



Privacy Handbook

1. What is this handbook?

This handbook is an easy to read guide about key privacy and data protection risks that arise when you are operating drones for recreational purposes. It explains and illustrates the concepts of privacy and data protection as applied to drones. It provides good practice advice, gives practical examples and answers frequently asked questions.

This handbook will:

- Help you understand your basic privacy and data protection obligations when using a drone as a recreational user.
- How to fulfil your privacy obligations when using a drone as a recreational user to minimise risk to yourself and others.



RECREATIONAL USERS

A recreational user may also use drones for activities in the course of exclusively personal or household activity that fall within the household exemption under the EU Data Protection framework. This exemption refers to activity that has no connection with professional or commercial activity but are activities that could include correspondence and the holding of addresses, or social networking and online activity. This handbook can be read in parallel with the [privacy case studies](#) and the [privacy code of conduct](#).

2. Who is this handbook for?

This handbook is for private individuals operating a drone for their own recreational purposes (for example, at the park, in your garden, at the beach, etc.). Further examples of recreational use can be found in our [case studies](#).



It still is important to be aware of, and to respect the privacy of others when operating a drone, even if you are a recreational user

Recreational users can still pose a threat to the privacy and personal rights of others around them and have a legal obligation to meet certain standards within society.



3. Why is this handbook important?

The information in this handbook is important for the following reasons:

- More and more people are using drones without necessarily being aware of privacy laws. Recreational drone use is increasing as a hobby and as a means to record personal pursuits, treasured memories and experiences, whether they are on holiday, at a local park or with friends and family members.
- Privacy matters relate to both the drone as an aircraft, as well as to the payload or software that is fitted to the drone (e.g., photographic equipment, thermal cameras, GPS, communication relays).



For instance, the mere presence of your drone in a park might create a risk to the privacy of people around you. Furthermore, if your drone is equipped with a camera or any other data recording sensor, this risk is even greater.

- The degree of impact of drone use on the privacy of individuals can depend on:
 - » The purpose for which drones are used
 - » The extent and type of personal information (images and audio of individuals and their private property) that drones capture
 - » How that personal data is used/ processed
 - » Who is flying the drone
 - » The context and location of the drone



Everyone has a right to privacy and the protection of their personal data, even if you are operating your drone at the park or in your garden as a recreational user.

This handbook will help you understand what privacy risks arise during recreational drone use, such as during the example provided below:

EXAMPLE

During the Christmas period, many families gather in the local park for Christmas festivities. You decide that this would be the ideal occasion to test your new drone and prepare a short video. After having received all the necessary authorisations from the competent authorities, you start operating your drone in accordance with aviation safety rules. During your flight, you specifically target close up images of people gathered in small groups and record their conversations from a safe distance. Once your drone has landed, you start preparing a Christmas holiday video that you wish to share with family and friends via social media channels.

4. What is Privacy?

In Europe, privacy is recognised as a human right. This means that we all have a basic right to private life. In fact, there are rules that protect an individual's right to privacy of their home (that extends to a hotel room, a room in a guest house, as well as professional premises) and domestic life, as well as communication and association with other individuals.



DEFINITION

The Right to private life means: the physical boundaries within which an individual operates. These boundaries include home, personal relationships (family and friends) and selected fields of information (personal, sensitive or embarrassing information). Intrusions into this private life are illegal.



Using a drone that is fitted with a camera can raise privacy risks.

5. What are the important laws I should be aware of?

In Europe, the use of aerial photography, surveillance and other applications made possible by drones is covered by

- Article 7 (Respect for private and family life) and Article 8 (Data protection – Personal and sensitive personal information) of the [Charter of Fundamental Rights of the European Union](#);
- Article 8 (Right to Respect for private life) of the [European Convention on Human rights](#).



Additionally, the processing of any personal data that could lead to the recognition or identification of a person may also be in breach of national laws, as a result of the [General Data Protection Regulation \(EU\) 2016/679](#). This may be the case if you share or publish an image via the internet (to an indefinite number of people) of a person who can be identified in that image.

Other national laws protecting privacy or privacy-related infringements (nuisance, trespass etc.) may also be applicable.



This does not mean that you cannot fly your drones for recreational purposes, but it does mean that you must fly drones responsibly and in compliance with applicable laws!

