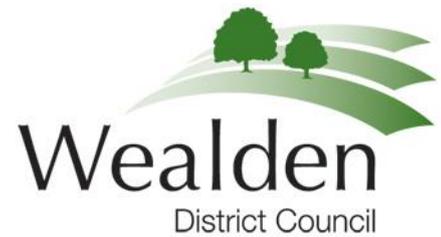


Wealden District Council Unmanned Aerial Vehicles Policy



Part I - Use of UAVs for operation purposes for Wealden District Council

1. Purpose

- 1.1 Unmanned Aerial Vehicles (UAVs) have become far more common in recent years and can provide valuable advantages when carrying out Council operations.
- 1.2 The purpose of this policy is to ensure that Unmanned Aerial Vehicle operation, associated with Wealden District Council, is carried out safely and in accordance with regulatory requirements, the Councils Operations Manual and Permission for Commercial Operations.
- 1.3 Departments currently being considered for the use of drones and overview of the key areas where they can be utilised are:
 - (1) Building Control

To inspect dangerous structures.
To inspect difficult to view areas e.g. roofs and high elevations with no access (multi-storey buildings).
 - (2) Development Management

For larger scale site inspections.
For general overview of major development sites in order to provide overall context of the proposed development in real time. Drones images/videos can be utilised at Committee to aid Officers and elected Members when making decisions, as a full survey of the site and surrounding area.
 - (3) Enforcement

To document a site at a specific time from the air, to provide a clear record of both the operational development and use of a site. This can be particularly useful when trying to place a specific marker on a site should there be any potential for issues to arise on a site in the future.
For sites where access is restricted. The drones can be safely deployed near the site and can record the activities/operations being undertaken. This will greatly reduce the risk to staff when dealing with confrontational individuals and will allow Officers to make better informed decisions on how to proceed with their cases.
The use of a drone where a potential vexatious complainant is involved could be a very useful asset. The use of the drone could filter complaints and a site inspection could be carried out without the alleged contraveners being aware, thus removing any unnecessary stress caused by multiple enforcement visits.
 - (4) Conservation

To inspect dangerous structures.

To inspect difficult-to-view areas e.g. roofs and high elevations with no access (multi-storey buildings).

Drone images can be utilised at Committee to aid Officers and elected Members when making decisions with respect to Listed Building applications and Conservation Area applications and Policy presentations, as a full survey of the site or area, together with surrounding area can be shown.

(5) Arboriculture and Biodiversity

For larger scale site inspections, with regard to landscape appraisals on planning applications, and Policy work on the Site of Nature Conservation Interest (SNCIs) etc. General overview of major development sites in order to provide overall context of the proposed development in real time and how the site sits within the environment. Drones images can be utilised at Committee to aid Officers and elected Members when making decisions, as a full survey of the site and surrounding area can be carried out.

(6) Street Scene

Searching for remote fly tips in difficult to access locations.

(7) County-side Engineer

For coastal inspection, footpath assessments and overview flooding measure e.g. Sustainable Urban Drainage Systems.

(8) Other Departments

Other Departments within the Council have also expressed that the use of a SUAV could be helpful in their work, such as Benefits and Housing.

(9) Street Scene

Searching for remote fly tips is difficult to access locations.

(10) County-side Engineer

Coastal inspection

Footpath assessments

Overview flooding measure e.g. Sustainable Urban Drainage Systems

(11) Other Departments

Other Departments within the Council have also expressed that the use of a drone could be helpful in their work, such as Benefits and Housing.

2. Scope

2.1 This policy applies to all Wealden staff that use Unmanned Aerial Vehicles (UAVs) on behalf of the Authority. All Commercial operations will be carried out in accordance with the Council's Operations Manual and Permission for Commercial operations.

2.2 This policy applies to the use of UAVs on all Wealden District Council owned sites as well as any Wealden District Council related work with UAVs that is carried out on third party sites.

Note: This includes both outdoor and indoor operation of UAVs

- 2.3 Supervisors and managers have a duty of care placed upon them to actively monitor the implementation of this policy. As persons directing the work or managing a site, supervisors and managers have a crucial role in ensuring that any operation of UAVs is carried out safely and in accordance with all relevant legislation.

