EMPLOYMENT TRIBUNALS

Claimant: **Mr A Weavin**

Respondent: **Animal and Plant Health Agency**

RECONSIDERATION DECISION

The Claimant's application dated 29 October 2025 for reconsideration of the judgment sent to the parties on 24 October 2025 is refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. The Claimant presented a claim to the Tribunal making complaints of "ordinary" unfair dismissal, whistleblowing detriments and automatically unfair dismissal (whistleblowing) on 10 March 2023. This followed notification to ACAS on 8 March 2023. The ACAS certificate was issued on 10 March 2023.

2. Following several preliminary hearings, the final hearing in relation to the claim took place on 30 June, 1, 2, 3, 4, 7, 8, 9, and 10 July 2025, 29, and 30 September, 1, 2, and 3 October 2025. All of the Claimant's claims were dismissed.

3. The judgment was sent to the parties on 24 October 2025. This set out the following.
    a. In relation to detriments 1 to 10 the complaints of detriment on the ground of making a protected disclosure were not presented within the applicable time limit. It was reasonably practicable to do so. These complaints are therefore dismissed for want of jurisdiction.
    b. In relation to detriments 11, 12 and 13 the complaints of detriment on the ground of making a protected disclosure were not well founded and were dismissed.
    c. The complaint of automatically unfair dismissal on the ground of making a protected disclosure was not well founded and was dismissed.
    d. The complaint of unfair dismissal was not well founded and was dismissed.

4. Before receiving the written reasons, which were requested in the same document, the Claimant made a reconsideration application on 29 October 2025. This was sent to the judge on 18 November. It is a 13 page narrative document which is difficult to understand and in which a number of points were raised. I consider that the Claimant's points can be summarised as follows:

a. the Respondent did not provide key evidence such as the dates and provenance of Standard Operating Procedures (SOPs) and Desk Instructions. This evidence is central to the allegation that the Claimant failed to follow rules;
b. the Respondent had control over the evidence and the bundle: The Respondent administered the bundle, resulting in duplication, irrelevant documents, and exclusion of crucial evidence (including audio recordings and metadata);
c. key individuals directly involved in the dismissal and protected disclosures were not called or questioned;
d. the Respondent was permitted to alter the sequence of witnesses, allowing senior managers to hear others' evidence before giving their own, undermining fairness;
e. the protected disclosures were wrongly dismissed as out of time;
f. the judgment accepted the Respondent's assertion that the Claimant broke rules without requiring clear identification of which rules, when, and how often;
g. the Tribunal should have considered the content of the Claimant's protected disclosures in order to check that what happened to the Claimant was fair.

The law on reconsideration

5. Rules 68 to 70 of the Employment Tribunal Procedure Rules 2024, make provision for the reconsideration of tribunal judgments as follows:

> *"**Principles***
> *68.—(1) The 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.*
> *(2) A judgment under reconsideration may be confirmed, varied or revoked.*
> *(3) If the judgment under reconsideration is revoked the Tribunal may take the decision again. In doing so, the Tribunal is not required to come to the same conclusion.*
>
> ***Application for reconsideration***
> *69. Except where it is made in the course of a hearing, an application for reconsideration must be made in writing setting out why reconsideration is necessary and must be sent to the Tribunal within 14 days of the later of—*
> *(a) the date on which the written record of the judgment sought to be reconsidered was sent to the parties, or*
> *(b) the date that the written reasons were sent, if these were sent separately.*
>
> ***Process for reconsideration***
> *70.—(1) The Tribunal must consider any application made under rule 69 (application for reconsideration).*
> *(2) If the Tribunal considers that there is no reasonable prospect of the judgment being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application must be refused and the Tribunal must inform the parties of the refusal.*
> *(3) If the application has not been refused under paragraph (2), the Tribunal*

must send a notice to the parties specifying the period by which any written representations in respect of the application must be received by the Tribunal, and seeking the views of the parties on whether the application can be determined without a hearing. The notice may also set out the Tribunal's provisional views on the application.."

6. Under these rules, the Tribunal therefore has discretion to reconsider a judgment if it considers it is in the interests of justice to do so.

7. Under rule 70(2), the judge must dismiss the application if they consider that there is no reasonable prospect of the original decision being varied or revoked. It is a mandatory requirement for a judge to determine whether there are reasonable prospects of a judgment being varied or revoked before seeking the other party's response and the views of the parties as to whether the matter can be determined without a hearing, potentially giving any provisional view, and deciding how the reconsideration application will be determined: *T.W. White & Sons Ltd v White, UKEAT/0022/21*.

8. In *Outasight VB Ltd v Brown UKEAT/0253/14* the EAT held (at [46-48]) that the Rule 70 ground for reconsidering judgments (the interests of justice) (which was the predecessor under the Employment Tribunal Rules of Procedure 2013) did not represent a broadening of discretion from the provisions of Rule 34 contained in the replaced 2004 rules. HHJ Eady QC (as she then was) explained that the previous specified categories under the old rules were only examples of where it would be in the interests of justice to reconsider. The rules removed the unnecessary specified grounds, leaving only what was in truth always the fundamental consideration: the interests of justice. This means that decisions under the old rules remain pertinent under the new rules. I apply the same analysis in relation to the interpretation of the 2024 procedure rules, which refer to the same test: the interests of justice.

