

## Insights

# “FOR THE RICH BUT NOT THE POOR” BUT STILL ENTITLED TO CHARITABLE RELIEF FROM BUSINESS RATES

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## SUMMARY

In the case of *London Borough of Merton Council v Nuffield Health* [2023] UKSC 18, the Supreme Court unanimously held that Nuffield Health was entitled to charitable relief of 80% from its business rates liability in respect of a members-only gym, despite it only being “for the rich but not the poor”. If a charity is using premises for its charitable purpose it will be entitled to mandatory relief from business rates, irrespective of the public benefit from the specific premises. This decision brings welcome clarity, both for charities and property owners, in a climate where our High Streets continue to struggle to recover from the impact of the pandemic.

## Factual background

Nuffield Health is a registered charity whose broad purpose is to advance, promote and maintain health and healthcare for the public benefit.

In 2016, Nuffield Health took over Merton Abbey gym from Virgin Active, which included a gym, swimming pool, spa and a crèche. Membership cost £80 per month per person and it was accepted that there were only limited services that were available to the wider public.

As a registered charity, Nuffield Health claimed charitable relief from its business rates bill in respect of the Merton Abbey gym. Charitable relief entitles a ratepayer to a mandatory relief of 80% of the business rates that would otherwise be payable.

The London Borough of Merton challenged Nuffield Health’s ability to claim charitable relief in respect of the Merton Abbey gym, claiming that Nuffield Health was not offering any public benefit from the members-only gym “which excluded persons of modest means” due to the level of the membership fees.

For the period between August 2016 and the High Court judgment in January 2020, the level of relief equated to just under £1,000,000.

The case worked its way to the Supreme Court and hinged on the interaction between rating law and charity law.

## **Supreme Court decision**

The Supreme Court unanimously upheld the decision of the lower courts, finding that Nuffield Health was entitled to 80% charitable rates relief.

By law, in order to be a charity an organisation must provide a public benefit. Nuffield Health's charitable purpose is to advance, promote and maintain health and healthcare. The Merton Abbey gym is fulfilling Nuffield's Health promotion of public health. The Supreme Court did not need to re-open the Court of Appeal's assessment that the gym at Merton Abbey was "for the rich but not the poor". The Supreme Court held that it does not matter if the specific premises in question only had a token charitable provision for those on modest incomes.

## **Comment**

The Supreme Court decision makes it clear that charitable status is determinative of whether business rates relief will apply, so long as the premises were being used wholly or mainly for its charitable purpose.

This decision brings welcome clarity, both for charities and property owners.

In a climate where high streets and retail centres continue to struggle to recover from the impact of the pandemic, charities are an increasingly common feature of commercial property as property owners seek to reduce exposure to business rates through lettings to charities.

So long as a charity uses the premises for its charitable purpose it will be entitled to mandatory business rates relief, and there is no scope for a detailed examination of the wider public benefit from the specific premises.

Whilst other areas of the business rates landscape are undergoing significant changes and are subject to considerable uncertainty, the Supreme Court has maintained the status quo on charitable relief.

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## MEET THE TEAM



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