

Appropriate policy document for privacy notice 16: Operational incidents

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How Kent Fire and Rescue Service (KFRS) protects special category personal data relating to operational incidents.

1. Collecting data when responding to incidents

Under [Part 2, Sections 6 to 9 of the Fire and Rescue Services Act 2004](#), we have a legal duty to provide an emergency response service to fires, road traffic collisions and any other emergency which we can reasonably foresee occurring within Kent and Medway. In order to discharge these duties effectively, we need to collect and process a certain amount of personal data about those individuals who we help.

This also extends to investigations by fire crews and the Fire Investigation Team to understand the circumstances that caused an incident; and learning from incidents through carrying out a structured and formalised programme of debriefings of operational incidents and exercises.

2. About this appropriate policy document

This is the 'appropriate policy document' that sets out how KFRS will protect special category personal data collected and processed when responding to incidents.

It meets the requirement set out in [Schedule 1, Part 2, Paragraph 5 of the Data Protection Act 2018](#) that an appropriate policy document be in place where the processing of special category personal data is necessary for 'reasons of substantial public interest' as set out in [Article 9\(2\)\(g\) of the UK GDPR](#).

The specific conditions under which data may be processed for reasons of substantial public interest are set out in [Schedule 1, Part 2, Paragraphs 6 to 28 of the Data Protection Act 2018](#) (see section 3.3 below).

3. Lawful basis for processing this data

3.1 Lawful basis under Article 6 of the UK GDPR

KFRS are relying on the following lawful bases:

Consent as set out as set out in [Article 6\(1\)\(a\) of the UK GDPR](#). This is specifically in relation to any data collected about the following six of the nine protected characteristics:

gender reassignment; marriage and civil partnership; race; religion or belief; sex; and sexual orientation. This is because collecting data on these characteristics is not necessary for us to undertake our core functions when at scene in relation to emergency response service to fires, road traffic collisions and other emergencies. This is materially different from, say, awareness that a casualty is pregnant, or medical information on pre-existing conditions or injuries sustained at an emergency (for which one of the lawful bases set out below would apply). The data about the six protected characteristics listed above is only collected in order to assist us in meeting our obligations under the Public Sector Equality Duty as set out in [Section 149 of the Equality Act 2010](#).

Compliance with a legal obligation as set out as set out in [Article 6\(1\)\(c\) of the UK GDPR](#).

Vital interests as set out as set out in [Article 6\(1\)\(d\) of the UK GDPR](#).

Public task as set out in [Article 6\(1\)\(e\) of the UK GDPR](#). This states that the processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law. The basis in law for this (and the 'compliance with a legal obligation') basis in Article 6(1)(c) come from the following:

- Our compliance with the requirements of [Part 2 of the Fire and Rescue Services Act 2004](#) for fire and rescue authorities to make provision for fire safety, fire-fighting, road traffic accidents and other emergencies. Obtaining personal data from those being assisted, helps us to resolve the incidents and support people more effectively.
- The requirement placed upon us to meet the Public Sector Equality Duty as set out in [Section 149 of the Equality Act 2010](#). As part of this we actively seek to remove barriers to services in order to improve access to our services. In order to assist us in this, we may seek to gather information about some protected characteristics of our customers.

The requirement under [Article 13 of the UK GDPR](#) (information to be provided where personal data are collected from the data subject), is met through the provision of [privacy notice 16: Operational incidents](#).

3.2 Condition for processing special category data under Article 9 of the UK GDPR

The special category data that is being processed in relation to operational incidents may include:

- disability
- pregnancy and maternity
- race
- religion or belief
- sexual orientation
- health data (injuries, treatment given by KFRS staff, medical conditions/physical and cognitive impairments)

This data is collected to:

- Assist customers at the scene through obtaining key, relevant information about them.
- Aid us in providing medical treatment at an incident
- Provide details to the ambulance service or other medical personnel employed by the NHS on the treatment we have administered and the conditions we found you in at the start and during any incident you are involved in.
- Provide details to other agencies (e.g. police, ambulance, Kent Search and Rescue) for the purposes of preserving life, rendering assistance and resolving the incident.
- Assist in undertaking investigations by fire crews and the Fire Investigation Team to understand the circumstances that caused an incident.
- Learn from the incidents that we attend so that we continually improve what we do. This is undertaken through carrying out a structured and formalised programme of debriefings of operational incidents and exercises.

To lawfully process this data, KFRS is relying on:

Explicit consent condition as set out in [Article 9\(2\)\(a\) of the UK GDPR](#). This relates to the following protected characteristics that fall within the definition of Article 9 special category data: race; religion or belief; sexual orientation. As set out above, collecting data on these characteristics is not necessary for us to undertake our core functions when at scene in relation to emergency response service to fires, road traffic collisions and other emergencies. This is materially different from, say, awareness that a casualty is pregnant, or medical information on pre-existing conditions or injuries sustained at an emergency (for which one of the lawful bases set out below would apply). The data about the three protected characteristics listed above would only be collected in order to assist us in meeting our obligations under the Public Sector Equality Duty as set out in Section 149 of the Equality Act 2010.

