

**Report to:** Communities Scrutiny Committee

**Date of Meeting:** 23<sup>rd</sup> March 2017

**Lead Officer:** Head of Legal, HR and Democratic Services

**Report Author:** Head of Legal, HR and Democratic Services

**Title:** Regulation of Unmanned Aircraft

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**1. What is the report about?**

1.1 The report is about the possibility of regulating the use of unmanned aircraft (“drones”) in Denbighshire.

**2. What is the reason for making this report?**

2.1 In response to a Notice of Motion brought by Councillor Arwel Roberts, Council resolved on 6<sup>th</sup> December 2016 that a report be provided to Scrutiny on the regulatory framework relating to unmanned aircraft (drones) and the powers, if any, for the Council to introduce further restrictions.

**3. What are the Recommendations?**

3.1 Members consider the content of this report and determine what if any further action should be recommended in respect of the regulation of drone use in Denbighshire.

**4. Report details**

4.1 The Notice of Motion considered by Council on 6<sup>th</sup> December 2016 called for a ban on drones over all public spaces in Denbighshire.

4.2 In order for any ban on the use of drones to be effective it would have to be enforceable. Merely passing a resolution banning drones would have no legal effect. The only way in which the Council could bring a ban into legal effect would be to pass a byelaw to regulate the use of drones.

4.3 The law relating to the making of byelaws is contained in the Local Government Byelaws (Wales) Act 2012, (“the Byelaws Act”), which provides that a local authority can make byelaws for the good rule and government of the whole or part of its area or the prevention and suppression of nuisances in its area. This power is limited, in that byelaws cannot make provision which is made by an Act of Parliament or of the Assembly, or which is made, or could be made, by statutory instrument.

4.4 The Civil Aviation Act 1982 (“the 1982 Act”) governs civil aviation in the UK. Under the provisions of the 1982 Act it is possible for the UK Government to make statutory instruments to govern various aspects of civil aviation. The Air Navigation Order 2016 (“the 2016 Order”) was made under the 1982 Act and deals specifically with unmanned aircraft or drones.

4.5 The 2016 Order provides that a person in charge of a drone:

- must not recklessly or negligently cause or permit an aircraft to endanger any person or property,
- may only fly the aircraft if reasonably satisfied that the flight can be safely made.
- must maintain direct visual contact with the aircraft at all times.
- may only fly for commercial reasons with a permission granted by the Civil Aviation Authority
- must not fly the aircraft above 400 feet
- must not fly the aircraft in certain airspace without the permission of the relevant air traffic control unit

4.6 Where a drone is fitted with a camera then in addition to the restrictions set out above, a person in charge of a drone:

- must not fly over or within 150 metres of a congested area,
  - must not fly over or within 150 metres of an organised open air assembly of more than 1000 persons
  - must not fly within 50 metres of any vessel, vehicle or structure not under their control
  - must not fly within 50 metres of any person
  - must not take off or land within 30 metres of any person,
- unless they have a permission from the Civil Aviation Authority.

4.7 A congested area is defined as being any area of a city, town or settlement which is substantially used for residential, industrial, commercial or recreational purpose.

4.8 It would appear therefore that the flying of drones is regulated by the 2016 Order which creates offences for those in breach of its provisions. It does not seem possible to further govern drones in flight. It may be possible to regulate the take-off or landing of drones from Council owned property. Guidance issued by the Welsh Government on their model byelaws states that Councils should not adopt them en bloc and should be satisfied that a byelaw is genuinely required to address an existing problem. This guidance was issued in respect of a model byelaw previously drafted in respect of model aircraft prior to the making of the 2016 Order.

4.9 At the time of writing this report clarification is being sought from Welsh Government as to the continuing status of this model byelaw in light of the 2016 Order.

4.10 The UK Government is currently consulting on the safe use of drones in the UK. A copy of the consultation document is attached as Appendix 1 to this report. The consultation is wide ranging and includes issues relating to the stimulation of drone related enterprise and innovation, the regulation of commercial operators, and of particular relevance to this report, the safety and lawful operation of drones including improving leisure drone user awareness of the law.

**5. How does the decision contribute to the Corporate Priorities?**

5.1 There is no decision required.

**6. What will it cost and how will it affect other services?**

6.1 There would be no direct financial cost arising out of the making of a byelaw other than the cost of consultation and advertising by way of public notices. There could be costs relating to the enforcement of any byelaw.

**7. What are the main conclusions of the Well-being Impact Assessment? The completed Well-being Impact Assessment report can be downloaded from the [website](#) and should be attached as an appendix to the report**

7.1 At this stage no assessment has been carried out as no decision is required.

**8. What consultations have been carried out with Scrutiny and others?**

8.1 This matter has not yet been before a Scrutiny Committee.

**9. Chief Finance Officer Statement**

9.1 Any funding required for this issue will have to come from existing resources

**10. What risks are there and is there anything we can do to reduce them?**

10.1 There is a risk that any byelaw created in respect of this issue is, to all intent and purposes, practically unenforceable.

**11. Power to make the Decision**

11.1 Section 7.2.3 of the Council Constitution.

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