two will be for the Officials and one for the company
- you have authority to cancel any other meetings to make space

Step 6
Confidentiality and cooperation

- treat the arrival of the Officials as confidential
- do not obstruct the Officials in any way – if the Officials refuse to wait, contact a member of the legal team immediately

First response
A quick reference guide to Domestic Dawn Raids

IT team

Step 1
Document Preservation

- suspend document destruction procedures
- ensure that any document deletion is stopped with immediate effect

Step 2
Meet the Officials

- attend meeting with the Officials to explain the company's IT system, IT environment and architecture
- be polite
- assist in suspending email accounts, disconnecting running computers, removing and re-installing hard drives, etc (check with the legal team before doing so)

Step 3
Set up your base

- arrange a room that you can use as your "operations" room, from which support can be coordinated
- this room should be near to the Officials' room to facilitate communication and speed of response

Step 4
Assist the Officials

- establish whether the Officials require any additional equipment to aid them with their searching
- establish what electronic data and devices the Officials will want access to
- assist with the collection of devices and access to data stored off site
- provide administrator access rights/overruling password access requirements to support the Officials

Step 5
Arrange meeting rooms

- create an IT support team as soon as possible
- brief them to assist the company's legal team and external counsel
- instruct all employees in the IT team that the company must not interfere with steps that have been agreed with the officials, such as reinstating access to email accounts that have been suspended
- allocate a member of the IT team to deal with the lead officer responsible for dealing with IT and help with facilitating access to electronic data and compliance with their requests
- allocate at least two other people in your support team who are not assigned to a shadower and who can help to manage the more strategic issues
- assign a member of the IT team to assist in the recording and management of IT-related requests made by the Officials
- immediately inform the legal team or external counsel of any issues which might impact on your ability to provide access to data or on timescales
- provide administrator access rights/overruling password access requirements to support the Officials

Step 6
Deletion of data

- at the end of the inspection ensure you receive a forensic copy of all data removed, discuss the process for deletion of data copied onto the Officials' equipment and ensure that you are satisfied that this process will result in total deletion of all data
- monitor the deletion process
- if the Officials have used equipment belonging to the company, then they do not have to wipe this
- ask the Official to sign a document to state that their hard drives have been properly wiped
- ensure all devices are returned
- debrief the legal team fully and inform them of any agreed next steps

Management and legal teams

Step **1:**
Meet the Officials

- attend the Officials in reception as quickly as possible
- be polite
- take at least two people with you to help you to deal with the things you will need to coordinate
- if you are not a member of the legal team, ask the Officials to wait for the legal team/external counsel to arrive
- tell them how long you expect them to be
- they will generally wait a reasonable time (typically 30-60 minutes)
- if it is a criminal investigation they are unlikely to wait
- if you have not already received details of the lead Official's mobile telephone number, obtain it now

Step **2:**
Contact internal/external counsel

- contact external counsel and ask them to attend (reception may have done this already) – let them know how many Officials there are
- check external counsel have a copy of the Officials' documentation
- contact the IT team and ensure their availability
- contact senior managers and inform them of what is going on
- tell them to treat this as confidential and not to contact anyone else

Step **3:**
Check documents

- check which authority is conducting the investigation
- check that the name, address of the company being investigated and the date of the inspection are correct
- check that the location of the inspection is covered by the authorisation documents
- check that the date of the inspection is within any time period specified in the authorisation documents
- check that the Officials are all named in the authorisation documents and that each has a valid and current ID card
- check what type of authorisation documents the Officials have as their powers to search will vary according to the form of authorisation documents
- check whether is it a criminal or civil investigation. If you are in doubt, ask the Officials
- sign the minutes of notification. This evidences that the documents have been handed to the company and is not an admission of liability
- if there appear to be any errors in the authorisation documentation, speak to external counsel before signing

Step **4:**
Check meeting rooms

- check that reception has booked out three meeting rooms for the rest of the day
- escort the Officials to a meeting room (their allocated room)
- they will need at least one other room in which they can setup their IT equipment to carry out IT searches and/or to conduct searches of hardcopy files
- shadowers must accompany Officials into this room

First response
A quick reference guide to Domestic Dawn Raids

Step **5:**
Agree conditions

- the Officials will usually request a meeting with the legal team and a senior representative of the company before commencing the inspection
- assure the Officials that the company intends to co-operate fully with the investigation
- the Officials may request a sitemap and personnel structure diagrams – provide these
- the Officials may impose conditions, e.g. offices of certain individuals to be sealed, certain email accounts to be blocked. Agree to reasonable requests and engage IT where necessary
- the Officials may want to station themselves around the building – allow this provided they are accompanied

Step **6:**
Assemble and brief shadowers

- assemble and brief a team of shadowers on the scope of the investigation, its confidential nature, the need to co-operate and their role
- provide each shadower with a copy of the authorisation documents
- each shadower should follow their allocated Official and should not allow them to wander off alone
- this includes carefully watching the review of any electronic data, including where this is done on the Officials' own IT equipment

