

Guideline 7 - ACCC search powers: procedures for front office staff

This is general reference material for your guidance in specific circumstances

On arrival of Officers

- Ask to see the Officers' identification, and the necessary written authorisation or search warrant. Officers are required to carry photo identification.
- Note that the University is not required to allow Officers to enter your premises or remove any material unless they have a valid search warrant which has been issued by a Magistrate. You should ask the Officers whether they have a search warrant, and if so, to show it to you.
- If the Officers produce a search warrant, the Officers should be politely asked to wait in the reception area until the compliance officer can be contacted, or should be taken to a suitable waiting room, where no documents or files are stored. In no circumstances should the Officers be left unaccompanied, or allowed to wander at random.

If the Officers do not have a search warrant, the General Counsel, Legal and Governance or the Trade Practices Compliance Officer will determine whether they should be allowed to enter the premises. If a search warrant cannot be produced, the Officers should be politely asked to wait outside the premises until the General Counsel, Legal and Governance or the Trade Practices Compliance Officer can be contacted.

- The General Counsel, Legal and Governance or the Trade Practices Compliance Officer must be immediately notified of the Officers' arrival, irrespective of who the Officers have specifically asked to see. If the compliance officer is not available, telephone a senior manager.
- A photocopy of the identification and search warrant should then be taken. If the Officers refuse, make a note of the contents of the search warrant shown to you, and inform the General Counsel, Legal and Governance or the Trade Practices Compliance Officer.
- Make a written note of all questions and requests made to you by the Officers, and of your responses.
- Note: If there is a valid search warrant, obstruction of the exercise of Officers' powers may constitute a criminal offence and contempt of court. This does not mean that you should freely volunteer information to the Officers that is not in response to a direct question by them, and that does not relate to the documents subject of the authorisation or warrant. If you are unsure of whether you should or can answer any question or comply with any request of the Officers prior to the arrival of a member of your legal department, courteously advise the Officers that you wish to assist them in any way that you can, but that you will have to obtain the assistance of your legal department to be able to help them in the manner required. All responses should be brief, and factual. Do not volunteer your opinion.

- Do not:
 - obstruct any Officer in any way. Be pleasant, but firm.
 - give any undertakings, or sign any documents supplied to you by an Officer, without the advice of your legal department.
 - if there is a valid search warrant, attempt to remove any Officer from the premises.

Conduct during the investigation

External lawyers should be on hand to supervise the Officers' conduct of their search and examination of documents. However, all staff should familiarise themselves with the procedures that should be followed, in case the Officers refuse to wait for the General Counsel, Legal and Governance or the Trade Practices Compliance Officer or lawyers to arrive.