3. Equality, Human rights and Data Protection Analysis

Equalities

- 3.1 Consideration is given to the protected characteristics of all people/groups identified in the Equality Act 2010. The protected characteristics are gender, age, race, disability, sexual orientation, religion/belief, pregnancy and maternity, and marriage/civil partnership.
- 3.2 The Council recognises the need for specific measures to ensure the health and safety of each of these groups. This policy and all other associated Health and Safety related policies take this into account.

Human Rights and Data Protection

- 3.3 There is no doubt that some of the usage of the Drone will be classified as surveillance. The issue will be whether the usage is covert or overt surveillance and the necessary authorities would need to be in place for such activity.
- 3.4 Any surveillance by a public authority is governed by strict legislation; this is in the form of the Regulation of Investigatory Powers Act 2000 known as RIPA which ensures compliance with the ECHR 2000. Local Authorities are further governed by new legislation with the Protection of Freedoms Act 2012.
- 3.5 All Surveillance is further over seen by the Office of the Surveillance Commissioner (OSC) who publishes a guidance document which should be followed by Local Authorities (LA) who conduct surveillance operations. They make inspections of records kept by LA's every 3 years.
- 3.6 RIPA describes surveillance as being any surveillance which is carried out in a manner calculated to ensure that the persons subject to that surveillance are unaware that it is or may be taking place, as in Section 26 (9)(A) of the RIPA 2000.
- 3.7 There is no doubt that the majority of the usage will be overt and not covert. Drone operators will be wearing high visibility jackets that are clearly labelled or even uniform that is clearly labelled to show that they are from Wealden District Council and that they are Drone operators.
- 3.8 There will be signage placed in the area of the operations that will clearly show that there is a Drone being used and that operators will be using vehicles that are clearly marked and labelled as being from Wealden Council and the usage of drones is taking place.
- 3.9 This can be further enhanced by advising all applicants for planning permission that we operate Drones and that we use them for the purposes of viewing developments, sites and for possible breaches of planning rules and regulations.

- 3.10 There will be occasions when the Drone will be used for covert surveillance, but there are very strict rules and regulations governing its use. This type of surveillance would be called directed surveillance and is defined by the RIPA as being surveillance which is covert but not intrusive and is undertaken:
- a. For the purpose of a specific investigation or specific operation;
 - b. In such a manner as likely to result in obtaining of private information about a person or persons whether or not one specifically identified for the purpose of the investigation or the operation and otherwise; and
 - c. By way of an immediate response to an event or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under Part 2 of RIPA to be sought for the carrying out of surveillance.
- 3.11 In such circumstances, the rules have recently changed as part of the Protection of Freedoms Act 2012. That piece of legislation states that all Local Authorities engaging in any form of directed surveillance must have the surveillance authorised through a Justice of the Peace.
- 3.12 The procedure starts with an application form from the person or the team wishing to conduct surveillance. This is then passed to the Gatekeeper for the Council. This is the Wealden District Council lead PACE (Police and Criminal Evidence Act 1984) Officer in Corporate Fraud.
- 3.13 The applicant will have shown that they have considered Article 8 of the Human European Convention on Human Rights (ECHR 2000), Right to a Private Life. They would also have to show that they have considered the justification, necessity and proportionality of the application. If the Gatekeeper is satisfied that this criteria has been met, and that the offence for which the surveillance is needed attracts a minimum prison sentence of 6 months or more, then he will forward the application to a Single Point of Contact (SPoC) at the National Anti-Fraud Network (NAFN) as this is the Government organisation that monitors all surveillance conducted by Local Authorities.
- 3.14 NAFN will forward the application back to one of the Local Authorities Authorising Officers. This will be a Director or a Head of Service (designated Authorising Officer).
- 3.15 The Authorising Officer will sign the application to say that they approve the surveillance on behalf of the Council. The form is then returned via NAFN to the Gatekeeper. The Gatekeeper will then arrange final authorisation with the local Magistrate. This process has to be completed before any surveillance can take place.
- 3.16 The authorisation will last for a period of 3 months, after which it has to be either cancelled or renewed prior to its expiry. The Authorising Officer for the Council may require a review at any time or at regular intervals during the 3 month period.
- 3.17 Once the objective of the surveillance has been achieved, the authorisation has to be cancelled immediately, with the completion of a cancellation form which has to be signed by the Authorising Officer and sent to NAFN. It has to clearly define what was achieved, what evidence was obtained and whether there was any collateral intrusion.

