

BACKGROUND NOTE ON CIVIL USE OF DRONES IN THE UK

INTRODUCTION

The All Party Parliamentary Group on Drones (APPG) has three strands to its work. One of these is to examine the Government's use of drone¹ technology domestically. Using the Freedom of Information Act 2000, the APPG has sought to ascertain the scale of the ownership and use of drone technology by Government and, details about the applicable policies and guidance which govern this use. While this research is on-going, a summary of findings are outlined below.

USE BY THE POLICE

The APPG submitted Freedom of Information (FoI) requests to all UK police services asking if they could provide details on the procurement, testing and use of drones; details on the policies and guidance for this use; and the number of times drones had been used and under what legislation. As a minimum, the APPG was expecting policies which referred to the relevant impacts on the Data Protection Act 1998, Regulation of Investigatory Powers Act 2000 (RIPA) and Article 8 of the European Convention on Human Rights and Human Rights Act 1998.

The most common response followed the format found below

I can confirm that no information is held by Avon and Somerset Constabulary which is relevant to your request. In addition, the Avon and Somerset Constabulary can neither confirm nor deny that it holds any other information relevant to your request by virtue of the following exemptions: Section 23 (5) - information relating to the security bodies. Section 23 is an absolute class-based exemption and therefore there is no requirement to conduct a harm or public interest test.

The second most common response was that "These searches failed to locate any records or documents relevant to your request"; indicating that current drone ownership and/or use is relatively limited. The Association of Chief Police Officers (ACPO) responded

[ACPO] do not hold any information as there is no ACPO guidance on the procurement, development and use of drones (unmanned aerial vehicles); ACPO do not hold any information as there is no ACPO advice regarding the human rights implications on the use of drones; ACPO do not hold any information as there is no RIPA or CCTV guidance from ACPO in relation to the use of UAS by Police Forces. Individual forces would be expected to consider their reason for use and whether RIPA legislation or CCTV legislation is appropriate.

The lack of centralised data collection was confirmed in a Parliamentary Question, which noted that it was an "operational matter for individual police forces, within the regulations set by the Civil Aviation Authority".²

On the question of which police services owned drones, the Home Office responded that

There is no requirement for police forces to report the trialling, acquisition or use of remotely piloted aircraft systems to the Home Office. The Government are aware that the following forces have acquired or made use of such systems. Merseyside; Staffordshire; Essex; Wiltshire; and West Midlands. It is the responsibility of the forces concerned to ensure that they comply with Civil Aviation Authority regulations.³

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- 1 It should be noted that the term "drone" is the more commonly used term for this technology though many of those who participated in the research commented on this term, and encouraged use of "unmanned aerial vehicles". The APPG does not use "drone" in a pejorative sense.
 - 2 Hansard House of Commons Debates, 6 February 2013, Col WA62.
 - 3 Hansard House of Lords Debates, 11 March 2013, Col WA42.

A response to an FOI revealed that Essex Police's drone had been purchased in 2008 but had not been used; future plans for its deployment were unclear.⁴ Staffordshire Police confirmed they owned an AR 100B, AirRobot purchased at the cost of £19,500 in 1998. It had been used in a variety of situations including road collisions and crime scene investigations; its primary use was at the "V" Music Festival. It had been deployed 70 times in the last 3 years. Staffordshire Police considered "the use of the UAV is specific and proportionate to the problem being addressed after other measures are considered."⁵ Wiltshire Police confirmed that they "made use of a drone (UAV) during the Summer Solstice at Stonehenge in 2009...The UAV was rented at a cost of £1500 from Air-Robot UK and was operated by that company."⁶ An FOI request to Merseyside police has revealed that they have not used a drone since February 2010.⁷

Significantly, none of these police services provided details of the policies which governed the use of drones and few made mention of any relevant human rights considerations or domestic legislation. This policy gap appears, from the perspective of Government, to be filled by the Surveillance Camera Code of Practice, currently the subject of a consultation process.⁸ Though local authorities and police will be under a duty to have regard to the Code, other surveillance camera operators can choose to adopt the Code voluntarily.⁹ It is unclear how regulations relevant for CCTV can be carried over effectively to govern drones. Further, the heavy reliance upon s.23 (5) FoI to withhold information on the grounds of national security, by police services, is of concern; it undermines the public's ability to engage in informed debate on this issue and devalues the principle of policing with consent. That ACPO appears to have declined to engage with how this technology is used by police services is also of concern, especially considering its Statement of Purpose includes: "ACPO leads and coordinates the direction and development of the police service".

