

SEARCH ORDER FACT SHEET

What is a search order?

A search order gives to your solicitors the authority to search the home, offices or other premises of a defendant to collect and preserve the evidence that you need to support a civil court case against them. The application is made before the defendant knows that you are going to sue them which takes away their chance to destroy or hide the evidence of their wrongdoing. Search orders may give your solicitors authority to clone the hard drives of computers and smart phones on the premises that are being searched.

Why would my business or I need a search order?

You may know that someone is causing you harm or has caused you harm but you may not know the full extent of the problem, who is involved or how much money they have made out of it. In that case—and if you have good reason to believe that they would destroy or hide the evidence when you served a claim against them—then a search order may be the only way that you will ever be able to find out the truth.

Why are search orders so effective?

There is no other legal way to get inside a defendant's premises and to search through their electronic and physical files. In every other case you will have to rely on the defendant's declaration that they have disclosed all the relevant documents in the course of your court case. If you have good reason to believe, based on their prior actions, that the defendants will lie in their declaration and will not disclose the documents you need to prove your case then you need a search order.

How long does it take to get a search order?

It typically takes a few weeks to get the papers together in sufficient detail to be sure that you will satisfy the court that you have a really strong case. But you can get in front of a judge more quickly if the circumstances warrant it.

What do I have to prove to a court to get a search order?

An extremely strong case, that you have suffered or will suffer significant loss as a result of the defendant's actions, that there are important documents at the places you want your solicitors to search that will prove your case, and evidence of the defendant's previous dishonesty that gives you reason to believe they will not honestly disclose the documents to you in the course of a trial. You will also need to show that you can afford to make good any harm caused to the defendant by the search if the court later decides at trial that you did not have a case against them.

Does there always have to be a trial?

The process is designed to end in a trial. But our experience is that if your solicitors find what they are looking for in the course of the search then the defendant will want to settle the case with you quickly rather than delay the inevitable.

What happens if the defendant refuses to allow my solicitors in to conduct the search?

If the search order has been properly made and correctly served on someone, they can be imprisoned, fined or have their assets seized if they disobey the order and are later held to be in contempt of court for that reason. The same applies to directors of companies that disobey the search order.

Who is the Supervising Solicitor?

The Supervising Solicitor is an independent solicitor from another law firm who supervises the conduct your solicitors' search to ensure that the court's order is complied with and only the kinds of documents that are specified in the search order are seized. The Supervising Solicitor also serves the order on the defendant and informs them of their rights.

Who can assist me to get a search order?

Longmores' commercial litigation team have extensive experience of obtaining and executing search orders. Please call **John Wiblin** at 01992 300333.