- 3.18 Collateral intrusion or third party information that is obtained but is not necessary has to be immediately disregarded and removed from the investigation. Private information is very strictly controlled and is known as collateral intrusion or third party information. Any such information that is obtained during the surveillance could be construed as being intrusive. Legislation strictly forbids any Local Authority from conducting intrusive surveillance.
- 3.19 Any such breaches would have to be reported to the Office of Surveillance Commissioner and the authority that had been granted would have to be reviewed and reconsidered.
- 3.20 The whole process is monitored by the Gatekeeper on behalf of the Council and the Authorising Officer. Copies of all applications renewals and cancellations have to be kept for inspection by the OSC.

4. Conclusion

- 4.1 The Drone can be used by Wealden District Council to provide photographic views of sites or proposed sites for planning and development. No authorisation is needed in the circumstances providing it is clearly shown that the Drone is being used overtly. If it is used for the prevention or detection of offences or breaches of regulations and is being used overtly, the use in such circumstances would need to be registered only within the Council.
- 4.2 In circumstance where the Drone would be used covertly for the prevention and detection of offences that attract 6 months imprisonment or more, then authorisation under RIPA has to be obtained before that surveillance can take place.

Part II - Technical Background and Specification for the use of Drones

1. Definitions

1.1 Also known as:

UAV – Unmanned Aerial Vehicles UAS – Unmanned Aircraft Systems RPA – Remotely Piloted Aircraft SUA – Small Unmanned Aircraft
SUSA – Small Unmanned Surveillance Aircraft ROV – Remotely Operated Vehicle
Model Aircraft
Drones, Helicams, Multirotors (tricopter, quadcopter, hexacopter, octocopter)

Small Unmanned Aircraft (SUA)

- 1.2 A 'small unmanned aircraft' means 'Any unmanned aircraft, other than a balloon or kite, having a mass of not more than 20 kg without its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight'.

NOTE: For electrically powered models the batteries must be included as part of the 20 kg limit. The batteries are in effect regarded as the fuel tank and electrons are regarded as the fuel.

Small Unmanned Surveillance Aircraft (SUSA)

- 1.3 A 'small unmanned surveillance aircraft' means a small unmanned aircraft which is equipped to undertake any form of surveillance or data acquisition.

Aerial Work/Commercial Operation

1.4 Definition of Commercial operations

- (1) The following is an extract from the CAA Information Notice IN-2016/073 relating to the definition of Commercial Operations:
- (2) 'Commercial operation' is given the following meaning:
"...any operation of an aircraft other than for public transport— (a) which is available to the public; or (b) which, when not made available to the public, is performed under a contract between an operator and a customer, where the latter has no control over the operator, in return for remuneration or other valuable consideration."
- (3) The intent of this meaning is exactly the same as the previous intent of 'aerial work'. The key elements in understanding this term are '...any operation of an aircraft...in return for remuneration or other valuable consideration'.
- (4) The term 'available to the public' should be interpreted as being a service or commodity that any member of the public can make use of, or actively choose to use, (e.g. because it has been advertised or offered to someone).

