



# EMPLOYMENT TRIBUNALS

**Claimant:** Graham Flint and Sharon Flint

**Respondent:** Unity Schools Partnership Trust

## JUDGMENT

The Claimants' application dated **19 February 2024** for reconsideration of the judgment sent to the parties on **5 February 2024** is refused.

## REASONS

I apologise for the considerable delay in dealing with the Claimants' application for a reconsideration. Whereas the Claimants' application was submitted on 19 February 2024, it was not placed before me until 10 May 2024, almost three months later. I understand that this was due to administrative delays within the Tribunal.

Applications for a reconsideration of a Tribunal judgment is an exception to the principle that a decision of the Employment Tribunal is final, save for appeals on a point of law. The test when dealing with an application for a reconsideration is contained within Rule 70 Employment Tribunal Rules of Procedure which provides:

*"Principles*

*70. A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision ("the original decision") may be confirmed, varied or revoked. If it is revoked it may be taken again."*

The Court of Appeal in ***Ministry of Justice v Burton and anor* [2016] EWCA Civ 714** observed (paragraph 21) that the discretion to act in the interests of justice is not open ended and should be exercised in a principled way, and it emphasized the importance of finality.

Moreover in *Liddington v 2Gether NHS Foundation Trust* EAT/0002/16/DA the President of the Employment Appeal Tribunal held:

*“34...a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered. Tribunals have a wide discretion whether or not to order reconsideration, and the opportunity for appellate intervention in relation to a refusal to order reconsideration is accordingly limited.*

*35. Where, as here, a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application...”*

The Claimants have produced a detailed application of 38 pages in length which I have read and considered carefully. Much of the application invites the Tribunal to draw different inferences than those which the Tribunal made. The Tribunal has already provided very detailed reasons for its findings and the conclusions reached in the judgment dated 12 January 2024. The application does not identify any error of law, any procedural error, or any other matter which would make reconsideration necessary in the interests of justice.

Accordingly, the application is refused under Rule 72(1) of the Employment Tribunal Rules of Procedure on the basis that there is no reasonable prospect of the original decision being varied or revoked.

Given the delay the Claimants have already experienced in having their application considered, I will direct that this judgment is sent to the parties at the earliest opportunity.

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Employment Judge Graham

Date 13 May 2024

JUDGMENT SENT TO THE PARTIES ON

14 May 2024

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FOR THE TRIBUNAL OFFICE