

# Clare County Council

## Drones Policy and Procedure

DP - POL/PR-07



COMHATAIL CLARE  
COMTAE CLARE COUNTY COUNCIL

### REVISION HISTORY

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## Table of Contents

1. Introduction/Background .....	3
2. Purpose of Policy and Procedure .....	3
3. GDPR Definitions.....	3
4. Scope.....	4
5. Purpose of Drone Usage .....	4
6. Location of Drone Usage.....	5
7. Data Protection Impact Assessment.....	5
8. Data Processing Agreements and Service Provision.....	6
9. Signage and Public Notices .....	6
10. Designated and Authorised Employees .....	6
11. Security Arrangements .....	7
12. Data Subject Access to Drone Recordings .....	7
13. Third Party Access to Drone Recordings.....	8
14. Users and Access Request Logs.....	9
15. Retention of Drone Recordings.....	10
16. Drone Register .....	10
17. Privacy Statement .....	11
18. Health and Safety/ Guidelines/ Codes of Practice /Insurance.....	11
19. Complaints to the Data Protection Commission.....	12
20. Further Information .....	12
21. Awareness.....	12
22. Monitoring and Review.....	12
<i>Appendix 1: Staff Protocol for the processing of personal data from drones.....</i>	<i>13</i>
<i>Appendix 2: Authorised Persons as Approved by CE Order.....</i>	<i>14</i>

## 1. Introduction/Background

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Small unmanned aircraft (SUA) i.e. drones are used by Clare County Council for a number of purposes which entail aerial photography and videography. This use may involve the recording of personal data of individuals including their recognisable images. Clare County Council is obliged to protect such data in accordance with provisions contained in the General Data Protection Regulation (GDPR) which came into effect on 25th May 2018 and the Data Protection Acts 1988-2018.

## 2. Purpose of Policy and Procedure

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Clare County Council has developed a number of general policies and procedures to protect personal data. The purpose of this policy and procedures document is to support these documents by outlining specific provisions to assist Clare County Council to fulfil its data protection obligations regarding the operation of drones.

This policy should be read in conjunction with the operations manual and guidance provided by Data Protection Commissioner. <https://www.dataprotection.ie/en/dpc-guidance/video-recording> and on the use of drones [Guidance on the use of drones - May 2022 Final.pdf \(dataprotection.ie\)](#)

Drone operators are required to comply with the Specific Operating Permission (SOP) issued by the Irish Aviation Authority (IAA) for the use of drones by Clare County Council. <https://www.iaa.ie/>. Drones purchased for use by the Council must be registered by the relevant authorised person with the Irish Aviation Authority. IAA information is maintained and updated over time, so it is important that drone authorised persons are up to date in their knowledge of drone regulations.

## 3. GDPR Definitions

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For the purposes of this policy and procedures document the following definitions apply:

- Data Controller: means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law.
- Data Subject: is an individual who is the subject of personal data.
- Personal Data: any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- Processing: means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means such as collection, recording,

organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

- Processor: a natural or legal person, public authority, agency or other body which processes personal data on behalf of Clare County Council.

## 4. Scope

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The scope of this policy and procedures document applies to all:

- Clare County Council uses of drones that involve the recording of personal data.
- Clare County Council employees.
- Any third party drone service providers that may be engaged by Clare County Council.

## 5. Purpose of Drone Usage

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5.1 When deciding to use a drone for any particular purpose which involves the recording of personal data, Clare County Council shall ensure that at least one of the conditions outlined in Article 6 (and where relevant Article 9) of the GDPR or Part 5 of the Data Protection Act 2018 exists to ensure the lawfulness of the processing of the personal data involved.

In accordance with GDPR, processing personal data from drones may be done where:

- Processing is necessary in order to protect the vital interests of the data subjects;
- Processing is necessary for the compliance with a legal obligation to which the controller is subject;
- Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

In accordance with the Data Protection Act 2018 (Part 5), processing personal data from drones may be done where;

- The Council is the competent authority for the prevention, detection, investigation or prosecution of offences.

