

**Equality and Human Rights Impact Assessment (EqHRIA)**

**Summary of Results**

### Policy/Practice Name:

|  |
| --- |
| Remotely Piloted Aircraft Systems (RPAS) Code of Practice V1.00 |

### Owning Department:

|  |
| --- |
| Specialist Operations, OSD |

### Date EqHRIA Completed:

11/08/2022

### Purpose of Policy/Practice:

The purpose of the guidance document is to provide an overview of the Police Scotland Air Support Unit (ASU) and the rules which govern police air operations. ASU air assets a police helicopter and Remotely Piloted Aircraft Systems (RPAS), colloquially known as drones.

In addition the guidance document provides general guidance on:

• Tasking of the aircraft (both spontaneous and pre-planned);

• Operational capabilities and limitations;

• Deployment to simultaneous competing incidents.

The RPAS Code of Practice (CoP) is an externally facing document. Its purpose is to provide guidance and the parameters of deployment and operational use of RPAS. It also aims to provide reassurance in relation to human rights, privacy and data protection that may be impacted by the use of RPAS.

### Summary of Analysis / Decisions:

**What the assessment found, and actions already taken.**

In terms of Equality IA, assessment of the RPAS Code of Practice found there to be negative/ low impact within the Age, Disability, Pregnancy & Maternity, Religion and Race protected groups.

There is no impact to Gender Reassignment, Marriage and Civil Partnership, Sex and Sexual Orientation groups.

In terms of Human Rights IA, assessment found that:-

Article 2 (Right to Life) is protected by virtue of the Police Fire & Reform (Scotland) Act 2012,

Section (20) Constables: general duties-

(1)It is the duty of a constable—

(a)to prevent and detect crime,

(b)to maintain order,

(c)to protect life and property,

(d)to take such lawful measures, and make such reports to the appropriate prosecutor, as may be needed to bring offenders with all due speed to justice,

Section (32) Policing principles: The policing principles are-

(a)that the main purpose of policing is to improve the safety and well-being of persons, localities and communities in Scotland, and

(b)that the Police Service, working in collaboration with others where appropriate, should seek to achieve that main purpose by policing in a way which—

(i)is accessible to, and engaged with, local communities, and

(ii)promotes measures to prevent crime, harm and disorder.

Particularly in the case of missing people or major incidents it is necessary to act as swiftly as possible deploying resources appropriately to protect people when they are at their most vulnerable. There are a number of other scenarios where these systems will assist in protecting life, ranging from public order and firearms incidents.

Article 5 (Right to Liberty and Security) – Protects and infringes - The decision making process for the deployment of air support, particularly for RPAS, should be recorded to ensure accountability, transparency and that human rights have been assessed and ethical considerations taken into account. A DPIA and CIA should be considered for any such deployments.

Proportionality should be captured detailing the degree of interference on an individual level, whether less intrusive means are available and what procedural safeguards are in place to mitigate. This should be measured against the right to engage in peaceful assembly and association to ensure Article 5 Rights are protected when deploying ASU with cameras and sensors to monitor a crowd as part of public safety or a policing response.

Article 6 (Right to a Fair Trial) – Infringes - All deployments must be lawful.

Evidence capture and submission will be in accordance with Police Scotland record set (Policies, SOPs, Guidance), on the instruction of the COPFS and in accordance with data protection and GDPR legislation. If images are to be released to the media it must be proportionate, necessary and legitimate and with consultation with the Crown Office Procurator Fiscal Service (COPFS).

Article 8 (Right to Respect for Private and Family Life) – Infringes - Everyone has the right to respect in relation to:

1. Private Life (no set definition but does not mean absolute right to privacy);

2. Family Life;

3. Home;

4. Correspondence.

Policies and decisions which interfere with Article 8 rights are allowed only if they are prescribed by law and the aim of the policy or decision is necessary in a democratic society in the interests of one or more of the following:

• national security;

• public safety, including protection of health;

• the prevention of disorder or crime; and / or

• the protection of the rights and freedoms of others.

Where interference with Article 8 is unavoidable, Police Scotland will try to interfere as little as possible and make sure that any interference is necessary and proportionate.

If it is necessary to interfere with someone’s private or family life, it will be done as prescribed by law.

The RPAS will be deployed in a manner that is proportionate and justifiable and always where there is a legitimate aim.

