

Privacy notice 15: Enforcement, Investigation and Prosecution Activity

Date completed 06/04/2023

This notice is one of a set which explain what data we collect, store and process to provide our services to customers. It also sets out the legal basis we are using for collecting the data stated.

It should be read alongside the related privacy notices listed below, all of which can be found here: <https://www.kent.fire-uk.org/privacy-policy>

- Privacy notice 22: Feedback, engagement and consultation with businesses
- The overall privacy notice
- The breach process contained in Annex 1 of the Data Protection and Information Security Policy which sets out what we will do should any data we collect be lost or misused. This can be found here: <https://www.kent.fire-uk.org/freedom-information-foi>

Our contact details

Kent Fire and Rescue Service
The Godlands
Straw Mill Hill
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Maidstone
ME15 6XB

Email: data.protection@kent.fire-uk.org

Telephone: 01622 692121

Why we collect and use personal data

This notice covers the collection, processing and re-use of personal data held by the Authority for the purposes of its legal duty to undertake enforcement, investigation and prosecution activity against organisations or individuals that are responsible in law for premises that fall under the scope of the [Regulatory Reform \(Fire Safety\) Order 2005](#).

For the purposes of fire safety, a responsible person is any person who has some control over the premises. For example:

- An employer (for example, of a business)
- A site manager (for example, at a business park)
- An owner (for example, of a home converted into a number of flats)
- A managing agent (for example, of a block of flats)

The responsible person has a legal duty under the Regulatory Reform (Fire Safety) Order 2005 to maintain fire precautions by taking reasonable steps to reduce the risk from fire and complete a risk assessment.

Under the Regulatory Reform (Fire Safety) Order 2005 we are responsible for ensuring the responsible persons are complaint with fire safety in non-domestic premises. This includes undertaking enforcement, investigation and prosecution activity against organisations or individuals who may be in breach of the Order.

Under the [Fire and Rescue Services Act 2004](#), we have a legal duty to promote safety in this area and enforce the Order up to and including enforcement, investigation and action through the courts.

An essential part of how we undertake these responsibilities is by engaging with our customers to promote appropriate behaviours. To engage with users of our services, we need to have mechanisms to collect feedback and data requests, take relevant action, and feedback to customers. In working with businesses and regulated premises this includes how we provide generalist advice, respond to queries, raise concerns, and investigate, and where necessary, take enforcement action where non-compliance with the law is identified.

In addition, as a fire and rescue authority, we have a number of legal duties placed on us to ensure equality of access to our services and actively seek to improve the effectiveness with which we exercise our powers and undertake our duties, both statutory and non-statutory. Gathering information about the protected characteristics of our customers – including those subject to enforcement activity – assists us in achieving these duties.

We use this data to:

- Provide tailored advice when engaging with people.
- Record and evaluate our work.
- Derive statistics which inform decisions about how we improve safety and support the development of our staff. These statistics cannot be linked back to the individual.
- Help us to understand more about our customers to ensure that we remove any barriers to accessing our services (including those subject to enforcement activity) and ensure that they are made available for all who qualify and we provide those services in a manner that is fair and lawful.

The types of personal data we collect and process

During the course of any investigation/enforcement activity, we may collect and process the following types of personal data:

- Name
- Gender
- Date of birth
- Contact details such as addresses, telephone numbers and email addresses;

- Online identifiers such as IP addresses and cookie identifiers; and other identifiers from which inferences as to your identity could potentially be made,
- Any specific information you provide to us as part of correspondence related to regulated premises and their management, or a small business or home business.
- Voice recordings of your voice (obtained during any interview conducted under the conditions set out in the Police and Criminal Evidence Act 1984).
- Statements you have provided as part of the investigation/enforcement activity
- Publicly available information from social media sites
- Local Authority liability information such as council tax, licensing, planning and building control applications and outcomes
- Companies House data
- Financial data (transaction history, financial reports produced as part of a court request)
- Police National Computer data
- 999 voice recordings
- Fire service incident recording system data
- Registration information from partner agencies (examples include, but not limited to: Care Quality Commission, Trading Standards, Health and Safety Executive, Local Authority, Ofsted)

We may also collect and process data about other data subjects who have a relevant connection to any investigation/enforcement activity. This will most likely be relevant information provided by a responsible person or collected by us directly as part of our own investigation about the occupancy of regulated premises, including names and addresses of the tenants/occupiers.