Step **7:**
Role of shadowers

- the shadowers should ensure that no-one obstructs the investigation, that Officials only look at documents (hard copy and electronic) within the "scope" of the investigation
- they should take a detailed note of where the Officials go and what they look at and make a list of all key words and names used

Step **8:**
Key employees

- identify key employees likely to be implicated and ascertain their whereabouts

Step **9:**
Handling questions

- if the Officials want to ask questions, politely request that the legal team or external lawyers are present.
- keep a note of questions and answers

Step **10:**
Email staff

- email all staff on the premises to inform them that the company is hosting Officials from the authority, who may wish to enter and inspect their offices
- inform all staff that the fact of the investigation is highly confidential and that they must not discuss this with anyone outside the company

Step **11:**
Seals

- comply with Officials' requests to affix seals
- seals must be securely protected overnight and if appropriate guarded overnight
- always discuss with the legal team

Step **12:**
At the end of the raid

- find out what the next steps are in the investigation and whether the Officials intend to return
- agree a timetable with them for providing any outstanding information
- request a copy of the list of documents which the Officials have reviewed and copied (take two copies: one for internal purposes; and one for external counsel)
- take two copies of the sketch of the office and the document log form that the Officials have made; pay particular attention to the numbers on the seals used by the authority to seal the bags
- request a receipt and a copy of the documents taken
- ask to read the Officials' notes to check for accuracy; ask for a copy of the notes (although they may refuse to provide this)
- record any differences in opinion or disputes over documents; reserve the company's right of defence by reserving the right to challenge at a later date
- gather together anyone who has been involved in the raid for a debrief so that all information about the raid can be collected together
- liaise with any other site that had been raided
- prepare for next steps

Domestic dawn raids

Some authorities have the power to conduct dawn raids at domestic premises. 'Domestic premises' refers to part of a property used as a dwelling that is also used for business purposes, or where business-related documents (whether physical or electronic), are kept.

A domestic dawn raid is a serious and often unexpected event. Facing it alone can make the experience particularly stressful and disorienting. At Eversheds Sutherland, we understand the pressure and uncertainty this can cause. The following steps are designed to help you respond with confidence, ensuring you remain compliant while safeguarding your rights.

Step **1:**
Check the paperwork

- ask the officials to produce:
  - their personal ID cards; and
  - the necessary authorisation documents to conduct a dawn raid at a domestic premises
- take a copy/photo of the paperwork if the officials do not have a copy for you
- ask the Lead Official for their mobile number

Step **2:**
Contact the Legal Team/Senior Management

- immediately contact the Legal Team/Senior Management on arrival of the officials, informing them that your domestic premises is being raided. Send them a copy of the documents presented, provide them with details of the officials on site, the lead official's mobile number and any other relevant information you have about the raid
- the Legal Team/Senior Management will arrange for a team to be mobilised to attend as quickly as possible. Pending arrival, they will provide support by phone so that you do not have to deal with the officials without guidance
- follow any instructions given by the Legal Team or external counsel
- consider instructing your own independent legal advisor to avoid any conflicts

Step **3:**
Request that the officials wait for support to arrive

- politely ask the officials to wait for the Legal Team or external counsel to arrive
- tell them how long you expect them to be
- they will generally wait a reasonable time (typically 30-60 minutes)
- if it is a criminal investigation they are unlikely to wait

Step **4:**
Co-operate and take notes of steps taken in the investigation

- keep a record of the actions taken by the officials, including a list of any paper or electronic documents copied by the officials, IT equipment accessed (business and personal devices), any questions they ask you, and any areas of interest that they draw to your attention
- if they do ask you questions, you should ask the officials to allow you to respond to these once support has arrived
- try not to let them wander unaccompanied in your premises
- if possible, searches of electronic data should be delayed until the arrival of the Legal Team
- maintain contact with the Legal Team/Senior Management throughout the inspection
- if you are unsure whether or not to comply with any request from an official, check first with the Legal Team

First response
A quick reference guide to Domestic Dawn Raids

Do's and don'ts

DO

- co-operate fully with Officials
- respond to the Officials' reasonable requests to access offices/take hard copy and electronic data
- protect your legal rights
- carry on business as usual

DON'T

- disclose the investigation to anyone outside of the company or discuss it internally
- interfere with or obstruct the inspection in any way
- destroy, falsify, conceal or delete any document or email
- engage in unnecessary conversation unless specifically asked do so with the Officials
- volunteer information or answer questions without a member of the legal team present

"Eversheds supported AstraZeneca in its response to challenging dawn raids at its Cheshire site... Eversheds support was vital to AZ, particularly the Eversheds' lawyers responsiveness and flexibility in providing end-to-end cover. Eversheds ability to get up to speed quickly in a crisis situation ensured that AZ soon had a large team of lawyers supporting its response to the dawn raid. I particularly appreciated the way in which Eversheds lawyers assimilated into the in-house response team – such that I regarded AZ as having one response team, peopled by in-house and Eversheds lawyers."

Senior Counsel,
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First response
A quick reference guide to Domestic Dawn Raids

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First response
A quick reference guide to Domestic Dawn Raids

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First response
A quick reference guide to Domestic Dawn Raids

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For more information on dawn raids, visit our websites:

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