

# PRIVACY NOTICE – SHARING OF PERSONAL DATA BETWEEN SWFRS AND THE INDEPENDENT REVIEW OF CULTURE, DISCIPLINE PROCESSES AND HISTORIC DISCIPLINE CASES

## About the Review

Following an ITV News report on 12 December 2022, during which witnesses gave examples of sexual harassment, inappropriate behaviours and a protective culture within the workplace of South Wales Fire and Rescue Service ("**SWFRS**"), the Chief Fire Officer committed to commissioning an independent review of culture, discipline processes, and historic discipline cases (the "**Review**").

In February 2023, Fenella Morris KC was appointed as the independent chairperson of the Review (the "**Chair**"). For the purposes of this privacy notice references to the Review throughout this privacy notice include the Chair.

Further details as to the objectives of the Review can be found [here](#) and the terms of reference can be found [here](#).

## Purpose of this privacy notice

This privacy notice provides information as to how and why SWFRS (also referred to in this privacy notice as "**we**" or "**us**") will share and disclose personal data it holds to the Review ("**Shared Personal Data**") and explains the applicable rights under data protection legislation that apply to information that we provide to the Review.

This privacy notice applies to the sharing of data for the Review only, and is supplemental to SWFRS' privacy notice for employees which can be found on SWFRS' intranet or upon request and the general privacy notice which can be found [here](#).

## Collection of information directly by the Review and use of Shared Personal Data by the Review

This privacy notice only addresses personal data that SWFRS shares with the Review.

The Review is independent of SWFRS. And will decide how it uses any Shared Personal Data from SWFRS and any information that it collects or receives directly from other sources – the Review is an independent data controller.

As set out in the Terms of Reference, current and former staff, management, SWFRS members, representative bodies and/or external partner agencies, will be interviewed and provided with the opportunity to share their relevant perspectives by outlining in person, in writing, via staff surveys, focus groups or station visits their experiences of perceived bullying and harassment, including sexual harassment, discrimination or other experiences of inappropriate behaviour.

The Review will have responsibility for managing the way in which personal data it uses and for ensuring that it is fair and lawful. As such, please note that this privacy notice does *not* apply to any information collected directly by the Review (i.e. not supplied by SWFRS to the Review) nor provides details how the Review will itself use the Shared Personal Data it receives from SWFRS. Please see the Review's own privacy notice (which can be found [here](#)) which provides further details about such collection and/or use of personal data.

## Why SWFRS need to disclose information to the Review

SWFRS is committed to supporting the Review and to learning and making improvements based on the Review's findings.

In order to ensure that the Review is effective and is able to consider all relevant information in order to fully consider the relevant issues on a fully informed basis to produce a meaningful report which in turn will allow SWFRS to benefit fully from the findings of the Review, it is necessary for SWFRS to disclose information to the Review in accordance with the Terms of Reference. Such information will include personal data relating to particular individuals.

## **What information may be shared with the Review**

The Terms of Reference sets out particular information that the Review will consider. This includes:

- policies, procedures and systems relating to discipline of staff, bullying, harassment, grievances, whistleblowing concerns, dignity at work, complaints, exit interviews, and any other processes for raising complaints and concerns of behaviour and standards
- historic reports and complaints of incidents of bullying, harassment, whistleblowing concerns, and dignity at work complaints, and exit interviews, and any other relevant complaints and/or grievances that were dealt with and responded to by SWFRS
- historical staff disciplinary cases that were dealt with by SWFRS, including details of whether there was any further action (positive or negative) in respect of the individuals complained of (for example, any further disciplinary cases against them, any patterns of behaviour and/or any promotions) and how that impacts on culture

The Terms of Reference may, from time to time, be updated or amended and the scope of information the Review will consider may be updated or amended. If so, this privacy notice will apply to any such information and SWFRS will update this privacy notice accordingly.

## **Whose personal data may be disclosed to the Review**

The Shared Personal Data may include personal data relating to:

- current SWFRS staff
- former SWFRS staff
- individuals who have made complaints, whistle-blown, submitted exit interviews, or raised grievances to SWFRS
- individuals who have been the subject of complaints, whistleblowing, exit interviews, or grievances made to SWFRS
- individuals who have been subject to disciplinary actions or investigations undertaken by SWFRS
- individuals who have contributed as witnesses or other parties to complaints, whistleblowing, exit interview, or grievances made to SWFRS

The Terms of Reference may, from time to time, be updated or amended and the scope of information the Review will consider may be updated or amended and therefore may require information from other individuals to be shared. If so, this privacy notice will apply to any such information and SWFRS will update this privacy notice accordingly.

