Case Number: 3303701/2024

EMPLOYMENT TRIBUNALS

Claimant: Mr Ashley Lewis

Respondent: North Northamptonshire Council

JUDGMENT ON RECONSIDERATION

The claimant's applications dated **17 October 2025** and **31 October 2025** for reconsideration of the judgment sent to the parties on **17 October 2025** are refused because there is no reasonable prospect of the original decision being varied or revoked.

APPLICATION

1. The Tribunal gave a Reserved Judgment on 13 October 2025, sent to the parties on 17 October 2025, following a hearing on 17 and 18 September 2025. The Claimant's claim was dismissed because it failed to satisfy the jurisdictional requirements of s108 Equality 2010 (EqA). It follows from that finding that the claimant's single complaint of post-employment direct race discrimination under s13 EqA was not upheld.

2. The claimant applied for reconsideration under Rule 69 of the Employment Tribunal Rules 2024 (formally Rule 71 of the Employment Tribunal Rules of Procedure 2013) of the Tribunal's decision of 17 October 2025.

3. By an email dated 28 October 2025 the claimant made an application for reasons for the decision sent to the parties on 17 October 2025. On 31 October 2025, I refused this application because written reasons were already provided in my reserved judgment.

4. The claimant then made a further application for 'amplified reasons' (of the reserved judgment) and/or reconsideration on 31 October 2025.

5. Both applications were referred to me on 3 November 2025. I treated the claimant's application of 31 October 2025 as a further application for reconsideration.

6. Rule 69 requires that any application for reconsideration must be presented in writing within 14 days of the date on which the decision, or within 14 days of the date that the written reasons are sent (if later).

7. The claimant's application dated 17 October 2025 (the first application) has been made in time.

8. The claimant's application dated 31 October 2025 (the second application) was one day outside the permitted timescale for applications of reconsideration under Rule 69. The Tribunal has determined to extend the time limit specified in Rule 69 for the second application made on 31 October 2025. Whilst the claimant did not address the delay, the Tribunal concluded the additional point for reconsideration contained in the claimant's second application could be addressed together with the first application. In that context, it was in the interests of justice for the claimant's second application to be permitted.

9. In summary, the claimant's reasons for applying for reconsideration of the decision are:

    9.1 Ground 1 — Failure to Address Direct Race Discrimination. The claimant submits that the Tribunal failed to determine whether the Respondent's treatment amounted to direct race discrimination under s.13 Equality Act 2010 and that the burden of proof had shifted in this case because "My evidence (bundle p25) that 'I felt treated 'like a second-class employee' triggered that shift and the judgment does not apply that test, amounting to a misdirection in law".

    9.2 Ground 2 — Failure to Draw Adverse Inferences from Missing Witnesses and Non-Disclosure. The claimant submits that adverse inferences should have been drawn because the respondent failed to call Mr Bowley and Mr Maclaughlin and the respondent repeatedly failed to disclose 'ordered' documents.

    9.3 Ground 3 — Procedural Irregularity and Prejudice from Late Submissions. The claimant submits the respondent filed its submissions 'minutes before the 16.00 deadline on 19 September 2025, depriving me of time to respond' and that acceptance of that late document was procedurally unfair.

    9.4 Ground 4 — Strike-Out Warning and Non-Disclosure of Public Funds. The claimant submits that NNC was under a strike-out warning from

Employment Judge Tynan for repeated non-compliance with disclosure orders and contradictory evidence about the use of public funds.

9.5 Ground 5 — New Evidence and Interests of Justice. The claimant submits the Tribunal's acceptance of the respondent's bundle which he did not open or agree was procedurally unfair.

9.6 Ground 6 - False Evidence and Miscarriage of Justice. The claimant submits the respondent's witnesses gave false evidence about the circumstances leading to his dismissal and the chronology of events post dismissal.

9.7 The claimant's second application for reconsideration (also an application for 'amplified reasons') was made on the grounds the reserved judgment was not Meek compliant.

10. I am satisfied that the interests of justice do not require that there is a hearing to determine the claimant's application for reconsideration and that I can deal with the matter fairly and justly on the strength of his written application.