6. What do I need to remember before flying my drone?

Question: Am I allowed to capture images or video of individual(s) in their private life?

Answer: In general no, unless they give their permission to you to do so.



Refrain from recording pictures or videos in which people can be identified or recognised (faces, licence plates, etc.) without their permission.



Question: Am I allowed to capture images of individuals in public areas?

Answer: Not necessarily. This is because the right to private life can still be applied to public areas if the an individual can reasonably expect a certain degree of privacy. What this means is that a person sitting at a park or attending a large entertainment event may be visible from a distance and as a part of the whole picture you capture with your drone, but they will not necessarily intend to be targeted with a zoom lens or a directional microphone. This means you cannot target them without their permission.



Right to private life can still be applied to public areas if individuals can reasonably expect a certain degree of privacy.



In most countries, flying a drone in public areas is restricted or prohibited by aviation safety rules. Verify with your national authorities that you are allowed to fly over public areas.

Question: What if people are in a public place and they are captured in my drone footage. Is this allowed?

Answer: **In general, yes**, if it is just an image and they are not a targeted the subject of continuous footage or surveillance. For instance, there is no problem if they happen to be briefly and inadvertently captured in my your footage and they are in a public place (e.g., a person walking through a park)..

Answer: No, if you are recording both visual images and/or sound recordings of individual/s in a targeted or systematic or permanent way.

BE AWARE

Do not share targeted still or moving images combined with sound recordings of individual/s captured in a public space, without their permission. This is especially important if the images are obtained via high/agility and/or enhanced vision capabilities such as infrared, night vision, thermal imaging or video analytics.



DO REMEMBER

European citizens have the right to defend their broad right to private life before national courts, unless an interference with that right is legally justified (i.e., in the interest national security and safety and to prevent criminal activity etc.)

IMPORTANT GUIDELINES

If your drone has the following capabilities, please observe the following guidelines:

Capabilities / content	Guidelines
Image(s) of individuals only	Incidental images of individuals may be authorised (e.g. a casual person as part of the background) Targeted images of individuals are not allowed (e.g.: zoom, close ups, etc.)
Image(s) + sound recording(s) of individuals	Incidental fragments of conversation may be authorised (e.g. shorts parts of conversation) Targeted and long recordings are not allowed
Image(s) + sounds recording(s) + location tracking (GPS)	Not allowed

7. A breakdown of relevant privacy issues

The most common payload of most drones is a camera! When drones are equipped with visual sensors (high-resolution, thermal imaging or infrared cameras etc.), the following privacy-related issues can arise. Note, some of these issues arise even in the mere presence of a drone or when non-visual imaging is fitted to the drone.



PRIVACY OF LOCATION AND SPACE

What is it? Privacy of location and space means the right of an individual to move about freely in their own home (and some public or semi-public spaces where they have a reasonable expectation of privacy) without being identified, tracked and monitored.

How can it be infringed? This right can be infringed by a number of visual and non-visual payloads, including the use of GPS, automatic number plate recognition, as well as real-time video transmission. This can occur even when a drone that is fitted with these capabilities is being used by recreational users, e.g., by following a friend, family member or a romantic interest, or by a parent worrying for their child.

Respect the private space of individuals when flying a drone!

BODILY PRIVACY

What is it? Bodily privacy includes the right to keep bodily functions and body characteristics private.

How can it be infringed? Bodily privacy can be infringed when drones are fitted with non-visual payloads such as thermal sensory capabilities (facial recognition, biological and chemical sensors). Biometric data captured through the use of a drone for the purpose of identification is the most common example.

Respect the bodily privacy of individuals when flying a drone!

PRIVACY OF ASSOCIATION

What is it? Privacy of association refers to the freedom of people to associate with others.

How can it be infringed? If a drone is fitted with sensors, such as GPS, an individual's membership(s), affiliation(s) and other private group activities may be detected.

Respect the right of individuals to associate freely with others!

CHILLING EFFECT

What is it? A chilling effect occurs when individuals may perform a form of self-preservation/ self-censorship by restricting their behaviour when they are, or believe that they are, being watched.