## **What personal data that may be disclosed to the Review**

Due to the nature of the Review, the Shared Personal Data that we may share with the Review may include:

- name
- age or date of birth
- gender
- role, job title, role profile and/or job title

- employment status
- qualifications, performance and training records
- details of experience
- disciplinary records
- details of complaints, concerns, grievances, exit interviews (including details of outcomes and any action taken or not taken)
- information about physical or mental health, injuries and/or medical treatment
- racial or ethnic origin
- political opinions, religious or philosophical beliefs or trade union membership
- sex life or sexual orientation
- criminal prosecution(s), conviction(s) and/or sentence(s)
- charges that did not lead to prosecution
- actual or alleged criminal offences
- incident reports that did not lead to charge

The Terms of Reference may, from time to time, be updated or amended and the scope of information the Review will consider may be updated or amended and therefore may require further information to be shared. If so, this privacy notice will apply to any such information and SWFRS will update this privacy notice accordingly.

### **Purpose and lawful basis for processing**

The primary lawful basis we rely on to share the Shared Personal Data with the Review is article 6(1)(f) of the UK GDPR - legitimate interest. This allows personal data to be shared where it is necessary for SWFRS' legitimate interests or the legitimate interests of a third party, providing that these interests are not overriding by the individuals' fundamental rights. SWFRS' legitimate interests include:

- ensuring that the Review is effective and is able to consider all relevant information in order to fully consider the relevant issues on a fully informed basis to produce a meaningful report
- allow SWFRS to benefit fully from the findings of the Review
- allows SWFRS to identify whether there are any cultural issues within the organisations and to find solutions and address recommendations for improvement

SWFRS may also rely on the legitimate interest of third parties, including those individuals who raised concerns to SWFRS and the legitimate interests of the Review itself. These include:

- ensuring that concerns raised by individuals are investigated and addressed appropriately
- ensuring that the Review has the ability to examine and to produce an evidence-based, balanced analysis of the matters relating to the Terms of Reference

- the ability of the Review to make robust recommendations in relation to the culture within SWFRS
- the ability of the Review to provide and publish reports

Whilst SWFRS will primarily rely on legitimate interest as a lawful basis for sharing the Shared Personal Data with the Review, SWFRS may also rely on the following lawful bases in some instances:

- that the sharing of the Shared Personal Data is necessary for the performance of a contract to which the relevant data subject is party (e.g. an individual's employment contract);
- the sharing of Shared Personal Data is necessary for compliance with legal obligations to which SWFRS is subject (including health and safety at work laws);
- processing is necessary in order to protect individuals' vital interests
- processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in SWFRS

SWFRS will not usually rely on consent to disclose the Shared Personal Data to the Review. However, in some instances where appropriate, SWFRS will rely on consent to disclose the Shared Personal Data to the Review.

We have undertaken an assessment to ensure that the steps that we are taking to share Personal Data with the Review is undertaken in a fair manner, and to ensure that the rights and privacy of individuals is taken into account in a sensitive way. The Shared Personal Data will be sufficient to enable the Review to meet its objectives.

### **Special category data**

Where the Shared Personal Data we need to disclose to the Review includes sensitive information (known as "special category data", such as information about health (physical or mental health or disabilities), sexual orientation, race or ethnic origin, religious beliefs or criminal offence data), we will also need to satisfy further conditions under article 9 of the UK GDPR and Schedule 1 of the Data Protection Act 2018. The main condition we will rely on to share such information will be on the basis that the sharing of the special category data is necessary for reasons of substantial public interest (article 9(2)(g) of the UK GDPR), in particular it is necessary for:

