

- 15.6 If driving is witnessed, by whoever, the manner and nature of that driving is vitally important and should always be taken into account. In cases of 'attempting to drive' or 'being in charge' or following a collision where evidence of driving may be minimal, if available at all, the greatest care must be exercised to ensure that there is sufficient evidence that a person was 'unfit to drive' at the time of the offence. Such evidence should include observations of a suspect's physical state prior to and during participation in Field Impairment Tests.
- 15.7 The evidence obtained from Field Impairment Tests will enhance the information available to a court about the physical state of a suspect at the time of testing.



# **CODE OF PRACTICE FOR PRELIMINARY IMPAIRMENT TESTS**

## **A Code of Practice**

Issued by the Secretary of State for Transport under the power contained in Section 6B(2) Road Traffic Act 1988 (as amended by the Railways and Transport Safety Act 2003), and for the use of police officers trained and authorised to carry out Preliminary Impairment Tests.

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observations made. In such circumstances, a constable may consider Field Impairment Tests as a Preliminary Impairment Test inappropriate or impractical.

*A Preliminary Impairment Test is not a prerequisite of any arrest or an essential element in any prosecution.*

### **15 Inferences**

- 15.1 It is not possible to 'pass' or 'fail' all or any one of the tests. There is no benchmark for pass or failure, nor is there any scoring system to indicate relative success.
- 15.2 The constable shall record their observations of the pupillary examination and of the subject's performance during each test.
- 15.3 It is the intention that, at the conclusion of the tests, the constable shall be able to form an overall opinion, considering together what they know of the subject's driving, their demeanour and anything learned in general conversation or observation, together with the subject's performance during the tests and the observation of the pupillary examination, whether the person is impaired to drive a motor vehicle through drink or drugs. The constable may decide, from all of this information, whether there is sufficient evidence to arrest the subject for an offence contrary to sections 3A or 4 Road Traffic Act 1988.
- 15.4 The pupillary examination and the series of tests will be considered a useful indicator whether a person is impaired to drive and whether that impairment might be due to drink or drugs.
- 15.5 Prior to requiring a Preliminary Impairment Test, it is vital that there must be suspicion that the suspect is impaired to drive. Such suspicion will be obtained in various ways, including the manner of driving, and/or signs and symptoms of drug use observed by witnesses. The observations of the signs and symptoms are of paramount importance in the absence of evidence of a suspect's manner of driving.

### **13 Safety and Site Conditions**

- 13.1 The constable administering Field Impairment Tests must consider the safety of the subject at all times.
- 13.2 The location chosen for the tests should, whenever possible, have a hard, level, non-slippery surface, and be in a well lit, unobstructed area, away from public gaze and in appropriate weather conditions. Whenever it is not possible to achieve all or any of these, the constable conducting the tests should consider, either requiring the test to be conducted at another nearby location or at a police station, or make appropriate allowances in interpreting the observation of the tests.
- 13.3 If the subject is wearing footwear that may affect performance of the tests, the subject should be given the opportunity to remove that footwear.
- 13.4 The constable should not close his/her eyes when demonstrating any test in which the subject is required to close the eyes. The constable should also stand away from the subject and remain stationary while the test is being undertaken as movement may be a distraction for the subject.

### **14 Disabilities, Injuries and Illness**

- 14.1 Constables administering Field Impairment Tests must be aware of and record any disability, injury or illness, whether physical or mental, which may affect performance of a test. Being obese or elderly may also affect performance of the tests and must be recorded.
- 14.2 A constable administering Field Impairment Tests whenever any of the above is evident or claimed may nevertheless, if they wish, continue with the requirement to cooperate with the test. However, in such circumstances, the constable must be particularly mindful of the possible effect on performance of the tests when interpreting the

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- to maintain the position while the remaining instructions are given
- not to begin until told to
- when told to start, to tilt the head back slightly and **then** close the eyes (The constable may demonstrate the position)
- when told which hand to move, to touch the tip of the nose with the tip of the index finger of that hand and then having done so,
- to lower the hand (The constable may demonstrate the required action)

and ascertain;

- that the subject understands the instructions so far given, and
- whether the subject has any disability or medical condition which he thinks might prevent participation in the test.

