

| | | | |
|--------------------------------------|--|----------------------------------|-------------------------------|
| Report to: | Cabinet Member for Health and Wellbeing | Date of Issue: | 21 st January 2021 |
| | | Date of Decision: | 29 th January 2021 |
| Subject: | Code for the use of Drones and Paramotors | | |
| Report of: | Countryside Officer, Green Sefton | Wards Affected: | All Wards |
| Cabinet Portfolio: | Health and Wellbeing | | |
| Is this a Key Decision: | No | Included in Forward Plan: | N/A |
| Exempt / Confidential Report: | No | | |

Summary:

The report seeks approval by the Cabinet Member of the Code for Drone use and Paramotoring.

Recommendation(s):

That the Code for Drones and Paramotoring be approved.

Reasons for the Recommendation(s):

1. To help prevent unauthorised use of recreational drones.
2. To formalise the permission applications process and the fulfilment of associated consent requirements to facilitate legitimate commercial drone activity as well as other applications (for example: search and rescue, internal use survey and monitoring)
3. To contribute to actions, which help to eliminate disturbance to legally protected special features of the Sefton Coast Site of Special Scientific Interest.

Alternative Options Considered and Rejected: (including any Risk Implications)

1. A do nothing approach to the increasing use of these types of equipment would increase both the risks to visitor safety and disturbance to special wildlife features, that the Council is obliged to protect.
2. Without the adopted code, partnership working with other agencies is challenging, because there is reliance on outdated byelaws, that drone operators and

paramotor pilots are prepared to ignore. This leads to a continuation of the risks outlined in (1) above.

What will it cost and how will it be financed?

(A) Revenue Costs

None, the actions required by officers are within existing duties and assisted by other agency personnel should the need arise. These existing duties include various tasks such as permission application scrutiny and consent acquisition (case by case basis for commercial (and other) applications), incident recording and reporting, liaison and cooperation with partners.

(B) Capital Costs

None

Implications of the Proposals:

| |
|---|
| Resource Implications (Financial, IT, Staffing and Assets): Within existing |
| Legal Implications: The code will assist the Council in fulfilling some of its obligations to protect special features of the SSSI. |
| Equality Implications: There are no equality implications. |

Contribution to the Council's Core Purpose:

| |
|--|
| Protect the most vulnerable: Reduced risk from unauthorised aerial accident |
| Facilitate confident and resilient communities: N/A |
| Commission, broker and provide core services: N/A |
| Place – leadership and influencer: Take strong position to support staff and external partner agencies in reducing the risks to safety and wildlife |

| |
|---|
| Drivers of change and reform: Encouraging responsible and legitimate use of a significant natural resource, capable of showcasing |
| Facilitate sustainable economic prosperity: Small financial gain to be had through fees chargeable to commercial operators |
| Greater income for social investment: N/A |
| Cleaner Greener Reduced disturbance to protected wildlife and promoting responsible and sustainable use of the extensive green spaces (urban and rural) in the Borough |

What consultations have taken place on the proposals and when?

(A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6205/20) and the Chief Legal and Democratic Officer (LD.4397/20....) have been consulted and any comments have been incorporated into the report.

(B) External Consultations

N/A

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting

(Please delete as appropriate and remove this text)

| | |
|-------------------------|--|
| Contact Officer: | Gordon White |
| Telephone Number: | 0151 934 20963 / 07966 106968 |
| Email Address: | Gordon.white@sefton.gov.uk |

Appendices:

The following appendices are attached to this report:

Appendix A – Code for Drones and Paramotoring

Background Papers:

There are no background papers available for inspection.

