

Planning authorities must log dangerous individuals and avoid covert drone use, says enforcement guidance

22 May 2020 by David Blackman

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Planners must ensure that they comply with data protection rules and surveillance legislation when using drones to investigate potential planning breaches, according to the RTPI's new government-backed enforcement handbook.



Enforcement action: new guidebook for local authorities published
The [handbook](#), which is designed to ensure local authorities have access to the latest best practice advice in dealing effectively with a range of enforcement challenges, was launched earlier this week.

Funded by the Ministry of Housing, Communities and Local Government, it was written by members of the RTPI's National Association of Planning

Enforcement (NAPE).

A new section on surveillance, which was written by Adam Rulewski and Ervin Hoxha of Barking and Dagenham and Sandwell councils respectively, notes 'increased interest' in the use of drones for enforcement work.

The authors write that surveillance by drones, otherwise known as unmanned aerial vehicles, can benefit enforcement efforts in areas where officers cannot gain access to land or the potential planning breaches involve more than one property.

They can also be useful as a 'safe' means of surveying large sites where planning breaches may have taken place, such as at the rear of properties, or sites which present a risk to officer safety, such as untidy land.

But when enforcement officers conduct any form of surveillance, they should ensure that it is 'overt', the handbook says.

It adds that councils should therefore avoid surveillance 'inadvertently' becoming covert so that the subject is 'unaware' that it is, or may be, taking place.

Planners must therefore comply with the Regulation of Investigatory Powers Act 2000 when conducting drone surveillance, the handbook says, by advertising the use of devices and writing to affected individuals.

In addition, it adds, local authorities should ensure that 'robust' data protection policies are put in place.

And given the 'extensive regulation' of the commercial use of drones by the Civil Aviation Authority, it adds, planning enforcement officers are likely to need to engage their authority's specialist drone team or a commercial provider if drone footage is required.

In another new section on site safety and lone working best practices, the handbook says all LPAs should maintain a database of individuals who are classed as 'dangerous or vulnerable'.

This should be reviewed prior to any visit, to ensure that officers are not going alone to a site which requires back up.

If individuals encountered on a site visit become aggressive, the section says good practice is to walk away and return to the office.

And the handbook contains more guidance on appeals, immunity and costs

applications.

Further guidance is also provided on prosecutions and confiscation orders, as well as a new section outlining context for enforcement officers on permitted development rights.

Izindi Visagie, a partner at law firm Ivy Legal, contributed to the handbook and co-edited it with colleague Neill Whittaker, NAPE chairman.

She said: "The handbook is a go-to reference aimed at planning enforcement officers to give them the confidence to use their powers to hold firm and effective negotiations and ultimately to remedy breaches.

"It works through the planning enforcement lifecycle, from investigation and gathering information, through consideration of the breach and the appropriate action, to issue of the notice, dealing with the inevitable appeal and then next steps such as prosecution, injunction and direct action."

Immediate RTPI past president Ian Tant, who wrote the handbook's foreword, added: "Throughout my term as president, I was keen to give due regard to the work of our planning enforcers, who do so much to uphold the system and take action where appropriate against those who seek to avoid important policy objectives and necessary planning controls."