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| APPLICATION FOR SEARCH WARRANT: POLICE & CRIMINAL EVIDENCE ACT 1984SCHEDULE 1 – FIRST SET OF ACCESS CONDITIONS*(Criminal Procedure Rules, rr.47.26 & 47.30; s.9 & paragraphs 2 & 12 of Schedule 1, Police and Criminal Evidence Act 1984)* |
| See the notes for guidance (‘GN’) at the end of this form. Use this form **ONLY** for a search warrant application under **section 9 and Schedule 1, Police and Criminal Evidence Act 1984 (PACE)** where you want to search for material that consists of or includes special procedure material and does not also include excluded material, relying on the **first set of access conditions** under that Schedule.GN1 There are different forms for applications under (i) PACE section 9 and Schedule 1 where you want to search for material that consists of or includes excluded or special procedure material relying on the **second set of access conditions** under that Schedule, (ii) PACE section 8, (iii) section 26, Theft Act 1968, (iv) section 23, Misuse of Drugs Act 1971, (v) section 2, Criminal Justice Act 1987, (vi) Terrorism Act 2000 Schedule 5, paragraph 11, (vii) section 352, Proceeds of Crime Act 2002, (viii) section 160, Extradition Act 2003 and (ix) other powers to which sections 15 and 16 of PACE apply.  Application to a judge at …………………….…………………………………….…...……. Crown Court  This is an application by ………….……..……………………………...…….……… (name of applicant)  of …………………………………….…..…...…….……… (name of police force or investigating agency)  Applicant’s address: GN2 …………………………………………...…….…………………………..…  Email address: …………………………………………...…….…………………………………….…  Contact telephone number(s): ……………………………………………………………………………..…  **I am** **a constable**  or  another person authorised to apply for a search warrantGN3 |
| Arrangements for hearing the application  I estimate that the court should allow …………….… (time) to read this application and …………….… (time) for the hearing.GN4  I expect any warrant issued to be executed on ……..…. (planned date) at …... (planned time).GN4  My application [does] [does not][[1]](#footnote-1) include confidential information in a separate document.GN4 |
| **1. Complete the boxes above and boxes 1 to 8 below.** If you use an electronic version of this form, the boxes will expand.GN1 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.GN4 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.** GN5  (a) What indictable offence(s) are you investigating? Specify the legislation or other law which creates the offence.  (b) If you are not a constable, what legislation allows you to make this application? |
| **2) The investigation.** What you need to explain will depend on the offence(s) under investigation.  (a) What are you investigating?  (b) Why do you believe that the offence(s) under investigation has/have been committed? |
| **3) Material sought.** GN6, 7, 8, 9 & 10  (a) What are you looking for? Identify the material for which you want to search in as much detail as practicable.  (b) If what you are looking for includes information that may be stored on an electronic device:  (i) what device(s) or description(s) of device (e.g. server; desktop; laptop; tablet; mobile phone; removable storage; etc.) are you looking for? Give as much detail as practicable.  (ii) why do you believe that the information for which you want to search is likely to be stored there?  (c) Why do you believe that that material for which you want to search, including any information stored electronically, is likely to be of substantial value to the investigation and likely to be relevant evidence? Material may be of substantial value by itself or together with other material. ‘Relevant evidence’, in relation to an offence, means anything that would be admissible in evidence at a trial for the offence.  (d) Have you tried to obtain the material any other way?  No  Yes  (i) if no, what methods did you consider trying but rejected as bound to fail?  (ii) if yes, what methods did you try, and why did they not succeed?  (e) Why do you believe that it is in the public interest and proportionate for you to obtain access to the material, having regard to:   * other potential sources of information, * the benefit likely to accrue to the investigation if the material is obtained, and * the circumstances under which the person in possession of the material holds it?   (f) If the material for which you want to search, including any information stored electronically, may consist of or include items subject to legal privilege or excluded material, what arrangements will you make to sift it? GN7, 8, 9 & 10 |
| 4) Premises to be searched which CAN be specified.GN11 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 warrants in respect of more than one set of premises which you can specify, use this box for the first set of premises then tick here  and complete the table at the end of this form for the others. You must attach a draft warrant for each set of premises that you specify. If you want to search other premises that you CANNOT specify, complete box 5 below as well.  (a) Address or other description of the premises:  (b) Why do you believe that the material you are looking for is on those premises?  (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) the material contains information which is subject to a statutory restriction on disclosure or a statutory obligation of secrecy and that information is likely to be disclosed in breach of that restriction or obligation if a warrant is not issued.  (iv) service of notice of an application for a production order under paragraph 4 of PACE Schedule 1 may seriously prejudice the investigation.  Explain why you believe that each condition you have ticked applies. Include:   * the type of premises (e.g. commercial, residential) and the outcome of any previous search of the premises during the last year, and * the expected occupier(s), whether any is suspected of involvement in the offence(s) under investigation, whether any has a criminal record, and whether special arrangements for any may be needed under PACE Code B and College of Policing guidance. |
| 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 and which are occupied or controlled by a person you can identify (an ‘all premises warrant’). You must satisfy the court that it is not reasonably practicable for you to specify all the premises occupied or controlled by that person. Use box 4 above and the table at the end of this form to specify as many sets of premises as you can.  (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?  (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). You do not need to identify anyone who will be present only as an observer.  (b) Why do you want those people to take part in the search? |
| 8) Duty of disclosure.GN12 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.  I undertake to inform the court if information that might reasonably be considered capable of undermining any of the grounds of this application comes to my knowledge after a search warrant is issued but before the search takes place.  Signed:GN1……………………...……………………………………….………………………… [applicant]  Date: …………………………. Time: …………………………. |
| 10) Authorisation  I have reviewed this application.  To the best of my knowledge and belief 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 its grounds,  I am satisfied that making this application is a necessary and proportionate step to take in this investigation,  I am satisfied that the applicant will be able to answer the court’s questions.  I authorise the applicant to present this application to the court.  Authorising officer’s name: ...………………………………..…………..…………………………………..…  Rank or grade: ………………………………………..…………..…………………………………………..…  Signed:GN1…………………….…………………………………….…………………… [authorising officer]  Date: …………………………. Time: …………………………. |
| Judge’s decision – this record must be kept by the court  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:[[2]](#footnote-2)  I [was] [was not] satisfied that the requirements of paragraph 12 of PACE Schedule 1 were met, including the access conditions in paragraph 2 of that Schedule, and I [issued] [refused to issue] [a warrant] [warrants] accordingly.[[3]](#footnote-3)  Signed: ………………………………………..…………………………………………………………...…  Name: ………………………………………..…………..…..… A Circuit judge  Date: …………………………. Time: …………………………. |