1. Introduction/Background

- 1.1 The Drone and Paramotor code has been drawn together to help address the issues of potential disturbance to protected features of the SSSI, but also to reassure non participants of their own safety when visiting the Borough's open green spaces, parks, beaches and coastal areas.
- 1.2 The popularity and technological advances in the fields of UAV (Unmanned Aerial Vehicles – also known as drones) and Paramotoring (manned flight using a parachute type 'wing' and a 'rucksack style' mounted engine with propeller), have grown in recent years.
- 1.3 Paramotoring involves 'flying' a parachute wing and a motorised propeller, which is strapped to the back of the pilot. This is an inherently dangerous sport for both the pilot and to other people and visitors to our green spaces. Like unregulated drone activity, it also has very high potential to cause disturbance to the special features of the designated Site of Special Scientific Interest on the Sefton Coast. Various byelaws also apply, which do not authorise the use of these types of equipment, unless via permission from the Sefton as the landowner.
- 1.4 This increasing activity (recreational and commercial in relation to drones and purely recreational related to paramotors) has led to concern in various locations within the Borough, that harm may be being caused to 'special features' of the Sefton Coast Site of Special Scientific Interest (SSSI). Further information about these special features can be found at:
<https://designatedsites.naturalengland.org.uk/SiteDetail.aspx?SiteCode=S2000426>
- 1.5 A permission application process (as in other requests for use of the Council's land / facilities), is in place and legitimate commercial use of drones will be permitted, but on a case by case basis. Application for permission will be needed and further consents from Natural England may also apply to ensure that the Council remains compliant with its obligations to protect the special features.
- 1.6 Legitimate purposes include commercial, internal survey and monitoring (e.g. coastal erosion, flooding) and search & rescue applications. Other applications may materialise and would go through the same process of application and scrutiny.

3. Conclusions / recommendations

The Cabinet Member is asked to approve the Code for Drones and Paramotoring.

| | |
|---|---|
| Sefton Council |  |
| CODE FOR DRONES AND PARAMOTORING [Draft v0.5gw November 2020] | Magdalen House 30 Trinity Road Bootle Merseyside L20 3AB |

1. INTRODUCTION

Sefton Council has developed this Code for Drones and Paramotoring in response to a variety of issues created by drone and paramotoring use on Council owned land, public open spaces and in protected landscapes in Sefton.

Where Sefton Council is the landowner or controller, drones and paramotors may not be flown without permission. The main reason for this is that liability may fall to the Council if actions are brought about by these activities when operated from, on or over land under our ownership. Sefton Council has obligations to retain Favourable Conservation Status for protected fauna and other special features contained within the Sefton Coast Site of Special Scientific Interest.

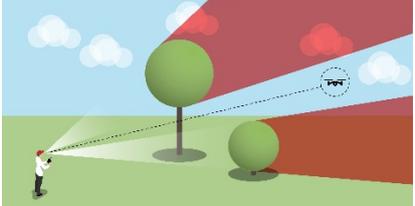
Use of drones and paramotors in the UK, for both commercial and recreational purposes is governed by the Civil Aviation Authority (CAA), but before flying a drone or paramotor any person must remain within all existing laws, not just aviation law. This includes European Directives translated into UK law. Sefton Council's Byelaws for Seashore, Local Nature Reserve, Sandhills and Pleasure Grounds and Open Spaces also apply.

Information for commercial permission applications can be found in section 4 below.

1.1 The Drone Code

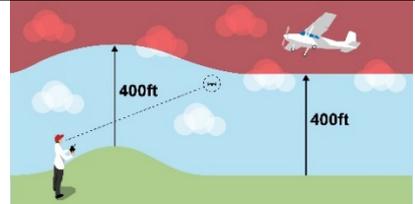
The CAA, alongside aviation groups and others, has developed the drone code. All drone users must remain compliant with the CAA Drone Code at all times, which we summarise here, but the full document can be seen at <https://register-drones.caa.co.uk/drone-code>

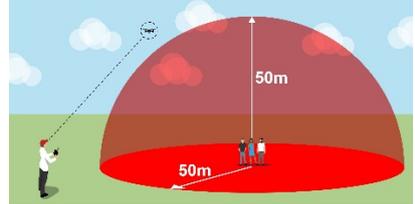
| | |
|--|---|
| Flying safely and responsibly (Points 1 and 2) | |
| General responsibilities. | |
| 1. You're responsible for flying safely whenever you fly | Always fly within the law, be prepared for something to go wrong. You could be fined or go to prison for the most serious breaches. |

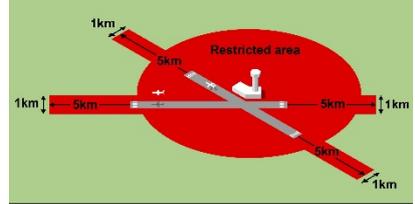
| | |
|---|---|
| <p>2. Always keep your drone or model aircraft in direct sight and make sure you have a full view of the surrounding airspace</p> |  <p>Always keep your drone or model aircraft in direct sight.</p> |
|---|---|

Where you can fly (Points 3 to 7)

