



Press Summary

1 July 2026

Commissioners for His Majesty's Revenue and Customs (Respondent) v BlueCrest Capital Management (UK) LLP (Appellant)

[2026] UKSC 18

On appeal from: [2024] EWCA Civ 23

Justices: Lord Briggs, Lord Hamblen, Lord Burrows, Lord Richards, Lady Simler

Background to the Appeal

This appeal concerns the taxation of members of certain partnerships. The Limited Liability Partnership Act 2000 introduced a new legal entity called a Limited Liability Partnership ("LLP") which provided limited liability for its members while giving them the same tax treatment as members of a traditional partnership even if their role and position was closer to that of an employee than a partner in a traditional partnership ([7]). LLP partners were taxed as partners even if they had fixed salaries, no role in the partnership's management, and no exposure to partnership losses. This was perceived to be unfair and to encourage tax avoidance.

The Finance Act 2014 introduced three conditions designed to address this perceived unfairness ([2]). These are known as Conditions A, B and C (inserted as sections 863A to 863G of the Income Tax (Trading and Other Income) Act 2005), each directed at capturing a different feature of "disguised employment" in an LLP. ([3]). A partner in an LLP who meets all three conditions is taxed as an employee. Conversely, an LLP partner who "fails" one or more conditions is taxed as a partner.

This appeal considers the interpretation of Conditions A and B. Condition A (section 863B) concerns the nature of the member's receipts and is met if a member's remuneration from the LLP is (a) fixed or (b) is variable but is varied without reference to the profits or losses of the partnership or (c) is not in practice affected by the overall amount of those profits or losses. Condition B concerns a member's influence and is met if the LLP Agreement does not give the partner "significant influence over the affairs of the partnership" ([16]). Condition C concerns the partner's contribution to the partnership's capital and is not relevant to this appeal.

The appellant, BlueCrest Capital Management (UK) LLP ("**BlueCrest**"), is an investment management business. BlueCrest primarily invests the money of the broader Bluecrest Group's

co-founder, Mr Michael Platt ([30]). In 2014, BlueCrest had 82 individual members, i.e. partners ([42]). The majority of its individual members are investment managers ([43]). A number of other BlueCrest Group companies are also corporate members.

BlueCrest's individual members have significant responsibility within its business, including for multi-million-pound investment decisions. However, their role in the LLP's governance is minimal ([107]). BlueCrest is run by its board and executive committee. Members have a right to be consulted on "strategic matters affecting the development of the Business". They are also entitled to vote on changing the nature of business and certain exceptional transactions ([109]). In such a vote, the partners would have one vote each and one of BlueCrest's corporate members, BlueCrest Capital UK Ltd, would have 100 votes. As BlueCrest has fewer than 100 individual members, the individual members could not outvote BlueCrest Capital UK Ltd even if unanimous.

HM Revenue and Customs ("HMRC") decided that the vast majority of BlueCrest's members met all three conditions and should therefore be taxed as employees ([4]). BlueCrest appealed against this decision. It argued that its investment manager members failed Condition A because their remuneration was tied to the LLP's profits and failed Condition B because they placed multi-million-pound trades and therefore exercised significant influence over the LLP's affairs.

The First Tier Tribunal ("FTT") agreed with HMRC that the relevant BlueCrest members met Condition A because their income from the LLP was mainly disguised salary ([47]). However, it found that most of BlueCrest's investment manager members (those with capital allocations of at least \$100 million and the desk heads) had "significant influence" over the affairs of the partnership and therefore "failed" Condition B.

HMRC and BlueCrest both appealed to the Upper Tribunal ("UT"). The UT upheld the FTT's approach and conclusions ([49]). Both parties appealed again to the Court of Appeal. HMRC's appeal on Condition B succeeded in the Court of Appeal ([51]). The Court of Appeal held that the FTT's conclusion that BlueCrest's investment manager members had "significant influence" over the affairs of the LLP was flawed. It stated that the FTT had wrongly taken account of those members' de facto or informal influence over the LLP's affairs, whereas the requisite influence must derive from and have its source in the mutual rights and duties of the members of the LLP as conferred by the statutory and contractual framework. ([52 and 53]). Like the tribunals, the Court of Appeal rejected BlueCrest's argument that its members failed Condition A. BlueCrest appealed to the Supreme Court.

Judgment

The Supreme Court unanimously dismisses BlueCrest's appeal. Lord Richards and Lady Simler give the judgment with which Lord Briggs, Lord Hamblen, and Lord Burrows agree.