5.2 Drones may be used by Clare County Council for any purposes outlined in the IAA's Standard Operating Guidelines and IAA's SOP for drone usage including but not limited to:

- The provision of emergency services and operations, such as those that may be provided by the fire service.

- The provision of search, rescue and recovery services such as those that may be provided by civil defence.
- Aerial mapping, surveying and photography.
- Tourism promotion
- Evidence gathering to assist enforcement activities such as those that may be carried out by the Council in its functions where preventing, detecting or prosecuting crime is concerned.

5.3 Personal data obtained through the use of drones shall be limited and proportionate to the purposes for which it was obtained.

## 6. Location of Drone Usage

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6.1 Drones may be used, in any location where it is considered appropriate, for any of the purposes outlined in this document having regard to the requirement for a data protection impact assessment referred to in section 7 herein.

6.2 Every reasonable effort should be made to ensure that drone recordings are limited to the target area and the purpose for which the drone has been deployed.

6.3 A drone's functionality should be appropriate for the intended purpose. Drone operators should consider and implement measures to avoid and limit the unnecessary recording of personal data that is not required e.g. using a live stream rather than recording.

## 7. Data Protection Impact Assessment

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7.1 The Data Protection Commission has made a finding (see decision on Limerick City and County Council's use of surveillance technology) that *"Drones are mobile recording devices which have a wide sphere of movement and have the capacity to record or take pictures of natural persons from a height. I find such technology by its nature, poses a high risk to the rights and freedoms of individuals"*. It shall therefore be the policy of Clare County Council to carry out a data protection impact assessment prior to using a drone for a particular purpose, prior to the deployment of the drone.

7.2 The purpose of a DPIA will be to facilitate the identification and implementation of appropriate measures to eliminate or minimise any risks arising out of the processing of personal data by a drone system.

7.3 A draft DPIA must be submitted to the data protection officer for review and final DPIA signed off by the relevant director of services.

7.4 DPIAs conducted for the use of drones should be reviewed at least annually, or more frequently if elements in the original DPIA have changed.

## 8. Data Processing Agreements and Service Provision

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- 8.1 A service provider engaged by the Council that has access to personal data recorded by drones is considered to be a data processor and as such is required to enter into a formal data processing agreement with Clare County Council to ensure that they, as processor, in addition to Clare County Council, discharge their obligations under data protection legislation.
- 8.2 Where drone footage is required by the Council in connection with the performance of its functions, and a service provider is engaged in that regard, the requirement shall stipulate that footage provided complies with data protection requirements. The Council will not use footage where compliance with data protection requirements cannot be demonstrated to the Council, such as by confirmation that a data protection impact assessment has been carried out, or such as ensuring that footage provided includes no personal data.

## 9. Signage and Public Notices

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- 9.1 Drone operators are required to display temporary signage around the operator when drone activity is being carried out to advise the public of the following:
- 9.1.1 Name of data controller i.e. Clare County Council.
- 9.1.2 Drone activity is taking place.
- 9.1.3 Purpose for which the drone activity is being carried out.
- 9.1.4 Contact details for enquiries by members of the public.

## 10. Designated and Authorised Employees

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10.1 The relevant director of services for each drone system shall assign responsibility for the overall operation of the system to a designated employee/s. This responsibility will include ensuring that the system is being operated in a manner that is consistent with this policy and procedures document, data protection legislation and the operations manual.

10.2 Only staff that have been nominated as authorised employees by the relevant director of services for each drone system may have access to the system and its recordings. A chief executive order shall be maintained and kept updated, listing those staff authorised to process personal data from drones, such as is set out in Appendix 2. Appendix 2 may be amended from time to time without the need to otherwise amend this policy. Authorised employees should include the following:

- Designated employees who may access the drone system(s) for which they have been assigned responsibility.

