

Appropriate policy document for privacy notice 05: Medical records

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How Kent Fire and Rescue Service (KFRS) protects special category data about the physical and mental health of employees and volunteers.

1. Collecting data as an employer

We have a moral and legal duty to look after the wellbeing, both physical and mental, of everyone that works for us. We do this through line managers performing welfare checks, incident welfare arrangements, and, where necessary, through specialist support such as occupational health and psychological support services.

In order to offer this support and help manage the health and wellbeing of our employees we need to collect and process personal data related to employees' physical and mental health, pass this securely to our occupational health providers, and receive reports back from them about those employees.

2. About this appropriate policy document

This is the 'appropriate policy document' that sets out how, in its capacity as an employer, KFRS will protect special category data relating to the health and wellbeing of its employees and volunteers.

It meets the requirement set out in [Schedule 1, Part 1, Paragraph 1 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 '**employment, social security and social protection**' as set out in [Article 9\(2\)\(b\) of the UK GDPR](#).

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 is relying on the following lawful bases:

- **Consent** as set out in [Article 6\(1\)\(a\) of the UK GDPR](#). We will rely on your consent to receive information from you or from your GP or other health provider or from our occupational health provider about any illnesses or injuries or disabilities you have or may have during your employment. We note that once this information has been received we do not rely on your consent to retain or process that information but rather on one or more of the other legal basis set out below.
- **Contract** as set out in [Article 6\(1\)\(b\) of the UK GDPR](#). During your employment we may collect information about your health and well-being and information relating to your role and performance. In order to retain and process that information we rely upon processing being necessary for the performance of a contract to which you are a party (your contract of employment with us). We will also ask you to complete a health questionnaire ahead of commencing employment with us, and this may lead to you undertaking a medical at our request.
- **Compliance with a legal obligation** as set out as set out in [Article 6\(1\)\(c\) of the UK GDPR](#). As your employer, under the [Health and Safety at Work Act 1974](#) we will generate referrals to specialist health-related support services where appropriate and necessary, maintain records where employees come into contact with hazardous materials in the course of their work, maintain records where employees have suffered an injury at work, and conduct an investigation where necessary.

Compliance with a legal obligation requires a separate basis in law. This comes from the following:

- Our compliance with the requirements of [the Health and Safety at Work Act 1974](#).

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 05: Medical records](#).

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 the health and wellbeing of employees of KFRS may include:

- disability
- pregnancy and maternity
- health data (e.g. injuries, medical conditions/physical and cognitive impairments, including those for which we might need to make reasonable adjustments; role-related fitness assessments).

This data is collected to allow KFRS to offer support to and help manage the health and wellbeing of our employees. To lawfully process this special category data, KFRS is relying on the following conditions:

- **Employment, social security and social protection** condition as set out in [Article 9\(2\)\(b\) of the UK GDPR](#).
- **Legal claims or judicial acts** condition as set out in [Article 9\(2\)\(f\) of the UK GDPR](#).
- **Reasons of substantial public interest** condition as set out in [Article 9\(2\)\(g\) of the UK GDPR](#).
- **Preventative or occupational medicine or health or social care** condition as set out in [Article 9\(2\)\(h\) of the UK GDPR](#).

The requisite basis in law for the **Employment, social security and social protection** condition; the **Reasons of substantial public interest** condition; and the **Preventative or occupational medicine or health or social care** condition come from the following:

- Our compliance with the requirements of [the Health and Safety at Work Act 1974](#).
- Our compliance with the requirements of [Sections 5 to 9 of the Fire and Rescue Services Act 2004](#) to maintain a fire and rescue service. Supporting and helping to manage the health and wellbeing of our employees contributes to allowing us to meet this requirement.

3.3. Where ‘reasons of 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 [Paragraphs 6 to 28, Schedule 1, Part 2 of the Data Protection Act 2018](#)

Because we are relying on the **reasons of 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 first of the two substantial public interest conditions that we are relying upon is:

[6 Statutory etc and government purposes](#), specifically section 62(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:

- Our compliance with the requirements of [the Health and Safety at Work Act 1974](#).
- Our compliance with the requirements of [Sections 5 to 9 of the Fire and Rescue Services Act 2004](#) to maintain a fire and rescue service. Supporting and helping to manage the health and wellbeing of our employees contributes to allowing us to meet this requirement.

The second of the two required substantial public interest conditions that we rely upon is:

[21 Occupational pensions](#), particularly the ability to make a determination in connection with eligibility for, or benefits payable under, an occupational pension scheme.

4. Retention

Personal data collected about your physical and mental health will be held in accordance with the periods set out in section 7.3 of KFRS’ Publication and Retention Scheme (<https://www.kent.fire-uk.org/freedom-information-foi>)

Occupational Health and other medical records are retained for the amount of time that those purposes remain relevant and we have a legitimate reason for retaining them as described in the associated privacy notice.

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

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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