

## Request

Wigan council has said that a review in any legal merits and or advice has been carried out to see if any legal action can be taken with regards economic migrants being housed at Kilhey Court.

We ask was this review / as ice carried out by an internal fully qualified solicitor?  
A fully qualified external solicitor? If so which firm?  
Or a barrister? Again if so which one?

## Response

Legal advice has been provided by the council's Legal Services team on the use of Kilhey Court as accommodation for asylum seekers. Advice has been provided by solicitors. Only those who are "fully qualified" may call themselves solicitors.

Advice has also been sought and provided by Kings Counsel (a barrister). The council believe that the name of the barrister is personal data.

The Freedom of Information Act 2000 (FoIA) states that any information to which a request for information relates is exempt information if it constitutes personal data (section 40(2)) and disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles (section 40(3)(a)).

Disclosure under the FoIA is deemed to be to the world at large and it is in that context that section 40(3)(a) is considered. The data protection principles are set out in the UK General Data Protection Regulation (GDPR) and the first principle is that personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject.

There are six bases for lawful processing in Article 6 of the GDPR and the only bases relevant to an FOI request are consent and legitimate interests. There is no consent to disclose this information and therefore we have to consider whether there is a legitimate interest to disclose this personal data, i.e. process it lawfully.

Article 6(1)(f) of the GDPR reads as follows:- *Processing shall be lawful only if ... processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data.* There is no legitimate interest in disclosing this personal data to the world at large - which is the result of disclosure under the FOI Act 2000. Therefore, section 40(3)(a) of the FoIA is also engaged.

As section 40(2) and section 40(3)(a) are engaged and this is an absolute exemption not requiring a Public Interest Test, the name of the barrister is being withheld.