**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 why you believe the material you are looking for is on those premises.

At least one of the four further conditions listed in box 4(c) must be fulfilled. **In column (c)**, indicate which applies and explain why.

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| **(a) Address or description of premises** | **(b) Reasons for believing material is on those premises** | **(c) Reasons why further condition(s) met** |
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| **(a) Address or description of premises** | **(b) Reasons for believing material is on those premises** | **(c) Reasons why further condition(s) met** |
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**Notes for guidance**

**Before you fill in this form**, read PACE Code B[[4]](#footnote-4) and the College of Policing guidance[[5]](#footnote-5).

**1. Use of this form**

Use this form ONLY for an application under rule 47.30 of the Criminal Procedure Rules (CrimPR) and section 9 and paragraph 12 of Schedule 1, Police and Criminal Evidence Act 1984 (PACE)[[6]](#footnote-6) for a warrant to search for special procedure material relying on the conditions in paragraph 2 of that Schedule (the first set of access conditions) and on the further conditions in paragraph 14 of the Schedule. This form collects the information required by that legislation. If the details in each case are substantially the same (e.g. the same investigation and the same suspect), one form can be used to make applications for more than one warrant.

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. Forms for use with the Rules are at: <https://www.gov.uk/guidance/criminal-procedure-rules-forms#other-proceedings>.

There is a different form for use for an application for a search warrant which relies on the second set of access conditions, under paragraph 3 of PACE Schedule 1, and there are different forms for applications for production orders and for applications for search warrants under PACE section 8 and other Acts.