Vital interests (of the data subject) condition as set out in [Article 9\(2\)\(c\) of the UK GDPR](#)

Reasons of substantial public interest condition as set out in [Article 9\(2\)\(g\) of the UK GDPR](#).

The requisite basis in law for the substantial public interest condition comes from the:

- Requirement of [Part 2 of the Fire and Rescue Services Act 2004](#) for fire and rescue authorities to make provision for fire safety, fire-fighting, road traffic accidents and other emergencies.
- Requirement placed upon us to meet our responsibilities in the Public Sector Equality Duty as set out in [Section 149 of the Equality Act 2010](#).

3.3. Where ‘substantial public interest’ is identified as the condition for processing under Article 9 of the UK GDPR, then the organisation also needs to meet one of 23 specific substantial public interest conditions set out in Schedule 1, Part 2 of the Data Protection Act 2018

KFRS is meeting the specific substantial public interest condition **statutory and government purposes** as set out in [paragraph 6, Schedule 1, Part 2 of the DPA 2018](#); specifically paragraph 6(2)(a) ‘*the exercise of a function conferred on a person by an enactment or rule of law*’.

This ‘*function conferred...by an enactment or rule of law*’ is the requirement under [Part 2 of the Fire and Rescue Services Act 2004](#) for fire and rescue authorities to make provision for fire safety, fire-fighting, road traffic accidents and other emergencies.

The other basis for this substantial interest condition is to ensure that we can meet our responsibilities in the Public Sector Equality Duty as set out in [Section 149 of the Equality Act 2010](#). As part of this we actively seek to remove barriers to services to improve access to our services. In order to assist us in this, we may seek to gather information about some protected characteristics of our customers.

4. Retention

The special category data (along with all other personal data collected during incidents will be retained in accordance with the periods set out in sections 5, 12 and 13 of our [Publication and Retention Scheme](#).

Where we no longer require the special category data for the purpose for which it was collected, we will delete it, put it beyond use or render it permanently anonymous.

Whilst the retention period for this data is set at seven years, a review will be conducted every 12 months by a panel which includes, but is not limited to, the Safe and Well Manager and the Data Protection Officer.

5. Procedures for securing compliance with the data protection principles

[Article 5 of the UK GDPR](#) sets out the data protection principles. Below are our procedures for ensuring that we comply with them.

5.1 Principle 1

Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject.

KFRS will:

- Ensure that personal data is only processed where a lawful basis applies, and where processing is otherwise lawful.
- Only process personal data fairly, and will ensure that data subjects are not misled about the purposes of any processing.
- Ensure that data subjects receive full privacy information so that any processing of personal data is transparent.

5.2 Principle 2

Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.

KFRS will:

- Only collect personal data for specified, explicit and legitimate purposes, and we will inform data subjects what those purposes are in a privacy notice.
- Not use personal data for purposes that are incompatible with the purposes for which it was collected. If we do use personal data for a new purpose that is compatible, we will inform the data subject first.

5.3 Principle 3

Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

KFRS will only collect the minimum personal data that we need for the purpose for which it is collected. We will ensure that the data we collect is adequate and relevant.

5.4 Principle 4

Personal data shall be accurate and, where necessary, kept up to date.

KFRS will ensure that personal data is accurate and kept up to date where necessary. We will take particular care to do this where our use of the personal data has a significant impact on individuals.

5.5 Principle 5

Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed.

KFRS will only keep personal data in identifiable form as long as is necessary for the purposes for which it is collected, or where we have a legal obligation to do so. Once we no longer need personal data it shall be deleted, but beyond use or rendered permanently anonymous.

5.6 Principle 6

Personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

KFRS will ensure that there appropriate organisational and technical measures in place to protect personal data. All data will be held in electronic format on password protected devices provided by the Authority and accessible only to those who have a specified need.

6. Accountability principle

The controller shall be responsible for, and be able to demonstrate compliance with these principles. The Data Protection Officer is responsible for ensuring that KFRS is compliant with these principles.

We will:

- Ensure that, where appropriate, records are kept of personal data processing activities, and that these are provided to the Information Commissioner's Office (ICO) on request.
- Carry out a Data Protection Impact Assessment for any high risk personal data processing, and consult the ICO if appropriate.
- Ensure that a Data Protection Officer is appointed to provide independent advice and monitoring of departments' personal data handling, and that this person has access to report to the highest management level within KFRS.
- Have in place internal processes to ensure that personal data is only collected, used or handled in a way that is compliant with data protection law.

7. Data controller's policies as regards retention and erasure of personal data

We will ensure, where special category personal data is processed, that:

- There is a record of that processing, and that record will set out, where possible, the envisaged time limits for erasure of the different categories of data. This is set out in section 4 (Retention).

- Where we no longer require special category data for the purpose for which it was collected, we will delete it, put it beyond use or render it permanently anonymous.
- Data subjects receive full privacy information about how their data will be handled, and that this will include the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period.

8. Further information

For further information about this appropriate policy document or KFRS's compliance with data protection law, please contact us at:

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