How is it caused? Drone use can result in a chilling effect when individuals feel discouraged from participating in social movements, social gatherings or even public dissent activities or any other related general exercise of an individual's legitimate rights, such as freedom of assembly or freedom of expression. This can occur even in the mere presence of a drone, even if they are not actually being filmed by that drone.

Remember to fly your drone responsibly without encroaching on an individual's right to behave as they usually would!

DEHUMANISATION OF THE SURVEILLED

What is it and when might it occur? Drone operators can feel physically or psychologically removed from the consequences felt by the person who is captured by their drone use (due to geographical difference or remote/ automated operation). This can minimise the responsibility felt by the drone operator for any intended or unintended invasion caused by their drone use.

Remember that your moral responsibilities are not reduced just because you are at a distance from another individual(s) when you are operating your drone, even if the person captured in the footage is not aware of your drone!

TRANSPARENCY, VISIBILITY AND ACCOUNTABILITY

What is it and when might it occur? Drones can remain undetected by individuals on the ground when they are small, quiet and/ or operated by automatic software or hacked or intercepted during flight. This means that they can remain undetected when used for voyeuristic behaviours and/ or harassment or stalking, and other criminal activities. The individual on the ground should be aware of the drone's operation in order to detect any unsuitable behaviour. The individual on the ground should also be able to identify and contact who is responsible for the drone, especially if an individual's right to private life has been infringed.

Remember to ensure that your drone use is visible and that you do not engage in any privacy invasive use!

FUNCTION CREEP

What is it and when might it occur? Function creep refers to the possibility that a system which was originally intended for one purpose extends its operation to fulfil additional purposes at the discretion of the drone user. For example, when a drone originally used to take footage of a private residence for resale ends up monitoring the behaviour of neighbours.



BE AWARE

Owning and flying a drone as a recreational user does not mean that you can monitor the behaviour of others by, for example, participating in self-appointed civil policing activities or private detective work.

8. Understanding data protection risks

- An introduction to relevant data protection law

When using a drone for recreational purposes, you should also be aware of data protection laws.

WHAT IS DATA PROTECTION?

Generally speaking, data protection is a specific privacy protection that serves the purposes of protecting personal data including sensitive personal data. For example, collecting any personal data about another person and sharing it publicly via

the Internet may be in breach of these laws. The right to privacy of information or data protection is protected by:

- Article 8 of the [Charter of Fundamental Rights of the European Union](#);
- A separate body of law under the national data protection laws based on the [Data Protection Directive 95/46/EC](#). to be replaced by the General Data Protection Regulation.

WHAT IS A PERSONAL DATA?

Personal data means any information – including sound and images – concerning an identified or identifiable natural person. An identifiable person is one who can be identified either directly (e.g. faces) or indirectly (e.g. matriculation plate, location, etc.). Identifiers include 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.

Sensitive personal data means personal data consisting of information relating to the data subject about their racial or ethnic origin, political opinions, religious beliefs or other beliefs of a similar nature, trade union memberships, physical or mental-health, sex life, and/ or criminal history. There are even strong restrictions on the use of this data.

THINK BEFORE SHARING

Before posting any picture (or any other personal data) social media or widely on the internet, think carefully about who will have access to that information.



 **Do not share someone's personal data with an indefinite number of people (for instance on the internet), especially if it can lead to that person being identified or recognised.**

- The presence of a drone can be privacy intrusive even if it is not equipped with a camera.
- Drones equipped with a camera or any other data recording sensor (such as microphones, GPS, etc.) pose a greater risk to privacy.
- As a recreational drone user, you may not specifically or intentionally engage in visual surveillance of others without their consent.
- The use of a drone in public spaces might be privacy intrusive especially in places where people have a reasonable expectation of privacy. Flying a drone in public places might be prohibited or restricted by aviation safety rules.
- Public discomfort can occur as a result of a manifestation of these privacy risks to individuals through the recreational use of drones. Public discomfort can be minimised by the responsible use of drones.



For an easy to read and quick way to practise responsible drone use, consult our [privacy code of conduct for recreational drone use](#).



For practical examples of privacy issues in the context of recreational drone use, consult our [privacy case studies](#).



This Handbook is part of the project [Dronerules.eu](#) which has received funding from the European Union's COSME Programme (2014-2020)