

Appropriate policy document for Privacy notice 02: Employees and volunteers

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How Kent Fire and Rescue Service (KFRS) protects special category personal data of employees and volunteers.

1. Collecting data as an employer

When someone obtains a post with KFRS, and during the course of their employment with KFRS, we have a number of legal duties placed on us as an employer which require us to process and share a range of personal data, some of which meets the definition of special category data under Article 9 of the UK GDPR.

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 collected and processed about 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](#). This is specifically in relation to any data collected about the following six of the nine protected characteristics: gender reassignment; race; religion or belief; sex; and sexual orientation. This is because the data about the protected characteristics listed earlier is only collected in order to assist us in removing barriers to entry and monitoring the composition of our workforce in comparison to the population we serve in order to meet our obligations under the Public Sector Equality Duty as set out in [Section 149 of the Equality Act 2010](#).

We will also rely on your consent to refer you to, and 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 bases 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](#), we will rely on this to meet our obligations under the legal duties set out earlier in this document.
- **Legitimate interests** as set out as set out in Article 6(1)(f) of the UK GDPR. We rely upon our legitimate interest of ensuring your wellbeing at work and that you are performing your contracted role to the required standard.
- **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.

Both **compliance with a legal obligation** and **performance of a task carried out in the public interest or in the exercise of official authority**, require a separate basis in law. This comes from the following:

- 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. Recruiting and employing suitable employees as needed allows us to meet this requirement.
- Our compliance with the requirements of [Section 1 of the Employment Rights Act 1996 \(Statement of Particulars\)](#), [The Police Act 1997](#), and the [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order](#)
- [Our compliance with](#) legal duty to ensure that all members of our payroll are appropriately taxed, in accordance with the relevant rules issued by Her Majesty's Revenue and Customs.
- Our compliance with the [Finance Act 2016](#).
- 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 working for KFRS. In order to assist us in this, we may seek to gather information about some protected characteristics of our employees.

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 02: Employees and volunteers](#).

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 employees of KFRS may include:

- disability
- pregnancy and maternity
- race
- religion or belief
- sexual orientation
- 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).
- Trade union membership

This data is collected to allow KFRS to prepare, enter a contract of employment, and perform our obligations under a contract of employment with you.

To lawfully process this special category 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 specific characteristics is not necessary for us to undertake our core functions as an employer. 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.

Employment, social security and social protection condition as set out in [Article 9\(2\)\(b\) 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 both the ‘**Employment, social security and social protection**’ condition and the ‘**Reasons of substantial public interest**’ condition come from the following:

- 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. Recruiting and employing suitable employees as needed allows us to meet this requirement.
- Our compliance with the requirements of [Section 1 of the Employment Rights Act 1996 \(Statement of Particulars\)](#), [The Police Act 1997](#), and the [Rehabilitation of Offenders Act 1974 \(Exceptions\) Order](#)
- Our compliance with legal duty to ensure that all members of our payroll are appropriately taxed, in accordance with the relevant rules issued by Her Majesty’s Revenue and Customs.
- Our compliance with the [Finance Act 2016](#).
- 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.

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](#)

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:

- Our compliance with the requirements set out in the relevant employment, pensions and taxation related legislation.

- Our compliance with with the requirements of the Fire and Rescue Services Act 2004.
- The need to ensure that we can meet our responsibilities under the Public Sector Equality Duty as set out in [Section 149 of the Equality Act 2010](#).

4. Retention

Personal data collected in KFRS' capacity as an employer will be held in accordance with the periods set out in section 7 of KFRS' 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

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:

Data Protection Officer
Kent Fire & Rescue Service
The Godlands
Straw Mill Hill

Maidstone
ME15 6XB

Email: dataprotection@kent.fire-uk.org

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