



Royal Mail Internal Information
Criminal Investigation Team

7.5 Searching

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Ray Pratt
Head of Investigations Policy & Standards
Royal Mail Security
Mobex
Mobile

GRO

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Key Accountabilities

Who is accountable?	What do I have to do?	When do I have to do this?	How do I do this?
All members of Royal Mail Security	Ensure you comply with these procedures	Ongoing	As detailed within these procedures

Searching

1. Introduction

- 1.1 Investigators within Royal Mail Group Security (RMGS) have no statutory power to conduct searches without the appropriate consent as described at Section 2 below. The possibility of any misunderstanding by a suspected offender, the Police or indeed any other person, in this respect must be avoided.
- 1.2 Any search which is carried out in **England and Wales or Northern Ireland**, as part of a criminal investigation, must be conducted in accordance with the Police & Criminal Evidence (PACE) Act 1984 or the PACE (Northern Ireland) Order 1989 as appropriate. Investigators must ensure that they have a thorough understanding of the legislation, in particular the relevant Code B of the PACE Codes of Practice (CoP). Searches carried out in **Scotland** shall be in accordance with Common Law.
- 1.3 Irrespective of the area of legal jurisdiction in which a search is carried out, Investigators are required to complete the relevant search forms as described at Section 5 below.
- 1.4 Investigators will conduct themselves in a professional and courteous manner, demonstrating consideration and respect for other persons and property, (for example preventing other people in the office or house from taking offence to what must be a disagreeable procedure for them, or to preclude the risk of neighbours getting to know what is happening).
- 1.5 There are no grounds for Investigators causing damaging or destroying property during the course of the searches. If existing damage is observed during a search, consideration should be given to making a written record using the relevant Record of Search form GS005C, and/or taking a photograph of the affected area. Should Investigators come across locked objects such as briefcases or drawers and the suspect is unable to supply a key then the suspect should be asked to gain access to the item, rather than an Investigator causing damage.
- 1.6 It is also important that the area and the nature of search are completely proportionate to the loss being investigated and that all aspects of the search can be justified.

2. Consent to Search

- 2.1 In the absence of a search warrant authorising Investigators to search or the police searching under their powers (including searches conducted under Section 18 or 32 of PACE (Sections 20 and 34 of PACE(NI))). a search of private property cannot be conducted without the consent of person(s) entitled to grant it. Investigators must ensure that the suspect is in a position to give consent to any proposed search. **In addition RMGS Investigators have no power of seizure during searches with consent. Therefore if a suspect objects to an Investigator recovering evidence of an offence or items obtained as consequence of an offence then consideration should be given to obtaining Police assistance.**
- 2.2 **Grounds and Extent of Search** In accordance with the PACE CoP Code B 5.2, before seeking consent to search an Investigator shall state the purpose of the proposed search and its extent. This information must be as specific as possible, particularly regarding the articles being sought and the parts of the premises to be searched. Searches are conducted for the purpose of recovering potential evidence of offences and/or any property or items obtained as a consequence of those offences.

- 2.3 Investigators are not permitted to conduct any search for which consent was given under duress or withdrawn before the search is completed. (See paragraph 2.9 below).
- 2.4 **Consent to Search Form.** Using the Consent to Search form GS005, the Investigator must ensure that the interviewee fully understands the questions therein and appends their reply in the space provided. It is good practice from an evidential perspective to complete the consent documentation whilst the interview is being recorded. In any event consent must be obtained and documented before the search takes place.
- 2.5 **Locker Search.** Consent should also be obtained for a search of the personal locker but, if declined, the official locker can be searched on the basis that is the property of our Business. See Section 9 below.
- 2.6 **Limit of searches.** Care should be taken not to go beyond the limits of what is reasonable. To do so could result in challenges under the Human Rights Act 1998. For example, to search the whole house when the suspect is a young person living with his parents may be excessive. Similarly to search the bedrooms of the suspect's children might be unreasonable and subject to challenge, unless of course, there is reasonable suspicion that evidence, such as stolen property, may be hidden there.
- 2.7 **Suspect's Presence at Search.** In normal circumstances the suspect should be present at all searches. If, however, the person concerned refuses to be present when a search is conducted they should make this clear when completing the Consent to Search form GS005, and in addition, provide a separate note in his own writing giving permission for the search to take place. The Investigator can then present this note as necessary to anyone who is entitled to see it. As a precaution, it is advisable to preserve the note as evidence.
- 2.8 **Interviewee Refuses or Withdraws Consent to Search.** Investigators have no power to search persons or private premises without consent. In some circumstances an Interviewee will ask what will happen if consent to search is not given. Such situations need to be handled with care and diplomacy so as to avoid any inference at a later stage that the consent was given under duress. It is advisable to explain to the Interviewee that the Investigator would like to carry out the search with consent in order to progress the investigation. The question of consent should be posed again with the reply being recorded on the GS005 form. An ambiguous answer should be treated as a refusal to give consent.
- 2.9 **Refusal to consent to search.** If the interviewee continues to refuse to give consent for a search and there is reason to think that property is outstanding, the question of an arrest will arise. Remember the Investigator's power of arrest is only exercisable if all the arrest criteria apply and it is not reasonably practicable for a constable to make an arrest instead. It is imperative that Investigators have a thorough understanding of their powers of arrest, which can be found in the Criminal Investigation Procedures and Standards under Investigation Activities - Dealing with the Suspect, 7.1 Suspect Approach and Arrest. Once the suspect is under police arrest, the police are permitted to carry out searches under the provisions of PACE Section 18 or Section 32 as appropriate.
- 2.10 In circumstances whereby an Interviewee withdraws their consent to carry out any search, or part of a search, the same principles apply as outlined at 2.8 and 2.9 above.
- 2.11 **Recording any withdrawal of consent.** Unless the withdrawal of consent to the search takes place during a taped interview, a written record should

