



Ministry of  
**JUSTICE**

## Lord Chancellor Warrant Regulations: Sections 42(6) and 48(6) of the Legal Services Act 2007

### List of questions for response

We would welcome responses to the following questions set out in this consultation paper.

Please email your completed form to: [chris.nichols@justice.gsi.gov.uk](mailto:chris.nichols@justice.gsi.gov.uk)

or fax to: 020 3334 4296. **Thank you!**

Question 1.	In addition to what has been proposed, is there any further information that you think an application for a warrant should include?
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Comments:	No
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Question 2.	Do you think there is a compelling reason to deviate from the normal position whereby an application for a search warrant is made in the absence of the party to whose property the warrant would apply?
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Comments:	No
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Question 3.	We have proposed a list of information that a warrant must include. Is there any further information that you think should be included in a warrant?
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Comments:	No
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Question 4. Do you agree with the proposed procedural requirements that must be adhered to by a person exercising a warrant? Are there any additional requirements that you think are necessary?

Comments: The LSB agrees with the procedural requirements that must be adhered to. There are no additional requirements that the LSB think are necessary

Question 5. Do you agree with our proposals for what should be included to satisfy section 42(6)(a)? Are there any additional criteria, such as that provided for in section 8(3) of PACE, that you think should be included?

Comments: The LSB agrees with the MoJ proposal for what should be included to satisfy section 42(6)(a). There are no additional criteria that the Board thinks should be included

Question 6. Do you believe that the criteria suggested by the Joint Committee is appropriate, or are there any other specifications that you believe are necessary to include in relation to who can exercise a search warrant?

Comments: The LSB does not think that these are specific criteria that should be included in the regulations. The level of a specified persons training and more particularly their level of maturity are areas that could be very difficult to assess objectively. Whilst the LSB acknowledges that criteria such as training and indeed experience are important, the LSB is not persuaded that maturity should be factor. Rather than rely on specific criteria, the judge should rely on the overall quality of the warrant application when deciding whether it should be granted.

In support of the above analysis, the LSB notes that the search powers contained in the Compensation Act 2006 (Section 8) and the Compensation (Claims Management Services) Regulations 2006 (which, of the powers listed in paragraph 16 of the Consultation Document, are probably the most analagous to the powers conferred on the LSB) do not contain any criteria similar to that being proposed.

Question 7. Do you agree with the proposals for regulating the exercise of powers conferred by warrant? Please explain any changes that you think would be desirable.

Comments: The LSB agrees with the proposals.

Question 8. Do you have any comments on the proposed application of search warrants to documents subject to LPP?

Comments: The LSB agrees with the MoJ proposal

Question 9. Is there any additional sensitive information that you believe the specified person should be specifically prevented from accessing during a search?

Comments: No

Question 10. Do you agree that regulations should set out a presumption in favour of documents being copied rather than removed from an approved regulator's premises?

Comments: Yes, provided that it is acknowledged that it might not always be practicable to take copies on-site and that in these circumstances original documentation can be taken for copying elsewhere

Question 11. Do you believe it would be desirable to set a time-limit within which documents must be returned to the approved regulator? If so, what do you think would be reasonable?

Comments: The LSB does not think it would be desirable to set a time limit to return the original documents (with the copies being retained). The factors that will determine how long the LSB may need to hold on to original documents are likely to vary on a case by case basis. A commitment to return documents "as soon as possible" should be adequate.

Question 12. Do you have any comments on the proposals for providing approved regulators with access to seized documents and the return of these documents when an intervention direction is revoked?

Comments: No

Question 13. A list of the proposals for regulations under section 42 (excluding a statement concerning LPP information) is included at Annex A. Do you have any general comments on the principles within this?

Comments: The LSB notes that the proposed regulations do not give a right to access documentation held at off-site locations (including off-site computer servers and off-site physical document storage facilities). The LSB believes that it requires the power to search these off-site locations so as to ensure there are no loopholes.

Question 14. Are there any safeguards that have not been proposed that you think should be included in regulations made under section 42?

Comments: No

Question 15. Are there any regulations that have been proposed under section 42 (concerning cancellation of an approved regulator's designation) that you do not believe appropriate to adapt for section 48 (in relation to the exercise of an intervention direction)?

Comments: No

Question 16. Are there any additional considerations that you believe would be necessary in relation to regulations made under section 48 that are not proposed under section 42?

Comments: No

Question 17. Do you agree with the consultation stage impact assessment attached to this consultation? Do you have any evidence of impacts we have not considered?

Comments: LSB agree with the consultation stage impact assessment

Please complete the section overleaf to tell us more about you.

## About you

Please use this section to tell us about yourself

<b>Full name</b>	Lesley Davies
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If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

**If you are a representative of a group**, please tell us the name of the group and give a summary of the people or organisations that you represent.

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