In addition we may collect and process data on 'protected characteristics' as defined by the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity race, religion or belief, sex, and sexual orientation).

Our lawful reasons for collecting and processing personal data

The six lawful bases for processing personal data are set out in [Article 6\(1\) of the UK GDPR](#). These are as follows:

(a) Consent: the individual has given clear consent for you to process their personal data for a specific purpose.

(b) Contract: the processing is necessary for a contract you have with the individual, or because they have asked you to take specific steps before entering into a contract.

(c) Legal obligation: the processing is necessary for you to comply with the law (not including contractual obligations).

(d) Vital interests: the processing is necessary to protect someone's life.

(e) Public task: 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.

(f) Legitimate interests: the processing is necessary for your legitimate interests or the legitimate interests of a third party, unless there is a good reason to protect the individual's personal data which overrides those legitimate interests. NB: This cannot apply if you are a public authority processing data to perform your official tasks.

When planning or undertaking investigation/enforcement activity, we 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 responsibilities under the [Regulatory Reform \(Fire Safety\) Order 2005](#), in particular Part 3 Enforcement.
- Our compliance with the requirements of [Section 6 of the Fire and Rescue Services Act 2004](#) for fire and rescue authorities to actively promote fire safety and fire prevention strategies (achieved through the provision of a programme of Safe and Well Visits).
- The requirement placed upon us to meet the Public Sector Equality Duty as set out in [Section 149 of the Equality Act 2010](#). Specifically that as part of meeting our public sector equality duty, we actively seek to improve the effectiveness with which we exercise our powers and undertake our duties, both statutory and non-statutory. Gathering information about the protected characteristics of our customers – including those subject to enforcement activity – assists us in achieving that aim.

Special category data

Article 9 of the UK GDPR covers special category data. Special category data is personal data that needs more protection because it is sensitive. The nine types of special category data are as follows:

- personal data revealing racial or ethnic origin;
- personal data revealing political opinions;
- personal data revealing religious or philosophical beliefs;
- personal data revealing trade union membership;
- genetic data;
- biometric data (where used for identification purposes);
- data concerning health;
- data concerning a person's sex life
- data concerning a person's sexual orientation

Among the data listed above that we might collect, the following types meet the definition of 'special category data' as set out in Article 9 of the UK GDPR (this is the data that would fall under protected characteristics referenced above):

- disability
- pregnancy and maternity
- race
- religion or belief

- sexual orientation
- health data (medical conditions/physical and cognitive impairments)

In order to lawfully process special category data, we must identify both a lawful basis under Article 6 of the UK GDPR and a separate condition for processing under Article 9. There are ten conditions for processing special category data, which are as follows:

- (a) Explicit consent
- (b) Employment, social security and social protection (if authorised by law)
- (c) Vital interests (of the data subject)
- (d) Not-for-profit bodies
- (e) Made public by the data subject
- (f) Legal claims or judicial acts
- (g) Reasons of substantial public interest (with a basis in law)
- (h) Health or social care (with a basis in law)
- (i) Public health (with a basis in law)
- (j) Archiving, research and statistics (with a basis in law)

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 set out the Regulatory Reform (Fire Safety) Order 2005; Section 6 of the Fire and Rescue Services Act 2004; and the Public Sector Equality Duty set out in Section 149 of the Equality Act 2010. Gathering information about the protected characteristics of our customers – including those subject to enforcement activity – assists us in achieving these requirements.