be made either in the notes of interview, the GS005 or in a notebook of the withdrawal of consent. A search cannot commence or continue once consent has been withdrawn. The interviewee may consent only to a partial search, for instance of certain rooms only, in which case, only these areas can be searched unless the necessary police assistance is obtained.

3. Powers to Carry Out Searches

3.1 As discussed above, RMGS Investigators have no power to conduct searches without the appropriate consent.

3.2 Search Warrants. In some circumstances it may be appropriate to consider applying for a search warrant. This should be discussed with a Senior Investigation Manager (SIM) wherever possible before action is taken.

3.3 Applications through the Police. Applications for search warrants are addressed through the Police who will both make the application and execute any necessary searches. The Police must also be reminded that RMGS Investigators have no statutory power of search without consent.

3.4 Named on the Warrant. Under Section 16(2) of PACE, (Section 18(2) PACE(NI)) RMGS Investigators can be named on a search warrant allowing them to accompany and advise Police Officers and enter premises without obtaining the consent of the occupier. Investigators named on the warrant may conduct searching and seize property as long as they are in the company of a constable.

3.5 Section 18 & 32 of PACE. Under Sections 18 and 32 of PACE, Police Officers can enter and search premises without a warrant. Investigators accompanying Police Officers may search under the supervision of the Police Officer in charge. However Investigators must be introduced at the outset of the search by the Police and have their ID cards available for production if required (PACE Code B 6.5 ii). If, after being introduced the suspect objects to the Investigators being present they must leave the premises. Investigators should note that although they can assist in a search they cannot seize any property discovered; this must be done by a Police Officer.

3.6 Specific Powers to Seize Under PACE. Under PACE the police have a **power to seize** items which;

3.6.1 Are covered by a warrant or;

3.6.2 The officer has reasonable grounds for believing is evidence of an offence or has been obtained in consequence of the commission of an offence but only if seizure is necessary to prevent the items being concealed, lost, disposed of, altered, damaged, destroyed or tampered with.

3.7 Powers of Seizure under the Criminal Justice and Police Act 2001. The powers of seizure under PACE created some difficulties for the police in cases where large amounts of items had to be examined at search to identify whether or not they were liable for seizure. Accordingly the Criminal Justice and Police Act 2001 (CJ&PA 2001) gave the police limited powers to "**seize**" property from premises or persons so they are able to "**sift**" or examine it elsewhere. If the police exercise this power they must follow the procedures required under the CJ&PA 2001. These procedures include such things as;

3.7.1 Not seizing more items than necessary.

3.7.2 Considering if copies of the material could be a satisfactory alternative.

3.7.3 Being prepared to provide copies of items seized.

3.7.4 Secure items seized under this power separately from items seized under other powers,

- 3.7.5 Examine items as soon as practicable and return them as soon as they are no longer needed.
- 3.7.6 Allow owners, or their representatives, to be present when items are sifted and examined.

3.8 RMGS Investigators need not concern themselves with the seizure provisions of the CJ&PA 2001 in cases where searches are undertaken with consent as no power of seizure is exercised. They should however have a working knowledge of the procedures as they may be involved in Police searches, where the Police exercise their powers under the Act. The procedures are detailed within the PACE 1984 CoP Code B paragraphs 7.7 to 7.13. (The seize and sift provisions apply in Northern Ireland).

