So, You Were Stopped by the Police: Driving

A Roadside Survival Guide for Medical Cannabis Patients and All Motorists

UK-wide edition

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Read This First

This guide is intended to help you understand what may happen when the police stop you while driving, what your basic rights and responsibilities are, and what information you should record afterwards.

It is for all motorists. Some sections contain additional information for people who are lawfully prescribed medical cannabis or another medicine that may affect driving.

The law and police procedure are not identical across the United Kingdom. England and Wales, Scotland, and Northern Ireland have different criminal justice systems. Important differences are identified throughout this guide.

Disclaimer

This guide is provided for general information and public education. It is not legal, medical or clinical advice. Road traffic law, police powers, custody procedure and complaints systems vary across the United Kingdom and may change. The outcome of any case depends on its particular facts and evidence. Obtain advice from an appropriately qualified solicitor and healthcare professional.

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Contents

Read This First 1

Disclaimer 1

The Essential Roadside Checklist 3

Abbreviations 3

1. Introduction 4

2. Understanding Police Powers 5

3. Know Your Rights 8

4. Your Responsibilities 10

5. Medical Cannabis and Driving 12

6. Before You Drive 14

7. During the Stop 16

8. Questions to Ask Yourself After the Stop 18

9. DrugWipe and Roadside Testing 20

10. Field Impairment Tests 21

11. Arrest 23

12. At the Police Station 25

13. The Medical Cannabis Defence 28

14. What Evidence Should You Collect? 30

15. Build a Timeline 32

16. Frequently Asked Questions 34

17. Common Myths 36

18. Common Mistakes 37

19. If You Think Something Went Wrong 38

20. Useful Contacts 40

21. After-Incident Self-Assessment 41

22. Final Reminder 42

Appendix 1: Road Traffic Act 1998 - Sections 4, 5A, 6 and 7 43

Appendix 2: National Police Chiefs' Council (NPCC) guidance on cannabis-based medicinal products (CBPMs) 52

Appendix 3: Police and Criminal Evidence Act 1984 (PACE) 60

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The Essential Roadside Checklist

When you are stopped:

1. Stop as soon as it is safe.
2. Switch off the engine and remain calm.
3. Follow lawful safety instructions.
4. **Ask for their camera to be turned on and use your mobile device to record the incident and inform the police you are doing so**.
5. Ask why you have been stopped.
6. Provide documents and identifying information when legally required.
7. Do not lie, guess or become argumentative.
8. Tell the officer about any disability, communication need or medical condition that may affect a test.
9. Tell the officer if you are lawfully prescribed cannabis or another relevant medicine.
10. Do not assume that a prescription allows you to refuse a test.
11. Ask for a solicitor if you are arrested or taken into custody. (Your clinic may have provided you with a contact to a solicitor)
12. **Once again, request that the whole process is recorded**.
13. Write down what happened as soon as possible afterwards. (see section 8. Question to Ask Yourself After the Stop)

Abbreviations

Abbreviation	Meaning
ADHD	Attention Deficit Hyperactivity Disorder
ANPR	Automatic Number Plate Recognition
CBPM	Cannabis Based Prescription Medicine
CCTV	Closed-Circuit Television
CDLO	Controlled Drug Liaison Officer
CQC	Care Quality Commision
GP	General Practitioner
IOPC	Independent Office for Police Conduct
MOT	Ministry of Transport test, the statutory vehicle roadworthiness test
NHS	National Health Service
PACE	Police and Criminal Evidence Act 1984
NPCC	National Police & Crime Commissioners
PIRC	Police Investigations and Review Commissioner
PSNI	Police Service of Northern Ireland
THC	Tetrahydrocannabinol

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1. Introduction

Why This Guide Exists

A police traffic stop can be stressful and confusing. Drivers may not understand why they have been stopped, what officers are checking or whether a roadside test means they have committed an offence.

Medical cannabis patients face an additional difficulty. A patient may be taking THC lawfully under a prescription while still producing a positive roadside saliva result. A lawful prescription is important, but it does not prevent the police from investigating and it does not permit anyone to drive while impaired.

The purpose of this guide is to help motorists:

- understand the difference between a vehicle stop and a criminal investigation.
- respond safely and appropriately.
- understand roadside alcohol, drug and impairment testing.
- explain relevant medical circumstances.
- protect important evidence.
- obtain legal help when necessary.

It does not:

1. **encourage confrontation,**
2. **refusal,**
3. **obstruction, or**
4. **attempts to argue a legal case at the roadside.**

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2. Understanding Police Powers

Why Can the Police Stop a Vehicle?

A police officer may stop a vehicle for many reasons. A stop does not necessarily mean that the driver is suspected of a serious offence.

Possible reasons include:

- checking the driver's licence, insurance or vehicle documents.
- checking the condition or roadworthiness of the vehicle.
- observing a traffic offence.
- concerns about the manner of driving.
- a road traffic collision.
- a drink or drug-driving operation.
- an Automatic Number Plate Recognition (ANPR) alert.
- intelligence concerning the vehicle, registered keeper or an occupant.
- locating a witness, missing person, stolen vehicle or wanted person.
- general roads-policing activity.

In Great Britain, a uniformed police officer has a broad statutory power to require a driver to stop. Public guidance describes the police as being able to stop a vehicle for any reason. Failing to stop when lawfully required is an offence. Northern Ireland has separate road traffic legislation under which the PSNI may also stop vehicles. ([1])

Random Vehicle Stops and Random Drug Tests Are Not the Same Thing

The legal power to stop a vehicle is broader than the power to require a breath, saliva or impairment test.

In Great Britain, preliminary drink or drug-driving tests normally require a statutory basis, such as reasonable suspicion that the driver has alcohol or a drug in their body, a moving traffic offence, or involvement in a collision. A driver should not assume that every vehicle stop automatically permits every possible test. Equally, the roadside is not normally the appropriate place to conduct a detailed legal argument about the officer's grounds. ([2])

Northern Ireland has its own testing provisions and also permits authorised drink-driving checkpoints in defined circumstances. Drivers should obtain Northern Ireland-specific advice when the legal grounds for a test are disputed. ([3])

[1] https://www.gov.uk/stopped-by-police-while-driving-your-rights
[2] https://www.cps.gov.uk/prosecution-guidance/road-traffic-drink-and-drug-driving
[3] https://www.legislation.gov.uk/nia/2016/11/part/2/crossheading/breath-testing-at-authorised-checkpoints

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ANPR Stops

Automatic Number Plate Recognition systems read registration numbers and compare them with police records. An alert might relate to:

- insurance,
- a stolen vehicle,
- a wanted person,
- intelligence or another matter.

An ANPR alert is a reason for officers to make enquiries. It is not, by itself, proof that the driver has committed an offence. College of Policing guidance states that ANPR identification should not replace other investigative enquiries and officer judgement. ([4])

A Vehicle Stop Is Not Automatically a Search

The police power to stop a vehicle does not automatically provide a power to search the driver, passengers or vehicle. **A separate search power or lawful basis must apply**.

Where a search is proposed, ask calmly:

- Am I being searched?
- Is the vehicle being searched?
- What legal power are you using?
- What are you looking for?
- What are the grounds for the search?

Do not physically obstruct a search. Record any disagreement afterwards and discuss it with a solicitor. ([5])

Traffic Matter or Criminal Investigation?

A stop may begin as a routine traffic check and develop into a criminal investigation if an officer observes something that creates suspicion of an offence.

Signs that the encounter may have developed include:

- being cautioned.
- being told that you are suspected of an offence.
- detailed questioning about drug use or possession.
- a formal search.

[4] https://www.police.uk/advice/advice-and-information/rs/road-safety/automatic-number-plate-recognition-anpr/
[5] https://www.college.police.uk/app/stop-and-search/legal/legal-basis

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- a roadside drug or impairment test.
- seizure of property.
- arrest.

Ask: **"Am I being treated as a suspect, and am I free to leave?"**

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3. Know Your Rights

You May Ask What Is Happening

You may calmly ask:

- Why have I been stopped?
- Am I suspected of an offence?
- What test are you requiring?
- Under what power are you searching me or the vehicle?
- Am I under arrest?
- Am I free to leave?

