

Guidance to Officers on

DRONES

Legislation and dealing
with misuse.

2015

Contents

1	Introduction	3
2	Application	4
3	Offences	5
4	Officer Actions	6
5	Minimum Recording Standards	9
	Appendix 1	11
	Initial Actions and Investigation checklist	
	Appendix 2	15
	Gravity factors	
	Appendix 3	17
	Relevant offences under Air Navigation Order 2009	
	Appendix 4	20
	Media Protocol	
	Appendix 5	23
	FAQs	

1. INTRODUCTION

This guidance supports individual Force Policies for the prosecution and recording of incidents involving drones.

The ownership and use of drones are not of themselves unlawful but in certain circumstances, their use may contravene air safety legislation or other statutes, commonly used to manage other types of offending. The intention of this guidance is to address the ***negligent, reckless*** or ***malicious*** use of this technology.

HM Government are currently considering their response to the growth in the civilian and criminal use of drones and work is currently underway through a cross cutting Governmental working group led by the DfT.

Drones are referred to by a number of different names. Unmanned Aerial Systems (UAS), Remotely Piloted Aerial Systems (RPAS), Unmanned Aerial vehicle (UAV), Small Unmanned Aerial System (SUAS) are all names used to describe drones. Drone is a word that the Police Service has steered away from using in the past. However it is a word that everyone understands and as such the Police Service will refer to UAS as Drones.

2. APPLICATION

This guidance will take immediate effect across all Force areas.

All police officers, police staff and extended police family including those working voluntarily or under contract to Police Crime Commissioners, or the relevant Force Chief Constable/Commissioner, must be aware of and are required to comply with, all relevant Force policies and associated procedures.

However, the most likely staff to engage with drones are the following:

- Neighbourhood Policing Teams
- Response Officers
- Those involved in the planning and policing of events and demonstrations
- Police Contact Centres/Control Rooms
- Criminal Justice Units

Prioritising options within the Guidance

The risk of misuse of drone technology currently exists and therefore this guidance seeks to address the following immediate issues. The hierarchy is a deliberate indication of how Forces should deploy resources to address misuse:

- 1) Protection of national security
- 2) Public safety of aviation assets and infrastructure
- 3) Public safety of crowded places
- 4) Prevention and detection of traditional crime types involving Drones

Options for prosecuting offences involving drones

It is not the intention of the Police Service to criminalise innocent misuse and the criminal justice system provides options for non-recordable disposal. However, some innocent misuse might also be reckless and therefore **Appendix Two** to the SOP provides a gravity factor matrix that users of this SOP may use to help them in decision making.

3. OFFENCES INVOLVING DRONES

There are a number of bespoke articles of law that specifically address offending by drone users and other statutes that might be relevant. The below list of offences is not exhaustive but is intended to give an indication of legislation that is available. CPS have been consulted and confirm all of this legislation can be used and does not require permission from the Civil Aviation Authority (CAA). A further detail of this legislation is contained in **Appendix Three** to this guidance

- Air Navigation Order 2009 (Articles 138, 166 and 167)
- Public Order Act, 1988 (section 4 and section 5)
- Protection From Harassment Act 1997 (section 2)
- Sexual Offences Act 2003 (section 67)
- Terrorism Act 2000 (section 58...and others)
- Likely to lead to a Breach of the Peace
- Public Nuisance

The ANO is quite complicated legislation in terms of points to prove. Importantly, S167 of the ANO refers to 'small unmanned surveillance aircraft' which are simply machines with cameras or other data capture devices fitted on them (such as microphones). Commercial intelligence suggests that these are rapidly becoming the most available and popular devices.

4. OFFICER ACTIONS

Officers should bear in mind that drones are operated commercially within a number of industries. Pilots/operators who hold CAA permission to operate will have detailed knowledge of the legislation. In particular the Media have grasped the opportunities offered by drones and regularly use them to obtain TV pictures and photographs under appropriate licences.

The media will often obtain their pictures by all means possible. Proactively managing the media increases operational effectiveness and public confidence in the Police. Officers should engage with operators from the media to enable their requirements to be met whilst minimising intrusion and enabling effective scene management. **Appendix Four** details the Editors code as administered by the Independent Press Standards Organisation (IPSO) which sets an appropriate standard for photojournalistic activity. Whilst these are standards for publication as opposed to photography, the issues of privacy, harassment or intrusion into grief or shock are potentially useful in influencing pilot behaviour.

