

# Privacy notice 05: Medical records

Date completed 05/04/2023

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 01: Applications for employment
- Privacy notice 02: Employees and volunteers
- Privacy notice 03: Primary employment
- Privacy notice 04: Secondary employment
- Privacy notice 06: Grievances, employment complaints and whistleblowing
- Privacy notice 07: Former KFRS employees
- Privacy notice 08: Learning and development
- Privacy notice 09: KFRS housing
- Privacy notice 10: Disciplinary and capability procedures
- Privacy notice 11: Pensions administration
- Privacy notice 12: Insurance
- Privacy notice 26: Videos and images at incidents (employees and volunteers)
- Privacy notice 28: Videos and images at events (employees and volunteers)
- 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  
Tovil  
Maidstone  
ME15 6XB

Email: [data.protection@kent.fire-uk.org](mailto:data.protection@kent.fire-uk.org)

Telephone: 01622 692121

## Why we collect and use personal data

This notice covers the personal and sensitive data we will collect about your physical and mental health whilst you are an employee of KFRS and, under certain circumstances, following your departure from KFRS.

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.

## The types of personal data we collect and process

In addition to the types of personal data listed in 'Privacy notice 02: Employees and volunteers', we may collect and process the following types of personal data:

- Certificates for absence provided to us by you.
- Records where staff have suffered an injury at work, and conduct an investigation where necessary.
- Records where staff come into contact with hazardous materials in the course of their work.
- Other records relating to your health and wellbeing such as case notes from discussions, referrals to specialist support services, correspondence and occupational health reports, risk assessments, agreed reasonable adjustments or wellness action plans.

## 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.

During the course of your employment with KFRS and, under certain circumstances, following your departure from KFRS, we will collect and use personal data. We will rely 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. We will also retain training and competency records from your time as an employee as these may be necessary in order to defend KFRS or any of its employees or partners against legal action that former employees or their next of kin may undertake.

**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](#).

## 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:

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

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) Preventative or occupational medicine or 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)

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.

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 further required substantial public interest conditions that we rely upon are:

[6 Statutory etc and government purposes](#), specifically section 2(a), *‘the exercise of a function conferred on a person by an enactment or rule of law’*. Again, this links to our responsibilities under the health-related legislation listed earlier in this document and the Fire and Rescue Services Act 2004.

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

## Appropriate policy document

When processing special category data under the ‘(b) Employment, social security and social protection condition; or (g) Reasons of substantial public interest’ condition, there is a requirement under the Data Protection Act 2018 ([Schedule 1, Part 1, Paragraph 1\(1\)\(b\) and Schedule 2, Paragraph 5\(1\) respectively](#)) to have an ‘**appropriate policy document**’ in place.

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 UK 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 UK 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?**

We will share your personal data with third parties where required by law, where it is necessary for us to fulfil our contractual or legal obligations to you as your employer or to exercise our legal rights. We will only share your personal data to the extent needed for these purposes and we will obtain assurance from those third parties of the integrity of their data security arrangements.

Medical data will be shared with our occupational health provider where appropriate to do so. Our current occupational health provider is 'Health Partners' and their privacy notice can be found here: <https://www.healthpartnersgroup.com/privacy-notice>. Our provider may forward your details to further specialists depending on the nature of medical issue.

We may change occupational health providers and when we do so we shall ensure they comply with the requirements of the UK GDPR. Your data will be transferred between occupational health providers in accordance with this privacy notice. As part of any such handover to another provider we may enter into agreements between the exiting and incoming provider to pass records between themselves to maintain continuity of service to employees. This will be subject to a separate privacy impact assessment should it be deemed necessary to perform as part of arrangements at the end of a contract.

We may need to share medical data with our legal advisers or with a court, tribunal, regulator or with our insurers where processing is necessary for the establishment, exercise or defence of legal claims.

We may need to share medical data with LPP (Local Pensions Partnership) the organisation responsible for administering the occupational pension scheme of which you are a member.

We may need to share medical data with HMRC or law enforcement agencies as per their requirements applicable at the time. This may include requests by them to contribute to fraud investigations involving data from one or more employees.

## **Where is the data stored?**

All medical data is stored within: employees' HR files, this is held in paper copy in secure stage in our headquarters building; KFRS's payroll system and electronic employee portal (iTrent); and the occupational health portal provided under contract by our supplier. Our current occupational health provider is 'Health Partners' and their privacy notice can be found here: <https://www.healthpartnersgroup.com/privacy-notice>

We may change occupational health providers and when we do so we shall ensure they comply with the requirements of the UK GDPR. Your data will be transferred between occupational health providers in accordance with this privacy notice. Your confidential medical information will be retained by our occupational health service and we will retain on your record the minimum health information required for the purposes outlined in the privacy notice. Local copies of GP certificates or similar records held by line managers will be destroyed once uploaded to the payroll system.

## **How long will we hold your data for?**

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 this privacy notice.

## **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](mailto: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>