

Privacy notice 18: Memoranda of understanding (MOUs) and data sharing agreements

Date completed 31/03/2023

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 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 17: Investigations by other agencies
- 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 personal data that may be shared or processed as a result of us entering into partnership schemes and initiatives with other local authority and partner agencies. These partnership schemes and initiatives will be enacted through a memorandum of understanding (referred to as an MOU) and, where necessary, data sharing agreements.

A memorandum of understanding is a written agreement between two or more partners to work together. It is a statement of serious intent, agreed voluntarily by equal partners, of the commitment, resources, and other considerations that each of the parties will bring. It has moral force, but does not create legal obligations.

Any associated data sharing agreements will relate to areas that are not covered by our current commitments as a signatory to the Kent and Medway Information Partnership and associated Kent and Medway Information Sharing Agreement, to which KFRS is a signatory.

For more information about the Kent and Medway Information Sharing Agreement please see the link below.

<https://www.dartford.gov.uk/data-protection/kent-medway-information-sharing-agreement>

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. We also have a legal duty to provide fire prevention advice and promote fire safety.

Additionally, under the [Regulatory Reform \(Fire Safety\) Order 2005](#) and the [Fire Safety \(England\) Regulations 2022](#) we have a number of legal duties placed on us to maintain fire precautions, promote fire safety and act an enforcing authority.

Once of the ways in which we achieve these legal duties is through entering into partnership schemes and initiatives (enacted through a memorandum of understanding) and sharing information with other local authority and partner agencies.

The types of personal data we collect and process

When sharing information via a memorandum of understanding or data sharing agreement we may potentially share or otherwise process any of the personal data that we hold. This includes special category data.

Where this is done, we will always ensure that there is an appropriate lawful basis and that any sharing and or processing is proportionate to the required aims and needs and in line with the requirements of the data protection principles set out in Article 5 of the UK GDPR and our own Data Protection and Information Security Policy.

Any information shared via MoU or data sharing agreement, would specify the categories of data and link this to any corresponding privacy notices as appropriate.

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 sharing information via a memorandum of understanding or data sharing agreement we will 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 compliance with the requirements of [Part 2, Sections 6 to 9 of the Fire and Rescue Services Act 2004](#), 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 and provide fire prevention advice and promote fire safety.
- Our compliance with the requirements of the [Regulatory Reform \(Fire Safety\) Order 2005](#) and the [Fire Safety \(England\) Regulations 2022](#) to maintain fire precautions, promote fire safety and act an enforcing authority.

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

When sharing information via a memorandum of understanding or data sharing agreement we may potentially share or otherwise process any of the personal data that we hold. This includes special category data.

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 of [Part 2, Sections 6 to 9 of the Fire and Rescue Services Act 2004](#), 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 and provide fire prevention advice and promote fire safety.
- Our compliance with the requirements of the [Regulatory Reform \(Fire Safety\) Order 2005](#) and the [Fire Safety \(England\) Regulations 2022](#) to maintain fire precautions, promote fire safety and act an enforcing authority.

As we are 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](#).

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 of [Part 2, Sections 6 to 9 of the Fire and Rescue Services Act 2004](#) 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 and provide fire prevention advice and promote fire safety.

The other basis for this substantial interest condition is our compliance with the requirements of the [Regulatory Reform \(Fire Safety\) Order 2005](#) and the [Fire Safety \(England\) Regulations 2022](#) to maintain fire precautions, promote fire safety and act an enforcing authority.

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?

Data may be shared with other local authority and partner agencies as appropriate through partnership schemes and initiatives (enacted through a memorandum of understanding).

When sharing information via a memorandum of understanding or data sharing agreement we may potentially share or otherwise process any of the personal data that we hold. This includes special category data.

Where this is done, we will always ensure that there is an appropriate lawful basis and that any sharing and or processing is proportionate to the required aims and needs and in line with the requirements of the data protection principles set out in Article 5 of the UK GDPR and our own Data Protection and Information Security Policy.

Any information shared or processed via MoU or data sharing agreement, would specify the categories of data and link this to any corresponding privacy notices as appropriate.

Where is the data stored?

Data is 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 shared or processed information via a memorandum of understanding or data sharing agreement will be held in accordance with the relevant periods set out in the Authority's 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>