The actions outlined below have been written to help officers deal with incidents involving drones. Whilst they should be followed they are not exhaustive.

Officer Actions
If able - Take photograph or video of system in flight including surroundings. i.e. Over a crowd, built up area etc. Any flight close to the airport is highly suspect.
<p>Identify the pilot</p> <p>(They are likely to be located where they have a good vantage point, allowing them to maintain control of the drone. They will most likely be using two hands on a controller (which may be a conventional transmitter, smartphone, tablet etc) and their focus will be on controlling their device – they are likely to be looking toward the device and rarely changing their orientation. They pilot may be static or walking slowly. These behaviours are likely to be significantly different to others around)</p> <p>Is the pilot wearing ‘First Person View’ (FPV) goggles? If so they commit an offence. The pilot should be able to see the aircraft with the naked eye at all times.</p>

<p>Engage with the Pilot and ascertain:</p> <p>What are they doing?</p> <p>What are they filming</p> <p>Do they have CAA permission to operate? Check with CAA on 0207 453 6193 or out of hours on 01293 567171 if necessary. A list of permission holders is available at http://www.caa.co.uk/default.aspx?catid=1995 and is updated monthly.</p>
<p>Ascertain nature of the offence (i.e. is this an Air Navigation Order 2009 offence or other statute)</p> <p>Examples include:</p> <p>Sexual Offences Act 2003 (section 67 – voyeurism)</p> <p>Section 4a or 5 Public Order Act 1986</p> <p>Assault</p> <p>Criminal damage</p> <p>Protection from Harassment Act 1997 (section 2)</p> <p>Public Nuisance</p> <p>Breach of the Peace</p> <p>Obstruction</p> <p>This list is not exhaustive.</p>
<p>If you believe an offence is being committed, communicate this to the pilot and instruct them to land the drone.</p>
<p>There is no power of seizure with the Air Navigation Order 2009 offences. Consider S19 PACE if on premises or Common Law (protection of the public –stated case now includes misdemeanor offences)</p> <p>If other offences have been committed or you make an arrest. Consider powers of seizure under these statutes.</p>
<p>If the pilot refuses or ignores instruction and is believed to be a member of the press, consider contacting corporate communications/Force Media relations. They may be able to negotiate with the individual or news organisation.</p> <p>REMEMBER – You have no power to view footage taken by a drone unless you reasonably suspect that the person is a terrorist. In which case you can use powers under S43 of the Terrorism Act 2000. This is outlined in FAQs. In any event you do not have the power to delete images of destroy film.</p> <p>Important: Section 43 does not prohibit the taking of photographs, film or digital images in a public place and members of the public and the press should not be prevented from doing so in the exercise of the powers conferred by Section 43.</p>

If the pilot refuses or ignores an instruction to cease operating and land the system, an offence of Obstruction may be committed. Officers should ensure that the pilot is aware of the reasons for the instruction and potential consequences of failing to comply. If the pilot still refuses, officers should consider whether the circumstances justify arrest and the timing of any arrest. In doing so they **MUST** take full account of the information below:

Officers should not attempt to take control of the system UNLESS EXCEPTIONAL CIRCUMSTANCES EXIST such as threat to life or injury or damage to property.

Controls vary from system to system.

Trying to land the system yourself may cause the drone to crash leading to a very real risk of injury to persons and damage to property (in addition to destroying the drone). Officers will need to assess the risk of such actions taking into account all circumstances, including the environment they are in. Officers will have to justify their actions and decision making and demonstrate actions were a proportionate response to the risks perceived.

The battery life on the majority of systems will range from 10 to 20 minutes. Larger systems may last 40 minutes. More advanced systems have a failsafe return to home function when batteries are low. **Waiting is likely to be the most appropriate option.**

A more comprehensive checklist outlining initial actions and investigation requirements can be found at **Appendix One**.

