



# EMPLOYMENT TRIBUNALS

**Claimant:** Dr A Kear

**Respondent:** Bournemouth University

**Before:** Employment Judge P Cadney

**Representation:**

Claimant: Written Submissions

Respondent:

## **Reconsideration Judgment**

The judgment of the tribunal is that-

- i) The claimant's application to revoke or vary the Judgment is dismissed.

### **Reasons**

1. I heard a Preliminary Hearing on 12<sup>th</sup> December 2024. I reserved Judgment and by a subsequent written Judgment dismissed the claimant's claims of sex discrimination and public interest disclosure detriment as having no reasonable prospect of success. The claimant now seeks reconsideration of the dismissal of those claims.
2. General Power - Rule 70 of the ET Rules gives the tribunal a general power on reconsideration to confirm, vary or revoke the original decision where it is in the interests of justice to do so. However that does not give the tribunal a completely freestanding discretion to reconsider or vary/set aside any judgment. In *Outsight VB Ltd v Brown* 2015 ICR D11, EAT, HHJ Eady QC accepted that the wording 'necessary in the interests of justice' allows employment tribunals a broad discretion to determine whether reconsideration of a judgment is appropriate in the circumstances. However, this discretion must be exercised judicially, 'which means having regard not only to the interests of the party seeking the review or reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation'.

### Application

3. The claimant's application is lengthy and discursive and in places, at least in my judgement, difficult to follow. In order to make this decision comprehensible I will deal with the points in the order they are set out and under the headings as set out in the application. I will deal with the general points made by the claimant (up to Section 22 in the reconsideration application). Thereafter the claimant comments on the specific conclusions in respect of the individual decisions as set out at paragraphs 31 onwards in my original decision. I will not deal with them all individually but in essence the claimant repeats his belief as to the existence of a wide ranging conspiracy against him involving many parties including the current respondent. He broadly asserts that that he has supplied sufficient evidence to demonstrate, at least for the purposes of the strike out application, that the conspiracy existed, that the respondent was part of it and that if the claim is permitted to proceed, the disclosure process would reveal, for example, the true identity of "Sasha Folkes", and prove the truth of his assertions. The decision to strike the claims out was, therefore, premature.
4. As set out above I will not address each point in respect of each of the individual claims. However there are some that I should. In particular, I note that in respect of the strike out applications relating to the public interest disclosure claims, the claimant asserts at many points that I do not understand the meaning of the word detriment in the context of the public interest disclosure legislation. This misunderstands the point, which is that in broad terms the claimant has made no attempt to link any particular detriment to any disclosure, or how the respondent is alleged to be responsible for it, and many of the disclosures appear to relate to detriments which precede the disclosure (see para 67 of the decision). The claims have not been dismissed on the basis that the facts relied on are not capable of being detriments.
5. In addition at points 86 and 87 that the claimant contends that the decision requires review by a "Judge" and/or a "real Judge". Contrary to his apparent belief I am both a "Judge" and a "real Judge". Unfortunately for him, there is no mechanism, other than an appeal, for the decision of one Judge to be reviewed by another, and the application for reconsideration is bound to be considered by me as it is my decision that the application relates to.
6. In my judgement neither the more general propositions or the commentary on the individual decisions, which in essence repeat points already before the tribunal, alter any of my original conclusions.

### Overall Conclusions

7. It follows that for the reasons set out above and I am not persuaded that any of my original decisions should be revoked or varied.

### Procedural Errors

8. Fol/SAR Requests - The claimant contends that there was a procedural error in dealing with the application before dealing with his Fol and SAR requests. The tribunal has no jurisdiction in respect of Fol and/or SAR requests and so could not make any orders in respect of them in any event.
9. Failure to Hear Evidence – The claimant contends that the respondent supplied no evidence for the hearing. This is correct but the purpose of the hearing was not to hear evidence but to make a determination of the respondent's application on the face of the papers, and with the parties submissions.
10. Professor Livesey – An earlier case management order was made by EJ Livesey. The claimant asks for confirmation that EJ Livesey is not related to a Professor Livesey at UCL. As far as I am aware he is not, but in any event it is difficult to see how this could possibly be relevant, as it is not alleged that Professor Livesey is employed by the respondent, or involved in any way in the events which are the subject matter of this case; and in any event the decisions under consideration were made by me and not EJ Livesey.
11. Public Interest Disclosure – The claimant asserts that the acceptance of the public interest disclosure claims and the addition of the automatic unfair dismissal claim by EJ Livesey indicates that the tribunal has already assessed the claims as meritorious, or at least sufficiently meritorious to progress to a final hearing. This is not correct. It simply means that they have been identified as claims being brought by the claimant. The whole purpose of the hearing before me was to make an assessment of their merits.