An officer may not be able to disclose every intelligence detail during an active investigation.

However, if you are arrested, you should be told that you are under arrest and the reason for it.

Identification and Documents

A driver may be required to provide identifying details and produce documents such as a driving licence, insurance evidence or MOT information. Some information can often be verified electronically.

In Great Britain, documents that are not immediately available may in certain circumstances be produced at a police station within seven days.

Do not provide false details or false documents.

If you do not know an answer, say that you do not know rather than guessing. ([6])

Fair and Respectful Treatment

You should be treated fairly and professionally. Police decisions should not be based on stereotypes concerning disability, race, religion, sex, gender reassignment or another protected characteristic.

The precise equality legislation differs between Great Britain and Northern Ireland, but discrimination is not made acceptable because an encounter occurs at the roadside.

Disability and Communication Needs

Tell the officer as soon as possible if you:

- are deaf or hard of hearing.

[6] https://www.gov.uk/stopped-by-police-while-driving-your-rights

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- need an interpreter.
- have difficulty understanding spoken instructions.
- have a learning disability.
- are autistic.
- have a speech condition.
- have limited mobility.
- have a condition affecting balance or coordination.
- are experiencing a medical emergency.
- need an appropriate adult or communication support in custody.

Do not assume that the officer will recognise a hidden disability.

At a police station, people in custody have rights concerning legal advice, medical help, interpretation and communication support. The detailed rules differ between jurisdictions. ([7])

Legal Advice

If you are arrested or detained at a police station, ask for a solicitor. Legal advice in police custody is generally available without charge.

Asking for a solicitor does not imply guilt.

The right to legal advice does not normally allow a person to refuse or indefinitely delay a legally required breath, blood or urine sample. In England and Wales, the official notice of rights expressly states that a person arrested for a drink or drug-driving offence has a right to speak to a solicitor, but this does not create a right to refuse a required sample while waiting. ([8])

[7] https://www.gov.uk/government/publications/notice-of-rights-and-entitlements-english/notice-of-rights-and-entitlements-english
[8] https://www.gov.uk/government/publications/notice-of-rights-and-entitlements-english/notice-of-rights-and-entitlements-english

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4. Your Responsibilities

Rights and responsibilities operate together.

Stop Safely

When signalled to stop:

- slow down.
- indicate.
- choose the first reasonably safe location.
- stop the engine.
- remain in the vehicle unless instructed otherwise.
- keep your hands visible.
- avoid sudden movements.

If the location appears unsafe, reduce speed, activate your hazard lights and indicate that you are complying while moving to a safer nearby location.

Remain Calm

You do not have to agree with an officer's assessment, but shouting, threatening behaviour, insults or physical resistance can make the situation more difficult and may create additional allegations.

Follow Lawful Instructions

Comply with lawful directions concerning safety, documents, testing, arrest and custody.

Do not assume that saying "I have a prescription" makes a saliva test, impairment test or evidential sample optional.

Do Not Obstruct

Do not:

- drive away.
- conceal or destroy evidence.
- interfere with testing equipment.
- physically resist a search.
- encourage another person to give false information.
- attempt to hide medicine or packaging.

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Be Truthful, but Do Not Guess

Being truthful does not mean that you must speculate or give a detailed evidential interview without legal advice.

Useful responses include:

- "I do not know."
- "I cannot remember the exact time."
- "I would like legal advice before answering detailed questions."
- "I am prescribed this medicine and can provide evidence."
- "My medical condition may affect this physical test."

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5. Medical Cannabis and Driving

A Prescription Is Not Permission to Drive While Impaired

Being lawfully prescribed cannabis does not automatically mean that you are fit to drive.

It remains an offence to drive while your ability to drive properly is impaired by a drug. That principle applies to prescribed medicines as well as unlawfully obtained drugs. ([9])

Do not drive if you are experiencing effects such as:

- sleepiness.
- dizziness.
- poor coordination.
- slowed thinking.
- difficulty concentrating.
- visual disturbance.
- unusual confusion.
- any other symptom that may affect safe driving.

Risk may be greater when starting treatment, changing a dose, taking another medicine or combining medication with alcohol. ([10])

THC in the Body and Impairment Are Different Questions

A roadside saliva test is designed to indicate whether a relevant drug is present. It does not determine whether the driver is impaired and it does not provide the evidential concentration found in blood.

This means that:

- a positive roadside result does not itself prove impairment.
- a driver can be investigated even if they do not feel impaired.
- a prescription does not make a positive result disappear.
- the police may still arrest the driver and obtain an evidential sample.

[9] https://www.gov.uk/government/publications/drug-driving-and-medicine-advice-for-healthcare-professionals/drug-driving-guidance-for-healthcare-professionals
[10] https://www.gov.uk/government/publications/drug-driving-and-medicine-advice-for-healthcare-professionals/drug-driving-guidance-for-healthcare-professionals

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Important UK-Wide Legal Difference

England, Wales and Scotland

Great Britain has two relevant forms of drug-driving offence:

1. Driving while unfit through drink or drugs.
2. Driving with a specified controlled drug above the applicable legal limit.

A **statutory medical defence** may be available for the second offence where the medicine was lawfully prescribed or supplied and was taken in accordance with directions. It is not a defence to driving while actually impaired. ([11])

Northern Ireland

Northern Ireland has separate road traffic legislation and currently uses an impairment-based drug-driving framework rather than the same Great Britain specified-drug-limit offence.

The statutory medical defence described in Part 13 is therefore a Great Britain defence and should not be presented as applying automatically in Northern Ireland. A lawful prescription remains important evidence in Northern Ireland, but the legal analysis is different. Obtain advice from a Northern Ireland solicitor. ([12])

[11] https://www.legislation.gov.uk/ukpga/1988/52/section/5A
[12] https://www.nidirect.gov.uk/articles/drug-driving

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6. Before You Drive

Ask yourself the following questions before every journey.

Fitness

- Have I taken my medicine exactly as directed?
- Has my dose recently started, increased, decreased or restarted?
- Do I feel sleepy, dizzy, confused or unusually slow?
- Is my coordination normal?
- Can I concentrate properly?
- Has my prescriber told me not to drive?
- Have I consumed alcohol?
- Have I taken another prescription or over-the-counter medicine that might increase impairment?
- Would I feel confident explaining why I believe I was fit to drive?

If you are unsure whether you are fit, do not drive.

Evidence

It may be helpful to have access to:

- a copy of your current prescription.
- the dispensing label.
- the original pharmacy packaging.
- a clinic letter.
- a clinic portal or pharmacy record.
- relevant instructions from your prescriber.
- the contact details of your clinic and pharmacy.

There is no need to carry your complete medical record. Choose evidence that confirms lawful prescribing while avoiding unnecessary disclosure of sensitive information.

Department for Transport guidance says it may be helpful for patients in Great Britain to keep suitable evidence with them showing that the controlled drug is being taken as prescribed. ([13])

Not every private medical cannabis prescription will appear in the NHS App. Do not rely on the NHS App as your only evidence unless you have confirmed that the prescription is visible there.

[13] https://www.gov.uk/government/publications/drug-driving-and-medicine-advice-for-healthcare-professionals/drug-driving-guidance-for-healthcare-professionals

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Packaging

Where practical, keep prescribed cannabis in its original dispensing container or packaging with the pharmacy label attached.

Avoid carrying prescribed cannabis in an unlabelled container. An unlabelled container does not necessarily prove unlawful possession, but it can make immediate verification more difficult.

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7. During the Stop

Not every stop follows the same sequence. A typical encounter may involve the following stages.

The Vehicle Is Stopped

Pull over safely.

Do not drive away or ignore the signal.

Initial Questions

The officer may ask where you have been, where you are going, whether you have consumed alcohol, whether you have taken drugs or medication, and whether there is anything in the vehicle they should know about.

Answer basic questions calmly.

Do not lie.

Ask for legal advice before a formal interview if you are being treated as a suspect.

