

APPLICATION FOR SEARCH WARRANT

(Criminal Procedure Rules, rule 6.30; section 8, Police and Criminal Evidence Act 1984)

Use this form ONLY for an application for a search warrant under section 8 of the Police and Criminal Evidence Act 1984 (PACE). There is a different form of application for the court to issue a search warrant under another power to which sections 15 & 16 of PACE apply. A magistrates' court cannot authorise a search for excluded or special procedure material. See also the notes for guidance at the end of this form.

Application to **Magistrates' Court**

This is an application by (name of applicant)

of (name of police force or investigating agency)

Applicant's address:¹

Email address:

Phone:

Mobile:

I am a constable

☐ **or**

another person authorised to apply for a search warrant²

☐

I estimate that the court should allow (time) **to read this application and**
..... (time) **for the hearing.**³

I expect any warrant issued to be executed on (give the planned date).

I wish to attend the hearing by live link (if available)

Yes ☐ No ☐

1. Complete the box above and boxes 1 to 8 below. If you use an electronic version of this form, the boxes will expand.⁴ If you use a paper version and need more space, you may attach extra sheets.

2. Complete the declaration in box 9 and the authorisation in box 10.

3. Attach the draft warrant(s) you are asking the court to issue.

4. Send or deliver a copy of the completed form and draft warrant(s) to the court. You may send them by secure email. Make sure the court knows if the application is urgent. Your time estimates will help the court to allow enough time to prepare for the hearing.

1) The offence(s) under investigation.⁵ Make sure the court has a copy of any legislation to which you want to refer, including any legislation which allows you to make this application if you are not a constable. If necessary, attach a copy of the legislation when you send or deliver this form to the court.

(a) What offence(s) are you investigating? Specify the legislation or other law which creates the offence.

(b) If you are not a constable, how does the legislation allow you to make this application?

¹ See guidance note 2 at the end of this form.

² E.g. an officer of HM Revenue and Customs or of the National Crime Agency. See guidance note 3 at the end of this form. In box 1, specify the legislation which allows you to apply.

³ See guidance note 4 at the end of this form.

⁴ Forms for use with the Rules are at: www.justice.gov.uk/courts/procedure-rules/criminal/formspage.

2) The investigation. What you need to explain will depend on the offence(s) under investigation.

(a) What are you investigating? Explain briefly.

(b) Why do you believe that the offence(s) under investigation has/have been committed? Explain briefly.

3) Material sought.⁶ Explain how what you are looking for meets the criteria set by section 8 of PACE.

(a) What are you looking for? Identify the material for which you want to search in as much detail as practicable.

(b) Why do you believe that the material for which you want to search is likely to be of substantial value to the investigation? Material may be of substantial value by itself or together with other material.

(c) Why do you believe that the material for which you want to search is likely to be relevant evidence? There may be nothing to add to the answer to (b) above.

(d) Is there any reason to think that the material for which you want to search consists of or includes items subject to legal privilege, excluded material or special procedure material?

⁵ See guidance note 5 at the end of this form.

⁶ See guidance notes 6 to 10 at the end of this form.

4) Premises to be searched which CAN be specified. Use this box if you are applying for a search warrant in respect of one set of premises which you can specify. If you are applying for the issue of warrants in respect of more than one set of premises which you can specify, tick this box ☐ and complete the table at the end of this form instead. If you want to search premises that you CANNOT specify, see box 5 below.

(a) Address or other description of the premises:

(b) Why do you believe that the material you are looking for is on those premises? Explain briefly.

(c) At least one of the following four access conditions must apply. Tick to indicate which.

☐ (i) it is not practicable to communicate with any person entitled to grant entry to the premises.

☐ (ii) it is practicable to communicate with such a person but it is not practicable to communicate with any person entitled to grant access to the evidence sought.

☐ (iii) entry to the premises will not be granted unless a warrant is produced.

☐ (iv) the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

Explain briefly why you believe that each condition you have ticked applies:

5) Premises to be searched which CANNOT be specified. Use this box only if you are applying for a search warrant in respect of premises that you cannot specify, which are occupied or controlled by a person you can identify (an 'all premises warrant'). If you want to search premises that you CAN specify, see box 4 above.

(a) Whose premises do you want to search? Name or describe the person in occupation or control of the premises.

(b) Why do you believe that the material you are looking for is on the premises? Explain briefly.

(c) Why do you believe that, because of the particulars of the offence under investigation, it is necessary to search more premises than you can specify?

(d) Why do you believe that it is not reasonably practicable to specify all the premises which might need to be searched?

