



# EMPLOYMENT TRIBUNALS

Claimant: Mr Z

Respondent: Medway NHS Foundation Trust

*These proceedings are subject to the following Order made under Section 11(a) of the Employment Tribunals Act 1996 and Rule 50 of the Employment Tribunal Rules 2013.*

*This case concerns an allegation of the commission of a sexual offence. This order **PROHIBITS** for the duration of the lifetime of patient A and the claimant the publication in Great Britain, in respect of these proceedings, of identifying matter in a written publication available to the public or its inclusion in a relevant programme. In particular the following information must not be published:*

- 1. the identity of patient A and the claimant are anonymised; and*
- 2. the names of the wards that patient A stayed on and the identity of those who cared for her and / or those who worked with the claimant on those ward/s are be anonymised.*

*The publication of any identifying matter or its inclusion in a relevant programme is a criminal offence. Any person guilty of such an offence shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.*

## JUDGMENT

The claimant's application dated 1 December 2025 for a reconsideration of the Judgment sent to the parties on 8 April 2024 and 14 April 2025 is refused.

## REASONS

1. On 1 December 2025 Ms Bennett, a lay representative, acting on behalf of the claimant applied for reconsideration of the original Judgment sent to the parties on 8 April 2024 and reconsideration of the Reconsideration Judgment sent to the parties on 14 April 2025. This is the sixth application that Ms Bennett has

made to reconsider the original Judgment. All previous applications have also failed.

**Proceedings to date**

2. The original final hearing took place on 4-8 December 2023. Written judgment dismissing the claimant's complaints of race and sex discrimination was sent to the parties on 8 April 2024.
3. On 19 April 2024 Ms Bennett submitted her first application to reconsider the original Judgment on the following four grounds:
  - 2.1 Ground 1: That the claimant did not have a fair hearing.
  - 2.2 Ground 2: New evidence, comprising of:
    - 2.2.1 a statement from a treating staff nurse on another ward dated 22 April 2022;
    - 2.2.2 two statements from the treating neurology consultant dated 23 September 2022 and 11 October 2022;
    - 2.2.3 a medication list;
    - 2.2.4 a recent statement from patient A to the NMC;
    - 2.2.5 a statement from matron C dated March 2024;
    - 2.2.6 NMC document with the title 'Ensuring your decisions to refer are fair and unbiased' dated 2 February 2021;
    - 2.2.7 an NMC document (untitled and undated) setting out the allegations, summary of the progress of the case to date and attaching a bundle prepared on 25 March 2024; and
    - 2.2.8 NMC response to the claimant's Freedom of Information request dated 5 January 2024 and 5 February 2024 (NMC FOI Response).
  - 2.3 Ground 3: That the tribunal had erred in failing to conclude that the decision to refer the claimant to the NMC was contrary to its own internal procedure.
  - 2.4 Ground 4: That the tribunal had failed to take into account punitive 'double referral' by the employer .

On 5 June 2024, the application was refused under rule 70(2), there being no reasonable prospect of the original decision being varied or revoked, with the exception of the NMC FOI Response (ground 2.2.8) which was listed for a reconsideration hearing.

4. On 23 December 2024 Mrs Bennett submitted a second application to reconsider the original judgment on the grounds of new evidence comprising of the NMC Fitness to Practise Committee Substantive Meeting Decision on Mr Z.
5. On 7 February 2025 Ms Bennett submitted a third application to reconsider the original judgment on the grounds of new evidence comprising of the NMC Fitness to Practise Committee Substantive Meeting Decision on Mr Prew.

6. On 14 March 2025 Ms Bennett submitted a fourth application to reconsider the original judgment on the grounds of new evidence comprising of an Anonymous letter dated 23 May 2023.
7. The reconsideration hearing for the first application took place on 17-18 March 2025. Applications 2-4 were considered on the first day of the hearing. Applications 2 and 3 were dismissed on the grounds that the new evidence would not have had an important influence on the original hearing. Application 4 was dismissed because Ms Bennett had not acted with reasonable diligence and her conduct in failing to disclose it was in breach of tribunal orders and unreasonable. On the second day of the hearing (18 March 2025) Ms Bennett submitted a fifth application to admit new evidence comprising of: (a) Medical evidence about Ms Bennett's disability; (b) a second witness statement from Ms Bennett; and (c) a witness statement from Professor Anandi Ramamurthy and emails between Ms Bennett and Professor Ramamurthy dated 5 and 7 December 2023. Documents (a) and (b) were admitted but not (c) due to non-compliance with tribunal orders and relevance.
8. Written judgment following the reconsideration hearing was sent to the parties on 14 April 2024. The first application for reconsideration was dismissed on the grounds that Ms Bennett had not acted with reasonable diligence and the new evidence, although relevant, would not have had an important influence on the original hearing.
9. On 5 September 2025 the costs hearing took place.
10. On 16 October 2025 the costs judgment was sent to the parties
11. On 17 October 2025 Ms Bennett applied for reconsideration of the costs judgment.
12. On 17 November 2025 Ms Bennett submitted an appeal to the EAT.
13. On 1 December 2025 the parties were informed that the application for reconsideration of the costs judgment was refused under ET rule 70(2). There being no reasonable prospect of the original decision being varied or revoked. Ms Bennett in her application referred to the tribunal not acknowledging or processing her application for reconsideration of the Costs Judgment. The Reconsideration Costs Judgment was approved on 15 November 2025 and sent to the parties on the 1 December 2025. The Tribunal apologises for the delay in considering this application.
14. On 1 December 2025, the EAT stayed proceedings to enable Ms Bennett's application for reconsideration to be considered. The same day Ms Bennett submitted her sixth application for reconsideration of the original judgment (and

the reconsideration judgment) on the basis of alleged “new evidence” namely the article on the RCN website: “RCN wins landmark case: chief nurse reinstated after racism concerns ignored” published on 7 November 2025 (RCN article). It is accepted that the RCN article could not have been obtained with reasonable diligence prior to the original hearing or the reconsideration hearing. For the purposes of this decision it is assumed that the information contained therein is credible.

