

**Case Name:** *Public Safety Charitable Trust v Milton Keynes Council* [2013] EWHC 1237 (Admin) (14 May 2013)

**Topic:** Rates mitigation (charity occupation)

**Full case:** [click here](#)

**Summary:** Where a charity installs and operates Bluetooth transmitters in premises which it occupies under a lease and has no other occupation, this will not be sufficient to be construed as occupation wholly or mainly for charitable purposes in the context of an application for 80% mandatory relief from business rates. The extent of use is key and the Bluetooth boxes took up too little space in the premises to meet this criterion.

**Commentary:** This case involved three appeals from Magistrates' Court decisions in the context of mandatory relief for a charity in occupation of business premises to the extent only of Bluetooth transmitters broadcasting crime prevention messages, and also providing free WiFi access to those within range of the transmitters. In two of the cases the Court had issued liability orders but in the third the liability order had been refused and the relevant billing authority was the appellant.

PCST claimed that the Bluetooth boxes comprised occupation wholly or mainly for charitable purposes, qualifying them for 80% mandatory relief. In the two cases where PSCT had been denied the relief the Magistrates' Courts had concluded that the limited space occupied by the boxes was of itself insufficient for PSCT to qualify for relief. In one of those cases, the Valuation Officer had amended the rating list to show the transmitters as a separate hereditament but PSCT had sought relief in respect of both that assessment and the remainder of the space, which was denied by the Court. In the third case (where the Court had allowed the claim for relief) the Court reasoned that as there was no other use made of the premises apart from the Bluetooth transmitters it was correct to interpret this use as sufficient to meet the "wholly or mainly" test. This last decision focused on the purpose of occupation rather than its extent, this being the distinction to be considered on the appeal by cases stated.

The High Court referred to the statutory framework and, in particular, to section 43 (6) of the Local Government Finance Act 1988 under which 80% relief must be granted where premises are wholly or mainly used for charitable purposes. The recent High Court decision in *Kenya Aid Programme v Sheffield City Council* [2013] EWHC 54 Admin had found that the extent of occupation, rather than its purpose, was the correct approach and the Court considered that it must reach the same conclusion based on the facts of PSCT's limited occupation.

In reaching its decision, the High Court confirmed the approach taken in the Scottish case of *English Speaking Union v City of Edinburgh Council* [2010] RA 227 (not binding on English courts but of persuasive authority), where it had been decided that the court should look at the whole evidence before it and determine on a broad basis whether the relevant property is wholly or mainly used for charitable purposes. *English Speaking Union* turned on the extent of use, where only one floor was occupied by the charity in a building with 8 floors leased to them.

Accordingly, the Court dismissed PSCT's appeals against the liability orders for two of the premises and granted the billing authority's appeal in respect of the third (where the Magistrates' Court had refused the liability order at first instance).

This is one of a number of cases concerning the interpretation of "wholly or mainly for charitable purposes". You are also referred to *Kenya Aid Programme v Sheffield City Council* (furniture to Africa), *Digital Pipeline* (IT equipment to Africa) and *My Community Space* (exhibitions of volunteering opportunities), which in broad terms reinforce the approach taken in *English Speaking Union*.