11.3 The constable shall call out the order of the hands to be used as follows, Left, Right, Left, Right, Right, Left.

11.4 The constable will record any instance during the test when the subject steps, sways or raises an arm, and whether the correct hand was used. The constable will record any occasions when the subject touched a part of the face other than the tip of the nose, and whereabouts.

## **12 Additional Notes**

12.1 A constable administering Field Impairment Tests will record any additional notes about a subject's behaviour, physical or mental state, or other relevant observations.

- to keep the elevated leg straight with the toes pointing forward and the foot parallel with the ground
- to keep the arms down by the side, and
- to keep looking at the elevated foot throughout the test and whilst doing so, to count out aloud 'one thousand and one, one thousand and two, one thousand and three' and so on progressively until told to stop

and ascertain;

- whether the subject has understood the remaining instructions
- whether the subject has any disability or medical condition which he thinks might prevent participation in the test.

10.3 The officer will instruct the subject to undertake the test using each foot in turn. The instructions need not be repeated for the second foot but they may be.

10.4 The constable will record over a timed period of 30 seconds, for each foot, any instances where the subject sways, hops, puts a foot down or raises the arms, together with the point of the test at which it occurred.

## **11 Finger to Nose Test**

11.1 The finger to nose test is a test of depth perception and balance.

11.2 Before a finger to nose test, a constable shall instruct the subject;

- to stand with feet together and whilst doing so
- to extend both arms out in front, palms side uppermost, with the fist closed and the index finger of each hand extended (The constable should demonstrate the position)

## **CODE OF PRACTICE**

### **ROAD TRAFFIC ACT 1988 Sections 3A, 4 and Section 6B as amended by the Railways and Transport Safety Act 2003**

#### **1 Introduction**

1.1 The Road Traffic Act 1988 as amended by the Railways & Transport Safety Act 2003 requires the Secretary of State to issue a Code of Practice, (the Code) in respect of Preliminary Impairment Tests.

1.2 Section 6B(2) specifies that the Code deals with;

- the kind of task that may be specified for the purpose of a Preliminary Impairment Test;
- the kind of observation of physical state that may be made in the course of a Preliminary Impairment Test;
- the manner in which a Preliminary Impairment Test should be administered;  
and
- the inferences that may be drawn from the observations made in the course of a Preliminary Impairment Test.

In issuing or revising this Code the Secretary of State shall aim to ensure that a Preliminary Impairment Test is designed to indicate;

- whether a person is unfit to drive;  
and
- if he is, whether or not the unfitness is likely to be due to drink or drugs.

1.3 The Code includes provision about;

- approval by a Chief Officer and
- training & qualification of police officers.

## 2 Approval by Chief Officer

2.1 A police officer administering a Preliminary Impairment Test under this Code must be approved for the purpose by the chief officer of the police force to which he belongs.  
(Section 6B (6) Road Traffic Act 1988)

## 3 Training and Qualification

3.1 Before being approved by his chief officer to administer preliminary impairment tests under this Code, a constable shall be qualified for the purpose by training and assessment in the use of Field Impairment Tests in accordance with the standard set in:

- BS EN ISO 9001: 2000 and
- The Quality Manual held by the Association of Chief Police Officers (ACPO) and the Association of Chief Police Officers Scotland (ACPOS).

3.2 In addition to being trained to administer the Field Impairment Tests, constables authorized to administer the tests will also be trained to a standard set down in the above BS EN ISO, to identify the signs and symptoms of drug influence.

3.3 Constables will be trained for the purpose only by instructors who have been approved for that purpose, in England and Wales by the Association of Chief Police Officers (ACPO) and, in Scotland by the Association of Chief Police Officers (Scotland) (ACPO(S)).

and

- whether the subject has any disability or medical condition which he thinks might prevent participation in the test.

9.3 The constable will record whether the subject was able to stand still while being instructed, whether the subject started too soon, whether the subject turned correctly, any occasions when the subject stopped walking, missed heel to toe connection, stepped off line, or raised their arms. The constable will also record whether the steps were correctly counted. The point of any deviation from the straight line during the course of the test will additionally be marked on a diagram on the appropriate form.

