

Privacy notice 16: Operational incidents

Date completed 28/03/2023

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 and processing the data listed below.

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 13: Safe and Well Visits Home Fire Safety Visits and post-incident visits
- Privacy notice 24: CCTV
- Privacy notice 25: Specialist image capture
- Privacy notice 26: Videos and images at incidents (employees and volunteers)
- Privacy notice 32: Email, instant messaging, typed or scanned letters and voice recordings
- 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

Telephone: 01622 692121

Why we collect and use personal data

This notice covers data collected from people we have provided services to at emergencies. 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. In order to discharge these duties effectively, we need to collect and process a certain amount of personal data. We use this data to:

- Assist customers at the scene through obtaining key, relevant information about them.
- Aid us in providing medical treatment at an incident

- Provide details to the ambulance service or other medical personnel employed by the NHS on the treatment we have administered and the conditions we found you in at the start and during any incident you are involved in.
- Assist in undertaking investigations by fire crews and the Fire Investigation Team to understand the circumstances that caused an incident.
- Learn from the incidents that we attend so that we continually improve what we do. This is undertaken through carrying out a structured and formalised programme of debriefings of operational incidents and exercises.
- Manage and report on our performance.
- Provide incident-level returns to government on the number and type of incidents that we have attended.
- Gather information about some protected characteristics of our customers to support our work to improve access to our services.

The types of personal data we collect and process

When dealing with a fire, road traffic collision and any other emergency, we may collect and process the following types of personal data from those being assisted or otherwise present:

- Data on 999 calls taken, including names, addresses, and voice recordings, including radio messages
- Name
- Date of birth
- Contact details such as addresses, telephone numbers and email addresses
- Health data (injuries, treatment given by KFRS staff, medical conditions/physical and cognitive impairments)
- Relevant characteristics of the person and their home environment, including behavioural information if disclosed
- NHS number and Swift I.D. number
- Name and contact details of third parties, such as carers, next of kin, family
- Protected characteristics under the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation)
- Voice recordings of debriefings of operational incidents and exercises (operational learning). These are only made to aid note taking and are deleted as soon as the notes are typed up.

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 providing an emergency response service to fires, road traffic collisions and any other emergency, we will collect and use personal data. We will rely on the following lawful bases:

- **Consent** as set out 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; marriage and civil partnership; race; religion or belief; sex; and sexual orientation. This is because collecting data on these characteristics is not necessary for us to undertake our core functions when at scene in relation to emergency response service to fires, road traffic collisions and other emergencies. This is materially different from, say, awareness that a casualty is pregnant, or medical information on pre-existing conditions or injuries sustained at an emergency (for which one of the lawful bases set out below would apply). The data about the six protected characteristics listed above is only 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](#).
- **Compliance with a legal obligation** as set out as set out in [Article 6\(1\)\(c\) of the UK GDPR](#).
- **Vital interests** as set out as set out in [Article 6\(1\)\(d\) of the UK GDPR](#).
- **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 [Part 2 of the Fire and Rescue Services Act 2004](#) for fire and rescue authorities to make provision for fire safety, fire-fighting, road traffic accidents and other emergencies. Obtaining personal data from those being assisted, helps us to resolve the incidents and support people more effectively. This also extends to investigations by fire crews and the Fire Investigation Team to understand the circumstances that caused an incident; and learning from incidents through carrying out

a structured and formalised programme of debriefings of operational incidents and exercises.

- 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.

If we provide medical treatment to you at an incident, to protect your **vital** interests and without your consent, we will provide details to the ambulance service or other medical personnel employed by the NHS on the treatment we have administered and the conditions we found you in at the start and during any incident you are involved in.

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
- race
- religion or belief
- sexual orientation
- health data (injuries, treatment given by KFRS staff, 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 following conditions:

- **Explicit consent** 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 characteristics is not necessary for us to undertake our core functions when at scene in relation to emergency response service to fires, road traffic collisions and other emergencies. This is materially different from, say, awareness that a casualty is pregnant, or medical information on pre-existing conditions or injuries sustained at an emergency (for which one of the lawful bases set out below would apply). 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.
- **Vital interests (of the data subject)** as set out in [Article 9\(2\)\(c\) 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 the **Reasons of substantial public interest** condition is our compliance with the requirements set out in [Part 2, Sections 6 to 9 of the Fire and Rescue Services Act 2004](#), to have a legal duty to provide an emergency response service to fires, road traffic collisions and any other emergency; and the Public Sector Equality Duty set out in [Section 149 of the Equality Act 2010](#).

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 condition that we rely upon is '[6 Statutory etc and government purposes](#)'. Again, this links to our responsibilities under the Fire and Rescue Services Act 2004, and the public sector equality duty under the Equality Act 2010.

Appropriate policy document

When processing special category data under the '(g) Reasons of substantial public interest' condition (Schedule 1, Part 2, Paragraph 5, DPA 2018, respectively), there is a requirement under the Data Protection Act 2018 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 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?

At an incident data may be shared with other agencies for the purposes of preserving life, rendering assistance and aiding in resolving the incident.

As part of our process of continuous improvement, we actively seek to learn from incidents through carrying out a structured and formalised programme of debriefings of operational incidents and exercises (operational learning). Outcomes of these incident debriefings may be shared with partner agencies where an appropriate lawful basis exists. Voice recordings of debriefings are not shared outside of KFRS as there are only made to aid note taking and are deleted as soon as the notes are typed up.

We will use data gathered at incidents to manage and report publicly on our performance. Publicly available performance data will not reveal any personal identifiable data. We will also provide data to other agencies on the number and type of incidents we have attended without revealing any personal identifiable data.

We will provide incident-level returns to government on the number and type of incidents that we have attended, which will include sensitive personal data being passed by Kent Fire and Rescue Service. However, this data will be aggregated and anonymised.

Where is the data stored?

All incident, fire investigation and operational learning data is stored within KFRS' 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?

Incident records, including casualty information, incident information used in the process of fire investigation, operational learning and specialist footage recorded from incidents, will be retained in accordance with the periods set out in section 5 of our Publication and Retention Scheme (<https://www.kent.fire-uk.org/freedom-information-foi>)

Audio recordings of 999 calls will be retained in accordance with the periods set out in section 12 of our Publication and Retention Scheme (<https://www.kent.fire-uk.org/freedom-information-foi>)

Incident commanders' decision logs, will be retained in accordance with the periods set out in section 13 of our Publication and Retention Scheme (<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>