

APPLICATION FOR SEARCH WARRANT

(Criminal Procedure Rules, rule 6.32; sections 15 & 16, Police and Criminal Evidence Act 1984)

Use this form ONLY for an application for a search warrant under a power to which sections 15 & 16 of the Police and Criminal Evidence Act 1984 (PACE) apply, other than section 8 of PACE. There is a different form of application for the court to issue a search warrant under section 8. 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 expand⁴. 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 main search power. Make sure the court has a copy of the legislation which allows it to issue the warrant(s) for which you are applying (the main search power), and 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 legislation allows the court to issue the warrant(s) for which you are applying? This is the main search power.

(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 terms of the main search power.

(a) What are you investigating? Explain briefly.

(b) Why do you think the offence or activity under investigation has taken place? Explain briefly. The main search power may require you to show that you 'suspect' or 'believe' it has taken place.

3) Articles or person(s) sought.⁵ Identify what, or who, you are looking for in as much detail as practicable. Explain how those things, or people, meet the criteria for the issue of a search warrant prescribed by the main search power.

⁵ See guidance notes 6 to 8 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 think the articles or person(s) you are looking for is / are on those premises? Explain briefly. The main search power may require you to show that you 'suspect' or 'believe' they are there.

(c) How do the circumstances satisfy any access conditions prescribed by the main search power? What you need to explain depends on the terms of the main search power. For example, you may need to satisfy the court that entry will not be granted without a warrant, or that an attempt to search without a warrant would frustrate the investigation.

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'). Whether the court can issue an all premises warrant depends on the terms of the main search power. 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) If you have been able to specify some of that person's premises, why is it not reasonably practicable to specify all the premises which you want to search?

(c) Why is it necessary to search more premises than you can specify? There may be nothing to add to the answer to (b) above.

(d) Why do you think the articles or person(s) you are looking for are on those premises? Explain briefly. The main search power may require you to show that you 'suspect' or 'believe' they are there.

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. Whether the court can give that authority depends on the terms of the main search power.

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

(b) Why do you want to search on more than one occasion?

(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.⁶ 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:⁷ [applicant]

Date: Time:

⁶ See guidance note 9 at the end of this form.

⁷ 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.

10) Authorisation

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

Authorising officer's name:

Rank or grade:

Signed:⁷ [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:⁸

I [issued] [refused to issue] [a warrant] [warrants] because:⁹

Signed:

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

Date: Time:

⁸ Delete if not applicable.

⁹ 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 think the articles or person(s) you are looking for is/are on those premises. (The main search power may require you to show that you 'suspect' or 'believe' they are there.) **In column (c),** explain how the circumstances satisfy any conditions prescribed by the main search power. (What you need to explain depends on the terms of the main search power. For example, you may need to satisfy the court that entry will not be granted without a warrant, or that an attempt to search without a warrant would frustrate the investigation.)

(a) Address or description of premises	(b) Reasons for thinking articles / persons are on those premises	(c) Reasons why access conditions are met

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Notes for Guidance

1. Use of this form

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

By section 15(1), “This section and section 16 ... have effect in relation to the issue to constables under any enactment, including an enactment contained in an Act passed after this Act, of warrants to enter and search premises; and an entry on or search of premises under a warrant is unlawful unless it complies with this section and section 16”

Other search powers include section 26 of the Theft Act 1968, section 23 of the Misuse of Drugs Act 1971 and paragraph 1 of Schedule 5 to the Terrorism Act 2000.

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; officers of HM Revenue and Customs; and, in the case of an application under section 26 of the Theft Act 1986, or under section 23 of the Misuse of Drugs Act 1971, a person designated as an investigating officer under section 38 of the Police Reform Act 2002, to whom relevant paragraphs of Part 2 of Schedule 4 to that Act apply.

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. Special requirements of the main search power under which the warrant is issued

The main search power may require the applicant to demonstrate either suspicion or belief as to the presence of the articles or persons sought on the premises to be searched, and either suspicion or belief as to other grounds or conditions about which the court must be satisfied. One of those other grounds is likely to be that nothing sought consists of or includes items subject to legal professional privilege. When completing box 3, applicants must take care to satisfy the court about these requirements, or it may not be possible for the court to issue the warrant.

The main search power may prescribe criteria that must be met in relation to the premises to be searched, for example that giving the occupant notice would frustrate the purpose of the search, or that access has been refused, or that a person who could and would allow access cannot be found. When completing box 4, or the table at pages 5 & 6, applicants must take care to satisfy the court about these requirements, or again it may not be possible for the court to issue the warrant.

6. The articles or persons sought (see also notes 7 & 8)

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.

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

Unless, exceptionally, permitted by the main search power, 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, section 10 of PACE defines those items as:

(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. '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.

9. 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.

10. Other powers to issue search warrants

This form can be adapted for use in connection with applications for search warrants under other legislation, but applicants must note that:

(a) they must give all the information required by that legislation to satisfy the court that the warrant sought should be issued; and

(b) the legislation under which the application is made will determine whether the court can authorise the search of more than one set of premises, the search of unspecified premises, or the search of premises on more than one occasion (and see sections 15 and 16 of PACE); and may determine the power to search persons found on the premises.