5. MINIMUM RECORDING STANDARDS

In all cases, offences involving the use of a drone must be notified using an intelligence report. Whether or not a pilot and equipment has been identified, it is necessary for an accurate report to be submitted in order that patterns of offending can be developed.

Offences other than those in the Air Navigation Order (ANO) are likely to be very familiar to officers and staff. Offences under Articles 166 and 167 of the Air Navigation Order are non notifiable. As such a crime is not recorded. However they must be recorded as a Crime Related Incident. Article 138 of the Air Navigation Order (Cause or permit endangerment) requires a crime report. Officers should record offences under HOC 099/80.

No specific flags currently exist for drones used in crime and this work is under development.

All incidents and crimes involving drones must also have an intelligence report submitted. It is important that common terminology is used in order to facilitate key word searching. This guidance requires that the terminology to be used is **Unmanned Aerial System, UAS** or **Drone**

POWERS

Powers of arrest, seizure and investigation will vary according to the offence being investigated. Note that there are no specific powers of arrest or seizure in relation to offences committed under the Air Navigation Order.

The gravity factors contained at **Appendix Two** are intended to give an indication as to the appropriate disposal option. In general, these options include:

- Charge
- Caution
- Community resolution

- NFA

REFERRAL OF CRIMES TO THE CIVIL AVIATION AUTHORITY (CAA)

Where an incident involving a risk to aviation assets or critical infrastructure is committed and involves a drone, it must be recorded on an intelligence report and referred to the CAA. In some cases, the CAA will wish to take this matter on themselves and in all cases will be willing to provide advice. They are available on 0207 453 6193 or out of hours on 01293 567171.

PROVISION OF ADVICE

Forces are encouraged to nominate single points of contact to become local subject matter experts enabling them to give advice to officers and staff.

Appendix 1

Drones – Initial Actions and Investigation checklist

All Offences

Action	
<p>If able - Take photograph or video of system in flight including surroundings. i.e. Over a crowd, built up area etc. Any flight close to an airport is highly suspect</p>	
<p>Identify the pilot</p> <p>(They are likely to be located where they have a good vantage point, allowing them to maintain control of the drone. They will most likely be using two hands on a controller (which may be a conventional transmitter, smartphone, tablet etc) and their focus will be on controlling their device – they are likely to be looking toward the device and rarely changing their orientation. They pilot may be static or walking slowly. These behaviours are likely to be significantly different to others around)</p> <p>Is the pilot wearing 'First Person View' (FPV) goggles? If so they commit an offence. The pilot should be able to see the aircraft with the naked eye at all times.</p>	
<p>Engage with the Pilot and ascertain:</p> <p>What are they doing?</p> <p>What are they filming</p> <p>Do they have CAA permission to operate? Check with CAA on 0207 453 6193 or out of hours on 01293 567171 if necessary. A list of permission holders is available at http://www.caa.co.uk/default.aspx?catid=1995 and is updated monthly.</p>	
<p>Ascertain nature of the offence (i.e. is this an Air Navigation Order 2009 offence or other statute)</p> <p>Examples include:</p> <p>Sexual Offences Act 2003 (section 67 – voyeurism)</p> <p>Section 4a or 5 Public Order Act 1986</p> <p>Assault</p> <p>Criminal damage</p> <p>Protection from Harassment Act 1997 (section 2)</p>	

