

Privacy notice 22: Regulation and consultation with businesses

Date completed 02/02/2023

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 15: Enforcement, Investigation and Prosecution Activity
- 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
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ME15 6XB

Email: data.protection@kent.fire-uk.org

Telephone: 01622 692121

Why we collect and use personal data

This notice covers the process by which we will engage with organisations that are responsible in law for premises that fall under the scope of the Regulatory Reform Order 2005. It also how we engage with small businesses and businesses operated from people's homes.

As a fire and rescue authority, we have a number of legal duties placed on us to maintain fire precautions, promote fire safety and ensure equality of access to our services. In order to discharge these responsibilities effectively, we need to collect and process a certain amount of personal data on those organisations and individuals who we engage with.

One way we do this is by engaging with customers to promote appropriate behaviours. To engage with users of our services, we need to have mechanisms to collect feedback and data requests and take relevant action, and feedback to them. In working with businesses

and regulated premises this includes how we provide generalist advice, respond to queries, raise concerns, and ultimately take enforcement action where non-compliance with the law is identified. We also want to understand more about our customers to ensure that we remove any barriers to accessing our services and that they are made available for all who qualify.

The types of personal data we collect and process

When engaging, providing feedback and consultation with customers, we may collect and process the following types of personal data:

- Name
- Date of birth
- 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)
- Contact details such as addresses, telephone numbers and email addresses;
- Any specific information you provide to us as part of correspondence related to regulated premises and their management, or a small business or home business
- Local Authority liability information such as council tax, licensing, planning and building control applications and outcomes
- Companies House data
- Fire service incident recording system data
- Registration information from partner agencies (examples include, but not limited to: Care Quality Commission, Trading Standards, Health and Safety Executive, Local Authority, Ofsted)
- Online identifiers such as IP addresses and cookie identifiers; and other identifiers from which inferences as to your identity could potentially be made

We may also collect and process data about additional data subjects who have a relevant connection to the business that we are engaging with. This will most likely be relevant information provided by a responsible person or collected by us directly as part of our engagement with a regulated premises, including names and addresses of the tenants/occupiers.

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 engaging with businesses or undertaking an investigation/enforcement activity using our powers under the Fire and Rescue Services Act 2004, or through the enforcement of the Regulatory Reform (Fire Safety) Order 2005, or ensuring compliance with the Fire Safety (England) Regulations 2022, we will collect and use personal data. 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 these activities.

Both of these require a separate basis in law. This comes from the following:

- Our compliance with the requirements of [Section 6 of the Fire and Rescue Services Act 2004](#) for fire and rescue authorities to actively promote fire safety and fire prevention strategies (achieved through the provision fire protection activity).
- Our powers under the [Regulatory Reform \(Fire Safety\) Order 2005](#) as an enforcing authority.
- Ensuring compliance with the [Fire Safety \(England\) Regulations 2022](#).
- 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.

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 (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 **substantial public interest** condition as set out in Article 9(2)(g) of the UK GDPR. Again, the basis in law for this our compliance with the requirements set out in [Section 6 of the Fire and Rescue Services Act 2004](#) for fire and rescue authorities to actively promote fire safety and fire prevention strategies; ensuring compliance with the [Fire Safety \(England\) Regulations 2022](#) ; and the Public Sector Equality Duty set out in [Section 149 of the Equality Act 2010](#).

If 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](#).

The 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.

For the purposes of fire safety, a responsible person is any person who has some control over the premises. For example:

- the employer (for example of a business)
- site manager (for example at a business park)
- owner (for example of a home converted into a number of flats)
- managing agents (for example of a block of flats)

The responsible person has a **legal** duty under the Regulatory Reform (Fire Safety) Order 2005 to maintain fire precautions by taking reasonable steps to reduce the risk from fire and complete a risk assessment.

Under the Fire Safety (England) Regulations 2022, the responsible person for multi-occupied residential buildings of 18 metres and over needs to submit certain documents to KFRS. We will process and securely store any personal data provided as part of this in line with our responsibilities under the UK GDPR and Data Protection Act 2018.

Under the Fire and Rescue Services Act 2004, we have a **legal** duty to promote safety in this area and enforce the law up to and including enforcement and action through the courts.

Under the Enterprise Act 2016 we have the **legal** power to act as a Primary Authority for a business with premises outside of Kent.

Under the National Framework for Fire and Rescue Services, we have a **legal** duty to consult about significant changes to the services we provided.

In the **public** interest, we respond to feedback received from the users of our services.

Under the Equality Act 2010, as a public authority we have a public sector equality duty.

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?

Information held by the Authority may be shared as required with other enforcement agencies to assist with their enquiries, and in relation to primary authority scheme members, with other fire and rescue services and building control departments across the UK.

Details of enforcement notices issued are published on the National Fire Chiefs' Council website.

Where is the data stored?

Any data collected as part of a feedback, engagement or consultation is stored within the Authority's document management system, which is hosted on a cloud-based server system.

How long will we hold your data for?

Personal data collected as part of feedback, engagement or consultation activity will be held for a period of 7 years in accordance with the periods set out in section 3 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:

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The Godlands

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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>