

London Borough of Merton Council (Appellant) v Nuffield Health (Respondent)

Case ID: 2021/0138

Case summary

Issue

Section 43(5) and (6)(a) of the Local Government Finance Act 1988 provides for a mandatory 80% relief from non-domestic rates on premises which are occupied by a charity and used wholly or mainly for charitable purposes. The Supreme Court is asked to decide whether Nuffield Health is entitled to this mandatory relief in respect of its occupation of its members-only gym at Merton Abbey.

Facts

Nuffield Health is a registered charity established "to advance, promote and maintain health and healthcare of all descriptions and to prevent, relieve and cure sickness and ill health of any kind, all for the public benefit." Among other things, it runs 112 fitness and wellbeing centres, including Merton Abbey. The facilities at Merton Abbey are primarily available to fee-paying Nuffield Health gym members.

Nuffield Health acquired Merton Abbey on 1 August 2016, when it bought the business of Virgin Active. It applied to the London Borough of Merton Council ("the Council") for mandatory and discretionary rate relief. The application for mandatory relief was granted initially. However, following a visit by Council officers in November 2016, the Council withdrew the relief because the membership fees were set at a level which excluded persons of modest means from enjoying the gym facilities. In the Council's view, this meant that Merton Abbey was not being wholly or mainly used for charitable purposes because the requirement for public benefit was not satisfied.

The High Court found in Nuffield Health's favour, holding that the charity is and, at all times since 1 August 2016, has been entitled to the mandatory 80% relief from non-domestic rates in respect of Merton Abbey. By a majority, the Court of Appeal dismissed the Council's appeal. The Council now appeals to the Supreme Court.

Judgment appealed

[\[2021\] EWCA Civ 826](#)

Parties

Appellant(s)

London Borough of Merton Council

Respondent(s)

Nuffield Health Ltd

Appeal

Justices

Lord Briggs, Lord Kitchin, Lord Sales, Lord Hamblen, Lord Leggatt

Hearing start date

7 March 2023

Hearing finish date

8 March 2023

Watch hearing

7 March 2023 [Morning session](#) [Afternoon session](#)

8 March 2023 [Morning session](#)

Judgment details

Judgment date

7 June 2023

Neutral citation

[2023] UKSC 18