<p>Public Nuisance Breach of the Peace Obstruction This list is not exhaustive.</p>	
<p>If you believe offence is being committed, communicate to pilot and instruct them to land system.</p>	
<p>There is no power of seizure with the Air Navigation Order 2009 offences. Consider S19 PACE if on premises or Common Law (protection of the public –stated case now includes misdemeanor offences) If other offences have been committed or you make an arrest. Consider powers of seizure under these statutes.</p>	
<p>If the pilot refuses or ignores instruction and is believed to be a member of the press, consider contacting corporate communications/Force Media relations. They may be able to negotiate with the individual or news organisation. REMEMBER – You have no power to view footage taken by a drone unless you reasonably suspect that the person is a terrorist. In which case you can use powers under S43 of the Terrorism Act 2000. This is outlined in FAQs. In any event you do not have the power to delete images of destroy film. Important: Section 43 does not prohibit the taking of photographs, film or digital images in a public place and members of the public and the press should not be prevented from doing so in the exercise of the powers conferred by Section 43.</p>	
<p>If the pilot refuses or ignores an instruction to cease operating and land the system, an offence of Obstruction may be committed. Officers should ensure that the pilot is aware of the reasons for the instruction and potential consequences of failing to comply. If the pilot still refuses, officers should consider whether the circumstances justify arrest and the timing of any arrest. In doing so they MUST take full account of the information below: Officers should not attempt to take control of the system UNLESS EXCEPTIONAL CIRCUMSTANCES EXIST such as threat to life or injury or damage to property. Controls vary from system to system. Trying to land the system yourself may cause the drone to crash leading to a very real risk of injury to persons and damage to property (in addition to destroying the drone). Officers will need to assess the risk of such actions taking into account all circumstances, including the environment they are in. Officers will have to justify their actions and decision making and demonstrate actions were a proportionate response to the risks perceived. The battery life on the majority of systems will range from 10 to 20 minutes. Larger systems may last 40 minutes. More advanced systems have a failsafe return to home function when batteries are low. Waiting is likely to be the most appropriate option.</p>	

<u>Investigation</u>	
Identify the point from which the drone took off and landed	
Record any serial numbers that might exist on both controller and drone	
Photograph the drone	
Secure any eyewitness or physical evidence, including who was around, what is the local environment like, exactly where did the offence take place	
Identify and use your powers of seizure of evidence (NB. there is no power of seizure under the Air Navigation Order 2009)	
Arrest if powers exist and are appropriate to use. (Necessity test.)	
Record on Crime systems as Crime or Crime Related Incident	
Submit intelligence report. The words ' Unmanned Aerial System, UAS or Drone must feature on the report	
If hostile reconnaissance is suspected, use powers under S58 Tact 2000 and report to <u>Operation Fairway</u>	
When considering what action to take, consider the gravity factors (Appendix 2)	

Air Navigation Order (ANO) Offences - Generally

As per instructions for All Offences, plus	
Identify reference points that will help you measure distances	
Photograph the scene (video is better if practical)	
Check if the drone has a camera fitted	
Ask to see the footage of anything recorded (you have no power to demand this or require its removal)	
If the offence was over a crowd or open air event, try and establish how many people were present	
Weigh the device if you are able to do so	
Air Navigation Order offences 166, 167 are summary only. 6 months statutory time limit. They are not notifiable offences. To be recorded on crime systems as Crime Related Incident.	
Advice and help can be obtained from the Civil Aviation Authority on 0207 453 6193 or out of	

hours on 01293 567171

If incident involves risk to Aircraft or Aviation Facilities – 01294 567171 (24/7)

Appendix Two

Gravity Factors for Case Disposal

Gravity factors are intended to assist officers and staff in identifying the best course of action in disposing of cases that they may have recorded. In all cases, it is necessary for a thorough investigation of the facts to be carried out in support of effective decision making.

Where mitigating factors are applied, this does not negate the responsibility to compile a correct and accurate Niche report. Mitigating factors should be used to balance decision making but not as a defence.

OFFENCE	AGGRAVATING FACTOR	MITIGATING FACTOR
Air Navigation Order 2009 (S138, 166, 167)	Results in injury ¹ Results in damage ² Persistent offending Flown over Airport Restricted Zone. Flown within Airport arrival and departure flight paths. Flown inside a public building Within or proximate to aviation assets Flown over state or ceremonial event Obtains private information Flown over state and sensitive buildings and landmarks	Juvenile with no intent Technical failure ³ Visiting tourist

¹ Consider relevant assault legislation

² Consider Criminal Damage Act 1971

³ Applies to flights that start outside congested areas and breach regs due to aircraft failure

Appendix Three

RELEVANT OFFENCES UNDER AIR NAVIGATION ORDER 2009

Article 166 – Small Unmanned Aircraft (SUA) have to be flown safely and with direct, unaided visual contact of the controller (pilot) must:

- Not cause or permit any article or animal to be dropped
- Be reasonably satisfied that the flight can be made safely

Article 167 – Small Unmanned Surveillance Aircraft (SUSA) cannot be flown

- Over or within 150 metres of congested area
- Over or within 150 metres of organised open-air assemble of more than 1,000 persons
- Within 50 metres of vessel, vehicle or structure which is not under the controller of pilot
- Within 50 metres of any person unless landing when it is 30 metres. Does not apply to pilot or others under their control

SUSA is SUA which is equipped with any form of surveillance or data acquisition

Both are Summary Only Offences and, therefore, have 6 months statutory time limit.