If 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](#).

The substantial public interest condition that we rely upon is ‘6 Statutory etc and government purposes’. Again, this links to our responsibilities under the Regulatory Reform (Fire Safety) Order 2005; the Fire and Rescue Services Act 2004; and the public sector equality duty under the Equality Act 2010. Specifically that as part of meeting our public sector equality duty, we actively seek to improve the effectiveness with which we exercise our powers and undertake our duties, both statutory and non-statutory. Gathering information about the protected characteristics of our customers – including those subject to enforcement activity – assists us in achieving that aim.

Appropriate policy document

When processing special category data under the following conditions under Article 9 of the UK GDPR, there is a requirement under the Data Protection Act 2018 to have an ‘**appropriate policy document**’ in place:

(b) Employment, social security and social protection (if authorised by law), Schedule 1, Part 1, Paragraph 5, DPA 2018)

(g) Reasons of substantial public interest (Schedule 1, Part 2, Paragraph 5, DPA 2018)

The appropriate policy document must set out the information below and be retained for six months after the date the relevant processing stops.

- a) Which substantial public interest condition is relied on.
- b) How the processing satisfies Article 6 of the GDPR (lawfulness of processing).
- c) Whether the personal data is retained and erased in accordance with the controller's policies, including giving an indication of how long such personal data is likely to be retained.
- d) Explain the controller's procedures for securing compliance with the principles in Article 5 of the GDPR (principles relating to processing of personal data) in connection with the processing of personal data in reliance on the condition in question.

In line with these requirements, an appropriate policy document is in place.

Who might we share your data with?

In connection with any investigation and/or enforcement activity, personal data about you held by the Authority may be shared as required with other enforcement agencies, our appointed legal advisors, HM Courts & Tribunals Service, other fire and rescue services, primary authority schemes and local authority departments across the UK.

Details of enforcement notices issued are published on Kent Fire and Rescue Service public website and the National Fire Chiefs' Council website.

When we share data under these circumstances we will be doing so with an appropriate legal basis under UK GDPR (compliance with a legal obligation and/or performance of a task carried out in the public interest or in the exercise of official authority).

Where is the data stored?

Any data collected as part of an investigation, along with the investigation case file itself, will be stored within the Authority's document management system, which is hosted on a cloud-based server system. Access to the data is restricted to those that require it for their role.

How long will we hold your data for?

Personal data collected as part of our investigation and/or enforcement activity will be held in accordance with the periods set out in section 3 of our Publication and Retention Scheme (which can be found here: <https://www.kent.fire-uk.org/freedom-information-foi>).

What are my data protection rights?

Under data protection law, you have the following rights:

Your right of access

You have the right to ask us for copies of your personal information. You can ask to see it by making a subject access request. Guidance for making a request is available here:

<https://www.kent.fire-uk.org/freedom-information-foi>

Your right to rectification

You have the right to ask us to rectify personal information you think is inaccurate. You also have the right to ask us to complete information you think is incomplete.

Your right to erasure

You have the right to ask us to erase your personal information in certain circumstances.

Your right to restriction of processing

You have the right to ask us to restrict the processing of your personal information in certain circumstances.

Your right to object to processing

You have the the right to object to the processing of your personal information in certain circumstances.

You are not required to pay any charge for exercising your rights. If you make a request, we have one month to respond to you.

If you wish to make a request, please contact us at:

Email: data.protection@kent.fire-uk.org

Telephone: 01622 692121

Address:

Kent Fire and Rescue Service
The Godlands
Straw Mill Hill
Tovil
Maidstone
ME15 6XB

How to complain

If you have any concerns about our use of your personal information, you can make a complaint to us using the contact information above.

You can also complain to the ICO if you are unhappy with how we have used your data.

The ICO's address:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Helpline number: 0303 123 1113

ICO website: <https://www.ico.org.uk>