

## **Lay Magistrates' Signatory Duties**

This short guide is intended to deal with the “mechanics” of Lay Magistrates' signatory duties rather than with the legal process. Lay Magistrates are asked to refer to Chapter 4 of the *Lay Magistrates' Manual* and to their **Induction Training materials** for a fuller account of these duties. The guide does not contain advice in relation to Emergency Protection Orders, as this is available in the *Emergency Protection Order Pack* which all Lay Magistrates should have received.

### **Signing Generally**

Whenever Lay Magistrates sign any document *in their capacity as a Lay Magistrate* they should simply make their normal signature in the appropriate place and if there are different designations printed below the place for signature, *e.g.* “Resident Magistrate/Lay Magistrate/Clerk of Petty Sessions”, they should put a line through the designations which don't apply leaving only the designation “Lay Magistrate”. Where designations are not given it is good practice to write in the designation “Lay Magistrate” after the signature. The use of rubber stamps in association with signing documents is discouraged as it goes beyond what is required in law and may lead to confusion or difficulty. Where a Lay Magistrate is also a Justice of the Peace it is important that he or she puts a line through “Justice of the Peace” where that appears as a designation so that there is no doubt or confusion as to the capacity in which he or she is signing.

### **Summons to a Defendant**

1. A Complaint may be received **either on oath or not on oath**.
2. This is in the LM's discretion but almost invariably an oath is not required.
3. In practice the Complaint will be in writing.
4. The Complaint may be in Form 1, an example of which is contained within the Induction Training materials. (See point 7 below for the alternative)
5. The LM should sign the Form 1 below where the complainant has signed it. (It is only necessary for the LM to witness the complainant's signature whenever, exceptionally, the complaint is laid on oath)
6. The summons is then (or on a later date) signed and dated by a LM (who does not need to be the same LM who signed the Form 1 complaint).
7. Alternatively, the Complaint may take the form of a summons ready to be signed.
8. The LM will simply date and sign the summons.
9. A summons must never be signed in blank – all relevant details should be entered before signature.
10. LMs may only sign summonses requiring a Defendant (wherever they reside) to appear before a magistrates' court for their own county court division.
11. See paragraph 4.10 of the *Manual* on the decision whether or not to issue.

12. Police officers prove service of the summons on the Defendant by affidavit.
13. This is known as “Particulars of Service” and appears on the reverse of the summons.
14. Any LM may witness this form of affidavit, regardless of whether they issued the summons and regardless of the division in which it was issued.
15. The officer who served the summons should sign it in the presence of the LM.
16. The LM will then sign in the space provided giving the date and place of signature. (See paragraphs 4.47-4.52 of the *Manual* for elaboration)
17. Officers should not be put on oath prior to swearing this or any affidavit.
18. LMs need not concern themselves about the contents of the summons or particulars of service when witnessing the affidavit.

### **Witness Summons**

1. The application **does not have to be on oath.**
2. The LM will normally be presented with an unsigned/undated witness summons for signature.
3. See paragraph 4.13 of the *Manual* as to the decision whether or not to sign.
4. A witness summons must never be signed in blank – all relevant details should be entered before signature.
5. LMs may sign a witness summons for any county court division.

### **Warrants to enter and search**

1. The application **must be in writing and on oath.**
2. The informant should be sworn by the LM and the informant will then sign the written information.
3. The LM should then consider the contents of the information and seek whatever further information is considered necessary.
4. See paragraphs 4.30 to 4.37 of the *Manual* and also the *Search Warrant Checklist* as to the decision whether or not to issue the warrant.

**N.B.** It is impossible to provide an exhaustive list of the various types of documents which Lay Magistrates are legally empowered to sign. The important thing is for Lay Magistrates to satisfy themselves by requiring the necessary verification from the person seeking their signature (this will usually be by reference to the legislation which empowers the Lay Magistrate) that they have the authority to sign. It should be noted that Lay Magistrate Liaison Officers are not qualified to advise on such matters.