The Supreme Court holds that the BlueCrest members meet Condition A because most of their remuneration was 'disguised salary'.

The Supreme Court also holds that the FTT's conclusion that the relevant BlueCrest investment manager members had "significant influence" over the LLP's affairs and therefore failed Condition B was flawed.

Reasons for the judgment

Approach to Statutory Interpretation

The judgment applies the well-established approach to statutory interpretation, seeking to ascertain the objective meaning of the words used in the legislation in light of their context and purpose ([56]). The three conditions drew on common law tests for distinguishing between membership of a traditional partnership and an employment relationship ([64]).

Condition B

The judgment considers Condition B first. Condition B is met if “the mutual rights and duties of the members of the limited liability partnership, and of the partnership and its members, do not give [a member] significant influence over the affairs of the partnership” ([68]).

Condition B specifically concerns the legally enforceable rights and duties of members under the LLP agreement ([70]). Informal influence derived from members’ strong performance, personal qualities, or relationships is not relevant ([77]). This reflects the common law cases on traditional partnerships ([78]). The scope of an individual’s formal role in the management of the business is one of the factors that distinguishes a partner in a traditional partnership from an employee. By contrast, business success could not be used to distinguish between partners and employees.

In relation to the meaning of the phrase “significant influence over the affairs of the LLP”, the requirement is influence not control; significant means a degree of influence which has commercial substance in the conduct of the LLP’s affairs in the real world; and the necessary influence must be exercised over the “affairs of the partnership” which connotes the affairs viewed as a whole. This does suggest that a person could only have such influence if they have a voice in the management of the affairs of the LLP ([90]). This is likely to lie in rights to participate in high level or strategic decision-making about the partnership’s affairs or at any rate, an ability to influence such decisions. Day-to-day decision-making on a purely operational level is less likely to qualify, and still less if it is in relation to a part only of the business ([91 and 92]). Responsibility for high value day-to-day investment decisions is therefore not in itself significant influence over the LLP’s affairs.

Having determined Condition B’s meaning, the judgment considers whether the FTT applied it correctly. It concludes that the FTT applied Condition B incorrectly ([104]). The FTT wrongly treated Condition B as concerned with partners’ informal influence derived from their role and investment responsibilities, not simply from their legal rights and duties under the LLP Agreement ([104], [120]). The FTT hardly addressed the terms of the BlueCrest LLP Agreement itself and how it affected the influence they were able to exercise in relation to the LLP’s affairs. To the contrary, the focus of the FTT analysis was on members’ influence deriving from their personal qualities or their activities to the exclusion of their influence deriving from their mutual legal rights and obligations ([105], [120]). There were other material errors too ([122]) and alone or in combination they undermined the FTT’s evaluation. The Court of Appeal was therefore right to return the case to the FTT for reconsideration ([124]).

Condition A

Condition A is met if ‘it is reasonable to expect that at least 80%’ of the total amount payable by the LLP to the member in the relevant period “will be disguised salary”. “Disguised Salary” is remuneration, which is:

- (a) fixed;
- (b) ‘variable, but varied without reference to the overall amount of the profits or losses’ of the LLP;
- (c) or ‘not, in practice, affected by the overall amount of those profits or losses’ ([125]).

Most of the relevant BlueCrest members’ remuneration consisted of “discretionary allocations” ([128]). Members’ discretionary allocations were calculated primarily with reference to their individual investment portfolios’ performance and not the LLP’s overall profits. However, BlueCrest’s policy was that its total profits for a given year served as a cap on that year’s total discretionary allocations and if total profits for a year were less than the total discretionary allocations for that year, the latter would be reduced accordingly. In fact, this situation never arose because BlueCrest was highly profitable.

BlueCrest argued that this cap meant that the discretionary allocations were varied with reference to the LLP's total profits ([129]). It said its members therefore failed Condition A.

The Court rejects this argument. Condition A reflects one of the principal characteristics of a traditional partnership, namely that the profits and losses of the partnership are shared between the partners ([131]). The receipt by a person of a share of the profits made by that person in the performance of his or her duties on behalf of a partnership, subject to a cap based on the total profits of the firm, would not satisfy that requirement and would not itself provide any evidence of a partnership ([132]). The purpose of Condition A is to distinguish between what is typical remuneration for a partner and typical remuneration for an employee ([133]). Whilst BlueCrest's argument might appear plausible on a purely literal reading of Condition A, it was so far divorced from the Condition's purpose or from any ordinary reading of its language that it must be rejected ([133]).

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)