Persons under the control of the pilot in command of the aircraft (CAA clarification):

- (5) These are defined as:
 - (a) Persons solely present for the purpose of participating in the SUA flight operation.
 - (b) Persons under the control of the pilot in command who can reasonably be expected to follow directions and safety precautions to avoid unplanned interactions with the SUA. Such persons could include building-site or other industrial workers, film and TV production staff and any other pre-briefed, nominated individuals with an essential task to perform in relation to the event.
- (6) Spectators or other persons gathered for sports or other mass public events that have not been specifically established for the purpose of the SUA operation are generally not regarded as being 'under the control of the person in charge of the aircraft'. In principle, persons under the control of the person in charge of the aircraft at a mass public event must be able to:
 - (a) elect to participate or not to participate with the SUA flight operations;
 - (b) broadly understand the risk posed to them inherent in the SUA flight operations;
 - (c) have reasonable safeguards instituted for them by the site manager and SUA operator during the period of SUA flight operations; and
 - (d) not have restrictions placed on their engagement with the purpose of the event or activity for which they are present if they do not elect to participate with the SUA operation.

Note: As an example, it is not sufficient for persons at a public event to have been informed of the operations of the SUA via such means as public address systems, website publishing, e-mail, text and electronic or other means of ticketing, etc. without being also able to satisfy the points above. Permissions have, however, occasionally been granted for SUA flights at public events and these involved a segregated take-off site within the main event, with the SUA operating only vertically within strict lateral limits that keep it directly overhead the take-off site. Such flights were also limited by a height restriction and the tolerance of the SUA to wind effects and battery endurance.

Competence, Training and Briefing

- 1.5 Competence is based upon training and is equipping all staff (and others where the Council has a duty-of-care) with relevant skills and knowledge to deal appropriately with a given health and safety situation.
- 1.6 Briefing is informing such persons of relevant knowledge in relation to health and safety.

- 1.7 Training and briefing will be made available in a range of formats according to the needs of the trainee and different groups of personnel.
- 1.8 All pilots will be fully qualified and hold the relevant licenses/permissions and insurances to carry out aerial work.

Accessibility

- 1.9 The duty to make reasonable adjustments, as far as possible, to ensure that all staff (and others where the Council has a duty-of-care) with a disability have equal access to everything they need to do a job or studies as those persons without a disability.

2. Legislative Context

- 2.1 Adherence to this policy will ensure compliance with all relevant statutory regulations, specifically The Health and Safety at Work Act 1974 and the Air Navigation Order 2016

Legislative Fundamentals

- 2.2 All civil aircraft fly subject to the legislation of the Air Navigation Order 2016 (ANO) and the associated Rules of the Air Regulations. Also known as CAP 393. This includes both outdoor and indoor operation of aircraft.
- 2.3 Small Unmanned Aircraft (SUA) are exempted from most of the provisions of the ANO and Rules of the Air Regulations by the provisions of Article 23.
- 2.4 The level of exemption and restriction is determined largely by the size and use of the aircraft, significant bandings being 0-7 kg, 7-20 kg, 20-150 kg, >150 kg, commercial use (aerial work), recreational use, surveillance (equipped to undertake any form of data acquisition or surveillance).
- 2.5 Unmanned aircraft with an operating mass of 20 kg or less are defined as 'Small Unmanned Aircraft' and according to Article 23 of the ANO 2016 are exempt from the majority of the regulations that are normally applicable to manned aircraft.
- 2.6 Unmanned aircraft with an operating mass of more than 20 kg are subject to regulation as though they are manned aircraft. However, it may be possible to obtain an exemption from certain regulations with which it is impossible for unmanned aircraft to comply.

Note: Currently all Council UAV activities have been below 7 kg. There is no intention to fly above this weight as the Council's commercial permissions prevent this.

- 2.7 The legislative requirements affecting commercial UAS operations are set out in CAA guidance document CAP 722.

Specific Regulations

- 2.8 For aircraft of 20 kg or less, these are referred to as a 'small unmanned aircraft', the requirements are covered within Articles, 94 and 95 of the ANO.

3. Health & Safety Implications

- 3.1 This forms part of the range of Health and Safety Policies created to manage the health and safety of all relevant stakeholders.

