

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 11 October 2016

**Public Authority:** Knowsley Metropolitan Borough Council

**Address:** Municipal Buildings  
Archway Road  
Huyton  
L36 9YU

#### Decision (including any steps ordered)

---

1. The complainant has requested information from Knowsley Metropolitan Borough Council about Knowsley Youth Mutual's youth awards video. The council provided some information but stated that the remaining information was not held because the council does not hold the information in its own right, and Knowsley Youth Mutual, and Knowsley Youth Mutual is not a public authority in its own right.
2. The Commissioner's decision is that the council was correct to say that the information in respect of the costs of the video is not held.

#### Request and response

---

3. On 11 March 2016 the complainant made the following request for information under the FOIA for:

*"Can you tell me who produced the video "KYM Awards Video" that was posted on Knowsley Council's YouTube channel today, and if the video was funded by Knowsley Council, how much did it cost overall."*

4. The council responded on 11 April 2016 stating that the video was produced by Knowsley Youth Mutual communications officer Peter Boardman, and that it was not paid for by the council.
5. The complainant requested an internal review on 15 April 2016. The council provided an internal review in which it maintained its position that information on the cost of the video was not held by the council.

## Scope of the case

---

6. The complainant contacted the Commissioner 27 May 2016 to complain about the way his request for information had been handled. He expressed his view that as the council provided the majority of funding for Knowlsey Youth Mutual, it should have or be able to obtain information about the cost of the video.
7. The Commissioner considers that the scope of the case is to determine the extent to which the requested cost information is held by the council.

## Reasons for decision

---

8. Section 1 of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have that information communicated to him.
9. Where there is a dispute between the information held by a public authority and the information that a complainant believes may be held, the Commissioner, following a number of First Tier Tribunal cases, will apply the civil standard of the balance of probabilities. Essentially, she will determine whether it is likely or unlikely that the council holds information relevant to the complainant's request.
10. In this case, the complainant maintains that as the council provides around 85% of Knowlsey Youth Mutual's funding and is staffed by ex-council officers, it ought to be in a position to provide him with the information he has requested regarding the cost of the youth awards video.
11. The council has explained that Knowlsey Youth Mutual is not a public authority. The council has contracted Knowlsey Youth Mutual to provide youth services on its behalf. It advised the complainant that the specification of services provided under the contract do not include the delivery of, or arrangements for publicising, the awards achieved by the young people accessing their services.
12. Firstly the Commissioner has sought to determine whether the council is correct when it says that Knowlsey Youth Mutual is not a public authority in its own right.
13. Section 3(1)(a) of the FOIA states that a public authority means any body or person listed in schedule 1 of the FOIA, or designated as such

under section 5 of the FOIA, or a publicly owned company as defined by section 6.

14. Section 6 states that a company must be wholly owned by a public authority in order to be a publicly owned company, and therefore subject to the FOIA.
15. The council has confirmed that it does not own any part of Knowlsey Youth Mutual, and nor has it made any appointments to it. Knowlsey Youth Mutual Limited is a community benefit society registered on the Mutual Public Register since November 2013.
16. The Commissioner is satisfied that Knowlsey Youth Mutual is not a public authority in its own right as it is not listed in schedule 1 of the FOIA, and nor has it been designated as such under section 5 of the FOIA. Most importantly in this case, the Commissioner is satisfied that whilst Knowlsey Youth Mutual is majority funded by the council, it is not a publicly owned company for the purposes of section 6.
17. Section 3(2) states that information is held by a public authority if it is held by another person on behalf of the authority. The next question is therefore whether Knowlsey Youth Mutual could be said to hold any of the requested information on behalf of the council.
18. The council has confirmed that it has a contract with Knowlsey Youth Mutual for the provision of youth services for a four year period ending in March 2018. In addition to this there is a specification for youth services which contains more detail regarding the services that the council has contracted Knowlsey Youth Mutual to provide.
19. The contract specifically states that no action taken by either party in respect of the contract will be deemed to constitute a partnership, joint venture, principal and agent or employer and employee relationship. It also states that neither party has the authority to act or make commitments on behalf of the other.
20. The council has stated that neither the contract nor the specification document contain any requirement for creating, hosting or promoting a Youth Awards. In addition to this, there does not appear to be any requirement on Knowlsey Youth Mutual to share specific or detailed financial information with the council, to the level requested by the complainant.
21. The Commissioner has had regard to both the contract and also the specification for youth services and is satisfied that there is no provision for Knowlsey Youth Mutual to hold information on behalf of the council. There are provisions for information sharing in relation to monitoring the contract and ensuring that Knowlsey Youth Mutual is performing in

accordance with the contract. However, this does not encompass the type of information the complainant has requested, and in any case, the council has stated that it does not hold such information.

22. On the balance of probabilities, the Commissioner is satisfied that the council does not hold the information requested regarding the costs of the awards video. She is also satisfied that the Knowsley Youth Mutual does not hold the requested information on behalf of the council, and nor is it a public authority in its own right.

## Right of appeal

---

23. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

24. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
25. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed** .....

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**