

Hampstead Heath Drone Guidance 2021

1. Introduction

- 1.1 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.
- 1.2 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 City Corporation is particularly aware of the potential issues of flying a drone here, including:-
 - causing harassment, alarm and distress to other Heath users;
 - affecting the privacy of other Heath users by filming them without their permission;
 - otherwise impacting on the quiet enjoyment of the Heath by other users;
 - causing alarm and distress to wildlife, such as birds, which are sensitive to disturbance;
 - in extreme cases, creating a risk of injury to Heath users, or wildlife, or damage to property;
 - issues arising from the close proximity of neighbouring residential and business properties.
- 1.3 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. The use of drones is regulated in the UK by the Civil Aviation Authority ("CAA") and this document has been written with reference to the CAA's Drone and Model Aircraft Code which is available at <https://register-drones.caa.co.uk/drone-code>.

2. Definition of "drone"

- 2.1 Although there is no strict legal definition of the term "drone", for the purposes of this document, a drone is an unmanned aircraft system without a pilot on board.
- 2.2 From 1 January 2023 new drones will have to meet a set of product standards, and some may do before this date. These will be classed from C0 to C4, based on the weight and capability of the drone, and will determine how and where you can fly.
- 2.3 It is assumed that most drones purchased before January 2023 will not have a class marking but where and how they can be flown will depend on the weight of the drone (see section 5).

3. UK drone regulations - current law

- 3.1 The use of drones is governed by the Air Navigation Order 2016 as amended by The Air Navigation (Amendment) Order 2020 which came into force on 31 December 2020 in line with the Implementing Regulation (EU) 2019/947 on the rules and procedures for the operation of unmanned aircraft ("the Unmanned Aircraft Implementing Regulation") which also became applicable in the UK on 31st December 2020.
- 3.2 The current law around where you can fly your drone is based on the weight of the drone being used, the type of operation being carried out, the level of risk and the level of pilot competence. Whether you are flying commercially or recreationally, the law is the same for everyone.
- 3.3 Whilst there are some significant changes to the UK drone regulations (as explained in sections 4-6), the following key provisions continue to apply:

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- a) The maximum flying height remains at **120 metres (400 ft)** from the earth's surface.
- b) The maximum flying weight must not exceed **25kg** (a slight increase from the previous 20kg limit).
- c) The pilot must maintain visual line of sight of the drone at all times, unless the necessary prior exemptions have been granted by the CAA.
- d) The drone must not be flown within any Flight Restriction Zone ("FRZ"), unless the necessary prior permissions have been granted by the relevant authority.

4. Categories of risks

- 4.1 Under the current legislation, drone flights fall into one of three categories. These are:
 - a) **OPEN**: Presents low risk to third parties. An authorisation from the CAA is not required. Registration and test requirements still need to be met (see paragraph 5)
 - b) **SPECIFIC**: More complex operations or aspects of the operation fall outside the boundaries of the Open Category. Authorisation is required from the CAA.
 - c) **CERTIFIED**: Very complex operations, presenting an equivalent risk to that of manned aviation. Authorisation is required from the CAA.
- 4.2 It is likely that a majority of drone flights operation on the Heath will fall within the OPEN category which is further split into sub-categories – **A1** (flying over people), **A2** (flying close to people) or **A3** (flying far from people).
- 4.3 In short, the category you fall into depends on the type of drone you wish to fly (i.e. its weight) and how you wish to fly it i.e. over, close or far away from people. It is likely that flying a drone on the Heath – a congested area, will involve flying over or close to people rather than flying away from people (A1 and A2 sub-categories) so there are likely to be more restrictions which are described in section 5 below.

5. Weight of drone in the OPEN category

- 5.1 Drones under 250g can be flown safely in the A1 subcategory i.e. over uninvolved persons but they must not fly over crowds of people.
- 5.2 Drones less than 2kg can be flown in A2 subcategory, but you must keep at least 50 meters away from people and pass the A2 theory exam (A2 Certificate of Competency or 'A2 CofC'). If you have not passed the A2 theory exam, you may only fly these drones in the A3 subcategory.
- 5.3 Drones of 2kg or greater may only be flown in the A3 subcategory.

6. Drone registration – Flyer ID

- 6.1 Anyone operating a drone which weighs up to 25kg in the UK must register their drone with the CAA. Further information on how to register is available at: <https://register-drones.caa.co.uk/individual/register-and-take-test-to-fly>
- 6.2 Drones weighing below 250g without a camera are exempt from this requirement.
- 6.3 All drone operators are required to take an online foundation test before receiving their flyer ID.

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7. Enforcement

A contravention of any of the applicable provisions of the UK drone legislation is a criminal offence. The CAA and the Metropolitan Police Service 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.

8. 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 Corporation, in addition to holding a permission from the CAA as the flying is likely to fall within the SPECIFIC category (refer 4.1(b) above). 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>.

9. 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 2018 and the UK General Data Protection Legislation if the drone is fitted with a camera. The ICO 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/>.

10. 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.

11. Further action

The City Corporation will continue to monitor the use of drones on the Heath, and any issues arising. If necessary, the City Corporation will consider applying for additional powers to restrict the use of drones on the Heath, enforceable by the Hampstead Heath Constabulary.