

# Draft Hampstead Heath Drone Guidance 2017

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## Introduction

The City of London Corporation manages Hampstead Heath for the recreation and enjoyment of the public. This guidance has been written in response to Heath users' concerns for their privacy, tranquillity and safety arising from the use of drones on the Heath. The aim of this document is to provide clarity about the current law and to ensure a consistent approach to drone usage on the Heath.

Hampstead Heath's mosaic of habitats provides an invaluable resource for wildlife just six kilometres from the centre of London. It is of national as well as regional importance. Because of the Heath's special character and the importance of its ecology, the Corporation is particularly aware of the potential issues of flying a drone here. Factors affecting this concern includes the close proximity of Hampstead Heath to neighbouring residential and business properties, and the potential risk of causing harassment, alarm or distress to their occupants, as well as the potential risk of accident, injury or damage to other green space users or property as a result of a drone failure or a mistake by the person operating it. **Therefore, the use of drones on Hampstead Heath is banned in most circumstances.**

The use of any drone is governed by Articles 94 and 95 of the Air Navigation Order 2016 ("ANO"), which can be found in full at <http://www.legislation.gov.uk/uksi/2016/765/contents/made>. In simple terms, **a drone with a camera may not be flown on or even close to the Heath** without the express permission of the Civil Aviation Authority ("CAA").

In theory, a drone that does not have any camera or surveillance equipment may be flown on the Heath for personal use, without the permission of the CAA, subject to certain restrictions. However, given the sensitivity of the Heath, its users and wildlife, the City of London will actively discourage the use of drones on Hampstead Heath. A more detailed explanation is set out below.

## Restrictions on the use of drones

Under Article 94 of the ANO, a person in charge of a drone:-

- may only fly the aircraft if reasonably satisfied that the flight can safely be made;
- must maintain direct, unaided visual contact with the aircraft throughout the flight;
- must not fly the aircraft (if it weighs more than 7kg) within certain types of controlled airspace, without the permission of air traffic control, and never at a height of more than 400 feet;
- must not fly the aircraft for the purposes of aerial work, except in accordance with a permission granted by the CAA.

## Additional restrictions on the use of camera drones

Under Article 95 of the ANO, a person in charge of a camera drone requires a permission from the CAA to fly the aircraft:-

- within 50 metres of any vehicle, structure or person, or within 30 metres of any person on take-off or landing (excluding the controller, etc.);
- over or within 150 metres of an organised open-air assembly of more than 1,000 persons;
- over or within 150 metres of any congested area.

## Definitions

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- A small unmanned aircraft (or “**drone**”) means any unmanned aircraft, other than a balloon or a kite, having a mass of not more than 20kg without its fuel but including any articles or equipment installed in or attached to the aircraft at the commencement of its flight.
- A small unmanned surveillance aircraft (or “**camera drone**”) means a small unmanned aircraft which is equipped to undertake any form of surveillance or data acquisition.
- 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. Having consulted with the CAA and the Metropolitan Police Service (“MPS”), the City of London Corporation’s view is that this includes the whole of Hampstead Heath.

## **Enforcement**

A contravention of any of the applicable provisions of the ANO is a criminal offence. The CAA and the MPS are the relevant enforcement authorities. The role of the Hampstead Heath Constabulary is to advise and educate Heath users about the relevant rules, and to provide evidence of any breaches to the enforcement authorities in appropriate cases.

As a matter of policy, the City of London Corporation will charge the owner of a lost drone for its retrieval (for example, from a tree) and will also recover full payment for any damage a drone causes to City’s property.

## **Commercial use of drones**

Where it is proposed to carry out commercial filming on the Heath using a drone, consent must be obtained from the City of London Corporation, in addition to holding a permission from the CAA. Further information can be found at <https://www.cityoflondon.gov.uk/things-to-do/green-spaces/hampstead-heath/visitor-information/Pages/Filming-on-Hampstead-Heath.aspx>.

The Corporation will encourage the use of a drone if this aids the reduction of risk in the work place (for example, working at height, building survey work and/or undertaking a professional service).

## **Data protection**

The Information Commissioner’s Office advises that the use of camera drones has the potential to be covered by the Data Protection Act 1998 and recommends that users of camera drones should operate them in a responsible way to respect the privacy of others. For more information, visit the ICO’s website at <https://ico.org.uk/for-the-public/drones/>.

## **Disclaimer**

Where this guidance offers advice on legal issues, this is given to the best of our understanding. It is not offered as a definitive legal interpretation and is not a substitute for formal legal advice. If formal advice is required, you should consult your own legal adviser.