THE POLICE SERVICE OF NORTHERN IRELAND

On 11 April 2013, the Northern Ireland Policing Board endorsed a proposal put forward by the Police Service of Northern Ireland (PSNI) to purchase 'three types of Unmanned Aerial Systems' (UAS), with a combined cost of £1 million. During a subsequent debate in the Northern Ireland Assembly, it emerged that nine drones, in total, were to be purchased by the PSNI.¹⁰ According to the PSNI, these will have a maximum wing span of 10ft and their operation will be undertaken by a PSNI Air Support Unit member, who will receive training approved by the Civil Aviation Authority (CAA).¹¹ Images collected will be subject to the same standards and processes as CCTV - where images are recorded but are not required for policing purposes, they are retained for 28 days before being destroyed.¹² The PSNI made reference to their duties under Article 8 of the European Convention on Human Rights and the Data Protection Act 1998.¹³ Further reference was made, in the minutes of a meeting of the Northern Ireland Policing Board, of the need for the deployment of this technology to be in line with RIPA. Documents received as part of an FOI request included a letter from JA Harris, Assistant Chief Constable, Crime Operations, to the Chief Executive of the Policing Board, Sam Pollock stating

4 Email response to an FoI request to Essex Police, 12 November 2012.

5 Email response to an FoI request to Staffordshire Police, 9 October 2012.

6 Email response to an FoI request to Wiltshire Police, 7 June 2013.

7 Email response to an FoI request to Merseyside Police, 8 May 2013.

8 House of Commons Debate, 16 May 2013, Col 343W.

9 The Government's response, published 4 June, to submissions made during the consultation process can be found at

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/204774/Surveillance_Camera_Code_of_Practice_RESPONSES_WEB.pdf

10 Northern Ireland Assembly Adjournment Debate, 16 April 2013.

11 Letter from JA Harris, PSNI to Sam Pollock, Northern Ireland Policing Board, 5 March 2013.

12 Letter from JA Harris, PSNI to Sam Pollock, Northern Ireland Policing Board, 10 April 2013.

13 Letter from JA Harris, PSNI to Sam Pollock, Northern Ireland Policing Board, 10 April 2013.

The primary use of these UAS will be overt support to policing. Should, however, a request be made to assist with the investigation of crime, then as with existing aircraft, authority will be required under the Regulation of Investigatory Powers Act.

The impetus of this purchase is the G8 summit, to be held near Enniskillen on 17-18 June 2013 and concerns at the size of the event, the potential for violent protests and the on-going security threat posed by dissident republicans. Such is the scale of the policing operation that the PSNI will draft in 3,000 police officers from Britain, as well as receive assistance from the Irish Gardai.¹⁴

The Policing Board, in a statement, indicated that as well as playing a role in the policing operation at G8, drones will also be used in “searches for suspects and missing persons, providing support uniform police officers attending calls, events management and public order situations”.¹⁵ The Policing Board had requested clarification on the scrutiny and regulation of drones use by the PSNI, with a particular reference to the retention and disposal of images, and the need to comply with RIPA and the Civil Aviation Authority’s regulation regime. Drones have been approved for an initial period of one year and will be the subject of a full review to be undertaken by the Oversight Commissioner at the end of this period.¹⁶ Correspondence with the Office of the Police Ombudsman revealed that this body will also have some degree of oversight on the use of drones, for example, a complaint could be lodged that a police officer/s has used this technology improperly or in a manner for which they were not intended.¹⁷

This deployment, and the level of transparency surrounding it, is significant. Following on from the Good Friday/Belfast Agreement, the Report of the Independent Commission on Policing (Patten Commission) made 175 recommendations focused on developing a human rights approach to policing. While concerned with building a more representative institution, central to the recommendations was an emphasis on transparency and accountability and included the creation of the Northern Ireland Policing Board. This drive for accountability is also supported by the Office of the Police Ombudsman for Northern Ireland, which investigates complaints against the police. While far from perfect, the result is that the PSNI has adopted a more transparent and accountable approach to policing, including with regard to the decision-making process concerned with, and deployment, of new technologies. The result is that the public debate in Northern Ireland on the use of drones is arguably better informed, with more robust oversight dialogue in place about the need for, and use of, drones, and the potential for a greater adherence to equality and human rights standards. However, there are concerns that this technology will be disproportionately focused on certain communities and that questions remain with regard to the definition of covert and overt deployment.