11. The background to the claim is set out in summary at paragraphs 1 to 5 of the Judgment of 17 October 2025 (the Judgment). At the commencement of the final hearing on 17 September 2025, the claimant confirmed the claim was for a single complaint of post-employment direct race discrimination. The Tribunal had to determine if it had jurisdiction to hear this complaint in accordance with section 108 EqA and if so, it would go on to determine the section 13 EqA complaint of direct race discrimination.

12. The claimant's complaint of direct discrimination contrary to s13 EqA was not upheld because he was unable to satisfy the requirements of section 108(1)(b) EqA. Section 108 EqA (1)(b) provides that 'conduct of a description constituting the discrimination would if it occurred during the relationship contravene the act'.

13. In Outasight VB Ltd. v Brown UK EAT/0253/14, the Employment Appeal Tribunal considered the Tribunals' powers under Rule 70 of the Employment Tribunal Rules of Procedure 2013 (now Rule 68 of the Employment Tribunal Procedure Rules 2024). Paragraphs 27-38 set out the legal principles which govern reconsideration applications. At paragraph 28, Her Honour Judge Eady QC, as she then was, observed the following:

> "*The test for reconsideration under the 2013 Rules is thus straightforwardly whether such reconsideration is in the interests of justice.*"

14. She goes in to observe at paragraph 33:

> *"The interests of justice have thus long allowed for broad discretion, albeit one that 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."*

15. There must be finality in litigation as confirmed by the Court of Appeal in Ministry of Justice v Burton and anor [2016] EWCA Civ 714 where Elias LJ observed:

> *"The discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (Flint v Eastern Electric Board [1975] ICR 395) which militates against the discretion being exercised too readily."*

16. The key consideration is that it must be in the interests of justice to reconsider a Judgment. There must be something about the case that warrants a requirement to go back and reconsider and this does not include giving an unsuccessful party the opportunity to re-argue their case simply because they are unhappy with the outcome.

17. Turning to the claimant's grounds for his application for reconsideration.

    17.1 Grounds one. The claimant asserts the burden of proof shifted because his statement that he felt like a second-class employee 'triggered that shift'. My findings about this are set out in paragraphs 129 to 131 of the Judgment. It is not in the interests of justice to reconsider simply because the claimant disagrees with my findings.

    17.2 Ground two. The claimant argued I should have drawn adverse inferences about why Mr Bowley and Mr Maclaughlin were not called as witnesses. In my finding about this are set out in paragraph 103 of the Judgment. It is not in the interests of justice to reconsider simply because the claimant disagrees with my findings.

    17.3 Ground three. Both parties were ordered to provide their respective submissions by 4pm on 19 September 2025. Both parties complied with this order. I did not order the respondent to supply its submissions at an earlier time to provide the claimant with the opportunity to review and respond to those submissions and the claimant did not ask me to do this at the end of the final hearing. In any event, I did allow the claimant's second set of submissions, entitled his 'rebuttal application' sent at

4.18pm on 19 September 2025 and addressed it in the Judgment. As both parties complied with my orders, there was no procedural irregularity and no procedural unfairness.

17.4 Grounds four. The claimant refers to the Employment Judge Tynan's strike out threat due to the respondent's non-compliance with the Tribunal's case management orders about disclosure dated 28 April 2025. The claimant refers to these orders requiring the respondent to disclose 'total public money used by NNC to support Mr Bowley'. Neither the case management order nor Judge Tynan's order specified what was to be disclosed. The claimant's reading of the paperwork in this regard is misconceived.

17.5 Ground five. I allowed both the respondent's bundle, sent to the claimant on 4 July 2025 and unopened by him because he disputed it contained the relevant evidence, and the claimant's bundles, provided to the respondent the day before the hearing, to be used in evidence during the hearing. Both parties agreed to this at the commencement of day one. Neither party sought an adjournment. It is of note that the substance of the claimant's complaint, that the respondent 'stepped in' and provided legal advice including the assistance of its in-house counsel to Mr Bowley in response to the MCOL claim issued by the claimant was not disputed. I am satisfied the documentary and oral evidence provided by the parties addressed the issues to be determined and the claimant had sufficient time between the respondent's disclosure and the hearing to prepare his case. The fact he chose not to review the respondent's bundle does not give him grounds for reconsideration on the grounds of procedural unfairness.