4. Policy

Principles

- 4.1 A person must not recklessly or negligently cause or permit an aircraft to endanger any person or property.
- 4.2 A person shall not cause or permit any article or animal (whether or not attached to a parachute) to be dropped from a small aircraft so as to endanger persons or property.
- 4.3 The person in charge of a small unmanned aircraft may only fly the aircraft if reasonably satisfied that the flight can safely be made.
- 4.4 The person in charge of a small unmanned aircraft must maintain direct, unaided visual contact with the aircraft sufficient to monitor its flight path in relation to other aircraft, persons, vehicles, vessels and structures for the purpose of avoiding collisions.
- 4.5 Permission of the property owner/manager must be obtained before a UAV is operated on private land/property. This includes Council land/property.

Procedures

- 4.6 All UAV operations will be treated as hazardous work and subject to risk assessment and the Councils Operations Manual and Permission for commercial operations.
- 4.7 In assessing the risks, restrictions and appropriate controls in relation to UAV activities, due consideration must be given to the competency and experience of the pilot. All pilots will have the relevant qualifications and training.
- 4.8 All UAV operations shall be carried out by a CAA permitted pilot/organisation, in accordance with the Council Operations Manual and Permission for Commercial Operations
- 4.9 Where practicable, all Council UAV operations will be conducted using aircraft with a mass of less than 7 kg (including any payload).
- 4.10 Any UAV operations that constitute “Aerial Surveillance” shall be conducted in accordance with the following limitations, unless permission has been granted by the CAA:
- Within direct, unaided visual line-of-sight (VLOS) of the pilot;
 - No higher than 120 metres (400 feet) above the surface and no further than 500 metres from the SUSAs operator;
 - 150 metres away from congested areas and not within 150 metres of an open-air assembly of 1,000 persons or more; and

- Not directly overhead (at any height) or within 50 metres of persons, vehicles, vessels and property, unless those persons are 'under the control of the person in charge of the SUSAs'. (see 1.4 (5))
- 4.11 Where practicable all UAV operations, even if below 7 kg and non-surveillance, shall be conducted in accordance with the following limitations unless permission has been granted by the CAA:
- Within direct, unaided visual line-of-sight (VLOS) of the pilot;
 - No higher than 120 metres (400 feet) above the surface and no further than 500 metres from the SUA operator;
 - 150 metres away from congested areas and not within 150 metres of an open-air assembly of 1,000 persons or more; and
 - Not directly overhead (at any height) or within 50 metres of persons, vehicles, vessels and property, unless those persons are 'under the control of the person in charge of the SUA'.
- 4.12 Any autonomous/semi-autonomous UAV operations must be under the command of a Remote Pilot; who is able to intervene and take direct control within a few seconds at any stage. The pilot must be presented with enough information to have continuous situational awareness.

5. Governance Requirements

Responsibility

- 5.1 The Director of Environment and Community Services is responsible for the following:
- Auditing compliance with this policy.
 - The provision of advice, training and guidance to all persons within the Council regarding compliance with this policy. This advice may be given directly or through the appointment of competent persons.
 - Ensuring that this policy and accompanying guidance is current and correct.
 - Liaising with any relevant Regulatory authorities.
- 5.2 Managers and Pilots in Command are responsible for ensuring the following:
- Ensure that any regulatory permits necessary for the intended work are in place.
 - Permission has been obtained from the property owner/manager (where required)
 - Prior to using UAVs a suitable and sufficient risk assessment has been written, approved and documented.
 - Any control measures identified by the risk assessment have been fully implemented.
 - Work is only begun when a risk assessment has been undertaken. The Supervisor must ensure their 'reportee' has either carried out their own

risk assessment or has read and fully understood any risk assessment that has been written for the particular activity.

- That adequate information, instruction, training and supervision is provided.

5.3 Health and Safety Advisers have the following responsibilities:

- To give competent and informed advice to all users regarding the safe use of UAVs.
- To monitor adherence to safe working practices and procedures.
- To investigate any adverse incidents arising during the use of UAVs in order to identify the root cause.
- To remain up to date and informed regarding current best practice and legislation pertaining to the use of UAVs.

Implementation / Communication Plan

5.4 Leaders alert to managers.

5.5 Policy will be placed on the Wealden Website.

Exceptions to this Policy

5.6 There are no exceptions to this Policy.