Proskauer

# BlueCrest: UK Supreme Court clarifies “significant influence” under the LLP salaried members rules

**July 2, 2026**

The Supreme Court has handed down its judgment in *HMRC v BlueCrest Capital Management (UK) LLP,* dismissing BlueCrest’s appeal and providing important clarification on the application of the salaried members rules to investment management LLPs.

The decision is particularly significant for asset managers, hedge fund managers and other investment management businesses operating through LLPs. Many such businesses have members who are economically important to the firm, make substantial investment decisions and may be responsible for significant profits. The Supreme Court has confirmed, however, that this will not necessarily mean those members have “significant influence” for the purposes of the salaried members rules.

In broad terms, the Court confirmed that influence must be grounded in the member’s legally enforceable rights and duties as a member of the LLP. Informal or de facto influence arising from a member’s performance, commercial importance, client relationships or investment responsibilities will not, by itself, be enough.

The case will now return to the First-tier Tribunal to be reconsidered in light of the Supreme Court’s judgment.

**Overview of the salaried members rules**

The salaried members rules were introduced to prevent individuals who are, in substance, closer to employees from being taxed as self-employed LLP members. Where the rules apply, an individual member of a UK LLP is treated as an employee for income tax and NICs purposes.

The rules apply where three conditions are met:

- **Condition A**: broadly, at least 80% of the individual's expected remuneration is "disguised salary" which is not variable in relation to the profits and losses of the LLP;
- **Condition B**: the mutual rights and duties of the members do not give the individual significant influence over the affairs of the LLP; and
- **Condition C**: the individual's capital contribution to the LLP is below the relevant threshold.

An individual only needs to fail one of the three conditions to fall outside the salaried members rules. In practice, many investment management LLPs have placed particular focus on Condition B, especially where senior portfolio managers, traders or desk heads have substantial responsibility for investment decisions but may not contribute sufficient capital to fail Condition C.

The BlueCrest litigation, including the appeal to the Supreme Court, concerned Conditions A and B, with the main practical focus of the Supreme Court's judgment on Condition B.

**Background to BlueCrest**

BlueCrest was an investment management LLP with individual members including portfolio managers, traders and non-portfolio managers. HMRC argued that many of those members should be treated as employees under the salaried members rules.

BlueCrest's position was that certain members were not salaried members because they failed Condition B. In particular, BlueCrest argued that portfolio managers who were responsible for significant capital allocations, and desk heads, had significant influence over the affairs of the LLP by reason of their investment responsibilities and their importance to the business.

As we have previously reported, the First-tier Tribunal and Upper Tribunal had accepted, in broad terms, that certain portfolio managers and desk heads had significant influence. The Court of Appeal disagreed, holding that the earlier tribunals had taken too broad an approach to Condition B. The Supreme Court has now dismissed BlueCrest's appeal and confirmed that the case should be remitted to the First-tier Tribunal to apply the correct interpretation.

**Condition A: individual performance is not enough**

Although the Supreme Court's judgment is most important for Condition B, it also confirmed HMRC's position on Condition A.

Condition A is concerned with whether a member's remuneration is, in substance, more like a salary than a true share of partnership profits. In BlueCrest, much of the relevant remuneration was calculated by reference to individual portfolio performance rather than the overall profits or losses of the LLP.

The Court confirmed that remuneration linked primarily to an individual's own performance can be "disguised salary" even if the total amount available for allocation is subject to an overall profits cap. A cap by reference to the LLP's profits does not, by itself, make the remuneration a genuine share of overall partnership profits.

For investment management LLPs, this is an important reminder that remuneration arrangements based on individual book, desk or portfolio performance may be vulnerable under Condition A unless they are genuinely affected by the overall profits or losses of the LLP.

**Condition B: what counts as significant influence?**

The central issue in the Supreme Court was the proper interpretation of Condition B.

Condition B is met if the mutual rights and duties of the members of the LLP, and of the LLP and its members, do not give the individual significant influence over the affairs of the LLP. In other words, to fail Condition B, the member must have significant influence over the LLP's affairs.

The Supreme Court confirmed a number of important points.

First, the relevant influence must derive from the member's legal and contractual rights and duties. In most cases, this means starting with the LLP agreement and any other binding governance documents or legally effective arrangements. Influence which arises only from personal status, commercial importance, strong performance, relationships with clients or colleagues, or the fact that the individual generates significant profits will not be qualifying influence for this purpose.