Height limits and distances from people, buildings, crowds and vehicles.
Restrictions on flying near to airports.

| | |
|--|---|
| <p>3. Never fly above 400ft (120m)</p> |  <p>Never fly more than 400ft (120m) above the surface.</p> |
|--|---|

| | |
|--|---|
| <p>4. Keep the right distance from people (50m), property (50m), vehicles(50m) and busy areas (150m), Crowds of people (150m) and never fly above crowds at any height</p> |  <p>Never fly closer than 50m to people.</p> |
|--|---|

| | |
|--|--|
| <p>5. Stay well away from airports, airfields and aircraft</p> |  <p>Never fly in an airport's flight restriction zone.</p> |
|--|--|

| | |
|---|--|
| <p>6. Always check and follow any flying restrictions</p> | <p>e.g. restricted airspace, events, emergency incidents</p> |
|---|--|

| | |
|--|--|
| <p>7. Check for local restrictions and temporary hazards</p> | <p>e.g. local byelaws, animals / disturbance, other aircraft</p> |
|--|--|

Making every flight safe (Points 8 to 15)

What to do before flying, during a flight and after a flight

| | |
|--|--|
| <p>8. Make sure you know what your drone or model aircraft can and cannot do</p> | |
|--|--|

| | |
|---|---|
| 9. Make sure your drone or model aircraft is fit to fly | e.g. check batteries / fuel, check software / firmware & keep it updated |
| 10. Do not fly if the weather could affect your flight | Adverse weather may affect you and your drone |
| 11. Make sure you're fit to fly | Do not drink and fly, do not fly under the influence of drugs or medication, do not fly if tired or unwell |
| 12. Take action quickly and safely if the situation in the air or on the ground changes | |
| 13. Report any dangerous incidents or near misses | These should be reported to the CAA. Also beware of possible security response at airports or other sensitive sites |
| 14. Do not use your drone or model aircraft to make money or for any kind of payment | If you want to do this, you'll need to get a permission from the Civil Aviation Authority that allows you to conduct commercial operations. |
| 15. If you fly your drone or model aircraft for recreation, you can choose whether or not to have insurance | Insurance is optional if you're flying for recreation. However, you should remember that you're responsible for your actions, which means you could be held personally liable for any injury or damage you cause while you're flying. |

Protecting people's privacy (Points 16 to 21)

Making sure that you don't invade anyone's privacy when you're out flying. What you should and should not do with photos and videos.

| | |
|---|--|
| 16. Respect other people and their privacy | |
| 17. Make sure you know what your camera can do and the kind of images it can take | |
| 18. Make sure you can be clearly seen when you're out flying | |
| 19. Let people know before you start recording | |
| 20. Think before sharing photos or video | |
| 21. Keep photos and videos secure | |
| | |

Extra information: Getting a flyer ID and operator ID before you fly (Points 22 to 27)

What you need to do before you fly.

Two things are needed before flying a drone or model aircraft between 250g and 20kg:

- the person who will fly must pass the theory test to get a flyer ID
- the person or organisation that's responsible for the drone or model aircraft, must register to get an operator ID

If you want to fly and are also responsible for a drone or model aircraft, you'll need to pass the test to get a flyer ID and register to get an operator ID.

| | |
|---|--|
| 22. You must pass the theory test to get a flyer ID before you fly | |
| 23. You must take the theory test every three years | |
| 24. The person or organisation that's responsible for a drone or model aircraft must register to get an operator ID | |
| 25. Label your drone or model aircraft with your operator ID | |
| 26. Make sure that anyone flying your drone or model aircraft has a valid flyer ID | |
| 27. Keep your operator ID up to date | |

Extra flying permission

If you want to do more types of flying, you'll need to get the correct permissions or exemptions first.

For example:

- if you want to fly at or near an airport, you need permission from the airport
- if you want to fly at different heights or distances to the ones in this Code, you need permission from the Civil Aviation Authority
- if you want to fly closer to or over a built-up or busy area, you need permission from the Civil Aviation Authority
- if you want to fly to make money or for any kind of payment, you need permission for commercial operations from the Civil Aviation Authority

1.2 British Hang Gliding Association Code of Conduct for Paramotors

| | |
|--|---|
| <p>British Hang Gliding and Paragliding Association Ltd</p> <p>8 Merus Court, Meridian Business Park, Leicester. LE19 1RJ</p> <p>Tel: 0116 289 4316 www.bhpa.co.uk</p> |  |
|--|---|

SPHG Code of Conduct for paramotor pilots and pilots of other types of SPHG.