Licence and Vehicle Checks

The officer may check:

- your driving entitlement.
- insurance.
- MOT status.
- vehicle tax.
- ownership or registered keeper information.
- police intelligence records.

Alcohol Testing

A breath test may be required where the legal conditions are met. A genuine physical or mental condition that prevents provision of a sample may amount to a reasonable excuse, but this depends on medical evidence and the facts. **Do not simply refuse**. ([14])

[14] https://www.gov.uk/stopped-by-police-while-driving-your-rights/breath-tests

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Drug and Medicine Questions

If asked, explain clearly:

- that you are lawfully prescribed medical cannabis.
- when you last took it, if you can accurately remember.
- whether you took it according to the prescribed instructions.
- whether you have evidence available.
- whether you are experiencing any impairing effects.

Do not estimate an exact time if you are unsure.

Roadside Saliva Test

The officer may require a saliva sample using an approved device where the legal grounds exist.

A prescription does not guarantee that the test will be cancelled.

Field or Roadside Impairment Assessment

A specialist or trained officer may ask you to perform physical and cognitive tasks.

Tell the officer before beginning if a medical condition, disability, pain, fatigue, anxiety or medication affects your ability to perform them.

Arrest

Arrest may follow a positive roadside test, suspected impairment, failure to cooperate, a traffic offence or another suspected offence.

A prescription does not prevent arrest. Arrest does not establish guilt.

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8. Questions to Ask Yourself After the Stop

Complete these questions as soon as it is safe to do so.

Reason for the Stop	
Why did the officer say the vehicle had been stopped?	
Was the reason given immediately or later?	
Was it connected to my driving?	
Was it an ANPR or intelligence-led stop?	
Was it a roadworthiness or document check?	
Did the officer mention a smell of cannabis?	
Did the stated reason change?	
Driving	
Was I driving normally?	
Was any traffic offence alleged?	
Was there a collision?	
Was any unsafe manoeuvre identified?	
Did the officer describe signs of impairment?	
Initial Interaction	
How many officers were present?	
Did they identify themselves?	
Were body-worn cameras active?	
What questions were asked?	
What answers did I give?	
When did I disclose my prescription?	

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Testing	
Was I breathalysed?	
Was I required to provide saliva?	
What device was used?	
What result was stated?	
Was a field impairment assessment conducted by a trained officer?	
What tasks did I perform?	
Did I explain any medical limitation?	
Was the outcome explained?	
Arrest and Custody	
What offence was stated?	
Was I cautioned?	
When was I arrested?	
When did I arrive at the police station?	
When was the evidential sample taken?	
Did I ask for a solicitor?	
Was I interviewed?	
When was I released?	
Medicine and Property	
Was medicine searched, handled or seized?	
Was it in labelled packaging?	
Was a property record or receipt provided?	
Was any medicine returned?	
Was anything damaged?	

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9. DrugWipe and Roadside Testing

"DrugWipe" is commonly used as a general name for a roadside saliva testing device, but police forces may use different approved equipment.

What the Test Does

Current official guidance states that roadside devices can screen saliva for cannabis and cocaine. The test provides an indication that a relevant drug may be present. ([15])

What the Test Does Not Do

A roadside saliva test does not:

- measure the driver's ability to drive safely.
- diagnose impairment.
- establish the evidential concentration in blood.
- determine whether the drug was lawfully prescribed.
- determine whether the medical defence applies.
- establish guilt.

Why a Positive Result Matters

A positive result can provide grounds for further investigation, including arrest and an evidential blood sample.

Even if the roadside test is negative, the police may continue an impairment investigation where there are other grounds to suspect that a drug has affected the person's driving. ([16])

Can You Refuse?

Do not refuse a lawful roadside test on the assumption that your prescription makes testing optional.

In Great Britain, failure without reasonable excuse to cooperate with a required preliminary test is itself an offence. Northern Ireland has separate but comparable testing provisions. Whether a medical condition provides a reasonable excuse depends on the evidence and circumstances. ([17])

[15] https://www.cps.gov.uk/prosecution-guidance/road-traffic-drink-and-drug-driving
[16] https://www.btp.police.uk/advice/advice-and-information/rs/road-safety/alcohol-drug-driving/
[17] https://www.cps.gov.uk/prosecution-guidance/road-traffic-drink-and-drug-driving

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10. Field Impairment Tests

Why They Are Used

A field impairment assessment helps an officer consider whether a person appears unfit to drive and whether that condition may be caused by drink or drugs.

It is different from a saliva test. A saliva test looks for an indication of a drug. An impairment assessment observes physical or cognitive performance.

Common Elements

A trained officer may consider:

- the appearance and response of the eyes and pupils.
- ability to follow instructions.
- balance.
- coordination.
- time estimation.
- walking and turning.
- standing on one leg.
- touching the nose with a finger.

Official evaluations describe tests including the Romberg test, walk-and-turn, one-leg stand, finger-to-nose and examination of the eyes and pupils. ([18])

Medical Conditions and Disability

A person may perform poorly for reasons unrelated to drug impairment.

Depending on the individual, relevant conditions may include:

- multiple sclerosis.
- Parkinson's disease.
- epilepsy.
- cerebral palsy.
- fibromyalgia.
- chronic pain.
- fatigue-related conditions.
- anxiety.
- autism.
- ADHD.

[18] https://assets.publishing.service.gov.uk/media/5a81c775e5274a2e87dbf6f7/drug-driving-evaluation-report.pdf

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- inner-ear or balance disorders.
- injuries affecting walking or standing.
- visual impairment.
- speech or neurological conditions.

These conditions do not automatically make a person unfit to drive. They may, however, affect a particular task, the understanding of instructions or the way a person appears to an officer.

Before beginning, say:

"I have a medical condition that may affect this test. Please record that before I start."

Explain the particular effect, such as:

- difficulty balancing.
- tremor.
- muscle stiffness.
- pain while standing.
- difficulty processing multiple spoken instructions.
- anxiety affecting speech.
- inability to close your eyes safely.

Do not deliberately perform badly and do not refuse solely because you disagree with the test.

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11. Arrest

Why You May Be Arrested

Possible grounds include:

- a positive roadside saliva result.
- suspected impairment.
- poor performance during an impairment assessment.
- failure or refusal to provide a required test.
- dangerous or careless driving.
- possession concerns.
- another suspected offence.
- the need to obtain an evidential sample.

The precise legal basis depends on the jurisdiction and the facts.

What Should Happen

You should be told:

- that you are under arrest.
- the offence or grounds.
- why arrest is considered necessary.
- the applicable caution.

Do not physically resist. Clearly state any medical needs.

Transport and Custody

You will normally be transported to a police station or custody facility.

You may be searched. Personal property may be recorded and kept safely while you are detained. Tell the police immediately if you need medication or medical attention. ([19])

Seizure of Medicine

Police may seize medicine where they have lawful grounds to believe it is evidence, where lawful possession requires investigation, or where property must be managed during custody.

[19] https://www.gov.uk/arrested-your-rights/your-rights-in-custody

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Prescription status does not make an item immune from seizure. However, police seizure must have a legal basis.

Ask:

- Why is the medicine being seized?
- Under what power?
- Is it being treated as evidence or custody property?
- Can I have a property receipt or reference?
- How can it be recovered?

In England and Wales, PACE permits seizure of material reasonably believed to be evidence where seizure is necessary to prevent concealment, loss, alteration or interference. Scotland and Northern Ireland have separate procedural rules. ([20])

[20] https://www.gov.uk/government/publications/pace-code-b-2023/pace-code-b-2023-accessible

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12. At the Police Station

Custody Staff

A custody officer or equivalent will record the reason for your detention and assess matters including:

- your identity.
- health and welfare.
- medication.
- disability or vulnerability.
- property.
- legal advice.
- interpretation or communication needs.
- whether you require your prescribed medicine while in custody.

Tell the custody staff about:

- your prescription.
- the medicine and dose.
- when you last took it.
- any risk from missing a dose.
- relevant health conditions.
- anxiety, autism or communication needs.
- pain, fatigue or mobility problems.

Solicitor

Ask for a solicitor experienced in road traffic and criminal law.

