

**Case Name:** *My Community Space v Ipswich Borough Council* [2018] EWHC 3313 (Admin) (05 December 2018)

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

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

**Summary:** Where a charity uses premises for exhibitions which are not open to the public except by prior appointment this does not satisfy the basic requirement for 80% charitable relief from business rates, namely that occupation should be wholly or mainly for charitable purposes. Although one of the objects of the charity was to hold exhibitions to attract volunteers, there was insufficient evidence in this case of the appearance, purpose or intent of a public exhibition.

**Commentary:** This was an appeal against a decision of the Magistrates' Court to issue a liability order against My Community Space (a charity) notwithstanding the charity's claim for 80% mandatory relief on the basis that it was occupying the premises periodically for exhibitions wholly or mainly for charitable purposes. The ratepayer had requested the relief in reliance on section 43(6) Local Government Finance Act 1988 – this requires that the premises in question are used wholly or mainly for charitable purposes

The judge had also determined that in respect of those periods when the premises were vacant she was not satisfied that when next in use the premises would be wholly or mainly used for charitable purposes (given the decision concerning the periods of occupation) and the charity was not, therefore, entitled to 100% relief during the empty periods.

The billing authority regarded the exhibitions as a sham set up for the purpose of claiming mandatory rates relief. The space occupied by the exhibitions was limited. Further, the objects of the charity had been amended at a late stage, after the authority had drawn attention to the absence of the specific object of attracting volunteers (on which the charity was relying to found the claim for relief).

The High Court referred to the case of *Makro Properties Limited v Nuneaton and Bedworth BC*, which confirmed that clear evidence of intention to occupy, coupled with even a limited use of the space, is sufficient to amount to occupation. The Court also referred to *Kenya Aid Programme v Sheffield City Council*, *Public Safety Charitable Trust v Milton Keynes Council* and *South Kesteven DC v Digital Pipeline Ltd*, which confirmed that in considering whether the premises are being used "wholly and mainly for charitable purposes" a broad approach is required and the extent of occupation must be taken into account. Depending on the facts, occupation of less than 50% of the space may constitute a use wholly or mainly for charitable purposes.

The Court noted that the Magistrates' Court's decision included a finding of lack of appearance, purpose and intent of the purported exhibitions. This led to the conclusion that the charity was not in fact using the premises in pursuance of its charitable objects (this being a fundamental requirement for relief, before consideration as to the extent of the premises occupied and the application of the "wholly or mainly" test). The High Court

confirmed Magistrates' Court decision and the finding in favour of the billing authority, thus denying the mandatory rates relief sought by My Community Space.

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), *Public Safety Charitable Trust* (Bluetooth transmitters) and *Digital Pipeline* (IT equipment to Africa), which were all cited in the *My Community Space* decision.