1. Preamble

This document is intended to give general guidance, and unless otherwise stated, its contents are not mandatory. Although the term “paramotor” is used throughout this document, the term is intended to encompass all “Self Propelled Hang Gliders” (SPHG) including those falling under the UK CAA’s General Exemption E4653 for wheeled SPHG.

2. BHPA Requirements

In addition to the legal requirements, the BHPA may introduce requirements from time to time. Pilots should maintain their membership of the Association to keep up-to-date with existing and new regulations and guidance, and to maintain third party insurance (note: for some launch types, third party insurance is a legal requirement).

The BHPA strongly recommends that all paramotor pilots holding the BHPA Club Pilot (Novice) rating undertake training to obtain the full “Pilot” rating. “Pilot” rated pilots are seen as being fully qualified, and therefore able to plan and execute cross country flight with the necessary skills and knowledge. Holders of the CP (Novice) rating who fly out of the range of sight of their launch may find themselves uninsured.

3. Taking off - General

Wherever possible a paramotor should take off from a non-public area. One possibility is an existing microlight airfield which has the appropriate Local Authority permissions.

When pilots take off from existing microlight areas, they should familiarise themselves with and comply with local rules, particularly those relating to noise sensitive areas and numbers of aircraft movements per day.

If a paramotor takes off from other areas the following procedures should be taken:

- a) Where possible, permission should be obtained from the owner of the land.
- b) The area should be secure from the possibility of animals and/or spectators being in an area of danger.
- c) Any spectators should be properly marshalled, and any dogs should be firmly attached to a lead (they have been known to chase a paramotor when it starts to move).
- d) The take-off area should be closely inspected for possible trips and holes (to at least expected take-off distance + 50%).

e) Where appropriate, any neighbours should be informed of your future activities.

3.1 Taking off - Planning Approval

Land designated as agricultural can be used as a temporary take-off area for up to twenty-eight days in a twelve-month period (unless the land is part of a special zone such as a conservation area). If you fly on more than twenty-eight days without Planning Approval the owner of the land may be served with an enforcement notice by the Local Authority and could be subject to a fine. Local Authorities will generally include all of the land in one ownership in an enforcement order. Do not try to argue that you are taking off from different fields and they each have a twenty-eight-day dispensation. The Local Authority may also have local bye laws which should not be contravened.

3.2 Taking off - Hang Gliding and Paragliding Sites

Do not use hill or tow sites for powered flight unless you have permission from the club.

4. Powered flying – General

If you regularly take off from one place, vary your flight path to avoid annoying the general public. In particular, powered paragliders flying against the wind will remain in view and earshot for a long period of time. If they fly higher to make less noise, they may fly slower due to the wind gradient. If you are not making much headway it may be better to land and get a lift back to base.

It should be noted that German research has shown that an aircraft is a greater source of annoyance if it can be seen.

4.1 Flying – Airspace

It is strongly recommended that: every pilot possesses an up-to-date airchart of the area they intend to fly in, is equipped with an altimeter capable of displaying altitude and height, and understands how to use the airchart and altimeter to avoid flying into controlled airspace.

As well as permanent areas of controlled airspace, there are temporary restricted and prohibited areas through which you cannot fly a paramotor. The BHPA's CANP web page (<https://www.bhpa.co.uk/documents/safety/canp/>) contains information on how to obtain temporary airspace notifications, and how to notify the military of your intention to fly midweek.

If you are intending to fly in an area of uncontrolled airspace under a UK TMA or CTA, the general rule is that you set your altimeter to the QNH of that TMA / CTA (Local QNH) to be able to understand your altitude in relation to the controlled airspace above you (and avoid popping up into it!). Making an airspace infringement like this may have significant safety implications, may cause emergency diversions of other aircraft and may lead to your prosecution.

In addition to knowing your position relative to any nearby controlled airspace, it is essential that you respect the low flying rules. In the UK you are required to keep at least

500ft away from any person, vehicle, vessel or structure – this means not entering a 500ft radius 'bubble' around any person, structure, etc (unless you are taking off or landing). The CAA prosecutes paramotor pilots who break this rule. Powered ground-skimming within 150m (500ft) of walkers would not only be an illegal activity, you may well find that you have invalidated your BHPA insurance and be personally liable for any third party claims made against you for injury or loss.