Tell the solicitor:

- that you are prescribed medical cannabis.
- whether the case appears to concern impairment, a specified limit or both.
- what the officers said about your driving.
- the roadside test result.
- whether you performed an impairment test.
- whether medicine was seized.
- whether you believe the stop was random, intelligence-led or followed your manner of driving.
- whether you have prescription evidence.

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Evidential Sample

A blood or urine sample may be required. Blood is commonly used in drug-driving investigations.

An evidential sample is different from a roadside drug screening test. The roadside test helps an officer decide whether further investigation may be necessary. The evidential sample forms part of the evidence that may later be considered during the investigation.

The sample may be:

1. taken by an authorised healthcare professional.
2. sealed and documented.
3. sent to a forensic laboratory.
4. analysed for relevant drugs.
5. reported to the investigating police force.
6. considered with the other evidence.

In Scotland, Police Scotland sends evidential samples for forensic toxicology analysis. Northern Ireland guidance also describes blood testing following arrest for suspected drug impairment. ([21])

Ask your solicitor whether an independently analysable sample is available and whether separate expert toxicology advice is appropriate.

Interview

Before the interview, you will normally be interviewed under caution. The caution is a legal safeguard and does not mean that you are guilty of an offence. Your solicitor will explain its significance and advise you before questioning begins.

Do not guess or exaggerate during an interview.

You may be asked about:

- what you took.
- whether it was prescribed.
- when you took it.
- the dose.
- how you felt.
- whether you believe you were impaired.
- you're driving.
- advice from your clinician.
- other medicines.
- alcohol or non-prescribed drugs.

Take legal advice before deciding how to answer.

[21] https://www.spa.police.uk/spotlight-on/drug-driving-toxicology/impact-of-drug-driving-legislation/

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Release, Bail or Further Investigation

After custody, you may be:

- released with no immediate action.
- released while enquiries continue.
- released on bail.
- reported to a prosecutor.
- charged.
- given paperwork requiring a future attendance.

The terminology and process differ between jurisdictions.

A delay while laboratory testing is completed does not mean that the case has been abandoned.

Before You Leave

Before leaving the police station, make sure you:

- collect all property that has been returned.
- understand any bail conditions.
- know whether further action is expected.
- retain all paperwork.
- write down everything you remember about the incident while it is still fresh.

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13. The Medical Cannabis Defence

Great Britain

The statutory medical defence applies to the specified-drug-limit offence under section 5A of the Road Traffic Act 1988.

In plain English, the defence may be available where:

1. the controlled drug was prescribed or supplied for medical or dental purposes.
2. it was taken in accordance with the directions of the prescriber, supplier or accompanying instructions.
3. the driver was not acting against medical advice not to drive.

The defence must be supported by the facts and evidence. ([22])

What the Defence Does Not Do

It does not:

- give advance permission to drive.
- prevent a roadside test.
- guarantee that the police will not arrest you.
- prevent an evidential sample.
- apply when the medicine was not taken as directed.
- excuse driving against medical advice.
- provide a defence to actual impairment.
- guarantee that proceedings will be discontinued.

Impairment Cases

The statutory medical defence does not apply to the separate offence of driving while unfit through drugs.

A person taking a medicine exactly as prescribed may still commit an offence if that medicine has made them unfit to drive. ([23])

Northern Ireland

Do not rely on the Great Britain section 5A defence in Northern Ireland.

[22] https://www.legislation.gov.uk/ukpga/1988/52/section/5A

[23] https://www.gov.uk/government/publications/drug-driving-and-medicine-advice-for-healthcare-professionals/drug-driving-guidance-for-healthcare-professionals

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Northern Ireland currently operates a separate impairment-based framework. A prescription may be highly relevant to lawful possession, medical context and the interpretation of the evidence, but Northern Ireland legal advice is required. ([24])

Evidence Supporting the Defence

Helpful evidence may include:

- the prescription covering the relevant date.
- the pharmacy dispensing label.
- clinic or pharmacy confirmation.
- dosing instructions.
- evidence that the medicine was taken as directed.
- evidence of advice concerning driving.
- the patient information leaflet where relevant.
- medical evidence concerning the underlying condition.
- the absence of evidence of impairment.
- video or witness evidence of normal driving and behaviour.

[24] https://www.nidirect.gov.uk/articles/drug-driving

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14. What Evidence Should You Collect?

Medical and Prescription Evidence

Keep:

- current prescription.
- repeat prescription record.
- pharmacy dispensing record.
- original labelled packaging.
- clinic letter.
- dosing instructions.
- patient information.
- relevant correspondence with the prescriber.
- evidence of any recent dose change.

Police and Custody Documents

Keep:

- custody record.
- arrest or release paperwork.
- charge sheet.
- bail paperwork.
- evidential sample paperwork.
- property receipt.
- seizure notice.
- record of any search.
- officer names or identification numbers.
- incident or crime reference numbers.

Independent Evidence

Preserve:

- original dashcam files.
- photographs.
- vehicle telematics where available.
- CCTV locations.
- passenger and witness details.
- phone location records where relevant.
- receipts showing your journey.
- messages sent before or after the stop.

Do not edit original video or audio files. Make a separate working copy.

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Blood Results

Keep every laboratory report or result provided to you or your solicitor.

Do not try to interpret a toxicology result without appropriate legal and scientific advice.

A concentration result must be considered alongside the relevant offence, measurement process, prescription evidence and alleged impairment.

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15. Build a Timeline

Write a factual timeline as soon as possible. Include:

date	
exact or approximate time	
location	
weather and road conditions	
reason given for the stop	
what was said about your driving	
officer names or numbers	
when prescription status was disclosed	
documents shown	
tests performed	
results stated,	
medical conditions explained	
time of arrest	
stated grounds	
time of arrival in custody	
time legal advice was requested	
time the sample was taken	
property seized	
interview details	
time of release.	

Separate what you clearly remember from what you are estimating.

Do not fill gaps by guessing.

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The Psychology of a Traffic Stop

Stress can affect attention and memory.

People may remember the central event but struggle with the exact order of questions, times or smaller details. Research on acute stress and eyewitness memory shows that the relationship is complex, but high stress can reduce the accuracy of recall. ([25])

For that reason:

- make an initial note quickly.
- add further details when calm.
- do not alter or delete the first version.
- mark later additions with the date and time.
- distinguish memory from information learned afterwards.

[25] https://pubmed.ncbi.nlm.nih.gov/34309476/

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16. Frequently Asked Questions

Should I Tell the Police That I Am Prescribed Cannabis?

Usually, yes, where cannabis use or testing is relevant.

Say it calmly and early:

"*I am lawfully prescribed cannabis-based medicine. I have taken it in accordance with my prescription and can provide evidence.*"

Do not claim that the prescription prevents testing or arrest.

Do I Have to Carry My Prescription?

This guide has not identified a general UK road-traffic rule requiring every patient to carry a prescription whenever driving.

However, Great Britain government guidance says that suitable evidence may help the police verify the medical circumstances. Carrying proportionate evidence can reduce confusion and delay. ([26])

Must the Prescription Be an NHS Prescription?

No. The Great Britain statutory defence refers to a drug lawfully prescribed or supplied for medical or dental purposes. It is not limited to NHS prescriptions.

A private prescription must still have been lawfully issued, and the medicine must have been taken according to directions. ([27])

Can the Police Seize My Medicine?

Possibly. A lawful prescription does not prevent temporary seizure where a lawful search or evidential power applies.

Ask why it is being taken and request a property record.

Can I Refuse a Roadside Swab?

Not simply because you have a prescription.

Failure to cooperate without reasonable excuse may be a separate offence. Explain immediately if a physical or medical condition prevents you from providing the sample.

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[26] https://www.gov.uk/government/publications/drug-driving-and-medicine-advice-for-healthcare-professionals/drug-driving-guidance-for-healthcare-professionals
[27] https://www.legislation.gov.uk/ukpga/1988/52/section/5A

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Does a Positive Swab Mean I Am Guilty?

No. It is a preliminary indication. It does not determine impairment, evidential blood concentration, prescription status or whether a defence applies.

Will I Automatically Lose My Licence?