- Drone operators that are licensed by the IAA.
  - IT department staff who may access all Clare County Council drone systems for the purposes of carrying out maintenance and upgrade works.
  - Data protection officer who may access all Clare County Council drone systems and their recordings.
- 10.3 The relevant director of services for each drone system shall ensure that authorised employees are appropriately trained before operating a drone takes place.
- 10.4 Employees authorised under this policy will adhere to the processing protocol as captured in appendix 1 herein.

## **11. Security Arrangements**

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- 11.1 Access to drones and their recordings will be subject to appropriate security arrangements and controls to safeguard against access by persons other than by authorised employees and any authorised third party drone service providers that may be engaged by Clare County Council.
- 11.2 The data storage facility (the SD card) on a drone shall be erased after each use unless the original storage media is required to be retained for legal proceedings.
- 11.3 Recordings may only be extracted and stored on an external storage media provided the copies of the drone recordings are:
- Required to be retained in accordance with provisions outlined in this policy and procedures document.
  - Held securely in transit.
  - Put onto a secured system as soon as possible after drone recording.
  - Stored in a secure location with access restricted in accordance with provisions outlined in this policy and procedures document.

## **12. Data Subject Access to Drone Recordings**

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- 12.1 Data protection legislation provides data subjects with a right to access their personal data. This includes their recognisable images and other personal data captured by drone recordings. Access requests will be processed in accordance with provisions contained in Clare County Council's subject access request policy and procedures. This involves every data access request being logged and referenced by the data protection officer prior to processing.

- 12.2 It would not suffice for a data subject to make a general access request for a copy of drone recordings. Instead, it will be necessary that data subjects specify that they are seeking to access a copy of drone recordings that have captured their recognisable images and/or other personal data between specified dates, at certain times and at a named location.
- 12.3 The provision of access to a data subject to drone recordings of his/her recognisable images and/or other personal data will normally involve providing a copy of the recording in video format using a secure methodology. In circumstances where the supply of a copy of the recording to the data subject is not possible or would involve unreasonable effort or cost, stills may be provided as an alternative to video footage. Where stills are provided, Clare County Council will aim to supply a still for every second of the recording in which the data subject's recognisable images and/or other personal data appears.
- 12.4 Where recognisable images and/or other personal data of other parties other than the data subject appear on the drone recordings these will be pixelated or otherwise redacted on any copies or stills provided to the data subject. Alternatively, unedited copies of the drone recordings may be released provided consent is obtained from those other parties whose recognisable images and/or other personal data appear on the drone recordings.
- 12.5 If the drone recording does not clearly identify recognisable images and/or other personal data relating to the data subject then the recording will not be considered as personal data and will not be released by Clare County Council.
- 12.6 If the drone recording no longer exists on the date that Clare County Council receives an access request it will not be possible to provide access to a data subject. Drone recordings are usually deleted in accordance with provisions contained in this policy.

### **13. Third Party Access to Drone Recordings**

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Access to drone recordings may be provided, using a secure methodology, to the following:

- An Garda Síochána.
- Legal Advisors.
- Other Third Parties.

#### 13.1 Access by An Garda Síochána

13.1.1 The provision of personal data, including drone recordings, to An Garda Síochána for the purposes of investigating and/or prosecuting a criminal offence is permitted under provisions contained in the Data Protection Acts 1988- 2018.

13.1.2 Requests from An Garda Síochána for copies of drone recordings are required to be submitted in writing on An Garda Síochána headed paper and signed by an appropriate ranking member of An Garda Síochána. The request should specify the details of the drone

recordings required and affirm that access to such recordings is necessary for the investigation and/or prosecution of a criminal offence.

13.1.3 In order to expedite a request in urgent situations, a verbal request from An Garda Síochána for copies of drone recordings will suffice. However, such a verbal request must be followed up with a formal written request from An Garda Síochána.

#### 13.2 Access by Legal Advisors

Access to drone recordings will be provided, where required and in accordance with data protection legislation, to Clare County Council's legal advisors for the purposes of carrying out enforcement action and in any other circumstance that is considered necessary and appropriate.