4.2 Flying - Hang Gliding and Paragliding Hill Sites

It may be very tempting to buzz your mates who are grounded on a nil wind day. Please do not do this! A number of Hang Gliding and Paragliding Clubs have introduced rules which generally exclude SPHGs (paramotors). In at least one case there is a self-declared exclusion zone around each site. Most such sites were negotiated with landowners on the basis of the activity being silent.

Unless you actually know that powered machines are welcome on a particular site, treat all such sites as PPR (Prior Permission Required), just as you should if planning to visit alternative airfields or strips. The general rule to be followed is use your common sense and stay away.

4.3 Flying – Livestock

Adherence to the General Exemption should mean that livestock is not disturbed. However, you should particularly avoid bird sanctuaries and riding stables. If you are taking-off from a field, you should check that there are no horse riders in the vicinity. If there are, wait until they are well away from the area before starting your engine and ensure that you will not be overflying them at low level.

4.4 Flying – cross country

The BHPA Club Pilot rating allows pilots that hold it to fly unsupervised, but they are strongly advised to restrict their flying to a familiar local area that is free of any controlled airspace, and to stay within sight of their landing area to avoid getting lost. The BHPA Pilot rating covers cross country flying. A pilot holding this rating is seen as being properly trained in navigation and airspace recognition, and able to plan and execute cross-country flights with the necessary skills, knowledge and diligence.

5. Landing

For a variety of reasons, you may decide to 'land-out'.

If you are landing on private land you must find the landowner and tell him/her of your arrival. Courtesy takes five minutes of your time and usually results in a pleasant experience it should be noted that some years ago a pilot was fined many thousands of pounds for attempting to land in a field and in changing to a fly-over was reported by two rambles on the ground. He was prosecuted for breaking the 500ft rule.

Always remember that you are an ambassador for your club, the Association and the sport. If confronted by an aggrieved landowner, try to de-escalate the situation by being

polite and reasonable. Explain your reasons for landing there and say you will leave as soon as you have packed your kit up.

6. Display flying

The laws on display flying require each pilot to hold a CAA Display Authorisation (DA). Obtaining a DA involves having your planned display evaluated by a Display Authorisation Evaluator (DAE) appointed by the CAA. The BHPA Head Office will be able to give you the names of Display Assessment Evaluators authorised to evaluate SPHG display pilots. You will also need to become acquainted with CAP 403, the CAA Air Display bible.

7. Conclusion

Any breach of common sense or good manners is potentially a breach of this Code of Conduct.

8. Further resources

The CAA's Skyway Code is a useful resource for information on air law and flight planning. It is available as a download from the CAA website (link: <https://www.caa.co.uk/Generalaviation/Safety-information/The-Skyway-Code/>). NATS AE is a useful app-based resource for understanding the UK's layout of controlled airspace.

The BHPA Pilot Handbook contains essential information, flight theory and specialist techniques relevant to paragliding and hang gliding.

2. LAND OWNED BY SEFTON COUNCIL

Sefton Council is a large landowner within the Borough, managing around 160 parks and open spaces as well as extensive and strongly protected landscapes such as beaches and open sand dune nature reserves. In total this amounts to around 6500 hectares of land or the equivalent of around 7800 football pitches. Sefton is a partner to other landowning agencies on the coastline including Natural England, The National Trust and the Royal Society for the Protection of Birds and others. It also works closely with a number of external partners including government agencies, emergency services and enforcement agencies.

Much of the land in the control of Sefton Council and these other agencies is within the protected landscape of the Sefton Coast Site of Special Scientific Interest (SSSI). In addition to the Byelaws, the Council and these other agencies have legislative obligations to protect and conserve the designated Special Features that occur within the SSSI.

These special features are:

- BIRDS – Aggregations of Knot, Grey Plover, Dunlin, Oystercatcher, Bar-tailed Godwit, Ringed Plover and Sanderling
- AMPHIBIANS – great Crested Newts, Natterjack Toads
- REPTILE – Sand Lizard
- INSECT – Sandhill rustic moth
- PLANTS – Vascular plant assemblage, Petalwort, Grey Hair grass and Long-leaved Thread-moss
- HABITATS – Saltmarsh, embryo & mobile dunes, Lowland dry heath, Humid dune slacks and Fixed dune grassland
- The Sefton Coast SSSI is also important for its Littoral Sediment and its Coastal Geomorphology

Further information about these special features can be found at

<https://designatedsites.naturalengland.org.uk/SiteDetail.aspx?SiteCode=S2000426>

Sefton Council is a filming friendly Borough. Those departments which are responsible for the upkeep and maintenance of the filming destinations throughout the Borough, work closely with both the Council's Corporate Communications Team and also with the Liverpool Film Office to further improve the reputation of the Liverpool City Region as a first class filming destination for the media, TV / film, sales and advertising industries.

