PGMOL v HMRC: The match is now over!

Employment Tax Personal tax

August 2026

21 July 2026

The First-tier Tribunal again finds PGMOL's Championship referees self-employed, in the final chapter of a long-running dispute with HMRC.

Key Points

What is the issue?
The First-tier Tribunal has again found that Championship football referees were self-employed for individual match engagements. HMRC has decided not to appeal, bringing this long-running employment status dispute to a close.

What does it mean to me?
Employment status cases remain highly fact-specific. Tribunals must carry out a holistic, multifactorial assessment, and different conclusions may legitimately be

reached on similar facts, making litigation inherently uncertain.

What can I take away?
The decision reinforces that the key question is the overall nature of the working relationship, not any single factor. Advisers should focus on the full factual picture rather than relying on individual indicators of employment or self-employment.

This article considers the First-tier Tribunal's decision in the case of *Professional Game Match Officials Ltd v HMRC* [2026] UKFTT 654 (TC). This is the fifth decision in a long-running case, which I have followed throughout its journey through the courts. The outcome of the Supreme Court's decision in 2024 was that the case needed to be reconsidered by the First-tier Tribunal. Hence this latest decision.

See the box ***My previous pieces on PGMOL*** for details of the case history.

The facts of the case

The case concerns the employment status of a group of football referees. The appellant, usually referred to as 'PGMOL', engages qualified referees for deployment across the professional football scene in England. It is owned by the Football Association, the English Football League and the Premier League.

The top flight of English football is the Premier League. The officials for its matches are generally employees of PGMOL, providing their services on a full-time basis. However, the next tier of the game (the Championship) is served by individuals who generally have other work commitments during the week but who provide their services for weekend matches. It is their employment status that is the focus of the dispute between HMRC and PGMOL.

The referees sign up for a football season. However, it is common ground that the season-long contract did not constitute a contract of employment because there was no obligation on the referees to officiate at any matches during the season (or on PGMOL to offer any matches to the referees). There was, of course, an expectation that matches would be offered to and accepted by the referees.

HMRC's case was that each individual match officiated by a referee represented a discrete employment.

As already noted, signing up for the season did not impose any more than an expectation that matches would be offered or accepted. Each Monday, the following weekend's matches would be offered to the referees using an online booking system. One of the more unusual facts of the case was that, even when a booking had been made on this system, the referee could pull out at any time before the match kicked off. Similarly, PGMOL could pull the referee from the match at any time prior to kick-off.

The legal approach

It was not doubted that questions as to a worker's employment status should be determined in accordance with the three-stage test laid out by MacKenna J in *Ready Mixed Concrete (South East) Ltd v Minister for Pensions and National Insurance* [1968] 2 QB 497.

'A contract of service exists if these three conditions are fulfilled:

1. The servant agrees that, in consideration of a wage or other remuneration, he will provide his own work and skill in the performance of some service for his master.
2. He agrees, expressly or impliedly, that in the performance of that service he will be subject to the other's control in a sufficient degree to make that other master.
3. The other provisions of the contract are consistent with its being a contract of service.'

Although the language from the late 1960s does now seem rather dated, the essence of the test remains intact. Nevertheless, there have been some subtle differences in how the test should be approached; indeed, these differences have themselves been consolidated in the eight years between the first and second hearings in the First-tier Tribunal of this case.

These differences have come to light in two cases in particular: in the Court of Appeal's decision in *HMRC v Atholl House Productions Ltd* [2022] EWCA Civ 501 and in the Supreme Court's decision in this case.

In *Atholl House*, it was confirmed that MacKenna J's judgment should not be read as if it were a statute. In particular, at the third stage, the analysis should not be limited to ‘the other provisions of the contract’; instead, a more holistic approach should be taken of facts known by (or readily available to) the parties when the contract is entered into. That holistic approach can also take into account the factors addressed at the first two stages of the test (i.e. mutuality of obligations and control).

This point was then picked up in the Supreme Court in the *PGMOL* case. Hitherto, courts and tribunals (including in the present case) had spent a long time focusing on the extent to which the first two stages were satisfied. The Supreme Court considered that this was no longer appropriate. Instead, those two stages represented low-level thresholds designed to eliminate cases where it was clear that the contract was not one of employment.

The focus of any court or tribunal should be on the third stage, where a multifactorial analysis should be undertaken, taking into account *inter alia* the extent of mutuality of obligation and control (the subject matter of stages 1 and 2). At stage 2, it is necessary only for there to be *some* framework of control over the worker. However, the nature and degree of that control can then be put into the mix at stage 3.

The Court of Appeal and Supreme Court also emphasised that this third stage test should not start with any presumptions of either employment or working on one’s own account (effectively, self-employment).

The arguments before the First-tier Tribunal

In its 2018 decision, the First-tier Tribunal focused on stages 1 and 2, which concluded that neither of the stages gave rise to an employment relationship. Consequently, it (correctly) realised it did not need to proceed to the third stage.

As a result of the Supreme Court’s decision, it was now clear that the First-tier Tribunal had applied too rigorous an analysis for stages 1 and 2. Applying the (now) appropriate lower thresholds, the Supreme Court held that the First-tier Tribunal should have concluded that the first two stages were satisfied and thus the tribunal should have proceeded to stage 3.

As there had been no formal fact-finding at that third stage, the case was remitted to the First-tier Tribunal for the third stage analysis to be carried out based on the facts previously found.

The First-tier Tribunal's decision

The case came before Tribunal Judge Geraint Williams and Member Dr Phebe Mann.

The tribunal identified all the facts that it considered to be relevant and discussed whether they pointed in favour of or against a conclusion that the individual engagements amount to discrete contracts of employment (or whether they were neutral).