No. A roadside result or arrest does not itself amount to a conviction.

Disqualification may follow a conviction for a relevant offence. Other temporary restrictions or bail conditions may sometimes apply, depending on the case.

What Happens if I Do Not Have My Medicine with Me?

You can still explain that you are prescribed it and provide other evidence.

Useful evidence may include a prescription copy, clinic portal, pharmacy record or later confirmation obtained by your solicitor.

What if the Medicine Is Not in Its Original Packaging?

Explain honestly why.

The absence of packaging does not by itself determine the entire case, but it may make immediate verification more difficult and may create questions about possession or identification.

Do I Have to Answer Every Question?

You must provide information and documents that the law requires and cooperate with lawful tests.

Do not lie.

Where questions become a formal criminal interview, ask for legal advice before giving a detailed account.

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17. Common Myths

"A Prescription Means I Can Never Be Prosecuted"

False. A patient may still be investigated or prosecuted, particularly where impairment is alleged or the medicine was not taken as directed.

"A Positive Swab Means I Am Guilty"

False. It is a preliminary screening result.

"The Police Cannot Arrest a Prescribed Patient"

False. Prescription evidence does not remove police powers of investigation or arrest.

"I Must Always Carry the Medicine"

Not necessarily. Carrying suitable prescription evidence is helpful, but the medicine itself is not the only way to prove prescribing.

"If I Feel Normal, I Am Definitely Legal to Drive"

False. Feeling normal is relevant but not conclusive. In Great Britain, a specified-limit investigation is legally different from an impairment investigation.

"If I Quote the Medical Defence, the Officer Must Release Me"

False. The defence depends on evidence and the facts. It does not automatically stop testing or arrest.

"Refusing the Test Protects My Rights"

False. Refusal may create an additional offence.

"Police Must Understand Medical Cannabis Law Before They Can Stop Me"

False. An officer can investigate based on the information reasonably available at the time. Legal disputes are normally addressed through evidence, legal advice and the justice process.

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18. Common Mistakes

Avoid:

- becoming aggressive or insulting.
- refusing lawful instructions.
- inaccurately quoting legislation.
- saying that a prescription makes you "exempt" from drug-driving law.
- assuming every officer has specialist medical cannabis knowledge.
- giving an exact dosing time when you are unsure.
- failing to disclose a condition affecting a physical test.
- signing a statement you do not understand.
- giving a detailed interview without considering legal advice.
- losing prescription packaging.
- editing original dashcam footage.
- posting accusations or detailed case information on social media.
- contacting witnesses in a way that could influence their recollection.
- failing to write a timeline.
- missing police, court or solicitor correspondence.

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19. If You Think Something Went Wrong

Obtain Legal Advice First

A complaint about officer conduct and a defence to a criminal allegation are different processes.

Making a complaint does not automatically stop:

- a police officer investigation.
- bail conditions.
- laboratory testing.
- a charging decision.
- a prosecution.
- a court deadline.

Where proceedings are possible, speak to a solicitor before publishing allegations or giving a lengthy complaint statement.

Preserve Evidence

Immediately record:

- the date, time and location.
- vehicle registration.
- officer details.
- what was said.
- witnesses.
- body-worn camera use.
- CCTV locations.
- dashcam footage.
- property taken.
- injuries or damage.

Body-Worn Video and Personal Data

You may be able to make a subject access request for personal data held by the police, including custody information or footage in which you appear.

Disclosure is not automatic. Information may be restricted because of an active investigation, third-party privacy or another legal exemption. Make requests promptly and describe the date, location, officers and incident as precisely as possible. ([28])

[28] https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/cctv-and-video-surveillance/guidance-on-video-surveillance-including-cctv/additional-considerations-for-technologies-other-than-cctv/body-worn-video-bwv/

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Complaints Routes

England and Wales

A complaint can be made directly to the police force or through the Independent Office for Police Conduct. Most complaints are initially handled by the police force concerned, while the IOPC independently investigates the most serious matters. ([29])

Scotland

Complain first through Police Scotland or the relevant policing body. The Police Investigations and Review Commissioner can review how a complaint was handled. It does not ordinarily reinvestigate the original complaint as a fresh criminal case. ([30])

Northern Ireland

Complaints about PSNI officer conduct are handled by the Police Ombudsman for Northern Ireland, which is independent of the police. ([31])

[29] https://www.policeconduct.gov.uk/complaints/submit-a-complaint
[30] https://www.pirc.scot/
[31] https://www.policeombudsman.org/how-to-make-a-complaint

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20. Useful Contacts

Record these details before you need them.

Solicitor	
Name:	
Firm:	
Daytime number:	
Emergency or custody number:	
Jurisdiction:	
Road traffic experience:	
Prescribing Clinic	
Clinic:	
Prescriber:	
Telephone:	
Email:	
Patient or prescription reference:	
Pharmacy	
Pharmacy:	
Telephone:	
Email:	
Prescription number:	
Healthcare Contact	
GP or relevant specialist:	
Telephone:	
Relevant condition:	
Emergency medical information:	
Personal Contact / Next of Kin	
Name:	
Relationship:	
Telephone:	
Insurance Company	
Insurer:	
Policy number:	
Claims or legal helpline:	

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21. After-Incident Self-Assessment

Once you are safe and have had time to reflect, ask:

Why was I stopped?	
Was a traffic offence or unsafe driving actually alleged?	
Was impairment alleged?	
What evidence was given for that allegation?	
When did I disclose the prescription?	
Did the police consider the evidence I offered?	
Did a medical condition affect an impairment test?	
What documents have I received?	
What property is still held?	
Is any video at risk of being overwritten?	
Do I need a solicitor?	
Do I need to notify my insurer?	
Do I need updated driving advice from my prescriber?	
Have I written a complete timeline?	
Have I avoided discussing the case publicly?	

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22. Final Reminder

A prescription protects lawful medical treatment. It does not provide permission to drive while impaired.

A roadside saliva result is not a finding of guilt. It is one stage of an investigation.

Stay calm, comply with lawful requirements, explain relevant medical circumstances, ask for legal advice in custody and preserve the evidence.

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Appendix 1: Road Traffic Act 1998 - Sections 4, 5A, 6 and 7

Impairment, specified drug limits, roadside testing and evidential specimens

Document date: 31 July 2026 **Status: General public guidance**

> **Core distinction**
>
> Section 4 concerns actual impairment. Section 5A concerns the concentration of a specified controlled drug in the driver's blood. A driver may be investigated under either provision, or potentially both, depending on the available evidence.

The main legal provisions

The provisions below address different stages of a drug-driving investigation. They should not be treated as interchangeable.

Provision	What it covers	Must impairment be proved?
Section 4	Driving, attempting to drive or being in charge while unfit through drink or drugs.	Yes
Section 5A	Driving, attempting to drive or being in charge with a specified controlled drug above its legal limit.	No
Section 6	Police powers to require preliminary roadside tests in defined circumstances.	Not applicable
Section 6B	A preliminary impairment test using observations and physical tasks.	Indication only
Section 6C	A preliminary drug test using saliva or sweat.	No
Section 7	Evidential breath, blood or urine specimens during an investigation.	Depends on offence

A brief note about Section 5

Section 5 concerns alcohol, not cannabis or prescribed controlled drugs. It covers driving, attempting to drive or being in charge of a motor vehicle while above the prescribed alcohol limit. It is included only as a comparison because Section 5A is the corresponding above-limit offence for specified controlled drugs.

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Section 4: Driving while unfit through drink or drugs

Section 4 makes it an offence to drive or attempt to drive on a road or other public place while unfit through drink or drugs. It also creates a separate offence of being in charge of a motor vehicle while unfit.

A person is legally unfit to drive when their ability to drive properly is impaired. The term “drug” is not limited to illegal substances. It can include prescription medicines, over-the-counter medicines, controlled drugs and other substances capable of impairing driving.

What the prosecution must establish

1. The person was driving, attempting to drive or in charge of a motor vehicle.
2. Their ability to drive properly was impaired at the relevant time.
3. The impairment was caused by drink or drugs.