6) Search on more than one occasion. Use this box only if you are applying for the court's authority to search premises on more than one occasion.

(a) Which premises do you want to search on more than one occasion? List them.

(b) Why is it necessary to search on more than one occasion in order to achieve the purpose for which the court issues the warrant?

(c) How many times do you want to be able to search those premises? Specify any maximum number of occasions, or state 'unlimited'.

7) Search with additional persons. Use this box only if you are applying for the court's authority to conduct the search with people who are not constables and who are not otherwise authorised by law to conduct or take part in the search.

(a) Which other persons do you want to take part in the search? Identify those people by function or description (e.g. scientists, IT experts, accountants).

(b) Why do you want those people to take part in the search?

8) Duty of disclosure.⁷ See also the declaration in box 9.

Is there anything of which you are aware that might reasonably be considered capable of undermining any of the grounds of this application, or which for some other reason might affect the court's decision? Include anything that reasonably might call into question the credibility of information you have received, and explain why you have decided that that information still can be relied upon.

9) Declaration

To the best of my knowledge and belief:

(a) this application discloses all the information that is material to what the court must decide, including anything that might reasonably be considered capable of undermining any of the grounds of the application, and

(b) the content of this application is true.

Signed:⁸ [applicant]

Date: Time:

⁷ See guidance note 11 at the end of this form.

10) Authorisation

I have reviewed this application and I authorise the applicant to make it.

Authorising officer's name:

Rank or grade:

Signed:⁸ [authorising officer]

Date: Time:

Decision

I heard this application today.

The applicant satisfied me about his or her entitlement to make the application.

The applicant confirmed on oath or affirmation the declaration in box 9.

The applicant gave me additional information, the essence of which was:⁹

I [issued] [refused to issue] [a warrant] [warrants] because:¹⁰

Signed:

Name: [Justice of the Peace]
[District Judge (Magistrates' Court)]

Date: Time:

⁸ If an electronic version of this form is used, instead of a signature it may be authenticated electronically (e.g. by sending it from an email address recognisable to the recipient). See Criminal Procedure Rules, rule 5.3.

⁹ Delete if not applicable.

¹⁰ Delete as applicable, and give brief reasons for your decision.

List of specified premises to be searched. See box 4. Use the table on this and the next page if you are applying for the issue of warrants in respect of more than one specified set of premises.

In column (a), give the address or other description of the premises. **In column (b)**, explain briefly why you believe the material you are looking for is on those premises.

The four access conditions are listed in box 4. **In column (c)**, indicate which applies. Explain briefly why you believe each condition you have indicated applies.

(a) Address or description of premises	(b) Reasons for believing material is on those premises	(c) Reasons for believing access condition(s) met

(a) Address or description of premises	(b) Reasons for believing material is on those premises	(c) Reasons for believing access condition(s) met

Notes for Guidance

1. Use of this form

This form is for use in connection with an application for a search warrant under section 8 of the Police and Criminal Evidence Act 1984 (PACE). There is a different application form for a search warrant under other legislation to which sections 15 and 16 of PACE apply.

2. Applicant's contact details

The court may need to contact the applicant urgently. In choosing the address and telephone number(s) to give, applicants should be aware that details entered in this application form may be disclosed in subsequent legal proceedings, unless the court orders them to be withheld.

3. Status of the applicant

The applicant must satisfy the court about his or her entitlement to make the application. Officers of some other investigating authorities can apply for and execute warrants to enter, search and seize as if they were constables, under the legislation which applies to them. Examples include members of the National Crime Agency designated with the powers of a constable, and officers of HM Revenue and Customs.

4. Making an application: time estimates and live links

The court needs an estimate of how long to allow for reading and hearing the application. If in doubt, consult the justices' legal adviser.

To help assess the urgency of the application compared with others, the court also needs to know when it is expected that the warrant will be executed.

Where a live link is available, it can be used for the applicant to attend before the court, if the court so allows. The application must have been delivered to the court (delivery may be by email), and the applicant will be required to take an oath (or affirm) as required by the Criminal Procedure Rules.

5. The offence(s) under investigation

Section 8 of PACE applies where the investigation is into an indictable offence. An offence may be indictable under legislation or at common law. Section 8 of PACE also applies where the investigation is into a summary offence under the Immigration Act 1971 which is a 'relevant offence' as defined in section 28D(4) of that Act (e.g. illegal entry into the UK, contrary to section 24 of the 1971 Act).

6. The material sought (see also notes 7, 8, 9 & 10)

The applicant must explain what the search is for in as much detail as practicable. A corresponding description must be entered in the draft warrant for the court (and the applicant must take care that the words used in the warrant can be understood without reference to the rest of the application).