A congested area in relation to a city, town or settlement, means any area which is substantially used for residential, industrial, commercial or recreational purposes.

If the operator has a permission from the CAA, he may be entitled to fly within a congested area, but never directly overhead persons, vehicles, vessels and property that are not 'under his/her control'.

If you see such a flight (e.g. flying down a public road, at an event) then it is almost certainly illegal.

Flights within congested areas are only permitted by the CAA if the aircraft weighs less than 7kg and usually at no closer than 50m to persons, vehicles etc not under their control. The pilot/operator should be able to show a copy of their permission stating these limitations.

Article 138 – Recklessly or negligently cause or permit an aircraft to endanger any person or property

Difficult to prove but carries maximum of 2 years and triable either way

Procedures and Powers

- There is no Power of Arrest under the Air Navigation Order
- Arrest under s.24 PACE if appropriate
- Seizure of equipment an advantage, if arrested. Photograph of equipment if no arrest
- Consider other offences that may have been committed (i.e. Public Order, Harassment, Offences against the Person, Offences against Property etc.)
-

Essential evidence

- Who controller / pilot was
- Details of the equipment used (seized or photograph). In SUSA cases there will be images / video footage of the flight *most likely stored on removable media such SD or microSD card.*
- Distances from vessels, vehicles, structures or persons (as above) or numbers at an assembly
- Witnesses

The Civil Aviation Authority (CAA) may investigate and prosecute in cases that involve Aviation Safety. We will attend and deal with allegations, if able to do so. But if not, advice and help can be obtained on **0207 453 6193** or out of hours on **01293 567171**.

Appendix 4

Media Protocol

Whilst there is no formal regulation of photojournalism the following may assist in managing intrusive use of drones for journalism

The Independent Press Standards Organisation (IPSO) is the independent regulator of the newspaper and magazine industry. They administer the Editors' Code of Practice and take active steps to ensure that publications adhere to it. The Editors' Code deals with issues such as accuracy, invasion of privacy, intrusion into grief or shock and harassment.

Website: <https://www.ipso.co.uk/IPSO/aboutipso.html>
Contact number: 030 123 2220

The relevant sections of the ***Editors Code*** are outlined below:

Article 3 – Privacy

- Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications.
- Editors will be expected to justify intrusions into any individual's private life without consent. Account will be taken of the complainant's own public disclosures of information.
- It is unacceptable to photograph individuals in private places without their consent.
- Note — Private places are public or private property where there is a reasonable expectation of privacy.

Article 4 – Harassment

- Journalists must not engage in intimidation, harassment or persistent pursuit.
- They must not persist in questioning, telephoning, pursuing or photographing individuals once asked to desist; nor remain on their property when asked to leave and must not follow them. If requested, they must identify themselves and whom they represent.
- Editors must ensure these principles are observed by those working for them and take care not to use non-compliant material from other sources.

Article 5 - Intrusion into grief or shock

- In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. This should not restrict the right to report legal proceedings, such as inquests.
- When reporting suicide, care should be taken to avoid excessive detail about the method used.

Appendix 5

Drones – FAQs

What is an Unmanned Aerial System (UAS)?

A UAS is anything that flies but is piloted remotely. They are commonly referred to as drones but go under many other names, including Remotely Piloted Air Systems (RPAS) and Small Unmanned Aircraft (SUA). They come in many shapes and sizes, and are used by professionals and hobbyists alike. Some look like aeroplanes, some look like helicopters and some like flying saucers! Many are now fitted with small, but powerful HD cameras and even microphones.

Are they illegal?

No, definitely not. The ownership and use of UAS is not illegal in itself. However, if used in the wrong environment they could be illegal and they can also be used to commit more 'traditional' offences such as assaults, damage, harassment or voyeurism.

Where can't they be used?