#### Interests of Justice/Breaches of Law

12. Public Interest Disclosure - The claimant firstly repeats the points about the acceptance of the claims and/or Professor Livesey dealt with above.
13. The claimant also repeats the basis of the claims as set out in his Further Information and as discussed at length individually in the original decision as to his disclosures being qualifying/protected disclosure falling within s43B. He has subsequently addressed the individual assertions.
14. In addition he sets out the evidence he has supplied which, he contends, supports many of the allegations of detriment suffered by him and demonstrates the existence of the origins of the political/hate campaign against him. I have referred to the primary evidence on which he relies, the audio recording of Dr Linkwood/Cunnane; the rest of the evidence consists of photographs, reports and emails which the claimant contends “proves” the existence of the conspiracy. To give one example the claimant relies on the crime numbers of allegations made to the police against the claimant. Self-evidently in and of themselves they do not prove that the allegations made against him were untrue, or that the respondent had any involvement in any of them. For the same reasons already set out in the original decision, the “evidence” does not, in my judgment support the existence of the alleged conspiracy, or more particularly support any inference that the respondent had any involvement in it.

15. Section 2 – In Section 2 of the original decision I set out a substantial section of EJ Livesey’s CMO in order to make the background to the hearing comprehensible – The claimant makes a number of comments about points made by EJ Livesey, but these do not have any bearing on my conclusions.
16. Section 5 – The claimant contends that the tribunal has jurisdiction to hear whistleblowing claims (which is correct) and that he supplied a Schedule of allegations (which is again correct and was the primary document used in my original decision).
17. Section 6 – The claimant asserts that the information supplied was clear, comprehensive, and in accordance with EJ Roper’s order, which for the reasons given in the original decision I have not completely accepted.
18. Section 8 – The claimant contends that the evidence supplied confirms the central allegations and the political nature of the case. I have addressed this point above.
19. Section 10 – In relation to his son not being taken on by Newport County FC, the asserted link to the respondent remains incomprehensible to me, despite being reiterated by the claimant. Even in his reconsideration application the only alleged link to respondent is that Sasha Folkes was upset that his son was continuing to play football.
20. Section 11 – He asserts an “obvious” link to the perpetuation of the misogynist label. In this paragraph I was setting out part of the claimant’s claim, which it appears from the comment that I understood correctly.
21. Section 12/13 – The claimant reiterates the significance he places on the Dr Linkwood/Cunnane evidence, and suggests the evidence is clear. He does not suggest, however any involvement on the part of the respondent, or what that involvement could be.
22. Section 15/16/17/18/19/22 – He asserts that he has complied with EJ Roper’s order and places reliance on the fact that EJ Livesey was able to identify the claims; and observes I concluded that there had been broad compliance with EJ Roper’s order in relation to the sex discrimination allegations in any event.
23. Conclusions – As set out above none of these comments/propositions provide the basis for, in my judgement, any reconsideration of the original decision.
24. The rest of the reconsideration application, is lengthy and deals individually with each of my decisions; but in essence repeats points that were already before me and re-assert the claimant’s belief in the existence of the conspiracy, and that the events he relies on were manifestations of the conspiracy. It is not necessary to deal with them all individually; but I have read each of them and none raises any new point that was not already before me, or which causes me to alter my original decision.

25. It follows that the application for reconsideration of the original decision is dismissed.

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Employment Judge P Cadney

Dated: 14<sup>th</sup> July 2025

**Judgment entered into Register  
And copies sent to the parties on  
05 August 2025  
for Secretary of the Tribunals**