However, the Court confirmed that qualifying influence is not limited to rights expressly set out in the LLP agreement. It may also arise through delegated authority or appointment to a particular role, provided that the delegation or appointment can ultimately be traced back to legally enforceable rights and duties under the LLP's constitutional or governance framework.

This is a key point for investment managers. A portfolio manager may make very substantial investment decisions and may be highly valuable to the business, but that does not necessarily mean they have significant influence over the LLP's affairs for Condition B purposes.

Secondly, the influence must be over the affairs of the LLP as a whole. The Court indicated that influence is more likely to qualify where the member has a voice in high-level, strategic or managerial decision-making about the LLP's affairs. By contrast, day-to-day operational decision-making is less likely to be sufficient, particularly where it relates only to part of the LLP's business.

That distinction is particularly relevant in an asset management context. Responsibility for a portfolio, strategy, book or desk may involve significant financial authority and commercial judgment, but it may still be viewed as operational influence over part of the business rather than influence over the affairs of the LLP as a whole.

Thirdly, "influence" does not mean control. A member does not need to be able to dictate the LLP's decisions. However, the influence must still be significant. It must have practical and commercial substance in the conduct of the LLP's affairs in the real world.

Finally, the existence of reserved powers or veto rights in favour of particular members does not automatically prevent other members from having significant influence. The question remains fact-specific. However, where the LLP agreement centralises decision-making in a board, executive committee or corporate member, it may be harder for individual members outside that governance structure to demonstrate significant influence.

**How does the Supreme Court decision differ from the Court of Appeal?**

The Supreme Court did not fundamentally depart from the Court of Appeal's approach. It agreed that significant influence for Condition B purposes must be grounded in the member's legal and contractual rights and duties, rather than informal or de facto influence arising from performance, seniority or commercial importance.

However, the Supreme Court added useful clarification on how that test should be applied in practice. In particular, it confirmed that strategic or managerial influence is more likely to qualify, but that the question remains fact-specific; that delegated authority or appointment to a role may be relevant where it can be traced back to legal and contractual rights and duties; and that the existence of reserved powers or veto rights in favour of certain members does not automatically prevent other members from having significant influence.

For investment management LLPs, the practical point is that the Supreme Court has reinforced the Court of Appeal's narrower approach, while giving more guidance on the limited circumstances in which portfolio managers, desk heads or other senior individuals may still be able to demonstrate qualifying influence.

**What this means for investment management LLPs**

The decision narrows the practical scope for relying on Condition B in investment management structures.

Investment managers often have individuals whose contribution to the business is substantial: portfolio managers may deploy significant capital, desk heads may supervise investment teams, and senior traders may have considerable day-to-day autonomy. The Supreme Court has made clear that this kind of commercial importance is not enough if it is not supported by formal rights or legally effective governance arrangements.

LLPs that currently rely on Condition B should therefore consider whether the relevant members' influence is properly evidenced by the LLP agreement, committee terms of reference, delegated authority framework, appointment documents and governance records. It will not be sufficient simply to point to the member's seniority, profitability or responsibility for substantial investment decisions.

In practice, investment management LLPs may need to review:

- which members are said to have significant influence;

- whether that influence relates to the LLP's affairs as a whole, rather than only a portfolio, desk or business line;
- whether the influence derives from legal and contractual rights and duties which can be traced back to the governing documents of the LLP;
- whether committee memberships, delegated authorities and management roles are properly documented;
- whether members' remuneration is genuinely linked to overall LLP profits or instead primarily reflects individual performance; and
- whether the LLP's historic and current salaried members analysis remains supportable in light of the Supreme Court's judgment.

The decision does not mean that portfolio managers, traders or desk heads can never have significant influence. The Court expressly recognised that the answer will depend on the facts and the legal rights in place. However, the judgment makes clear that the evidential and legal threshold is higher than simply showing that an individual is senior, profitable or commercially important.

**Key takeaway**

*BlueCrest* confirms that, for Condition B purposes, significant influence means more than influence over investments or commercial outcomes. The relevant influence must have legal substance, be grounded in the LLP's rights and governance framework, and relate to the affairs of the LLP as a whole.

Investment management LLPs that rely on Condition B should review their governance arrangements and salaried members analysis carefully, particularly where senior portfolio managers, traders or desk heads are treated as self-employed members on the basis of their influence within the business.

**Related Professionals**


- **Charlotte L. Ahamed**
  Associate
- **Richard Miller**
  Partner