

to look beyond that. For example, if we get new information that changes what is relevant to the investigation.

**Q10: What happens if, during the examination of a device, Police Scotland uncover evidence of another crime?**

**A:** 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 the Crown Office and Procurator Fiscal Service (COPFS).

**Q11: What information will police take from my device?**

**A:** The technology used will copy all available information from your device and may recover deleted information.

Police will not look at all that information, only what is necessary, reasonable, justifiable and relevant to the investigation.

**Q12: Will police share information from my device with the accused's lawyer (defence)?**

**A:** Only information relevant to the investigation will be shared. Police must tell COPFS about the existence of all information relevant to the investigation that we find on a device, whether in support of a prosecution or not.

COPFS will then assess what information needs, by law, to be shown to the accused's lawyer. This is called disclosure.

**Withdrawing Consent**

You can withdraw your consent at any time via **101**, a police officer or at any police station.

**Your decision regarding consent will be recorded in your signed statement as follows:**

*I understand that I do not have to provide consent.*

*The Digital Device Consent Public Information Leaflet has been read to / by me and I confirm that I understand this information.*

*I do / do not give my consent for Police Scotland to take my device for the purpose of examination.*

**Further Information**

More information, including FAQ's, and links to data protection rights are available online at:

<http://www.scotland.police.uk/digitaldeviceexamination>

**Additional support** is available via Victim Support Scotland:

<https://www.victimsupportsco.org.uk/>



## Digital Device Consent

### Public Information Leaflet

Police Scotland examine a device where there is reasonable belief that it may contain evidence or information relating to a police investigation or incident.

You have been provided with this leaflet because Police Scotland is requesting your device in relation to an ongoing investigation.

This leaflet contains information about the examination process, what happens to your device and your rights surrounding consent.

Please make sure you understand the content. If you have any questions, please ask the officer who gave you this leaflet.

### Officer Information

Officer Name & PSI:	
Crime/ Incident Number:	
Date & Time:	

**Q1: What powers do Police Scotland have to take and examine my device?**

**A: Take** – Taking a device from a victim or witness for court and for the purpose of examination requires lawful authority of either;

<b>Consent</b>	<b>Common Law (Urgency)</b>	<b>Warrant</b>
Where a victim or witness is willing to provide their device voluntarily.	Taking the device immediately must be proportionate and necessary. For example, evidence might be lost or destroyed.	Where a court has allowed police to take the device.

**Examine** – The Data Protection Act 2018 allows police to keep and use information taken from a device for the investigation, even if you withdraw your consent for police to keep the device itself.

**Q2: If police ask for my consent, do I have to give it?**

**A: No.** Although your device can greatly assist an investigation, you can refuse or withdraw your consent at any time. Sometimes we might need to use one of the other powers (warrant or common law) if you refuse consent or withdraw it. This will depend on the investigation and what might be on the device.

**Q3: What happens if I refuse consent, or provide consent, then later withdraw it?**

**A:** 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 consent is withdrawn.

We will continue the investigation without your device and still follow all other reasonable lines of enquiry. Your decision at any stage will not affect how we treat you.

**Q4: The police have my device, what happens now?**

**A:** If evidence is found, your device might be needed and kept as evidence for court. It 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.

Throughout this process we will: take the best possible care of your device; view only what is necessary, reasonable, justifiable and relevant, and hold your information securely.

**Q5: When will I get my device back?**

**A:** Unfortunately we don't know. If evidence is found on your device, it might not be returned until the court case has finished; it depends on the investigation and what evidence is recovered. We know how important your device is and will try to return it to you as soon as possible.

**Q6: Who will examine my device and view my information?**

**A:** As few people as possible. Only the officers or staff who need to view the information will look at it. In most cases this will be the device examiner and investigating officer, as they will be best placed to identify whether information is relevant or not.

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

**Q7: Can Police Scotland bypass PIN codes and passwords?**

**A:** Sometimes. It varies depending on the make and model of the device, the version of the operating system being used and any security measures on the device.

**Q8: Will Police Scotland use my device to access information stored on the internet?**

**A: No.** All devices are isolated from mobile networks (mobile data) and the internet (including Wi-Fi) before examination. The examination only involves information on the device itself, including removable media such as SIM or Memory Cards.

**Q9: Can I decide what the police look at?**

**A:** We will be guided by the information you provide and will discuss that with you. There might however be times that in order to do our job fairly, fully investigate and fulfil our legal requirements, we have