> **A prescription is not a defence to actual impairment**
>
> The Section 5A medical defence does not apply to Section 4. A person taking prescribed medical cannabis or another medicine must not drive when the medicine is impairing their ability to drive properly.

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Section 5A: Driving above a specified controlled-drug limit

Section 5A makes it an offence to drive, attempt to drive or be in charge of a motor vehicle with a specified controlled drug in the blood or urine above the legal limit set for that drug.

Unlike Section 4, the prosecution does not ordinarily need to prove that the person drove badly, appeared intoxicated, failed an impairment assessment or was unable to drive safely. The offence was introduced to avoid the need to prove impairment in every above-limit case.

Although the legislation refers to blood or urine, specified limits are not set for drugs in urine. Section 5A prosecutions are therefore normally based on an evidential blood specimen.

The Section 5A medical defence

A statutory medical defence may be available where the controlled drug was used for a legitimate medical or dental purpose. The patient must raise sufficient evidence that the defence applies.

- The drug was lawfully prescribed or supplied for medical or dental purposes.
- It was taken in accordance with advice given by the prescriber or supplier.
- Any accompanying written instructions were followed, as far as they were consistent with the prescriber's advice.
- The medicine was not taken contrary to medical advice.

Once sufficient evidence supporting the medical defence has been raised, the prosecution must disprove it beyond reasonable doubt before the person can be convicted under Section 5A.

What the medical defence does not do

- It does not give a patient an unrestricted right to drive after taking medicine.
- It does not prevent a lawful stop, roadside test, arrest or investigation.
- It does not apply where the medicine was not prescribed or supplied to that person.
- It does not apply where the medicine was taken contrary to medical advice or instructions.
- It does not protect a person who was actually unfit to drive under Section 4.

How Sections 4 and 5A can overlap

The police may gather evidence relevant to both offences. A driver may test positive during a roadside drug test, appear impaired, undergo a preliminary impairment assessment and later provide an evidential blood specimen.

- The blood concentration may be relevant to Section 5A.
- The standard of driving, physical condition and police observations may be relevant to Section 4.
- If the specified limit is not exceeded but there is sufficient evidence of impairment, Section 4 may still be considered.
- If the specified limit is exceeded, Section 5A may be considered even without proof of impairment.

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Sections 6, 6B and 6C: Preliminary roadside testing

Section 6: The power to require preliminary tests

Section 6 allows a constable to require one or more preliminary tests in defined circumstances. These can include reasonable suspicion concerning alcohol or drugs, a moving traffic offence, or an accident involving a motor vehicle.

The three principal preliminary tests are:

- a preliminary breath test under Section 6A.
- a preliminary impairment test under Section 6B and
- a preliminary drug test under Section 6C.

A person may commit a separate offence if, without reasonable excuse, they fail to co-operate with a lawful requirement to undertake a preliminary test.

Section 6B: Preliminary impairment testing

A Section 6B test consists of observations and physical tasks intended to provide an indication of whether a person is unfit to drive and, if so, whether that possible unfitness may be caused by drink or drugs.

The assessment may consider matters such as coordination, balance, divided attention, understanding of instructions and general physical condition.

> **Is a failed impairment assessment proof of impairment?**
>
> Not by itself. Its statutory purpose is to provide an indication. A court must consider it alongside the wider evidence and any credible alternative explanation for the person's performance.

Relevant surrounding factors can include:

- the standard of driving and the reason for the stop.
- police and witness observations.
- the instructions given and the way the assessment was conducted.
- the location, surface, lighting and weather conditions.
- a disability, medical condition or injury.
- fatigue, anxiety, distress or shock.
- toxicology results and
- medical or expert evidence.

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Section 6C: Preliminary drug testing

Section 6C permits a preliminary drug test using a specimen of saliva or sweat and an approved testing device. The purpose is to obtain an indication that a person has a drug in their body.

It does not directly measure the person's ability to drive properly.

Current roadside devices screen for delta-9-tetrahydrocannabinol, or THC, and cocaine.

A positive result may lead to arrest and a requirement to provide an evidential blood specimen.

What a positive roadside swab does not prove

- that the driver was impaired.
- that the driver's ability to drive properly was affected.
- the concentration of the drug in the driver's blood.
- that the Section 5A blood limit was exceeded.
- when the medicine or drug was taken.
- whether it was lawfully prescribed.
- whether it was taken as directed or
- whether the statutory medical defence applies.

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Section 7: Evidential specimens

Section 7 governs requirements to provide evidential specimens of breath, blood or urine during an investigation into specified drink-driving and drug-driving offences.

For a suspected Section 5A offence, a positive preliminary drug test can provide reasonable cause to require blood or urine at a police station or hospital. Because there are no specified drug limits in urine, an evidential blood specimen is normally required for a Section 5A case.

The choice between blood and urine is generally made by the constable, subject to the statutory requirements and relevant medical opinion. Blood should not be taken where the healthcare professional asked to take it considers that, for medical reasons, it cannot or should not be taken.

Failure to provide an evidential specimen

A person who, without reasonable excuse, fails to provide a specimen when lawfully required may commit a separate offence under Section 7(6). The person should be warned that failure may result in prosecution.

A genuine medical reason may amount to a reasonable excuse, but it normally requires evidence of both the medical or psychological inability to provide the specimen and the causal link between that condition and the failure.

What does “proof of impairment” mean?

For a Section 4 conviction, the prosecution must prove beyond reasonable doubt that the person’s ability to drive properly was reduced or adversely affected, that this impairment existed at the relevant time and that it was caused by drink or drugs.

There is no single observation or roadside test that automatically proves impairment in every case. A court may consider the combined weight of several forms of evidence.

Evidence of the person’s driving

- weaving or drifting across the road.
- delayed braking or unusually slow reactions.
- inappropriate speed.
- failure to respond to traffic signals.
- mounting or striking a kerb.
- a moving traffic offence.
- erratic or unsafe driving or
- a collision.

Poor driving may be important evidence, but its cause must still be considered. Driving errors can arise from distraction, illness, unfamiliarity with the road, mechanical problems or other circumstances.

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Police and witness observations

- slurred or unusually slow speech.
- poor balance or coordination.
- confusion or delayed responses.
- marked drowsiness or unusual agitation.
- difficulty walking or standing.
- difficulty following instructions or
- other abnormal physical responses.

Similar signs can result from disability, injury, illness, fatigue, anxiety, distress or shock. Alternative explanations should therefore be considered.

Preliminary impairment test results

Performance during a Section 6B assessment may form part of the evidence. The court may need to consider the officer's training, the clarity of the instructions, the conditions in which the test was performed and any medical or physical reason for difficulty completing the tasks.

Toxicology evidence

Blood or urine analysis may establish that a drug was present. For Section 5A, an evidential blood result may establish that the specified limit was exceeded. For Section 4, however, drug presence alone does not establish that the person's ability to drive properly was impaired.

Medical and expert evidence

Medical or expert evidence may help determine whether the substance was capable of producing the observed symptoms, whether the concentration was consistent with recent use, and whether another medicine, condition, disability or combination of substances could explain the person's presentation.

Presence, exceeding the limit and impairment are different

These concepts describe different legal and evidential questions. They must not be treated as if they mean the same thing.

Concept	Meaning
Drug presence	A drug has been detected in the person's body.
Above the limit	An evidential blood test shows that the concentration of a specified controlled drug exceeded the legal limit for Section 5A.
Impairment	The person's ability to drive properly was adversely affected for the purposes of Section 4.

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A person may test positive without there being sufficient evidence of impairment. A person may be above a specified limit without appearing impaired, although a Section 5A allegation may still follow and the medical defence may need to be raised. A person may also be impaired by a medicine or substance that is not covered by the Section 5A specified limits.

The practical distinction

> **A useful way to understand the process**
>
> Suspicion may justify a police investigation. A preliminary roadside test may provide an indication. An evidential specimen and other admissible evidence may support a prosecution. The relevant offence must then be proved beyond reasonable doubt before a person can be convicted.

