

# Appropriate policy document for privacy notice 18: Memoranda of understanding (MOUs) and data sharing agreements

Date completed 31/03/2023

## How Kent Fire and Rescue Service (KFRS) protects special category personal data relating to memoranda of understanding (MOUs) and data sharing agreements

### 1. About this appropriate policy document

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. We also have a legal duty to provide fire prevention advice and promote fire safety.

Additionally, under the [Regulatory Reform \(Fire Safety\) Order 2005](#) and the [Fire Safety \(England\) Regulations 2022](#) we have a number of legal duties placed on us to maintain fire precautions, promote fire safety and act an enforcing authority.

Once of the ways in which we achieve these legal duties is through entering into partnership schemes and initiatives (enacted through a memorandum of understanding) and sharing information with other local authority and partner agencies.

This is the 'appropriate policy document' that sets out how KFRS will protect special category personal data relating to memoranda of understanding (MOUs) and data sharing agreements.

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](#).

Because the lawful basis for processing this data is the '*reasons of substantial public interest*' condition as set out in [Article 9\(2\)\(g\) of the UK GDPR](#) – with the further required substantial public interest condition being para '6 *Statutory etc and government purposes*' (as set out in set out in [Schedule 1, Part 2, Paragraph 6 of the DPA 2018](#)) – there is a 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. This document meets that requirement.

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](#).

## 2. Lawful basis for processing this data

### 2.1 Lawful basis under Article 6 of the UK GDPR

When sharing information via a memorandum of understanding or data sharing agreement we will rely on **compliance with a legal obligation** (UK GDPR Article 6(c)) and **performance of a task carried out in the public interest or in the exercise of official authority** (UK GDPR, Article 6(e)) as the lawful basis for collecting and processing personal data.

Both of these require a separate basis in law. This comes from the following:

- Our compliance with the requirements of [Part 2, Sections 6 to 9 of the Fire and Rescue Services Act 2004](#), 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 and provide fire prevention advice and promote fire safety.
- Our compliance with the requirements of the [Regulatory Reform \(Fire Safety\) Order 2005](#) and the [Fire Safety \(England\) Regulations 2022](#) to maintain fire precautions, promote fire safety and act an enforcing authority.

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 18: Memoranda of understanding \(MoUs\) and information sharing agreements](#).

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

When sharing information via a memorandum of understanding or data sharing agreement we may potentially share or otherwise process any of the personal data that we hold. This includes special category data.

In relation to any special category data, we rely on the **substantial public interest** condition as set out in Article 9(2)(g) of the UK GDPR.

Again, the basis in law for this is:

- Our compliance with the requirements of [Part 2, Sections 6 to 9 of the Fire and Rescue Services Act 2004](#), 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 and provide fire prevention advice and promote fire safety.

- Our compliance with the requirements of the [Regulatory Reform \(Fire Safety\) Order 2005](#) and the [Fire Safety \(England\) Regulations 2022](#) to maintain fire precautions, promote fire safety and act an enforcing authority.

### **2.3. 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**

As we are relying on the substantial public interest condition in Article 9(2)(g), we also need to meet one of 23 specific substantial public interest conditions set out in [paragraphs 6 to 28 Schedule 1, Part 2 of the DPA 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 paragraph 6\(2\)\(a\) and \(b\) of the Fire and Rescue Services Act 2004](#) 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 and provide fire prevention advice and promote fire safety.

The other basis for this substantial interest condition is our compliance with the requirements of the [Regulatory Reform \(Fire Safety\) Order 2005](#) and the [Fire Safety \(England\) Regulations 2022](#) to maintain fire precautions, promote fire safety and act an enforcing authority.

## **3. Retention**

Personal data shared or processed information via a memorandum of understanding or data sharing agreement will be held in accordance with the relevant periods set out in the Authority’s Publication and Retention Scheme (<https://www.kent.fire-uk.org/freedom-information-foi>)

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 Data Protection Officer

and the senior KFRS officer responsible for the memorandum of understanding or data sharing agreement.

## **4. 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.

### **4.1 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.

### **4.2 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.

### **4.3 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.

#### **4.4 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.

#### **4.5 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.

#### **4.6 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.

### **5. 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.

## **6. 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 3 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.

## **7. 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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The Godlands  
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