

Case Name: *South Kesteven District Council v Digital Pipeline Ltd* [2016] EWHC 101 (Admin)
(27 January 2016)

Topic: Rates mitigation (charity occupation)

Full case: [click here](#)

Summary: Where a charity uses premises infrequently for public-access appeal days on which only 42% of the space is used for the collection of equipment for export to Africa this is sufficient to constitute occupation wholly or mainly for charitable purposes in the context of an application for 80% mandatory relief from business rates, provided there is a clearly demarcated area within which services were being provided.

Commentary: This case involved the occasional use (every quarter) of a former Curry's building in Grantham for appeal days when functional IT equipment was collected for export to Africa. The ratepayer had requested 80% mandatory relief from rates, 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 space occupied on the appeal days was only 42% of the total area but the Magistrates' Court had found in favour of the ratepayer. Information boards and a classroom mock-up were part of the standard set-up for each appeal day, leaving a substantial area unused.

The High Court referred to *English Speaking Union v City of Edinburgh District Council*, *Kenya Aid Programme v Sheffield City Council* and *Public Safety Charitable Trust v Milton Keynes Council* and confirmed the correct approach in situations where a charity makes use of part only of the premises occupied by it and there is no other use of that space. The test is not whether the only use is for charitable purposes (ignoring the unused part completely), but whether the premises as a whole are being used wholly or mainly for charitable purposes. In *English Speaking Union* (a Scottish case) the occupation of one floor out of eight was held to be insufficient, which reasoning was followed in *Kenya Aid* and *Public Safety Charitable Trust*.

The Court did not accept the billing authority's argument that an extent of use of only 42% was insufficient, adding that if there is a clearly demarcated area within which services are provided it matters not that the way in which the premises are used for presentations is an inefficient use of space. The judge also confirmed that the fact that the remainder of the premises was empty was not a relevant factor in considering whether the "wholly or mainly" test was satisfied. As the Magistrates' Court decision may have been different had that factor been ignored, the High Court quashed the original decision and remitted the case for further consideration by the judge.

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 *My Community Space* (exhibitions of volunteering opportunities), which in broad terms reinforce the approach taken in *English Speaking Union*.