PACE Schedule 1 lists two sets of access conditions, one or other of which must be fulfilled to allow the court to issue a search warrant. If the first set of conditions is fulfilled, under paragraph 2 of Schedule 1, the court can issue a warrant to search for material described in PACE as ‘special procedure material’. If the second set of conditions is fulfilled, under paragraph 3 of PACE Schedule 1, the court can issue a warrant to search either for special procedure material or for material described in PACE as ‘excluded material’: but the second set of access conditions depends on the use of other statutory powers which are available only in some types of investigation. For the definitions of excluded material and special procedure material, see guidance notes 8 and 9 beneath.

Business and banking records held in confidence are likely to be special procedure material. Health, social services and education records held in confidence are likely to be excluded material. Documents or other records held for the purposes of journalism will be excluded material if they have been held in confidence ever since they were created or acquired for journalistic purposes, e.g. notes of a confidential interview. Other journalistic material is likely to be special procedure material. If the relevant access and further conditions are met, a judge can issue a warrant to search for material comprising business, banking and other types of confidential records.

The first set of access conditions is fulfilled if—

(a) there are reasonable grounds for believing—

(i) that an indictable offence has been committed,

(ii) that there is material which consists of special procedure material or also includes special procedure material and does not also include excluded material on premises specified in the application, or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify),

(iii) that the material is likely to be of substantial value (whether by itself or together with other material) to the investigation in connection with which the application is made, and

(iv) that the material is likely to be relevant evidence;

(b) other methods of obtaining the material—

(i) have been tried without success, or

(ii) have not been tried because it appeared that they were bound to fail; and

(c) it is in the public interest, having regard—

(i) to the benefit likely to accrue to the investigation if the material is obtained, and

(ii) to the circumstances under which the person in possession of the material holds it,

that the material should be produced or that access to it should be given.

The further conditions listed in paragraph 14 of PACE Schedule 1 are**—**

(a) that it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the material;

(c) that the material contains information which—

(i) is subject to a restriction on disclosure or an obligation of secrecy contained in an enactment; and

(ii) is likely to be disclosed in breach of that restriction or obligation if a warrant is not issued;

(d) that service of notice of an application for an order may seriously prejudice the investigation.

A warrant does not authorise a search for material described in PACE as ‘items subject to legal privilege’ unless those items are held with the intention of furthering a criminal purpose. See guidance note 7 beneath.

**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 estimate; hearing**

An application must be made to the court address for the applicant’s area given by HM Courts and Tribunals Service.

Electronic service of the application, by email to a secure inbox, is more secure than paper and is strongly preferred. Use a format (for example Word, rather than pdf) that allows you to complete or amend the application and which allows the court to amend the draft warrant if required.

If the application includes details that you think should be withheld in any subsequent legal proceedings, set out those details in a separate document marked as confidential to the court and in that document explain why you think that those details ought not be seen by anyone other than the court: see rules 5.10(9) and 47.26(4) of the Criminal Procedure Rules.

If an application is very sensitive, special arrangements can be made. Consult the court.

The court needs a realistic estimate of how long to allow for reading and hearing the application. If in doubt, consult the court.

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). Applicants should be aware that the court may not consider live link a satisfactory method by which to receive explanations of material of great factual complexity, or by which to hear an application in which the court has to be referred to a substantial number of documents.

At the hearing the applicant will be required to take an oath or affirm: see Criminal Procedure Rules, rule 47.25(4).

**5. The offence(s) under investigation**

Where the application relies on the first set of access conditions in PACE Schedule 1, the investigation must be into an indictable offence. An offence may be indictable under legislation or at common law. Give sufficient details for the judge to be able to make an informed decision about the application.

**6. The material sought (see also guidance 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. If the material sought is from financial records, e.g. bank accounts, the judge must be satisfied that the dates from, or between, which that material is sought can be justified by reference to the investigation. Avoid general requests like ‘all entries since inception’ unless that can be justified by reference to relevant dates.

Under section 8(4) of PACE, ‘relevant evidence’, in relation to an offence, means anything that would be admissible in evidence at a trial for the offence.

