

EXAMPLE of a Warrant Application under the Animal Welfare Act 2006

APPLICATION FOR SEARCH WARRANT

(Criminal Procedure Rules, rr.47.26 & 47.34; 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.

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: <http://www.justice.gov.uk/courts/procedure-rules/criminal/forms-2015>.

(a) What legislation allows the court to issue the warrant(s) for which you are applying? This is the main search power.

Section 23(1), Animal Welfare Act, 2006. Relevant offences committed contrary to:

Section 4: Unnecessary suffering

Section 9: Duty of person responsible for animal to ensure welfare

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

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.

specify what the suspected offence is e.g.....

A rottweiler type dog known to have an injury to the leg and owner/person responsible has failed to seek urgent veterinary treatment contrary to section 4 of the Animal Welfare Act 2006.

Or the animal is housed in an unsuitable environment which is filthy and full of hazards
owner/person responsible, failing to meet the animals needs to the extent required by good practice-contrary to section 9 of the AWA 2006.

(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.

This will be a list of dates and evidence to support why we think the offence has/is being committede.g.

09/12/21 RSPCA Inspector Jones attended the address..... and observed a dog which was non weight bearing on front left leg, owner was given a notice to take the animal to the vet within 24hrs and follow all vet advice.

10/12/21 enquiries made with the vets and owner failed to attend with the dog, rspca returned to the address and were denied entry, dog heard inside.

11/12/21 RSPCA attended the address with the police and again entry was denied etc.....

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.

The search will be in compliance with the conditions as laid out in Schedule 2.10 (a-j) of the AWA 2006, the main focus will be to find the animal and any other articles that are considered to be of evidential significance to the investigation,

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:

Address - to include dwellings, outbuildings, garden, temporary or permanent structures, animal accommodation, vehicles on site.

(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.

e.g it is known to the RSPCA that the animal is kept at the site, in the property etc. Sworn statements have been obtained and photographic evidence etc.

(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.

There are no powers of entry to the premises without an issued search warrant. Section 52 of the animal Welfare Act 2006 (conditions for grant of warrant) have been considered and the assessment is that

Section 52 (2) namely the whole premises is used as a private dwelling and the occupier has been informed of the decision to apply for a warrant, additionally RSPCA has attended and have been denied entry.

OR

that Section 52(5)(a) is applicable, namely that it would be inappropriate to inform the occupier of the decision to apply for a warrant because it would defeat the object of entering the premises. (It is believed that to do so would result in evidence being removed, hidden, destroyed or deleted.)

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).

e.g. RSPCA Inspectors, RSPCA Animal Rescue Officers (ARO), veterinary surgeon(s), Dog Warden, EHO etc any other person required by the constable to fulfil any function necessary to complete the execution of the warrant properly and safely.

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

e.g. RSPCA can identify, handle and transport the animals and recognise conditions likely to compromise welfare. Veterinary Surgeons can examine the animals and detect and diagnose disease or illness, and to give a veterinary opinion. etc

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:

10) Authorisation

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

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.

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.