- A positive swab is not proof of impairment.
- A failed preliminary impairment assessment is not automatically conclusive proof of impairment.
- An evidential blood result above the specified limit may support a Section 5A prosecution without proof of impairment.
- A lawful prescription may support the Section 5A medical defence, but it does not provide a defence to actual impairment under Section 4.

Jurisdictional note

The Road Traffic Act 1988 applies in England, Wales and Scotland. Section 5A operates in Scotland under separate Scottish specified-limits regulations, while England and Wales have their own specified-limits regulations.

The Section 5A regime described here does not extend to Northern Ireland. Northern Ireland has separate road traffic legislation, although a person may still be arrested and prosecuted there for driving while unfit through drugs. A UK-wide guide should therefore contain a separate Northern Ireland explanation.

Important notice

> **Not legal advice**
>
> This document is intended as general public guidance. It does not constitute legal advice. Anyone arrested, charged or required to attend court should obtain advice from a solicitor experienced in road traffic and drug-driving law.

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Official sources

The following official sources were checked for this summary. Online legislation may be amended, so the current version should always be consulted.

- Road Traffic Act 1988, current text
- Section 4: Driving, or being in charge, when under influence of drink or drugs
- Section 5A: Driving or being in charge with concentration of specified controlled drug above specified limit
- Section 6: Power to administer preliminary tests
- Section 6B: Preliminary impairment test
- Section 6C: Preliminary drug test
- Section 7: Provision of specimens for analysis
- Crown Prosecution Service: Road Traffic, Drink and Drug Driving
- GOV.UK: Drugs and driving, the law
- Department for Transport: Drug driving guidance for healthcare professionals

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Appendix 2: National Police Chiefs' Council (NPCC) guidance on cannabis-based medicinal products (CBPMs)

https://library.college.police.uk/docs/NPCC/Medicinal-cannabis-guidance-2025.pdf.PDF

For clarity:

This document has been placed into this resource, and any CTA branding is incidental and not in partnership with the NPCC.

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February 2025

Medicinal Cannabis and the Police – Guidance for Officers and Staff

Prepared by the Association of Police Controlled Drug Liaison Officers (APCDLO)

Cannabis – The Wider Context

Cannabis evolved around 28 million years ago on the Tibetan Plateau. It has been used for a variety of purposes by humans since our arrival on the planet around 300,000 years ago. For example, as a medicine, as part of religious rituals and for pleasure.

In the last one hundred years, cannabis has become a much more controversial issue with a fierce social, political and medical debate about its use, potential dangers and benefits.

In the twentieth century cannabis became subject to tighter regulation and prohibition in many countries. Cannabis is now being seen, by some doctors and in some countries, as a medicine that can help patients suffering from certain conditions and ailments when other treatments have proved ineffective.

The below guidance has been prepared specifically for police officers and police staff who may encounter those who have been prescribed medicinal cannabis. It has involved extensive consultation with, and feedback from, our health care and other partners.

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Purpose of This Guidance

1. To provide common sense and practical guidance to front line police officers and staff on the key issues relating to medicinal cannabis
2. To ensure that patients prescribed medicinal cannabis can possess it without undue hindrance from the police
3. To develop cooperation and reduce any potential conflict between the police and patients prescribed medicinal cannabis

Legislation

When dealing with controlled drugs, the main legislation impacting on police officers and support staff is the Misuse of Drugs Act 1971. The Act creates three Classes of controlled drugs based upon risk, it categorises cannabis and cannabis-based products for medicinal use (CBPMs) as Class B controlled drugs with associated penalties for possession, supply, cultivation and production.

However, there is a great deal of other legislation that exists to control and regulate controlled drugs. Health care partners primarily use the Misuse of Drugs Regulations 2001 which legalises the possession, production, supply and administration for authorised individuals of controlled drugs that have important medical uses. This categorises controlled drugs into five Schedules.

Schedule 1 contains drugs which are deemed to have no current medical benefit. For example, raw opium and LSD. These drugs are not banned completely, they can be used in scientific research but this requires a specific Home Office licence.

Schedule 2 contains drugs which have important medical uses but must be tightly controlled, managed and stored due to their greater potential for abuse and addiction. Examples are morphine and ketamine. Cannabis based products for medicinal use (CBPMs) are also in Schedule 2.

Controlled drugs falling into Schedules 3 to 5 are subject to less restrictive arrangements but risk still remains. Examples include tramadol and some benzodiazepines.

On 1st November 2018, The Misuse of Drugs (Amendments) Regulations 2018 came into force. This legislation placed cannabis-based products for medicinal use (CBPMs) into Schedule 2.

It should be noted that cannabis *per* se (i.e. cannabis that is not produced or regulated as a medical product) still remains a Schedule 1 controlled drug.

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What Are Cannabis Based Products for Medicinal Use (CBPMs)?

The NHS defines *medicinal cannabis* as a broad term for any sort of cannabis-based medicine used to relieve symptoms (May 2022).

Home Office guidance defines medicinal cannabis or, to use its more correct term, cannabis-based products for medicinal use (CBPMs), as follows;

- The product is or contains cannabis, cannabis resin, cannabinol or a cannabinol derivative
- It is produced for medicinal use in humans *and*
- It is a product that is regulated as a medicinal product or an ingredient of a medical product (Home Office, 2024)

Cannabis can have different pharmaceutical forms, strengths or efficacy and can be made up of many components. The two main ones are CBD and THC. CBD is the non-psychoactive component whereas THC is the part that can create euphoria in humans. Further details can be found in the Home Office Factsheet *(see below).*

CBPMs can be both licensed and unlicensed (see below).

Making it Legal

There is now a legal route for *unlicensed* cannabis-based products to be used as a

medicine but prescribing can only be initiated by specialist doctors. These doctors must be on the General Medical Council (GMC) Specialist Register. However, once initiated, other health care prescribers can continue prescribing under the specialist's direction. Other prescribers can include GPs, nurses and pharmacists.

Just like any other controlled drug, no offence is committed if a patient who has been lawfully prescribed a CBPM has it in their possession.

It is also lawful to possess a CBPM as part of an approved clinical trial.

Licensed and Unlicensed CBPMs

Currently, only a small number of cannabis based medicines are *licensed* for use. For example, Epidyolex@ has been shown in clinical trials to be effective in treating certain types of epilepsy. Licensed products do not need to be prescribed by a specialist doctor.

Almost exclusively, the CBPMs that police encounter are private prescriptions which are unlicensed. An unlicensed medicine has not received what is known as 'market authorisation'. It is not officially approved for treating a patient's particular condition but a doctor can prescribe it if they feel it will provide a safe and effective treatment. This is a relatively common medical practice.

The key point to note as far as this guidance is concerned, is that unlicensed does not mean unlawful.

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What does this mean to me as a Police Officer or Support Staff member?

A very common question asked by officers and staff is,

'W*hat should I do if I encounter a patient who states they are legally in possession of medicinal cannabis?'*

General and common sense advice is to;

1. Ask to see the original packaging in which the cannabis is provided
2. Look for the dispensing label as this contains important information about the medicine and the patient to whom it is prescribed
3. The patient should have a letter from their prescriber or a copy of their original prescription. But there is no legal requirement to possess these documents
4. If they have a letter, this should include the patients details (including name and address), as well as the prescribing doctor's name and contact details
5. The person should be able to show ID to validate these documents
6. If no packaging, labelling or other documentation is available it is suggested that officers consider further enquiries with health care partners. This could mean contacting the prescriber or cannabis clinic
7. Further police action should only follow if the officer has justifiable grounds for believing that the individual is NOT a patient who has lawfully been prescribed medicinal cannabis

This can only ever be general advice. It is hoped that medicinal cannabis patients will be made aware of the above guidance by their health care providers.

Please remember that people in lawful possession of medicinal cannabis are patients. They are very likely to be suffering from chronic pain and/or other serious ailments. Medicinal cannabis will only be prescribed to an individual when other medicines and treatments have not been effective.

It should be assumed that people in possession of medicinal cannabis are patients until proven otherwise.

It is lawful to possess a CBPM as part of an approved clinical trial. Police are unlikely to encounter this situation but the above advice should still be followed.