- purposes of the prevention or detection of unlawful act(s) - paragraph 10 of Schedule 1 of the Data Protection Act 2018
- purposes of protecting members of the public against dishonesty, malpractice or other seriously improper conduct, unfitness or incompetence, mismanagement in the administration of a body or association, or failures in services provided by a body or association. - paragraph 11 of Schedule 1 of the Data Protection Act 2018
- purposes of complying with, or assisting other persons to comply with, a regulatory requirement (including a requirement imposed by legislation or by a person in exercise of a function conferred by legislation or a requirement forming part of generally accepted principles of good practice relating to a type of body or an activity) which involves a person taking steps to establish whether another person has committed an unlawful act, or been involved in dishonesty, malpractice or other seriously improper conduct- paragraph 12 of Schedule 1 of the Data Protection Act 2018
- purposes of protecting individuals at risk from neglect or physical, mental or emotional harm or protecting the physical, mental or emotional well-being of an individual (paragraph 18 of Schedule 1 of the Data Protection Act 2018)

Whilst SWFRS will primarily rely on the above condition for sharing special category data with the Review, SWFRS may also rely on the following conditions in some instances:

- purposes of carrying out SWFRS' obligations and exercising SWFRS' specific rights in the field of employment (article 9(2)(b) of the UK GDPR)
- the establishment, exercise or defence of legal claims (article 9(2)(f) of the UK GDPR)

In particular, the sharing of such information is necessary for:

- for the same reasons above and for purposes of performing or exercising obligations or rights in connection with employment – paragraph 1 of Schedule 1 of the Data Protection Act 2018.

SWFRS will not usually rely on consent to disclose the special category data to the Review. However, in some instances where appropriate, SWFRS will rely on consent to disclose special category data to the Review.

SWFRS also have an appropriate policy document in place for the sharing of special category data, which is available upon request.

### **How will my information be protected**

SWFRS and the Review have agreed an information sharing protocol that sets out the procedures that both SWFRS and the Review will follow in relation to the sharing of Shared Personal Data and the safeguards that will be put in place to ensure that the sharing of the Shared Personal Data between SWFRS and the Review complies with data protection legislation.

We will take appropriate measures to protect your individual rights and freedoms, which may include:

- ensuring all information is shared securely with the Review via a secure online data room only with access limitations and without transferring the data outside the UK.
- where adequate for the purpose of the Review, providing information to the Review without identifying individuals
- only sharing information that we consider necessary, fair or proportionate to provide to the Review
- limiting access to information provided to the Review to those individuals who have a genuine reason to access the records

### **Sharing of personal data**

SWFRS will only share with the Review information that is necessary for the Review's function. Shared Personal Data provided to the Review will be kept confidential and will not be used for purposes other than that set out in this privacy notice and in the Review's privacy notice.

The Chair may share the Shared Personal Data with the Review's support team (as appointed in accordance with the Terms of Reference). The Review will not share the Shared Personal Data outside the Review. However, whilst the Chair will generally undertake the Review in a confidential manner, as set out in the Terms of Reference, this is subject to the following:

- in the event that civil proceedings concerning any matter that was the subject of the Review are raised against SWFRS or the Review, the Review may be ordered by a court or tribunal to disclose documentation and information in relation to the Review
- in the event that a person discloses information which raises a concern regarding the safety or wellbeing of an individual, the Chair may decide to disclose this information to SWFRS and/or a regulatory body for the purpose of ensuring health and safety

- in the event that a person discloses information which raises a concern regarding a potential criminal offence, the Chair may decide to report the matter to SWFRS and/or to the police
- the Chair may be required to disclose the Shared Personal Data where otherwise required by law

In the event that information is disclosed to SWFRS, a regulatory body or to the police, the Chair will use reasonable efforts to avoid disclosing the identity of any person who has requested anonymity but this is not guaranteed. If it becomes necessary to disclose the identity of the person who has provided the information this will be discussed with that person in advance except where there is an immediate risk to health or safety.

In the event that a person discloses information which gives rise to a need to launch a disciplinary investigation, or the information is relevant to an ongoing disciplinary process against one or more current employees of the Service, the Independent Chairperson will seek the permission of the person who provided the information to disclose the information and their identity. The information provided will not be used without the person's permission unless a court or tribunal orders disclosure. Please note that if permission is not given by the provider of the information to use the information and to disclose their identity for the purpose of disciplinary proceedings, it may hinder the ability of the Service to take disciplinary action.

### **Security**

SWFRS and the Review have agreed that the Shared Personal Data will only be shared via a secure online portal.

