



# EMPLOYMENT TRIBUNALS

## BETWEEN

Claimant

MR M SOUTER (C1)  
MS K LEISHMAN (C2)

AND

Respondent

WELLS CATHEDRAL SCHOOL  
(R1)  
MR M STRINGER (R2)

## RECONSIDERATION JUDGMENT

EMPLOYMENT JUDGE MR P CADNEY  
(SITTING ALONE)

MEMBERS:

FOR THE CLAIMANT:- WRITTEN SUBMISSIONS

FOR THE RESPONDENT:-

## JUDGMENT

The judgment of the tribunal is that:-

The claimants' application for reconsideration of the judgment is dismissed.

### REASONS

1. Following a hearing which took place in May and December 2022 judgment was promulgated on 13<sup>th</sup> June 2023. The claimants' claims were dismissed and they have sought re-consideration of the decisions.

### The Law

2. There is one ground for reconsideration under Rule 70: where it is necessary in the interests of justice.
3. In *Outasight VB Ltd v Brown [2015] ICR D11*, EAT, Her Honour Judge Eady QC accepted that the wording 'necessary in the interests of justice'

in rule 70 allows employment tribunals a broad discretion to determine whether reconsideration of a judgment is appropriate in the circumstances.

#### Grounds for Reconsideration

4. The grounds for reconsideration are set out in a letter dated 26th April 2023 (which is clearly a typing error). I will deal with them in the order set out in the application.
5. As a general proposition the claimants pose specific questions as to why their arguments as to the significance of specific pieces of evidence were not accepted and/or why I did not accord them the same weight as the claimants contend they should bear. Whilst I have set out my answers as succinctly as I am able, I bear in mind that the purpose of a reconsideration application is not to have a second bite at the cherry and ask for further consideration of propositions and arguments already before the tribunal.

#### Date of the Judgment

6. The claimants ask when the judgment was written given that there was a significant delay for which the EJ apologises. In the circumstances this is not an unreasonable request. The judgment was written at various points during the period and was finalised shortly before promulgation.

#### Credibility

7. The claimants contend that there is no comment on their credibility as witnesses. I accept that this is broadly correct, but the case did not turn fundamentally on their credibility. Whilst there were disputes of fact, the claimants fundamental case, that they had been the subject of a conspiracy/agenda was not something about which they could give any direct evidence, but was an inference from the facts which they drew, and which they invited me to share.
8. They also contend that I have not commented on the credibility of the respondent's witnesses, in particular Mr Stringer. I have set out (paras 18-20) the fact of and reasons for accepting Mr Stringers evidence as to the restructure. I also set out (paras 21-28) my reasons for not accepting that the factual allegations had been fabricated/exaggerated; and at paras 29 -39 my reasons for concluding that the allegation of agenda/conspiracy had not been proven. It follows that I accepted his evidence as to these matters having subjected them to the critical analysis set out in the judgment.

#### Paragraph 23 (Gwyneth Nelmes Evidence)

9. The claimants contend that Gwyneth Nelmes evidence was “critical” to their case as, if the dispute as to the meeting between her and Mr Stringer was resolved in her favour, it would support their contentions as to the existence of an agenda/ conspiracy. In my view the evidence of Gwyneth Nelmes was significant firstly in respect of the issue of whether allegations were invented/exaggerated (see para 23). In respect of whether there was a conspiracy agenda the events of the summer/autumn 2017 were not solely concerned with the meetings between Mr Stringer and Ms Nelmes or any other student, but the outcome. In my judgment the outcome (see paragraph 30) is of far more significance in determining the existence of the agenda/conspiracy than the dispute between Ms Nelmes and Mr Stringer. For completeness sake this forms part of allegation 15.1.7 that it was unreasonable to re-visit historic matters in August 2017 in respect of which my conclusions are set out at paras 89 – 92.

Paragraph 24 (Hanako Dickinson)

10. The claimants contend that the respondent cannot have treated the Hanako Dickinson allegations seriously as they did not suspend the claimant, and the fact that he was not suspended or disciplined supports his assertion of a conspiracy/agenda. I confess I found, and continue to find, this a baffling assertion. The claimant’s position appears to be that the respondent had evidence, which if it had chosen to, was sufficient to suspend and discipline the claimant. The fact that they did not do so should be regarded as supporting his case. In my judgement (as set out paras 93 -97) I accepted the respondent’s evidence that the claimant was offered compassionate leave as an alternative to suspension. That is a complete explanation of why the claimant was not suspended which I have accepted.

Paragraph 29-39

11. Whilst the claimants do not accept my reasons for concluding that there was no agenda/conspiracy I have set out the reasoning as clearly as I can. As is set out at paragraph 30 the allegations would certainly in my judgement have been sufficient to justify a disciplinary investigation; and the fact that the respondent concluded that the evidence was insufficient is on the face of it, clearly inconsistent with the assertion of the existence of an agenda / conspiracy. Whilst the claimants do not agree with these conclusions one of my primary tasks was to assess the evidence and decide whether or not to draw the conclusion that the agenda / conspiracy existed.

Paragraphs 31 / 34 / 67-74 / 79 / 80-88

12. All of the queries in relation to these paragraphs relate to the “opportunities”, “ammo”, “silver bullet emails, which are considered at length in the judgment. The claimant’s case was that these were amongst the primary pieces of evidence supporting the existence of an agenda / conspiracy.

13. I have set out at paras 80-88 my conclusions as to whether the comments constituted a breach of the implied term, having previously concluded that they were not discriminatory. I do not believe at this stage that there is anything that can or should be added to the reasons already set out.

Paragraphs 98-100 / 140 / 195

14. These raises similar points to those addressed above and are already considered.

Paras 87/140

15. These paragraphs address the point that I can only determine the claims which are before me, not ones which are not.

Credibility

16. The point as to the claimant's credibility is set out above.

17. In my judgement there is nothing in the application which persuades me that there is any reasonable prospect of the decision being varied or revoked if it were listed for a reconsideration hearing, and I therefore exercise my power under rule 72(1) Employment Tribunal Rules of Procedure 2013 to refuse the application at this stage.

Employment Judge Cadney  
Date: 25 July 2023  
Corrected: 08 November 2023

Amended Judgment sent to the Parties: 30 November 2023

For the Tribunal Office