3. RECREATIONAL OR COMMERCIAL?

The Council operates a fair balance between ensuring good standards of public safety whilst at the same time recognising drone use is a popular and expanding hobby enjoyed by many people.

Commercial drone users are expected to contact the Council to seek appropriate permissions / licences. The normal procedures for event applications are followed, and all applications are individually scrutinised to ensure that they are both compliant and safe before permission is granted. Suitable timeframes are also needed, so early application is preferred and fees will apply.

Recreational drone users and paramotor pilots must not use the protected landscapes of the Sefton Coast Site of Special Scientific Interest (SSSI). Without realising it, they could very easily cause disturbance to any of the SSSI Special Features (see below).

Whether they are being used for commercial or recreational purposes, there are four sets of regulations which apply to the use of drones.

- Aviation regulations which are enforced by the Civil Aviation Authority (CAA) – e.g. CAP No.722
- Data protection regulations apply where the drone is used for capturing personal data and this can be enforced by the Information Commissioners Office (ICO).
- 1981 Wildlife & Countryside Act (as amended by the Countryside and Rights of Way Act 2000)
- Local Byelaws

The larger parks and open spaces away from the protected landscapes in Sefton are regarded as more suitable for recreational drone users, but this does not apply to paramotors.

4. ACQUIRING COMMERCIAL PERMISSIONS AND TIMEFRAMES

In order to obtain permission from Sefton Council to use a drone in protected areas, this must be formally requested. We may need to acquire consents from Government agencies / regulators so additional fees and longer timeframes may apply.

Sefton council will charge facility fees, administrative processing and for scrutiny of applications to ensure that proposals are safe and fulfil our obligations. Agreement to Sefton Council's fees is required before applications are processed.

Sefton Council operates an application process for organised events that are proposed on its land. An applicant may be the drone pilot or company or any organisation intending to utilise a drone services provider. Sefton Council will ask for the following:

- A completed application form
- Details of Public Liability Insurance cover
- A full flight plan including launch / land location and details such as altitude, duration, area coverage, subject matter etc
- Pilot CAA credentials
- A risk assessment
- Agreement to any professional, administrative or facility fees

Ordinarily, reasonable notice is required from applicants – this should be a minimum of 28 days. The possibility of fast tracking applications may not always be available. Where Sefton (and if necessary Natural England) can fast track an application, this will elevate the costs, in addition to those described above.

Each application will be individually assessed and closely scrutinised so that Sefton Council is able to absolve itself of any liability attached to the drone works (and other activities associated with the application), is satisfied that the activities are lawful and that they have no impact on the special features of the SSSI.

Sefton is in a unique position to be able to offer drone services to applicants as we have our own drone equipment, fully qualified drone pilot and suitable insurance. Please contact us at Green Sefton for a further discussion if this is of interest.

In the first instance, all applicants should visit Sefton Council's website and visit 'All Apply for it Services', then search for our small events form, or follow this link to the application page <https://forms.sefton.gov.uk/SmallEventsform/>

Any application received requesting permission to use a paramotor near, over or from/to any part of the protected landscapes along the Sefton Coast SSSI will be refused.

5. EXEMPTIONS

Sefton Council operates its own drone equipment in order to carry out GPS and photographic survey work associated with flooding, coastal erosion and risk management. The use of drones for these purposes significantly reduces risk levels to our personnel and reduces the amount of time required to carry out surveys over large areas. The data generated is used to help protect our communities and monitor the condition of our natural sea defences.

The emergency services deploy drones within the Borough, sometimes at the scene of accidents, and sometimes in relation to search and rescue situations which can be time critical, especially if we consider the tidal ranges of the rivers Mersey and Ribble, which skirt the Borough from top to bottom. Drone deployment 'in situations of overriding public interest, may ultimately save someone's life.

**Green Sefton
November 2020**