Cancards

Cancards are plastic cards indicating a holder has a medical condition that is treatable with cannabis. This does not mean they have a prescription for medicinal cannabis.

Patients prescribed medicinal cannabis are in receipt of documentation from their prescriber and therefore have no need for a Cancard which charges an annual fee.

Cancards are a controversial and misunderstood area. If you require more information please contact your Force Controlled Drug Liaison Officer (CDLO).

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Smoking Medicinal Cannabis

The smoking of medicinal cannabis is strictly prohibited by the legislation.

It should be noted that vaping is distinct from smoking as smoking involves combustion.

CBPMs should only be taken as directed by the prescriber. This could include using a mechanical device to inhale, in spray form or as an oil or liquid but smoking is not permitted.

The smoking of cannabis, in public and private places, can be an anti-social behaviour issue. You may wish to explain these regulations to partner agencies.

Medicinal Cannabis and Driving

Legislation already exists in relation to driving whilst a patient is on prescribed medication. This should be followed in relation to medicinal cannabis.

In the United Kingdom, all packages and receptacles containing CBPMs must have warnings about the possibilities of the medication causing drowsiness, dizziness and the subsequent dangers of driving and operating machinery.

It is illegal to drive, with legal drugs in the body, if this impairs an individual's driving ability. If a patient is unsure whether their prescribed medication affects their ability to drive they should consult their prescribing doctor. This places responsibility on the individual driver.

Full details can be found under '*Drugs and driving: the law'* on the Gov.UK website.

Further Advice and Support

Medicinal cannabis is a new and challenging area. Concerns, questions and problems will occur **and should be expected.**

It has only been possible, in this document, to provide some general guidance.

You can seek further advice and assistance from your Force Controlled Drug Liaison Officer (CDLO). A full list of CDLOs can be found at https://www.apcdlo.org

Or you can contact the police service representative on the Care Quality Commission (CQC) National Controlled Drug Group – Richard List QPM.
Richard.list@thamesvalley.police.uk

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A ‘Short Summary’ for Operational Officers and Staff

The Department of Health and Social Care has kindly proposed a ‘short summary’ of this guidance for operational officers and staff;

1. Since 1 November 2018, cannabis-based products for medicinal use (CBPMs) have been legal to possess in accordance with an NHS or private prescription, or as part of a clinical trial
2. Patients should be able to provide proof of their prescription and identification should match that on the prescription, doctors letter or product label
3. If in doubt, make further enquiries with the healthcare professional or provider named on any patient/product documentation to verify lawful possession.

This may be more useful for officers and staff when they do not have access to the full guidance

Home Office Circular rescheduling Cannabis as a medicine in humans

Home Office Circular 018 2018 (below) provides further detail about the rescheduling of cannabis-based products for medicinal use in humans.

https://www.gov.uk/government/publications/circular-0182018-rescheduling-ofcannabis-based- publications products-for-medicinal-use-in-humans

Other Useful Links

For drugs legislation - https://www.legislation.gov.uk/uksi/2001/3998/contents

A list of the most commonly encountered drugs currently controlled under misuse of drugs legislation can be found at Gov.UK (www.gov.uk).

Home Office ‘*Drug licensing factsheet; cannabis, CBD and other cannabinoids’*
(Home Office, Updated 3 October 2024) (www.gov.uk)

Sources;

British National Formulary - BNF 85 (March to September 2023). Royal Pharmaceutical Society / BMA

‘*Cannabis, Seeing through the Smoke – The New Science of Cannabis and Your Heath’* by Professor David Nutt (Yellow Kite, 2021)

‘Drugs Without the Hot Air – Making sense of legal and illegal drugs’ by Professor David Nutt (UIT Cambridge, 2021)

Letter from Professor Dame Sally Davies *‘Cannabis based products for Medicinal Use’.* Department of Health and Social Care / NHS. 31 October 2018

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The Misuse of Drugs (Amendment) (Cannabis and Licensing) (England, Scotland and Wales) Regulations 2018

CANCARD website (accessed 21.11.2024)

'Medicine, Ethics and Practice. Edition 46'. The Royal Pharmaceutical Society (July 2023)

'Drug Use, Drug Problems, Drug Control: A Political Economy Perspective' by Seddon, T and Stevens, A in 'The Oxford Handbook of Criminology' Seventh Edition edited by Liebling, Maruna and McAra (OUP, 2023)

'Drug Science and British Drug Policy; Critical Analysis of the Misuse of Drugs Act 1971' Edited by Crome, I, Nutt, D and Stevens, A (Waterside Press, 2022)

Review by Health Care Partners

Health care partners from the NHS have kindly, and independently, reviewed this document against the following publications to ensure accuracy;

- The Royal Pharmaceutical Society: Medicines, Ethics and Practice, edition 46, July 23
- NICE Guidance 144: Cannabis Based Medicinal Products,
- GMC advise on CBPM prescribing and specialist register (Information for doctors on Cannabis-based products for medicinal use (CBPMs)
- NHS England: Cannabis Based products for Medicinal Use
- Home Office Circular 2018: rescheduling of Cannabis-based products for medicinal use in humans, 1st Nov 2018
- The Misuse of Drugs (Amendments) (Cannabis and Licence Fees)(England, Wales and Scotland) Regulations 2018
- MHRA: A Guide to what is a medicinal product, MHRA Guidance Note 8, Appendix 10, Mar 2020
- CQC: Cannabis products for medicinal use

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November 2025

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Appendix 3: Police and Criminal Evidence Act 1984 (PACE)

The Codes of Practice Relevant to Roadside Drug Driving Investigations

C1. Introduction

This appendix provides a practical overview of the Police and Criminal Evidence Act 1984 (PACE) and the Codes of Practice most relevant to roadside drug driving investigations in England and Wales. Scotland and Northern Ireland have different procedural legislation.

C2. Which PACE Codes are Relevant?

The principal Codes relevant to roadside drug driving investigations are:

- Code A: Stop and search.
- Code C: Detention, treatment and questioning.
- Code E: Audio recording of interviews.
- Code G: Arrest.

C3. Code A: Stop and Search

Code A governs how officers exercise stop and search powers.

- Searches of people and vehicles.
- Lawful powers and reasonable grounds where required.
- Recording the search.
- Explaining the legal power and purpose of the search.

C4. Code G: Arrest

Arrest must be lawful, necessary and proportionate.

- Officers should explain that you are under arrest.
- The grounds for arrest should be explained.
- The necessity for arrest should be explained.
- Arrest is not a finding of guilt.

C5. The Police Caution

The standard caution is: "You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence."

- The caution protects your legal rights.
- Seek legal advice before interview where possible.

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C6. Code C: Custody

Code C governs detention, treatment and questioning.

- Detention and welfare.
- Healthcare and medication.
- Legal advice.
- Custody records.
- Interviews.
- Release procedures.

C7. Medical Cannabis in Custody

Tell custody staff about:

- Your prescription.
- Your dose and last dose taken.
- Risks from missing medication.
- Relevant medical conditions.
- Communication needs.

C8. Vulnerability

PACE requires officers to consider vulnerability.

- Physical disability.
- Neurological conditions.
- Autism.
- Mental health conditions.
- Communication difficulties.

C9. Legal Advice

Everyone in custody has the right to free legal advice.

- Advice before interview.
- Advice on evidential samples.
- Advice on prescription evidence.

C10. Interviews

Interviews are part of the investigation.

- Normally conducted under caution.
- Usually audio recorded.
- Your solicitor may be present.

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C11. Custody Records

The custody record documents key events.

- Arrival.
- Healthcare.
- Medication.
- Legal advice.
- Interviews.
- Property.
- Release.

C12. Professional Standards

PACE expects officers to:

- Act lawfully.
- Act fairly.
- Act proportionately.
- Remain objective.
- Respect the rights and welfare of detainees.

C13. Key Points for Medical Cannabis Patients

- A lawful prescription does not prevent investigation.
- A positive roadside drug screening result is only one part of the investigation.
- Provide prescription evidence as early as practicable.
- Tell custody staff about medical conditions and communication needs.
- Obtain legal advice before interview whenever possible.
- Keep copies of all paperwork.

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