## 10 One Leg Stand

10.1 The one leg stand test is a task including balance and counting out loud.

10.2 Before a one leg stand test, a constable shall instruct the person;

- to stand with their heels and toes together and their arms down by their sides
- to maintain the position while receiving the remaining instructions, and
- not to begin until told to

and ascertain;

- whether the subject understands the instructions so far given

The constable shall further instruct the subject that when he/she says 'start';

- to raise the right foot 6 to 8 inches or 15 to 20 centimetres off the ground

- to place the left foot on the line
- to place the right foot on the line in front of the left foot touching heel to toe (The constable may demonstrate the position)
- to put the arms down by the side and keep them there throughout the test, and
- to maintain the position while remaining instructions are given

and ascertain;

- whether the subject understands the instructions so far given

The constable shall further instruct the subject that when he/she says 'start';

- to take nine heel to toe steps along the line
- to ensure that on each step the heel of the front foot is placed against the toe of the other foot (The constable may demonstrate the instructions so far given)
- after nine steps have been taken, to leave the front foot on the line and turn around using a series of small steps with the other foot
- after turning, to take another nine heel to toe steps back along the line
- to watch the feet at all times during the test
- to count each step out loud
- having once started, not to stop until the test is complete

(The constable should demonstrate the complete test)

and ascertain;

- whether the subject has understood the remaining instructions,

- 3.4 Chief officers will keep a record of officers trained and the date of approval and should issue to each officer a certificate of approval. The certificate will refer to Section 6B(6) Road Traffic Act 1988.

## 4 Administration of Preliminary Impairment Tests

- 4.1 A Constable administering a Preliminary Impairment Test shall have regard to this Code.

- 4.2 A Preliminary Impairment Test may be administered:

- at or near the place where the requirement to cooperate with the test is imposed, or
- if the constable who imposes the requirement thinks it expedient, at a police station specified by him.

## 5 Definition

**A Preliminary Impairment Test may be a test of any type provided that it meets the requirements and objectives of the Act and is administered in accordance with a Code of Practice issued by the Secretary of State for the purpose. This Code of Practice deals solely with the use of Pupillary Examinations and Field Impairment Tests together as a Preliminary Impairment Test.**

## 6 The Test Procedure

The Field Impairment Tests administered and the observations made shall be recorded on an appropriate form.

### 7 Pupillary Examination

7.1 Before a pupillary examination the constable shall instruct the subject to;

- look straight ahead
- keep their eyes open

and ascertain that:

- the person understands the instruction, and
- whether contact lenses are being worn

7.2 The examination will be conducted using a gauge. The gauge will be held adjacent to the appropriate side of the subject's face to enable the constable, by a process of comparison, to estimate the sizes of the subject's pupils.

7.3 The constable may also record if the subject's eyes are 'watery' and/or whether the subject's eyes display 'reddening'.

### 8 The Modified Romberg Balance Test

8.1 The Modified Romberg Balance Test is an indicator of a person's internal clock and ability to balance.

8.2 Before a Modified Romberg Balance Test, a constable shall instruct the subject;

- to stand up straight with heels and toes together and with arms down by the side
- to maintain the position while the remaining instructions are given, and

- not to begin until told and

when further instructed;

- to tilt the head back slightly and then close their eyes (The constable may demonstrate the position required but without closing his/her eyes)
- to bring the head forward, open their eyes and say 'stop' when they think that 30 seconds have passed.

and ascertain;

- that the subject understands the instructions, and
- whether the subject has any disability or medical condition which he thinks might prevent participation in the test.

8.3 The constable will record whether the subject was able to balance while being instructed, whether the subject steps, sways and or raises their arms during the test and whether the subject's eyes were opened or head was lowered. The constable will also record the number of seconds that had elapsed when the subject said 'stop', and whether the subject was able to complete the test.

### 9 Walk and Turn Test

9.1 The walk and turn test is an exercise that enables assessment of whether a person is able to divide attention between walking, balancing and processing instructions.

9.2 Before a walk and turn test, a constable shall identify a line, avoiding the use of a kerb or anywhere the subject may fall, and shall instruct the subject;