The search may be unlawful if the warrant does not sufficiently identify the material for which it authorises search, or if it leaves the identification of that material to the discretion of those who conduct the search.

For the purposes of section 8 of PACE, 'relevant evidence', in relation to an offence, means anything that would be admissible in evidence at a trial for the offence.

Powers to seize additional material beyond the scope of the warrant are given by section 19 of PACE and section 50 of the Criminal Justice and Police Act 2001.

7. Legal privilege

Under sections 8 and 10 of PACE, the court cannot issue a warrant to search for items subject to legal privilege. Unless the items in question are held with the intention of furthering a criminal purpose, those items are:

(a) communications between a professional legal adviser and his client or any person representing his client made in connection with the giving of legal advice to the client;

(b) communications between a professional legal adviser and his client or any person representing his client or between such an adviser or his client or any such representative and any other person made in connection with or in contemplation of legal proceedings and for the purposes of such proceedings; and

(c) items enclosed with or referred to in such communications and made—

(i) in connection with the giving of legal advice; or

(ii) in connection with or in contemplation of legal proceedings and for the purposes of such proceedings,

when they are in the possession of a person who is entitled to possession of them.

8. Excluded material

Under sections 8, 11, 12 & 13 of PACE, the court cannot issue a warrant to search for excluded material. 'Excluded material' means:

(a) personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which that person holds in confidence;

(b) human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence;

(c) journalistic material which a person holds in confidence and which consists—

(i) of documents; or

(ii) of records other than documents.

'Personal records' means documentary and other records concerning an individual (whether living or dead) who can be identified from them and relating—

(a) to that person's physical or mental health;

(b) to spiritual counselling or assistance given or to be given to that person; or

(c) to counselling or assistance given or to be given to that person, for the purposes of his or her personal welfare, by any voluntary organisation or by any individual who—

(i) by reason of office or occupation has responsibilities for that welfare; or

(ii) by reason of an order of a court has responsibilities for that person's supervision.

'Journalistic material' means material acquired or created for the purposes of journalism, but only if it is in the possession of a person who acquired or created it for those purposes (including a person who receives it from someone who intends that the recipient shall use it for those purposes).

A person holds material other than journalistic material in confidence if that person holds it subject to an express or implied undertaking to hold it in confidence, or subject to a restriction on disclosure or an obligation of secrecy contained in an Act.

A person holds journalistic material in confidence if that person holds it subject to any such undertaking, restriction or obligation, and it has been continuously held (by one or more persons) subject to such an undertaking, restriction or obligation since it was first acquired or created for the purposes of journalism.

9. Special procedure material

Under sections 8 & 14 of PACE, the court cannot issue a warrant to search for special procedure material. 'Special procedure material' means (a) journalistic material which is not excluded material, and (b) material which is not subject to legal privilege, and which is not excluded material, but which is in the possession of a person who—

(a) acquired or created it in the course of any trade, business, profession or other occupation or for the purpose of any paid or unpaid office; and

(b) holds it subject—

(i) to an express or implied undertaking to hold it in confidence; or

(ii) to a restriction on disclosure or an obligation of secrecy contained in any enactment, including an enactment contained in an Act passed after PACE.

Material created by an employee in the course of employment, or by a company on behalf of an associated company, is special procedure material only if it would have been such material had the employer, or the associated company, created it.

10. 'Seize and sift'

Under section 50 of the Criminal Justice and Police Act 2001, if a person executing a search warrant (a) finds something which he or she has reasonable grounds to believe may be, or may contain, something for which that person has authority to search under the warrant, and (b) it is not reasonably practicable there and then to determine whether that is so; then that person can seize so much of what he or she has found as it is necessary to remove to enable that to be determined.

Under that same section, if such a person (a) finds something which he or she would be entitled to seize under the warrant but for its being comprised in something which he or she is not entitled to seize, and (b) it is not reasonably practicable there and then to separate the seizable property from the other property; then that person can seize both the seizable and the other property.

11. Information that might undermine the grounds of the application

Information that might undermine any of the grounds of the application must be included in the application, or the court's authority for the search may be ineffective. The court will not necessarily refuse to issue a warrant in every case in which there is information that undermines the grounds of the application.

The applicant must explain why information is thought to be credible where it comes from a source that cannot be tested (for example, a report from an anonymous informant).

The applicant must inform the court if there is anything else that might influence the court's decision to issue a warrant. This may include whether the premises have been searched before, and with what outcome, or whether there is any unusual feature of the investigation or of any potential prosecution.