The question at box 3(e) is about the balance the judge must strike, before issuing a warrant and even if all the other conditions for issuing a warrant are satisfied, between (i) the importance of the public interest in protecting privacy and confidentiality against intrusion, and (ii) the importance of the public interest in effective investigation of suspected criminal conduct. You must satisfy the judge that the public interest requirement in paragraph 2 of PACE Schedule 1 is met (see guidance note 1 above). A useful approach is to ask yourself the question why your need for the information you hope to get justifies a search for it, despite the impact that search will have on those who will be affected, and then explain that in your answer to the question.

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 9 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 section 11 of PACE, ‘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.

Under PACE s.12, ‘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.

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.

‘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).

**9. Special procedure material**

Under section 14 of PACE, ‘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. Other powers to seize and sift**

Under section 19 of PACE:[[7]](#footnote-7)

1. a constable who is lawfully on any premises may seize anything which the constable has reasonable grounds for believing has been obtained in consequence of the commission of an offence, or which is evidence in relation to an offence which the constable is investigating or any other offence, and in either case it is necessary to seize it to prevent it being concealed, lost, damaged, altered or destroyed.
2. a constable may require any information which is stored in any electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form.
3. no power of seizure conferred on a constable under any enactment authorises the seizure of an item which the constable exercising the power has reasonable grounds for believing to be subject to legal privilege.

Under section 50 of the Criminal Justice and Police Act 2001,[[8]](#footnote-8) 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. Premises to be searched**

Paragraph 12 of PACE Schedule 1 allows the court to issue a search warrant in respect of premises specified in the application, or in respect of any premises occupied or controlled by a specified person (an ‘all premises warrant’) if the requirements in paragraph 12A of the Schedule are satisfied. If the details in each case are substantially the same (e.g. the same investigation and the same suspect), one application form can be used to make applications for one or more specified premises warrants and an all premises warrant.

The applicant must describe the premises in as much detail as needed to define the geographical extent of the search authorised by the court. A corresponding description must be entered in the draft warrant for the court. If only part of a building is to be searched, a plan may be helpful. If you are applying for warrants in respect of more than one set of specified premises you must attach a draft warrant for each.

A vehicle on premises that you are authorised to search (on a driveway or in a garage, for example) can be searched in the same way as anything else on those premises. If you want to search a vehicle parked nearby (in the street, for example) you can apply for a warrant to search it as separate premises. Under section 23 of PACE[[9]](#footnote-9) the definition of ‘premises’ includes any vehicle and any movable structure. Use box 4 or the table at the end of the form if you can specify the vehicle(s) you want to search (for example, by registration number or other description). Use box 5 if you cannot specify a vehicle or vehicles you want to search and include an explanation of how you will establish that the person whom you identify in box 5 has control of the vehicle(s) (it might be by that person’s possession of the vehicle keys, for example).

**12. Duty of disclosure**

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 identify for the court information that comes from a source that cannot be tested (for example, a report from an anonymous informant), and must explain why that information is thought to be credible. Sensitive information may be set out in a separate document: Criminal Procedure Rules, rule 47.26(4) (and see guidance note 4 above).

The applicant must inform the court if there is anything else that might influence the court’s decision to issue a warrant and which is not the subject of any other question in this application form. This may include whether there is any unusual feature of the investigation or of any potential prosecution – for example, might the investigation result in a private prosecution?

November 2021

1. Delete as applicable. [↑](#footnote-ref-1)
2. Delete if not applicable. [↑](#footnote-ref-2)
3. Delete as applicable and give brief reasons for the decision. [↑](#footnote-ref-3)
4. <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/903811/pace-code-b-2013.pdf> [↑](#footnote-ref-4)
5. <https://www.app.college.police.uk/app-content/investigations/investigative-strategies/search-powers-and-obtaining-and-executing-search-warrants/> [↑](#footnote-ref-5)
6. <https://www.legislation.gov.uk/ukpga/1984/60/schedule/1/paragraph/12> [↑](#footnote-ref-6)
7. <https://www.legislation.gov.uk/ukpga/1984/60/section/19>. [↑](#footnote-ref-7)
8. <https://www.legislation.gov.uk/ukpga/2001/16/section/50>. [↑](#footnote-ref-8)
9. <https://www.legislation.gov.uk/ukpga/1984/60/section/23>. [↑](#footnote-ref-9)