Additionally, SWFRS and/or the Review have undertaken, and/or will undertake, appropriate checks to ensure that any third-party processors who process the Shared Personal Data provide sufficient guarantees to comply with the data protection Laws before their appointment and are contractually obliged to comply with mandatory requirements required to comply with data protection legislation, in particular to take all appropriate technical and organisational measures (including to ensure the confidentiality, controlled access to and processing of, and security of Shared Personal Data).

### **Retention**

SWFRS will retain the Shared Personal Data in accordance with the periods set out in SWFRS' privacy notice.

The Review will retain the Shared Personal Data for the periods set out in the Review's privacy notice.

### **International data transfer**

As part of the sharing of the Shared Personal Data, the Shared Personal Data may be processed outside the United Kingdom or the EEA. For example, the secure online portal may process (e.g. by storing) the Shared Personal Data in locations outside the United Kingdom or EEA. If the Shared Personal Data is processed outside the United Kingdom or EEA, such processing will be in full compliance with applicable data protection legislation, ensuring appropriate safeguards are in place. This may include the following safeguards:

- There is an adequacy decision confirming that the country in which the Shared Personal Data is processed ensures an adequate level of protection for the data subject's rights and freedoms
- Appropriate safeguards are in place such as binding corporate rules, standard contractual clauses, an approved code of conduct or certification mechanism
- The transfer is necessary for one of the other reasons set out in data protection legislation including reasons of public interest, to establish, exercise or defend legal claims, to fulfil our legal or regulatory obligations, or, in some cases, for our legitimate interests.

### **Freedom of Information Act 2000**

The Review operates independently from the SWFRS. As such, SWFRS has no right of access to communications within the Review or between the Review and others, evidence collected by the Review, its assessment of such evidence, and/or legal advice provided to the Review and the Chair.

The Chair and Review are not public authorities subject to the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 and do not hold information on the behalf of SWFRS.

### **What are your rights**

Data protection laws provides certain rights to individual in relation to their personal data, including:

- request information about how their personal is used;
- request access to the personal data SWFRS hold about them, including a copy of their personal data
- object to the processing of their personal data
- request that any errors in their personal data are corrected without any undue delay;
- request that any incomplete personal data is completed, including by means of a supplementary statement
- request that their personal data is erased if there is no longer a justification for it to be processed
- request that the processing of their personal data is restricted

To exercise your legal rights, or if you have any queries or concerns regarding our use of personal data, please contact our data protection officer in the first instance on the contact details below.

Some of these rights are dependent on the reasons for which we disclose the Shared Personal Data and there may be legitimate reasons why we may refuse your exercise of your rights. Each request will be considered on a case-by-case basis. If SWFRS decide the rights you try to exercise do not apply, SWFRS will respond and explain the reasons why we are unable to fully comply with your request(s).

For example, as SWFRS is relying on legitimate interests to share Shared Personal Data with the Review, you have the right to object to this use of your personal data in this way. However, there are legitimate reasons why we may refuse your objection, which depend on the specific reasons for the objection and whether your objection outweigh SWFRS and/or the Review's interests to share the Shared Personal Data and the wider public interest in the Review receiving the information.

### **Complaints**

Should you have any complaints about how your personal data may be used by SWFRS, then you should contact our data protection officer in the first instance on the contact details below.

### **Contact details**

SWFRS' data protection officer can be contacted as follows:

#### Post

Information Governance & Compliance Officer

South Wales Fire and Rescue Services HQ

Forest View Business Park, Llantrisant, CF72 8LX

#### E-mail

InformationGovernance@southwales-fire.gov.uk

Telephone

01443232355

**ICO**

You also have the right to raise any concerns you have with the Information Commissioner, who oversees data protection legislation. Further information can be found on their website – <https://ico.org.uk/concerns/> or you can contact them here:

The Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Telephone : 0303 123 1113

Email: Casework@ico.org.uk

**Review of and changes to this notice**

This notice was first published on 15.05.2023 May 2023 and was last revised on 16.05.2023. This is the second version of this privacy notice.

This notice will be regularly reviewed and may be subject to revision. Any revision to the privacy notice will be highlighted on the website. If we make fundamental changes to this privacy notice, we will seek to inform you in subsequent communications sent by the Review.