You will need to look at the Air Navigation Order, as different rules apply to different types of UAS. But generally speaking, you can't:

- Fly them dangerously anywhere
- Drop anything from them
- Fly them out of sight of the operator
- Fly them above 400' (300' if you're near a helicopter route)
- Fly them in and around airports
- Fly them within 150m of, or over at any height, congested spaces or organized gatherings of more than a 1000 people if fitted with a camera
- Fly Within 50 metres of any vessel, vehicle, person or structure not under the control of the person in charge of the aircraft
- Take off or land within 30 metres of any person unless they are under the control of the operator

What is the Air Navigation Order 2009?

This is a piece of legislation intended, among many other things, to maintain the safe use of UAS. In particular s.166 and s. 167 and s. 138 apply to the use of UAS. The legislation doesn't give any specific powers of arrest or seizure and officers should continue to use powers under SOCPA and PACE as appropriate. The legislation appears quite unwieldy, but is quite straight forward if viewed carefully.

Are they allowed to fly over football stadiums?

Definitely not. This is one type of offending we are starting to see in London, and the danger is that they lose power and drop into the crowd from height, thereby causing injury. The same restrictions apply to other stadiums or gatherings.

What can I do to stop a drone once it is in the air?

Currently the only option open to you is to instruct the pilot to land the drone.

Can I seize UAS that are used to commit offences?

There is no power of seizure of the Air Navigation Order 2009, but you could consider s. 19 PACE 1984 or common law powers. If a UAS is used in other offences, or you arrest people, you could consider using powers of seizure under those statutes.

Can I use my discretion in how I deal with these offences?

As with all policing you can exercise your discretion, but we still require the minimum standard of reporting as described below. We recognise that in terms of the ANO in particular, there is great potential for accidental engagement with the legislation and so we have developed the following Gravity Factors that might help you decide how to proceed with each case:

OFFENCE	AGGRAVATING FACTOR	MITIGATING FACTOR
Air Navigation Order 2009 (S138, 166, 167)	<ul style="list-style-type: none"> • Results in injury⁴ • Results in damage⁵ • Persistent offending • Flown within Airport Restricted Zone or close to arrival and 	<ul style="list-style-type: none"> Juvenile with no intent Technical failure⁶ Visiting tourist

⁴ Consider relevant assault legislation

⁵ Consider Criminal Damage Act 1971

⁶ Applies to flights that start outside congested areas and breach regs due to aircraft failure

	departure flight paths <ul style="list-style-type: none"> • Flown inside a public building • Within or proximate to aviation assets • Flown over state or ceremonial event • Obtains private information • Flown over state and sensitive buildings and landmarks 	
--	--	--

What if I suspect terrorism?

There is concern that these devices could be used to obtain information through hostile reconnaissance. s. 58 Terrorism Act 2000 would make this an offence, and you should use your powers under this act accordingly. In all cases, you must file a report with **Operation Fairway**.

Can I view footage taken by drone?

No, not unless you **reasonably suspect** the person is a terrorist in which case you can use powers under S43 of the Terrorism Act 2000.

Important: Section 43 does not prohibit the taking of photographs, film or digital images in a public place and members of the public and the press should not be prevented from doing so in exercise of the powers conferred by section 43.

A police officer can only stop and search a person they reasonably suspect to be a terrorist under this power.

Viewing Images and Seizure

- Digital images can be viewed as part of a search under section 43 of the Terrorism Act 2000 to discover whether the person has in their possession anything which may constitute evidence that they are a terrorist.
- When conducting a search under section 43, cameras, film and memory cards can be seized if the officer reasonably suspects that these may constitute evidence that the person is a terrorist.
- Officers do not have the power to delete images or destroy film.

- Once cameras or other devices are seized, to preserve evidence, officers should not normally attempt to examine them further.
- Seized cameras and other devices should be left in the state they were found in and forwarded to appropriately trained forensic staff for forensic examination.

What if the incident I am dealing with involves the safety of an aircraft?

Continue to investigate the matter as described in the UAS toolkit. Please contact the Civil Aviation Authority as soon as you are able to. You will need to speak to their enforcement teams, but they don't work 24/7. The 24/7 switchboard number for the CAA is 01293 567171.