#### 13.3 Access by Other Third Parties

Access by third parties other than An Garda Síochána and Clare County Council's legal advisors to drone recordings will only be provided in circumstances that are permitted by data protection legislation.

## 14. Users and Access Request Logs

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#### 14.1 Users Log

The designated employee who has responsibility for each drone system shall ensure that a user's log is being maintained by drone operators. This log shall include details of:

- Name of drone operator.
- Details of drone used.
- Dates and times of use.
- Purpose of use.
- Location of use.

#### 14.2 Incident Log

The designated employee that has responsibility for each drone system shall ensure that an incident log is being maintained by drone operators. This log shall include details of:

- Name of drone operator.
- Details of drone used.
- Dates and times of use.
- Details of Incident

- Details of 3rd Party involvement
- Action taken

#### 14.3 Data subject access requests log

The data protection officer shall record all details of all access requests made by data subjects and third parties and the outcome of such requests on a separate log that is maintained for this purpose. The data protection officer shall record and provide a reference number for access requests.

#### 14.4 Subject Access and Third Party Access Requests Log

A data subject access and third party access requests log shall be maintained by the designated employee that has responsibility for each drone system. This log shall maintain a record of all requests made by the following third parties to view/obtain copies of drone recordings and the outcome of such requests:

- An Garda Síochána.
- Legal advisors.
- Other third parties.

## 15. Retention of Drone Recordings

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15.1 Personal data recorded by drones shall be kept for no longer than is considered necessary.

15.2 Normally personal data recorded by drones will not be retained by Clare County Council beyond a maximum of 28 days.

15.3 Personal data recorded by drones may however be retained by Clare County Council beyond a maximum of 28 days in a limited number of circumstances. These include situations where the retention of the personal data is necessary for operational purposes e.g. for mapping and surveying activities and for investigative, evidential and legal purposes.

## 16. Drone Register

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A drone register shall be maintained by the data protection Officer. This register shall contain, at a minimum, the following information:

- Location of drone systems.
- Purpose of each drone system.
- Legal basis for the processing of personal data
- Details of designated and authorised employees.

- Drone system service provider details.
- Access/security controls.
- Retention period for drone recordings.

## 17. Privacy Statement

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Details of personal data being recorded by drone systems that are used by various departments/ sections of Clare County Council and information regarding the use of such data including any sharing of such data with third parties are outlined in a privacy statement and this privacy statement shall be available on the Council's website.

## 18. Health and Safety/ Guidelines/ Codes of Practice /Insurance

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Clare County Council shall adhere to all relevant guidelines/codes of practice for the use of drones issued by the Irish Aviation Authority, Data Protection Commission and/or other statutory bodies.

18.1 The operation and use of drones in Clare County Council will be in compliance with the Safety, Health and welfare at Work Act 2005 and all other applicable legislation. All users will be appropriately trained and licensed in accordance with Irish Aviation Authority guidelines and will conduct and document a site specific risk assessment prior to the use of a drone in accordance with the Clare County Council Occupational Health & Safety Management System.

18.2 IPB Insurance cover for use of drones by the Council is subject to conditions of use set out in their [Guide to Managing Risks in the use of Drones](#) (pages 26-28). It is imperative that authorised persons for using Council drones ensure that drone use is compliant with IPB conditions. Any processor engaged must be provided with this Policy, the IPB Guide and the Schedule to the [signed High Risk Processing Agreement](#) must include specific reference to their obligation to comply with IPB's document.

18.3 Authorised persons for the use of Council drones shall notify the Council's insurance section to ensure that use of drones by their department is covered under the Council's insurance (Remotely Piloted Aircraft Extension under the Public Liability Policy).

18.4 Any incident resulting in damage/injury caused by use of a drone by a Council employee or by a contractor operating a drone for the Council should be notified immediately to a relevant supervisor, the Council's Health & Safety Officer and Council's insurance section.