At the end of the decision, in its 'overall impression', the First-tier Tribunal concluded that 'this is not a finely balanced case'. It found that, taken cumulatively, the relationship lacked the defining hallmarks of employment: ongoing mutual commitment, subordination in performance of the central task, organisational integration and economic dependency. Instead, it said the officials were 'skilled professionals participating voluntarily in a regulated framework', undertaking discrete engagements for remuneration while retaining substantial autonomy and independence.

Applying the multifactorial test, the tribunal concluded that the individual match engagements were contracts for services rather than contracts of employment. Although it had carefully considered the factors relied upon by HMRC, it found they were outweighed 'in their proper legal and factual context' by the features pointing away from employment. Accordingly, the First-tier Tribunal allowed PGMOL's appeal.

Commentary

The case demonstrates why employment status cases can be so difficult to determine. It is very easy to contrast the situation of the referees in this case with that of their full-time colleagues who officiate at the Premier League games. Whilst their matchday duties will be very similar, there is something (albeit intangible) that distinguishes the two types of arrangement.

Is that enough, however, to justify a different employment status? Imagine, for example, that in addition to my law practice, I had a regular, remunerated role on Saturday mornings. How important is it that other individuals perform the same or a similar role throughout the week when determining whether my own engagement is one of employment or self-employment?

The difficulties are magnified when it is remembered that the question is not whether the Championship referees are employees of PGMOL *per se* but whether they were employed in the course of the individual matches. Of course, if one focuses on the individual matches themselves, it will be almost impossible to say that a referee is in business on their own account. However, the case law makes it clear that one can step back and look at the arrangement in its broader context. In particular, individual engagements are not to be considered in isolation but in the light of the wider work pattern.

The case law also makes it clear that, whilst decisions as to employment status are ultimately binary, there is a range of work relationships that can legitimately be categorised either way. Thus, one could theoretically have a situation where an individual makes a claim in the Employment Tribunal for wrongful dismissal only to be told that they were not working under a contract of employment; however, HMRC could successfully defend in the First-tier Tribunal a decision to charge the 'employer' for PAYE that should have been deducted from payments to that individual. As a result, the answer in any particular case depends not only on the facts but also on how the tribunal evaluates them. That inevitably makes the litigation process inherently uncertain. However, an appellate court or tribunal should not interfere with such a decision, even if it would itself have reached a different conclusion, unless it detects a material error of law.

HMRC has confirmed that it will not appeal the decision, which is now final. However, this decision could be a matter of pragmatism rather than a ringing endorsement of the First-tier Tribunal's approach.

If one starts at the end of the decision, one could justifiably conclude that the tribunal's approach was entirely orthodox: it painted a picture from the various details of the case, then stepped back and looked at the whole.

However, if one reads the analysis in the middle of the decision, a different picture emerges. In particular, the tribunal looked at various topics, such as control, as it was required to do. Within each topic, it analysed the various facts and made findings as to whether they pointed towards or against there being an employment relationship. Again, that is entirely conventional. However, rather than use those findings as part of its overall assessment, the tribunal then reached a conclusion as to whether each topic itself pointed towards or against there being an employment relationship.

It could be argued that the First-tier Tribunal made an error of approach by reaching an interim conclusion on a topic-by-topic basis. Given the general tone of the First-tier Tribunal's decision, however, it is quite likely that it should be treated as an immaterial error of law because it would have had no effect on the overall decision. It is clear that so many individual factors were, in the tribunal's view, pointing against there being an employment relationship.

However, it is possible that some of the First-tier Tribunal's more detailed analysis was incorrect as a matter of law. For reasons of space, I will focus on just two issues.

Students of employment status cases might be familiar with the House of Lords' decision in *Carmichael v National Power* [1999] UKHL 47, which has a number of similarities to the present case. Mrs Carmichael was engaged by National Power as an ad hoc guide to take visitors around a power station. There was no guarantee of ongoing work and the tour guides were not obliged to take on any tours offered to them. The House of Lords concluded that Mrs Carmichael and her fellow tour guides were not employees of National Power.

In the present case, the First-tier Tribunal commented on the similarity between the two cases. However, it seems to have been overlooked that Mrs Carmichael was arguing that her overarching arrangement with National Power (the equivalent to the season-long arrangement reached with the referees) constituted an employment contract.

Furthermore, the House of Lords stated more than once that it was making no comment as to whether the tour guides 'when they actually worked as guides … did so under successive ad hoc contracts of employment'. In *PGMOL*, however, that was the very question being asked.

Secondly, on more than one occasion, the First-tier Tribunal pointed to the fact that the referees considered their activities as a hobby, pursued alongside their weekday employment. The tribunal treated this as a factor against there being an employment relationship. In many ways, this is understandable as the whole arrangement was so different from that of the full-time referees.

However, does the hobby nature of the activity truly point against there being an employment relationship? Suppose a lawyer who is also a talented musician plays the organ in a church every Sunday morning. Does the fact that music is a hobby have any impact on how the contract between the church and the organist should be categorised?

What to do next

I am sure that those at PGMOL will be pleased that this case is all over, especially after such a convincing victory at the First-tier Tribunal for the second time. However, this means that the Upper Tribunal will not have the opportunity to clarify whether (and if so the extent to which) the First-tier Tribunal made errors of law in its decision.

Image

MY PREVIOUS PIECES ON PGMOL

- The first decision (also by the First-tier Tribunal) was given in 2018 and was the subject of my article 'Men in black' which was published in the November 2018 issue of Tax Adviser.
- 'Our Mutual Friend' was written in the November 2021 issue, following the Court of Appeal's decision in the case. (I chose not to write about the Upper Tribunal's decision in the meantime.)
- I then wrote 'PGMOL v HMRC: the long-awaited decision on employment status' in October 2024 following the Supreme Court's decision.