17.6 Ground six relates to my findings about the evidence. The claimant is asking me to revisit the evidence and make different findings. The claimant makes numerous references in his reconsideration application to the evidence relating to the dismissal. The claimant's dismissal by the respondent was not the complaint before the Tribunal and this was confirmed by both parties during both the case management hearing and at the commencement of the final hearing. The relevance of the dismissal was limited to whether Mr Bowley was acting within the course of his agency at the respondent when he dismissed the claimant and whether the claimant was acting within the course of his agency when he carried out the work that led to his dismissal. I found that they both were. This was relevant to the reason why the respondent defended the MCOL claim on behalf of Mr Bowley, which was the basis for the claimant's complaint to the Tribunal. I gave detailed reasons for the relevant facts I made findings about. The fact the claimant does not agree with these findings is not a reason to reconsider them.

17.7 The second application relates to whether my written reasons provided in the reserved judgment were 'Meek' compliant. The Tribunal is not required to engage in its Judgment with every piece of evidence or rehearse in detail how the issues were explored in cross examination over the course of the hearing. As it is, the Judgment extends to some 26 pages despite being limited to a single complaint. Should these matters be examined on appeal, it would be for the Employment Appeal Tribunal or other appellate court to say whether those reasons are Meek compliant.

18. Despite this being a complaint of post-employment discrimination, the claimant made no reference, either in his submissions or reconsideration application, about whether his complaint satisfied the requirements of s108 Equality Act 2010 (EqA), as it must. The claimant appears to have misunderstood the relevance of this. I note the claimant continues to refer to Mr Bowley as his comparator in his reconsideration application. I found him not to be the correct comparator (paragraphs 123 to 127 of the judgment). Much of the evidence heard during the hearing was with reference to the correct comparator as this was in dispute. The claimant has not directly sought reconsideration of my finding that Mr Bowley was not the correct comparator, which was relevant to my finding that s108(1)(b) EqA was not satisfied (set out in paragraphs 118 to 137 of the Judgment). I concluded that contrary to s108(1)(b) EqA, as confirmed in Ford Motor Co Ltd v Elliott and ors 2016 ICR 711, EAT, the circumstances of the claimant and Mr Bowley were materially different. The correct hypothetical comparator is set out in paragraph 128 of the Judgment. I went on to conclude the respondent would have treated the correct hypothetical comparator in the same way it treated the claimant, so the claimant was not subject to less favourable treatment due to his race (paragraphs 135 to 136 of the Judgment).

19. There are no grounds to vary or revoke this decision either on my own initiative or based on any implied assertion by the claimant that my findings about the correct comparator and ultimately, my decision about his complaint to the Tribunal are wrong in law.

20. If I have erred in law or made perverse findings in my Judgment, it is for the Employment Appeal Tribunal or an appellant court to determine if the reasons provided in my judgment and my decision stand.

21. The claimant's applications are in essence an invitation for the Tribunal to revisit case management and preliminary decisions that were made about the evidence that I heard and come to different conclusions. The claimant asserts that he did not have a fair hearing and asks the Tribunal to reach different decisions in respect of admitting evidence, different findings of fact, including the drawing of inferences and reject evidence that I found to be credible and ultimately, to reach a different conclusion.

22. I am satisfied the claimant's application amounts to a request for him to be able to re-argue his case. The claimant was accommodated by the Tribunal both during the case management hearing and at the final hearing. We spent a considerable amount of time at the commencement of day one of the final hearing discussing preliminary issues such as evidence, the respondent's witnesses and the agreed issues in the case and the position of both parties was that the hearing should proceed.

23. The interests of justice are that there must be finality in litigation except where there is a good reason for a case to be reconsidered. The fact that the claimant does not like the outcome and would like a second opportunity to present his case is not such a reason.

24. Based on the applications presented to the Tribunal, there is no reasonable prospect of the decision of the Tribunal being revoked or varied. Accordingly, the application for reconsideration is refused.

Date: 24 November 2025

Approved by

Employment Judge Davey

JUDGMENT SENT TO THE PARTIES ON

25 November 2025

FOR THE TRIBUNAL OFFICE