



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss E Scott

**Respondent:** Alder Hey Children's NHS Foundation Trust

## JUDGMENT ON FURTHER APPLICATION FOR RECONSIDERATION

**The claimant's further application for reconsideration dated 13 December 2019 is refused because there is no reasonable prospect of the Judgment on Application for Reconsideration being varied or revoked.**

## REASONS

1. The claimant has written to the Tribunal by email dated 13 December 2019, addressing her letter to Employment Judge Parkin with the opening sentence: "I believe you are in error with your judgement." This letter is treated as a further application for reconsideration, in relation to the Judgment on Application for Reconsideration sent out to the parties on 5 December 2019.
2. The claimant's letter was copied to the respondent's representative on record but also, it appears, to others including the respondent's senior officers.
3. Once again, no representations have been received or sought from the respondent.
4. This Judgment needs to be read alongside the original Reserved Judgment upon a Preliminary Hearing sent out on 6 November 2019 and the Judgment on Application for Reconsideration sent out on 5 December 2019.
5. The grounds for reconsideration are only those set out in Rule 70 of the Employment Tribunals Rules of Procedure 2013, namely that it is necessary in the interests of justice to do so.
6. The claimant's main grounds for applying for reconsideration appear to be:

- 1) The Judge referred to an out of date Butterworths and there was no full discussion of her protected disclosures;
  - 2) Both hearings are fully recorded on tape by her, and copies have been sent to her publisher and friends around the world; and
  - 3) She made Public Interest disclosures to the Judge which were not followed up.
7. As before, there needs to be some major and new aspect which demands a reconsideration in order to override the general approach that there must be finality in litigation. On the general grounds set out above:
- 1) At the first hearing, Judge provided a copy of Butterworths Employment Law Handbook to the claimant to read alongside him. He believes he provided her with a copy of the 2019, 27<sup>th</sup> edition whilst searching for another volume for himself. Finding only an earlier edition, he used that himself having checked that the wording in each was the same (including the 2013 revisions to the Protected Disclosure provisions inserted into the Employment Rights Act 1996). Before ordering the claimant to provide further particulars of the disclosures she relied upon and the detriments (other than constructive dismissal) she alleged, the Judge took her through the main statutory provisions which were relevant. At the second hearing, the Judge fully acknowledged the further information eventually provided by the claimant in her letter dated 12 September 2019 which he had seen before the hearing. He especially took its content into account in granting relief against sanction in respect of the Protected Disclosure claims. The respondent's strike-out application thereafter concentrated upon the claimant's conduct of the proceedings rather than the content of the disclosures.
  - 2) If the claimant, having been given permission to record the second hearing as a reasonable adjustment to assist her and accommodate her disability condition, chooses to circulate or publicise the recording rather than use it to assist herself within the proceedings, that is a potential contempt of the Employment Tribunal, which would be graver still if she circulated or publicised an unauthorised recording made at an earlier hearing. A Judgment records the relevant parts of the proceedings and summarises the submissions, it is not a verbatim record of any hearing. Regrettably, the underlying tone of the claimant's letter appears to make threats towards the Judge, in a fashion which seems to echo the threats she made within the proceedings to the respondent's Chief Executive, as set out in the original Reserved Judgment.
  - 3) The Employment Tribunal is an independent judicial tribunal; its judicial function in these proceedings is to decide upon claims not to receive new disclosures which parties may wish to make. The claimant's assertion that the Judge should have "halted the Employment Tribunal realising that criminal proceedings and a full inquiry were necessary public" reveals a fundamental

misunderstanding of the Tribunal's statutory function in accordance with the Employment Tribunals Act 1996 in dealing with public interest disclosure ("whistleblowing") claims under the Employment Rights Act 1996 as amended.

8. The claimant is now seeking a "third bite of the cherry" after the hearing and reconsideration judgment in circumstances where it clearly remains her view that there should be criminal proceedings resulting from or at least a public inquiry into the management and medical practices at Alder Hey Hospital. The strength of her feelings on this matter does not make it in the interests of justice to reconsider the Judgment on Reconsideration at this stage.
9. Accordingly, pursuant to Rule 72(1), the application for reconsideration is refused because there is no reasonable prospect of the Judgment being varied or revoked. Moreover, although the claimant's letter which is being treated as an application for reconsideration is strictly seeking reconsideration of the Judgment on Application for Reconsideration rather than the original Reserved Judgment, it is substantially the same application as that which has been made earlier and refused.

Regional Employment Judge Parkin

Dated 20 December 2019

JUDGMENT SENT TO THE PARTIES ON

23 December 2019

FOR THE TRIBUNAL OFFICE