



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr E Cairns

**Respondent:** City of Sunderland College (Education Partnership North East)

**BEFORE:** Employment Judge Martin

## JUDGMENT ON RECONSIDERATION

The Judgment of the Tribunal is that the Claimant's application for a reconsideration of the Order dated 12 April 2021 is refused.

## REASONS

1 On 10 May 2021 the claimant made an application for reconsideration of the Order made by EJ Martin on 12 April 2021. He then sent in further emails with additional documents, namely documents relating to correspondence with and a decision of the Information Commissioners' Office (ICO) in support of that application, on 15, 28 July, 2 and 11 August 2021. The respondent's representative sent a response to the application on 17 June 2021 and sent a further response to the further emails/information from the claimant on 27 July 2021. The Tribunal has considered all of that documentation.

2 The Tribunal considered Rules 70 – 72 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 which deals with

reconsideration of Judgements. It also considered Rule 1(3) (a) and in particular (b) (ii) of those Rules. This Tribunal has concluded that the Order made on 12 April 2021, which has been requested to be reconsidered is not a judgement as defined under those Rules. It does not finally dispose of the claim because the Response was not struck out under the order made on 12 April 2021. The Tribunal however went on to also consider Rule 29 of those Rules which deals with case management orders and concluded that it could, under that Rule, vary or set aside the Order of 12 April on the basis of the application made by the claimant. It is on that basis that the Tribunal has reviewed the order made on 12 April 2021.

3 The Tribunal determined that it could deal with the application without a hearing.

4 The Tribunal considers that the Claimant is simply requesting the Tribunal to reconsider evidence and Law previously relied upon by the claimant and already heard by the Tribunal and upon which the Tribunal had already made findings. It is merely an attempt to re-litigate a matter that had already been decided by this Tribunal, effectively in essence an appeal against the Judgment of the Tribunal and not a request for reconsideration.

5 The further evidence produced by the claimant, namely the correspondence and decision of the ICO is not relevant to any issues determined in the Order dated 12 April 2021. In any event, the case of *Ladd v Marshall [1954] EWCA CIV1*, sets out the guidelines for the introduction of any new evidence, in particular that it must be shown that the new evidence could not have been obtained without reasonable diligence for use at the trial and the circumstances when granting leave to adduce new evidence must be very rare. It appears to this Tribunal that most of that

evidence was available or could have been made available to the Tribunal before the preliminary hearing, apart from the decision of the ICO (which has no direct relevance to the issues determined at the preliminary hearing). Indeed the Tribunal notes that the claimant chose to make no reference whatsoever to any of this material at the preliminary hearing.

6 Accordingly, this Tribunal does not consider that it is in the interests of justice to vary or set aside the order of 12 April 2021.

7 For those reasons the Claimant's application for a reconsideration of the Order made on 12 April 2021 is refused.

24 August 2021

Employment Judge Martin