



EMPLOYMENT TRIBUNALS

Claimant: Ms P E Ong

Respondent: Aberystwyth University

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The Judgment of the Tribunal is that the Respondent's application dated 21 October 2025 for reconsideration of the Tribunal's Judgment limited to the victimisation complaint dated 11 December 2024 sent to the parties on 13 December 2024 is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. By a Reserved Liability Judgment ("Judgment") dated 11 December 2024 and sent to the parties on 13 December 2024 the Tribunal dismissed all of the claimant's complaints except for the complaints of ordinary unfair dismissal and victimisation which were upheld.
2. By email dated 21 October 2025 the respondent made an application for reconsideration of the victimisation complaint on the grounds that on 17 October 2025 at a Remedy Hearing the claimant disclosed "new evidence", namely an email the claimant had sent to Ceredigion County Council ("Council") dated 15 September 2022 at 14.30 relating to the application for the role of Night Care Assistant, in which the claimant expressly confirmed she had been dismissed by the respondent due to a breakdown in relationship with her Manager, and that she had issued a claim in the Employment Tribunal.

The Law

3. Under Rule 68(1) of the Employment Tribunal Procedure Rules 2024, the Tribunal may, either on its own initiative 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 may be confirmed, varied or revoked.
4. Rule 69 provides that an application for reconsideration under Rule 68 must be made in writing within 14 days of the date on which the decision (or, if later,

the written reasons) were sent to the parties.

5. The process by which the Tribunal considers an application for reconsideration is set out in Rules 70(2)(3)(4)&(5).
6. The Tribunal has discretion to reconsider a judgment if it considers it to be in the interests of justice to do so. Rule 70(2) requires the Judge to dismiss the application if the Judge decides that there is no reasonable prospect of the original decision being varied or revoked. Otherwise, the application is dealt with under the remainder of Rule 70.
7. In deciding whether or not to reconsider the judgment, the Tribunal has a broad discretion, which must be exercised judicially, having regard not only to the interests of the party seeking the 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. Outasight VB Limited v Brown 2015 ICR D11 EAT
8. The reconsideration rules and procedure are not intended to provide an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way. They are not intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed (with or without different emphasis). Nor do they provide an opportunity to seek to present new evidence that could have been presented prior to judgment.
9. Guidance for Tribunals on how to approach applications for reconsideration was given by Simler P in the case of Liddington v 2Gether NHS Foundation Trust UKEAT/0002/16/DA. Paragraphs 34 and 35 provide as follows: "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. Where [...] 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.*"
10. In determining the respondent's application the Tribunal directed itself that in assessing the "interests of justice" it must make an assessment of all relevant facts and circumstances of the matter and balance the interests of both parties which includes the principle of finality of litigation.

11. In Fforde v Black EAT 68/60 ("Fforde") the EAT decided that the interests of justice ground of review does not mean:
"...that in every case where a litigant is unsuccessful he is automatically entitled to have the tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case where something has gone radically wrong with the procedure involving a denial of natural justice or something of that order".

Assessment of the Application

Timing of the Application

12. In compliance with Rule 69 the application for reconsideration must be made within 14 days of the date on which the judgment was sent to the parties. Under Rule 5(7) the Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in these Rules or in any decision, whether or not (in case of an extension) it has expired.
13. The Judgment with full written reasons was sent to the parties on 13 December 2024. The 14 day deadline for submitting a reconsideration application expired on 28 December 2024 (taking account two public holidays). This application was submitted on 21 October 2025 which is effectively 662 days after the expiry of the deadline date. The new evidence (i.e the email) first came to the attention of the respondent on 17 October 2025. This application was made within three days of receiving a copy of the email. Even though this application is significantly late, the Tribunal is satisfied this application has been made without delay and that it is in the interests of justice to extend time under Rule 5(7).

Reasonable prospects of application for reconsideration

14. Rule 70(1) the Tribunal is required to decide whether there is any reasonable prospect of a conclusion that variation or revocation of the original decision is necessary in the interests of justice.
15. The Application is made on the basis that the Tribunal's judgment is unsafe because *it was made in ignorance of a material fact; namely that the claimant had already informed the Council of her Tribunal proceedings before any reference was supplied*. The Tribunal is therefore invited to make a finding that the respondent did not cause the Council to rescind the job offer, the claimant's own actions were the operative cause of the job offer withdrawal.

Decision

16. The Tribunal accepts that disclosure of any relevant evidence which should or could have been disclosed at the original hearing, particularly when that evidence was in the possession or control of the disclosing party, is capable of meeting the "interests of justice" threshold provided that this evidence is relevant and could materially affect the finding made in the original Judgment.

17. The Tribunal considered the argument advanced by the respondent effectively challenges the causation issue. The Tribunal considered this argument having regard to the findings and conclusion set out at Paragraphs 237-241 & 407-411 of the Judgment. The Tribunal reached the conclusions as set out below.
- (a) Notwithstanding the job offer was made before the claimant notified the Council of her disclosure as confirmed in the said email, the Council in full knowledge of this disclosure did not withdraw the job offer at this point. The Council continued with the application and made a written request for a reference from the respondent. The job offer was withdrawn following receipt of the reference. This therefore clearly showed the claimant's disclosure was not issue for the Council or it was or formed part of the reason for withdrawing the job offer.
- (b) The said email is a new document for the purposes of disclosure but it is not new evidence or information that the Council did not have knowledge of when it continued with the request for a reference. Had this email been before the Tribunal at the final hearing it would not have altered the Tribunal's conclusion because there was no evidence disclosed or presented by the respondent to show the job offer was withdrawn because the claimant had been dismissed and had made a claim to a Employment Tribunal. The respondent could reasonably have explored and investigated the reason why the Council withdrew the job offer and provided any supporting evidence and/or called witness evidence at the final hearing to show that the reference was not the cause of the withdrawal of the job offer. It did not do so. The Tribunal made clear and robust findings about the reference supplied and the consequence of that reference and detriment to the claimant. This new evidence relied upon does not undermine the Tribunal's findings or make the decision unsafe as advanced.
- (c) This application seeks to challenge the causation issue under the guise of new evidence. It is an attempt to re-litigate the issue of causation and findings already determined based upon the evidence heard. The issue of the reference and causation was extensively explored and ventilated at the final hearing. It is a fundamental requirement of litigation there is certainty and finality. The respondent is respectfully referred Paragraphs 9-11 above.
18. In conclusion the Tribunal's decision is that there is no basis on which it could be said that reconsideration would be in the interests of justice. There is no reasonable prospect of the Judgment being varied or revoked, therefore the application is refused.

**Approved By
Employment Judge Bansal
17 November 2025**