9. The key point is that it must be in the interests of justice to reconsider a judgment. That means that there must be something about the case that makes it necessary to go back and reconsider, for example a new piece of evidence that could not have been produced at the original hearing or a mistake as to the law. It is not the purpose of the reconsideration provisions to give an unsuccessful party an opportunity to reargue his or her case. If there has been a hearing at which both parties have been in attendance, where all material evidence had been available for consideration, where both parties have had their opportunity to present their evidence and their arguments the interests of justice are that there should be finality in litigation. An unsuccessful litigant in such circumstances, without something more, is not permitted to simply reargue his or her case, to have 'a second bite at the cherry' (per Phillips J in *Flint v Eastern Electricity Board [1975] IRLR 277*).

10. The expression 'necessary in the interests of justice' does not give rise to an unfettered discretion to reopen matters. The importance of finality was confirmed by the Court of Appeal in *Ministry of Justice v Burton and anor [2016] EWCA Civ 714* where Elias LJ said that:

"*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 Electricity Board [1975] ICR 395) which militates against the discretion being exercised too readily; and in Lindsay v Ironsides Ray and Vials [1994] ICR 384 Mummery J held that the failure of a party's representative to draw attention to a particular argument will not generally justify granting a review."

11. Rule 70 gives the Tribunal a broad discretion to determine whether reconsideration of a decision is appropriate. 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.*

35. 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."

Assessment of the application under Rule 70(2)

12. The matters raised by the Claimant are dealt with in the written reasons, which were not sent to him until after the date of the reconsideration. I set out the responses to the points made by the Claimant below:
    a. *the Respondent did not provide key evidence such as the dates and provenance of Standard Operating Procedures (SOPs) and Desk Instructions. This evidence is central to the allegation that the Claimant failed to follow rules*. A finding was made in relation to this based on obtaining a soft copy with the metadata intact (see paragraph 37 of the Liability Judgment);
    b. *the Respondent had control over the evidence and the bundle: The Respondent administered the bundle, resulting in duplication, irrelevant documents, and exclusion of crucial evidence (including audio recordings and metadata)*. The Claimant was permitted to adduce his own bundle of documents. This was a bundle of 1672 pages. It was open to him to refer the Tribunal to any documents in his bundle (or in the separate, agreed bundle of 2128 pages) which he considered to be relevant (see paragraph 19 of the Liability Judgment). The Claimant's bundle included numerous transcripts of recordings;
    c. *key individuals directly involved in the dismissal and protected disclosures were not called or questioned.* The Claimant had made previous witness order applications which were refused. It is a matter for the Respondent which witnesses it wishes to call;

d. *the Respondent was permitted to alter the sequence of witnesses, allowing senior managers to hear others' evidence before giving their own, undermining fairne*ss. It is normal procedure in the Employment Tribunal for witnesses to remain in the Tribunal room whilst other witnesses are giving evidence. It is a matter for the Respondent to call its witnesses in the order in which it wishes to call them. There is no procedural error in this respect;
e. *the protected disclosures were wrongly dismissed as out of time.* Three of the Claimant's disclosures were conceded to be protected disclosures by the Respondent. The fourth disclosure was also found to be protected (see paragraphs 127 to 135 of the Liability Judgment). Time limits are not applied in relation to protected disclosures, but instead in relation to detriments. The Claimant's pleaded detriments D1 to D10 were found to be out of time (see paragraphs 158 to 162 of the Liability Judgment);
f. *the judgment accepted the Respondent's assertion that the Claimant broke rules without requiring clear identification of which rules, when, and how often.* The Claimant admitted at investigation, disciplinary and appeal stage that he had not followed the correct procedures or his manager's instructions (see paragraphs 174 to 176, 181 and 185 of the Liability Judgment);
g. *the Tribunal should have considered the content of the Claimant's protected disclosures in order to check that what happened to the Claimant was fair*. This is dealt with at paragraphs 188 to 193 of the Liability Judgment.

13. In relation to procedural points, I set out above why they do not affect the fairness of the judgment. I further note that the Claimant stated in the Tribunal, before the judgment was given, that he considered the hearing was a fair hearing. In relation to substantive points, they were considered and addressed in the judgment. Therefore, I consider that there is no reasonable prospect of the judgment being revoked or varied in relation to the points raised.

14. As set out in Liddington, a 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. Any asserted error of law is to be corrected on appeal.

15. Having carefully considered the Claimant's application and bearing in mind the importance of finality in litigation and the interests of both parties, I am not satisfied that there is any reasonable prospect of the Judgment or any part of it being varied or revoked.

Approved by
Employment Judge Volkmer
Date: 5 December 2025

SENT TO THE PARTIES ON
8th January 2026

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Simon Fraser

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FOR THE TRIBUNAL OFFICE