## 19. Complaints to the Data Protection Commission

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19.1 Data subjects may make a complaint to the Data Protection Commissioner:

- If they experience a delay outside of the prescribed timeframe for making a decision on an access request or if they are dissatisfied with a decision by Clare County Council on their access request.
- If they consider that Clare County Council's processing of their personal data is contrary to their data protection rights.

19.2 Contact details for the Data Protection Commission are as follows:

Phone Number: 0761 104 800 or Local 1890 252 231 E-mail: [info@dataprotection.ie](mailto:info@dataprotection.ie)

Website: [www.dataprotection.ie](http://www.dataprotection.ie)

Postal Address: Data Protection Commission, 1 Fitzwilliam Square South, Dublin 2, D02 RD 28

## 20. Further Information

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Further information on the operation of this policy and procedures document is available from the Data Protection Officer, Clare County Council. Contact details for the data protection officer are as follows:

Phone Number: 065 6846405

E-mail: [dpa@clarecoco.ie](mailto:dpa@clarecoco.ie) Website: [www.clarecoco.ie](http://www.clarecoco.ie)

Postal Address: Clare County Council, New Road, Ennis, Co Clare.

## 21. Awareness

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21.1 Clare County Council shall implement appropriate measures to make its employees and other relevant parties aware of the content of this policy and procedures document.

21.2 All persons involved in the planning, placement and operation of Clare County Council drones should familiarize themselves with the content of this policy and procedures document.

## 22. Monitoring and Review

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Provisions contained in this policy and procedures document shall be subject to on-going monitoring and review.

DP-POLPR 07 – Clare County Council Drones Policy and Procedure

## Appendix 1: Staff Protocol

### Protocol for the processing of personal data from drones by authorised persons

#### Authorised persons (as approved by CE order) processing drone footage for purposes approved under the Council's Drone Policy shall:

1. Adhere to the Council's drone policy.
2. Adhere to the relevant DPIA on the use of drones and the controls specified in it.
3. Adhere to their obligations regarding confidentiality and data protection compliance contained in their contracts of employment:
4. Not video, photograph or otherwise record, copy, extract, edit or remove any drone footage for any purpose.
5. Not access the relevant drone footage via mobile phones.
6. Adhere to clean desk guidelines in their use of drone footage.
7. Only create and exchange records obtained from drones or discuss matters related to such records with authorised staff with relevant responsibility related to the purposes approved under the Council's drone policy
8. Not view drone footage in the presence of any person other than those authorised persons in Appendix 2 and/or the SEO/analogous, where necessary.
9. Not grant access to or disclose drone footage to any person, other than those authorised staff in Appendix 2 and/or the SEO/analogous, where necessary.
10. Login to view drone footage only in the circumstances covered in the Council's drone policy and relevant drone usage DPIA.
11. Attend relevant training where requested.
12. Cooperate with the DPO in the conduct of any audit or investigation related to the management of personal data.
13. Promptly inform the DPO of any actual or suspected breach in security which could give rise to the loss, theft, unauthorised release or disclosure of information.
14. Report any concerns about potential infringement of the Data Protection Act 2018 or GDPR or this protocol by reporting same, without undue delay, to the DPO.
15. Refer all complaints and/or data subject or third party requests (including An Garda Síochána,) in relation to drone footage to the DPO without undue delay, so that they can be logged and referenced and forwarded for decision to the relevant decision maker where necessary.

Ends.

## Appendix 2

### Authorised persons (as approved by CE order) for processing drone footage for purposes approved under the Council's Drone Policy

Categories of positions that may be authorised under this policy	Designations of employees
Fire and Emergency Personnel Civil Defence Officer Assistant Civil Defence Officer Civil Defence volunteers	Chief fire officer, assistant chief fire officers, senior assistant chief fire officers, civil defence officer, assistant civil defence officer, civil defence volunteers who are IAA certified drone operators.
Waste management officers Environmental wardens	Waste management officers Environmental wardens
Data protection officer	Data protection officer
IT officers who have technical reasons to process drone footage	IT officers

Final adopted policy & procedure