USE BY FIRE SERVICES

A number of UK Fire Services employ drone technology. West Midlands Fire Service was the first to bring a drone into operation with the MD4-200 system; this use is governed by a CAA licence, and associated regulations, Standing Order Guidance for Close Circuit Television and Standing Order 02/16 Data Protection Act.¹⁸ In the accompanying policy document, the West Midlands Fire Service cite several examples of its use, including a serious warehouse fire, where the drone was able to provide live video footage of the event which was subsequently used as evidence in the police investigation. Since 2009, Hampshire Fire and Rescue Service have been experimenting with the use of a drone to assist in their work. They purchased an airframe from a company in Yorkshire and have developed cameras and other electronics to increase its capability. An initial Equality Impact Assessment was carried out when the

14 ‘Unions give officers go-ahead to police G8’, *Belfast Telegraph*, 15 April 2013.

15 Statement of the Northern Ireland Policing Board, 11 April 2013.

16 ‘Unmanned drones to assist 8,000 strong police force during G8 summit’, *Belfast Telegraph*, 11 April 2013 and Statement of the Northern Ireland Policing Board, 11 April 2013.

17 Email correspondence with the Office of the Police Ombudsman for Northern Ireland, 19 April 2013

18 Response from West Midland Fire Service to a Freedom of Information request, 1 March 2013.

technology was first acquired; no equality issues or concerns were found. Access to images is controlled by the senior drone operator and remain the property of the Fire Service.¹⁹ In contrast, Dorset Fire Brigade considered the use of a “spy plane drone” to monitor arson on Canford Heath though it was subsequently decided not to use it for this purpose.²⁰

INITIAL RESEARCH INTO USE BY THE COMMERCIAL SECTOR

The APPG has also undertaken initial research on the civil commercial use of drones, following on from the response to an FoI request to Wiltshire Police, noted above, which found that this technology was rented from a commercial provider. Civil licence holders were contacted and asked for: information relating to their company’s provision of UAV service to Government agencies; if they could provide any policies or guidelines used by their companies to govern the use of these vehicles and; to provide any policies regarding the collection and storage of data gathered via drones. There was a good response from those contacted. While this research is ongoing, several initial themes have emerged.

Firstly, relatively few companies were providing, or considering the provision of such services to government agencies. The majority were concerned with the use of drones to record information such as offshore oil inspections, landfill surveys or to monitor coast erosion. Secondly, respondents noted that the commercial use of drones is already well-regulated by the CAA. Respect for, and compliance with, the CAA’s guidelines were re-iterated by the majority of respondents. A vested interest in maintaining safe and professional operation of drones was considered integral to the reputation of such operators and to the industry as a whole. A number of respondents also made reference to industry best practice, for example, in requesting permission from landowners, prior to drone operations.

Concerns were however raised at the increased use of unregulated smaller drones by the general public for leisure purposes, which currently fall within the remit of the CAA. Attention particularly focused on the DJI Phantom, which is available for purchase online for £499, and to which a camera can be attached. One respondent advocated “As registered operators we would like to see the law acting against unregistered operators or individuals who act irresponsibly”.²¹ Several respondents mentioned concerns that this lack of regulation, and the potential for an accident to occur, may potentially negatively impact on the commercial industry. This was compounded by a perceived lack of understanding by the general public of the technology, and concerns at the use of the term drone, rather than UAS or UAV, a term which commercial operators considered to be pejorative.

A number of companies shared their policies on the operation of commercial drones as required by CAA regulations. Broadly speaking, these all featured a strong commitment to safety. For example, one policy emphasised the need for pilot and operator to be in a fit and healthy state and for risk assessments to be carried out. While there was less emphasis within some of the policies on the need to protect data or respect privacy, primarily due to the nature of the work, in other policies, there was relatively good knowledge of the key legislation. One company noted that before aerial surveying data was handed over to a client, trimming or distortion may be carried out should data be recorded outside the set boundary. Some operators commented that there was little difference between images collected via drones and those collected via Google Earth/ Street view, which, it was argued more directly infringed the privacy of the general public and are available to view online by anyone. Data recorded by commercial operators was often privately secured on computers with relevant firewall provisions.

Some commercial operators extended an invitation to members of the APPG to visit their sites and see their drones in action. Should anyone be interested in taking up such an offer, please contact Caroline Parkes, the APPG’s Researcher at caroline.parkes@parliament.uk.

19 Email response from Hampshire Fire and Rescue Service to an FoI request, 22 February 2013.
20 Email response from Dorset Fire Service to an FoI request, 27 February 2013.
21 Email correspondence, 18 April 2013.