4. Health and Safety on Search

- 4.1 Investigators must exercise extreme vigilance and common sense whilst conducting searches of any kind. The health and safety of all persons involved is of paramount importance.
- 4.2 The Criminal Investigation Safe Systems of Work can be found in the Criminal Investigation Procedures and Standards under Investigation Activities - Health & Safety & Planned Operation Risk Assessment. Investigators are expected to be fully aware of these including the 'Controls and Measures', which must be applied and/or managed through a risk assessment approach.
- 4.3 **Health & Safety Personal Searches.** Should it be suspected prior to **any** person search that the suspect may have on them evidence of an offence or items obtained as consequence of an offence then the search must be conducted in accordance with PACE, with a GS005 being completed. Where there is **no** reason to suspect that a person has evidence of an offence or items obtained as a consequence of an offence on them, but it is considered a search is necessary to mitigate risk to Health & Safety, Investigators must obtain and record the consent of the person in their notebook and where appropriate offer the presence of a friend. Most importantly the scope of the search itself must only go so far as to rule out the presence of an item with potential to cause harm and should not extend to the close examination of items contained in wallets, purses etc..
- 4.4 It is possible that, during a search of this nature, the Investigator encounters evidence that could reasonably be suspected as stolen, or otherwise significant to the enquiry. In such circumstances, the H&S search should cease and consent obtained on for GS005 for the search to continue in accordance with PACE. A written record of the facts must be made, preferably in an official notebook and signed by those present.

5. Documentation Completion Guidelines

- 5.1 In obtaining consent to search the Investigator must ensure that the suspect correctly completes the **Consent to Searches - Interviewee form GS005**. In addition if the suspect is not the person entitled to grant entry to either a vehicle or premises then the Investigator must ensure that the following forms are completed as appropriate;
 - 5.1.1 Person Entitled to Grant Entry to Vehicle form GS005a,
 - 5.1.2 Person Entitled to Grant Entry to Premises form GS005bIn each of these 3 forms, the Investigator may complete Part 1 if preferred. Part 2 consists of self explanatory questions to which the interviewee, or person entitled to grant entry, should be invited to append their reply in the space provided before signing and dating the document. Any questions which do not apply may be scored through and "Not

Applicable" written in the 'reply' box. Space is provided at the bottom of the form to enable the Investigator to comment if it is felt necessary. Such comment may include details of any friend or neighbour requested or whether the search is conducted to identify legitimate held asset, etc.

5.2 GS005c - Record of Search. A separate record detailing each search must be completed. Part 4 may be used to record details of any significant occurrence during, or relating to the search in question.

5.3 GS005d - Record of Property Recovered During Search. The form should be completed if property is recovered on a search. Sufficient detail to properly identify the search to which this form relates should be entered in the "Search of" box at the top of the form. If property is recovered the Record of Search form GS005c will be page 1 and the first Record of Property Recovered on Search form GS005d will be page 2. The 'Entry No' should reflect a chronological record of order in which the 'recording officer' made the record. See also Section 11 below - Property Recovered During Searches.

5.4 Questions and Answers at Search - The Question & Answer sections of the GS005d may be used if necessary to record any questions put to the suspected person during the search. It is imperative that these questions do not constitute an interview and as such must be asked solely for the purpose of furthering the proper and effective conduct of a search. This includes questions to;

5.4.1 Discover the occupier of specified premises, or to find a key to open a locked drawer or cupboard or to otherwise seek co-operation during the search.

5.4.2 Determine if a particular item is liable to be seized. If questioning goes beyond what is necessary for this purpose, the exchange is likely to constitute an interview as defined by Code C of the PACE Codes of Practice, and would require the associated conditions.

The parties concerned must sign any such questions and replies.

6. Searching a Person

6.1 Wherever feasible Investigators must plan operations to ensure that an Investigator of the same gender as the suspect is available to carry out personal searches. If this is not possible, in order to provide a safeguard against an allegation of misconduct, arrangements must be made for a supervisor of the same sex to attend as a witness. Additionally Investigators should be aware of the approach to be taken when there is a requirement to search transgender individuals (including transsexual persons) and transvestite persons. Annex L of Code C of the PACE 1984 CoP provides such guidance.

6.2 An Investigator of the opposite gender may, if necessary, conduct a search of the outer garments (coat, jacket, gloves, headgear, and shoes) as long as they are removed from the suspect's person. However, a person of the same sex must conduct a search requiring 'patting down' or the removal of anything other than outer clothing. If outer clothing is removed then a person of the opposite sex can only be present if the person being searched specifically requests it. A record must be made of this consent. (PACE Codes of Practice, Code A, 3.6).

6.3 If exceptionally a person of the same sex is not available the Investigator should consider contacting the Police for assistance or asking the suspect to attend a Police Station on a voluntary basis.

6.4 Important. Investigators are reminded of the limitations, described at 5.4 above, in relation to questions put to a person during a search.

