

**Digital Device – Digital Processing Notice**

This form must be completed by the officer taking possession of a digital device from a victim or witness of crime where they have agreed for the device to be examined in relation to an ongoing investigation. **A separate form must be completed for each device.**

The victim or witness may refuse to provide the device or agree to the extraction of information from it. **The investigation or enquiry for the purposes of which the information is sought will not be brought to an end merely as a result of any such refusal.** If agreement for examination is not provided or is withdrawn then consideration should be given to the use of common law powers or other legal means of seizure where necessary and justified.

A copy of this form **must** be provided to the device owner when complete. This can be in hard copy or electronic form (for example via email).

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| **Case Details** | |
| **Crime / Incident Ref.** |  |

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| **OIC Details** | | | |
| **Name** |  | **PSI** |  |
| **Station / Unit** |  | | |

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| **Device Details –** Please complete all **relevant** fields for the device seized | | | |
| **Production Number** |  | | |
| **Device Type:**  (mobile telephone, laptop etc.) |  | | |
| **Make of Device** |  | **Model** |  |
| **IMEI Number** |  | **Telephone Number** |  |
| **Serial Number** |  | **Operating System** |  |
| **SIM PIN Code** |  | **Device PIN / Passcode** |  |
| **Alternative Lock Methods** | If alternative lock methods are present (fingerprint, face detection etc.) please ask owner to disable. | **Device Pattern Lock**  (show pattern and indicate beginning and end. Alternatively, provide number sequence below the diagram) |  |
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| **Description of Device Condition / Damage** |  | | |

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| **I have reasonable grounds to believe that examination of this device may identify material relevant to an ongoing investigation and that this is a legitimate line of enquiry because:** |
| Provide the basis for how this belief has been formed and the supporting evidence. |
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| **Reason why examination of this device is required:** | |
| Preventing, detecting, investigating or prosecuting crime |  |
| Helping to locate a missing person |  |
| The investigation of a death, or |  |
| Protecting a child or an at-risk adult from neglect or physical, mental or emotional harm. |  |

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| **I consider that it is strictly necessary to extract only the following material from the device in order to progress this reasonable line of enquiry:** |
| What material are you looking for and why is it strictly necessary to extract that material from the device? Be specific. For example: WhatsApp messages between person A and person B between set dates in which the offence is discussed. Ensure you explain why the material is strictly necessary in light of the reasonable lines of enquiry you have identified above. |
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| **Detail what alternatives to extraction have been considered and rejected**. |
| Explain your reasons: |
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| **Give an indication of where the relevant material is likely to be stored on the device:**  (e.g. images, text messages, WhatsApp messages.) |
| Ask the witness where the relevant material is likely to be stored. |
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| **Collateral Intrusion** (the interference with the privacy of another unconnected to the matter under investigation) |
| To what extent is there a risk of collateral intrusion and what steps, if any, have been taken or can be taken to mitigate this? |
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| **Confidential Information** (information which constitutes, or may constitute, journalistic material or privileged information such as items subject to legal privilege) |
| **Ask the device user if confidential information is stored on the device**. If so, to what extent is there a risk of this information being obtained and what steps can be taken to mitigate this? If confidential material is encountered, how will you proceed? |
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Any information which is extracted / downloaded from your digital device is retained by Police Scotland in accordance with the [Police Scotland Record Retention SOP](https://www.scotland.police.uk/spa-media/nhobty5i/record-retention-sop.pdf).

Further details regarding how Police Scotland process and retain data can be found in our [Privacy Notices](http://www.scotland.police.uk/access-to-information/data-protection/privacy-notices), specifically the [Law Enforcement Privacy Notice](https://www.scotland.police.uk/spa-media/2qgafu3o/privacy-notice-gdpr-law-enforcement.doc).

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| **Victim / Witness Declaration** | |
| **Name** |  |
| **Date of Birth** |  |
| **Address** |  |
| **Declaration** | I understand that I do not have to provide my device or agree to the extraction of information and may refuse or withdraw my agreement at any time.  I agree to provide my device to Police Scotland for the purposes of extracting data as outlined on this form. Should these parameters change, I will be notified in writing.  I have been provided with a copy of this form **or** have made arrangements with the seizing officer to receive a copy as soon as practicable. |
| **Signature** |  |
| **Time / Date** |  |

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| **OIC Declaration** | | | |
| **Name** |  | **PSI** |  |
| **Declaration** | I confirm that I have provided a copy of this form to the victim / witness detailed above **or** have made arrangements to provide a copy as soon as practicable. | | |
| **Signature** |  | | |
| **Time / Date** |  | | |

**Digital Processing Notice – Further Information**

**If police ask for my agreement to examine my device, do I have to give it?**

No. Although your device can greatly assist an investigation, you can refuse or withdraw your agreement for examination at any time. Sometimes we might need to use other powers such as a search warrant or common law powers of seizure if you refuse or withdraw your agreement. This will depend on the investigation and what material might be on the device. You can withdraw your agreement for examination at any time via 101, speaking to a police officer or at any police station.

**What happens if I refuse to agree to examination, or initially agree and then later withdraw it?**

If we don’t use another power you will be able to keep your device, or it will be returned as soon as possible after we confirm your agreement is withdrawn. If your agreement for examination is withdrawn prior to data being extracted then information will not be taken from the device and it may be returned to you. However, if your agreement is withdrawn after the extraction of information has taken place, it may not be possible to delete the data or return the device as it may form a crucial part of the evidence in the case which we are duty bound to report to the Crown Office and Procurator Fiscal Service (COPFS). In all cases extracted information and the device will only be retained where there is a lawful basis to do so and only for as long as necessary.

**The police have my device, what happens now?**

Your device will be powered off, securely packaged and stored and its movements recorded. The device will be submitted for examination and any relevant information prepared in a report as evidence for court.

**When will I get my device back?**

We will aim to return all devices within 48 hours, however there may be occasions where this is not possible due to legal implications which require the device to be retained. The decision to return a device is made in conjunction with COPFS and will depend on the specific circumstances of the case. The officer who takes possession of your device will keep you updated.

**Who will examine my device and view my information?**

Your device will only be examined by trained officers and staff. Once data has been extracted it will be reviewed by the analyst, the investigating officer(s) and relevant details forwarded to COPFS for their consideration.

Assistance may be required, e.g. from a translator or interpreter. This would be monitored and controlled by Police Scotland.

**What happens if during the examination of a device, police uncover evidence of another crime?**

This depends on the seriousness and circumstances of the crime. It may be the case that we have a duty to investigate what we find and may have to report the circumstances to COPFS.

**Will police share information from my device with the accused’s lawyer (defence)?**

Police do not share any information with the accused or their lawyer. Police will inform COPFS of the existence of any relevant information stored on your device and they will determine what information needs by law to be shown to the accused’s lawyer. This process is called disclosure.

Further information regarding the disclosure process can be found on the COPFS website: <http://www.copfs.gov.uk>