Data will only be recorded where absolutely necessary and it will be stored or deleted in strict accordance with data protection guidelines, as per the Data Protection SOP and Records Retention SOP.

Any covert work will meet with the strict criteria laid down in the RIPSA legislation.

The decision making process for the deployment of air support, particularly for RPAS, should be recorded to ensure accountability, transparency and that HRs have been assessed and ethical considerations taken into account. A DPIA and CIA should be considered for any such deployments.

Proportionality should be captured detailing the degree of interference on an individual level, whether less intrustive means are available and what procedural safeguards are in place to mitigate.

All deployment and recordings must be Necessary, Proportionate, Relevant, Legitimate and Justified – as per Art 2 above.

Article 9 (Freedom of Thought, Conscience and Religion) – Protects and infringes - Everyone has the right to freedom of Thought, Conscience and Religion. This includes the right to:

1. change religion or beliefs and the right to worship;

2. teach, practice and observe religion or beliefs either in public or in private (called freedom to manifest in the text of the Article).

Policies and decisions which interfere with Article 9 rights are allowed where they are prescribed by law and the aim of the policy or decision is necessary in a democratic society in the interests of one or more of the following:

• Public safety;

• The protection of public order; and / or

• The protection of the rights and freedoms of others.

ASU equipment will be deployed in a manner that is proportionate and justifiable and always where there is a legitimate aim.

Public safety is a main consideration during deployments.

Article 10 (Freedom of Expression) – Protects and infringes - Everyone has the right to freedom of expression. This includes:

1. Freedom to hold opinions;

2. Freedom to receive and impart information and ideas.

However, Policies and decisions which interfere with Article 10 rights are allowed where they are prescribed by law and the aim of the policy or decision is necessary in a democratic society in the interests of one or more of the following:

• National Security, Territorial Integrity, Public Safety;

• Prevention of Disorder or Crime;

• Protection of Health and Morals;

• Protection of the reputations or rights of others;

• Prevention of the disclosure of information received in confidence; and / or

• Maintenance of the authority and impartiality of the judiciary.

During the use of any ASU equipment where it is unavoidable, any interference will be as little as possible, necessary and proportionate.

An interference can only be lawful if it is necessary for one of the prescribed reasons.

For an interference to be permissible, it must be lawful, necessary, proportionate, and in respect of certain interests – as is noted above.

Police Scotland will ensure that evidence of the rationale for decision-making is clear, understandable and available for audit.

Article 11 (Freedom of Assembly and Association) – Protects and infringes - The RPAS will be deployed where it is necessary and proportionate and in support of a legitimate aim, for example to aid public safety, prevent disorder and in the protection of the rights and freedoms of others. The police are duty bound to facilitate peaceful assembly and the deployment of these systems will aid in that endeavour.

Cordons will be placed when necessary for safety reasons and will be minimised wherever possible to reduce impact.

Article 14 (Prohibition of Discrimination) – Protects - Everyone is entitled to enjoy their Convention rights without discrimination on any ground, such as:

• Sex,

• National or social origin, Race, Colour, Religion,

• Association with a national minority,

• Property,

• Language,

• Birth,

• Other Status,

• Political or other opinion.

Article 14 only prohibits discrimination in relation to Convention rights. This means that Article 14 must be attached to another Convention right before a claim of discrimination will be heard.

Protocol 1, (Article 1 Protection of Property) – Protects - Every natural or legal person is entitled to the peaceful enjoyment of their possessions. This article relates to individuals and businesses.

However, a state can deprive someone of their property as long as it is in the public interest and subject to conditions provided for by law.

A state can enforce laws which control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Police Scotland will take cognisance of following:

• The need to ensure that there is no interference with the right to peaceful enjoyment of possessions;

• Where this is unavoidable, any interference will be as little as possible, necessary and proportionate;

• If it is decided that it is necessary to interfere with someone’s possessions, then it will be lawful;

• Police Scotland will ensure that the rationale for decision-making is clear, understandable and available for audit; and

Police Scotland will take action to secure The First Protocol, Article 1 rights when they are lawful, as well as refrain from interfering with them.

Officers must not record beyond what is necessary for policing purposes.

### Summary of Mitigation Actions:

**What the assessment found, and actions already taken.**

No actions required. Owning department will continue to monitor changes in legislation/ technology/ circumstances which may affect the RPAS Code of Practice and consequently how this will impact protected groups.