7. Searching Vehicles

- 7.1 In accordance with Section 23 of PACE 1984 (Section 25 PACE(NI)) a vehicle comes within the definition of "premises". Investigators are therefore reminded that;
- 7.1.1 Consent to search a vehicle can only be given by the owner, or person entitled to grant entry to the vehicle in question, and;
 - 7.1.2 That person must be given a copy of the Notice of Powers and Rights (GS004).
- 7.2 **Important.** Investigators are reminded of the limitations, described at 5.4 above, in relation to questions put to a person during a search.

8. Searching Premises

- 8.1 A Notice of Powers and Rights (GS004) must be handed to the owner/occupier, which fully explains the conditions of the search. The time at which the 'notice' was given is to be recorded on the appropriate 'consent' forms.
- 8.2 It is important that any search of premises must be conducted at a reasonable hour unless this would frustrate the purpose of a search.
- 8.3 **Important** - Investigators are reminded of the limitations, described at 5.4 above, in relation to questions put to a person during a search.

9 Searching Official Lockers

- 9.1 Official lockers are provided to some Royal Mail Group Ltd (RMG Ltd) employees for the purpose of housing personal effects. Consent to search an official locker should be sought from the employee concerned and recorded on the GS005.
- 9.2 In the event of this consent being refused or withdrawn by the suspected offender and it is considered essential that a search must be made, permission to use that particular locker may be formally withdrawn from the key holder. The contents of the locker should then be removed in the presence of a reliable and independent witness. This may be a manager or union representative.
- 9.3 Withdrawing permission to use an official locker should only be considered in circumstances when the facts can fully justify it.
- 9.4 Investigators should ascertain whether a suspected member of staff has an official locker and its number. In some offices, it is not unusual for employees to have unofficial use of additional lockers. This may be determined from either the official records held locally, or discreet enquiries.
- 9.5 **Important.** Investigators are reminded of the limitations, described at 5.4 above, in relation to questions put to a person during a search.

10 Friends Present During Searches

- 10.1 RMG Ltd employees must be offered the 'presence of a friend' at all interviews and searches conducted by RMGS Investigators. Irrespective of whether or not the Interviewee opted to have a friend present during an interview, the offer of the 'presence of a friend' must be made in respect of each search.

- 10.2 As described on the form GS003, the 'friend' must be at least 18 years of age and not already involved in the inquiry.
- 10.3 It is important to remember that the offer of the 'presence of a friend' at both the interview and the 'person' search is a RMG Ltd requirement only. The PACE Codes of Practice, Code B, 6.11, determines that a friend, neighbour or other person must be allowed to witness the search of premises (which includes vehicles).
- 10.4 Such requests may be declined by the Investigator if there are reasonable grounds to believe that the presence of the person would unreasonably delay the search, hinder the investigation or endanger anyone. Either way the Investigator must record the reason and the grounds for this decision on the appropriate search documentation.

11 Property Recovered During Searches

- 11.1 Any property seized during a search is likely to become significant evidence. Failure to comply with the correct procedures may result in the evidence being invalid as part of any later proceedings. Investigators must ensure that they are fully conversant with the PACE Code B, 7 refers to the seizure and retention of property
- 11.2 As described at section 5.3 above, any item of property recovered during a search shall be recorded using a form GS005d Record of Property Seized During Search. During joint operations with the Police or other organisations, their equivalent documentation may be utilised.
- 11.3 Further guidance concerning the handling of evidence and managing exhibits can be found in Appendix 1 to P&S 5.4 - Rules & Continuity of Evidence.

12. Apology for Inconvenience GS027 Procedure

- 12.1 When, in the course of an enquiry a member of RMG Ltd is searched and the search does not reveal any article which seems likely to have been stolen from the post; or any property which the employee concerned cannot satisfactorily account for or any article or document which suggests criminal conduct, then a declaration, based on form GS027, must be issued without delay. The draft must be completed by the Investigator in Charge (IIC) and arrangements made for it to be typed and signed by the appropriate local Manager before it is passed to the employee concerned. In borderline cases the IIC should be more inclined to give the declaration rather than to withhold it.
- 12.2 The declaration should not be given when the employee has been handed into custody, suspended from duty immediately after the search, when he/she has admitted dishonesty, when an employee who is not a suspect voluntarily insists on producing the contents of his/her pockets or when the search is conducted on the authority of a search warrant.

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Glossary

Abbreviation or Term	Meaning
RMGS	Royal Mail Group Security
PACE 1984	Police and Criminal Evidence Act 1984
PACE (NI) 1989	Police and Criminal Evidence Order (Northern Ireland) 1989
CoP	Codes of Practice
SIM	Senior Investigation Manager
CJ&PA 2001	Criminal Justice and Police Act 2001
RMG Ltd	Royal Mail Group Limited
IIC	Investigator In Charge

Document Summary

If you have any queries please contact:

Mick F Matthews
Royal Mail Security
6A Eccleston St
LONDON
SW1W 9LT

Postline:

STD:

E mail

GRO

mick.f.matthews

GRO