



# EMPLOYMENT TRIBUNALS

**Claimants:** Mrs K Clarke  
Mr A Morais  
Mr M Isaac  
Mr T Johnston  
Mr K Couzens  
Mr J Gordon  
Ms C MacLean

**Respondents:** FMG Repair Services Ltd (formerly Runmycar Limited) (1)  
Redde Northgate plc (2)  
NWC Realisations Ltd (in administration) (formerly known as  
Nationwide Crash Repair Services Ltd) (3)

## JUDGMENT

The application of Mr Isaac, one of the claimants, dated 13 January 2023, for reconsideration of the Judgment made on 29 November 2022 and sent to the parties on 5 January 2023, is refused.

## REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. The Judgment was issued after a lengthy hearing, in which Mr Isaac was professionally represented. A significant amount of documentation was considered, as well as a number of complex spreadsheets. A large amount of evidence was heard and considered, including the evidence given by Mr Isaac personally.

2. The application to reconsider appears to rely upon further information which Mr Isaac wishes to provide about two other individuals who were employed by the third respondent and transferred to the first respondent under TUPE. Of those individuals, Mr K Donnelly was someone about whom evidence was heard during the hearing and who was considered as part of the relevant circumstances which needed to be taken into account, as explained in the Judgment and reasons

provided. He is addressed in paragraphs 96, 129, 208(j) and 213(i) of the Judgment issued. Mr Isaac was able to provide the evidence which he wished to at the hearing about Mr Donnelly, and his representative was able to cross-examine the respondent's witnesses about him.

3. Mr B Kilbey is someone who was not previously addressed in evidence (at least to any material extent) and who was not considered within the previous Judgment as being part of the relevant circumstances which needed to be taken into account. Had he wished to do so, Mr Isaac was able to provide the evidence which he wished to at the hearing about Mr Kilbey, and his representative would have been able to cross-examine the respondent's witnesses about him, albeit neither of them did so (or at least did not do so to any material extent).

4. The application for reconsideration does not provide any information about events which have occurred since the hearing, or detail that evidence/documents have come to Mr Isaac's attentions since the hearing. The application appears to be based upon facts and arguments about which Mr Isaac was aware at the time of the hearing. Whilst an observation is made about the late instruction of Mr Isaac's solicitor, the application does not state that an error was made by the solicitor instructed. The general argument pursued in the application to reconsider, that the claimant was treated inconsistently to others in the same position and/or that there were ulterior motives for any differences other than assignment to the entity which transferred, was something which was pursued on his behalf by his solicitor at the hearing and was considered in the Judgment reached.

5. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 70). The Court of Appeal in **Ministry of Justice v Burton [2016] EWCA Civ 714** has emphasised the importance of finality, which militates against the discretion being exercised too readily. In exercising the discretion, I must have regard not only to the interests of the party seeking the reconsideration, but also to the interests of the other parties to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.

6. Rule 72(1) of the 2013 Rules of Procedure empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.

7. Preliminary consideration under rule 72(1) must be conducted in accordance with the overriding objective which appears in rule 2, namely to deal with cases fairly and justly. This includes, so far as practicable, saving expense. Achieving finality in litigation is part of a fair and just adjudication.

8. I do not find that it is necessary in the interests of justice to reconsider the Judgment, based upon the application made by Mr Isaac. There is no reasonable prospect of the original decision being varied or revoked, based upon the reasons given. The application for reconsideration is refused.

**Case No.1406358/2020 & others  
(see the schedule at annex A)**

Employment Judge Phil Allen  
24 January 2023

JUDGMENT SENT TO THE PARTIES ON  
30 January 2023

FOR THE TRIBUNAL OFFICE

**Case No.1406358/2020 & others  
(see the schedule at annex A)**

**Annex A  
SCHEDULE OF CLAIMS**

<b>Claim Number</b>	<b>Claimant</b>
1406358/2020	Mrs K Clarke
2307802/2020	Mr A Morais
2501833/2020 & 3313268/2020	Mr M Isaac
2502152/2020	Mr T Johnston
3314422/2020	Mr J Gordon
4107929/2020	Ms C MacLean
3312536/2020	Mr K Couzens