15. For the reasons set out below there is no reasonable prospect of the original decision being varied or revoked because:

**Ground a: Fresh public evidence of systematic racism at Medway NHS Foundation Trust**

- 15.1 The RCN article is not relevant and would not have had an important influence on the original decision or reconsideration decision. Ms Bennett submitted that the article highlighted systematic failures in the Trust, including the “trust’s failure to investigate race discrimination concerns and inequitable treatment”. Without sight of the report itself it is not possible to draw any conclusions. But even if the full report had been provided, it is highly unlikely that it would have influenced the original decision. Our original judgment was based on evidence provided in the Chief Nurse Table. The RCN article is not evidence that the Chief Nurse provided false data. The finding that the Chief Nurse herself had been discriminated against on grounds of race does not undermine the data that she provided in her table, and that we relied upon. For the reasons stated in our judgment the evidence provide in the Chief Nurse Table did not show differential treatment or disproportionality in referrals to the NMC.
- 15.2 Ms Bennett submitted that the RCN article undermined the following paragraphs in our original judgment:
- 15.2.1 Original judgment para 128: In this paragraph we stated that there was no evidence that the complaint from patient A was racially motivated. There is nothing in the RCN article that undermines this conclusion.
- 15.2.2 Original judgment para 144: In this paragraph we stated that there was no evidence that the claimant was subjected to differential treatment. This was in relation to whether or not we could draw an adverse inference from the lack of notes or record of the meeting which led to the decision to suspend the claimant. There is nothing in the RCN article that undermines this conclusion.
- 15.2.3 Original judgment para 150.1-2: In this paragraph we stated that we had no basis for concluding that Ms Streatfield was an

untruthful witness in relation to the evidence that she gave regarding cases recorded in the Chief Nurse Table. This evidence had not been challenged by Ms Bennett during the original hearing. There is nothing in the RCN article that undermines this conclusion.

- 15.3 Ms Bennett relied on the case of **Mayanja v City of Bradford MDC** [2025] EAT 160, to claim that where fresh evidence undermines “foundational credibility findings” then the entire judgment becomes unsafe and must be set aside. This case does not assist Ms Bennett since the RCN article does not undermine our credibility findings. In any event we did not make an “overarching assessment of credibility” of the respondent’s witnesses. The only global assessment we made was in the claimant’s favour in that we found him to be an “honest and open witness” in relation to the allegations against him: original judgment para 2. The assessment we made of Ms Streatfield’s evidence was based on the particular facts before us, which was not challenged by Ms Bennett at the original hearing.

**Ground 2: The Tribunal’s own credibility finding (misremembering) undermines every subsequent finding**

- 15.4 The RCN article is not relevant and would not have had an important influence on the original decision or reconsideration decision. It does not undermine Ms Streatfield’s evidence since it makes no reference to Ms Streatfield or any other respondent witness. In any event it cannot be inferred that a witnesses’ evidence is unreliable purely because a witness had “misremembered” a minor factual detail (in this case whether or not patient A had provided a note). Indeed **Mayanja** specifically cautions against making such overarching assessment when assessing credibility.

**Ground 3: Misremembering cannot be ringfenced**

- 15.5 Ms Bennett submitted that Ms Streatfield’s “misremembering” should not have been treated by the tribunal as an isolated lapse, and that there was a broader pattern of inaccuracies. Ms Bennett has not identified any “broader inaccuracies” made by Ms Streatfield and the NMC article provides no further evidence. Further her reference to **Mayanja** is misconceived for the reasons set out above.

**Ground 4: Fresh FOI evidence contradicts tribunal findings of “no evidence”**

- 15.6 Ms Bennett has not provided fresh FOI evidence that contradicts any of the tribunal’s findings.

**Ground 5: Material non-disclosure**

15.7 Ms Bennett has not provide any evidence that there has been material non-disclosure by the respondent prior to the original hearing. The RCN article is not evidence of non-disclosure by the respondent.

**Ground 6: Misinterpretation of Article 10 and Public Interest Disclosure**

15.8 This has already been addressed in the response to the application to reconsider the costs judgment.

**Ground 7: Appearance of Bias (Laing v Bury) and Racialised Credibility Framing**

15.9 This has already been addressed in the response to the application to reconsider the costs judgment.

**Ground 8: ETBB Failures and Disability Misinterpretation**

15.10 This has already been addressed in the response to the application to reconsider the costs judgment.

**Ground 9: Proportionality and fairness in the Costs Order**

15.11 This has already been addressed in the response to the application to reconsider the costs judgment.

**Ground 10: Post-employment victimisation**

15.12 Any alleged act of victimisation post-dating the judgment, is not a reconsideration matter.

**Ground 11: New legal authority (Mayanja)**

15.13 For the reasons set out above the case of **Mayanja** does not assist the claimant and does not affect our original decision.

Accordingly the application, on all grounds, is refused.

This Judgment has been approved by:

Employment Judge **HART**

Date: 18 December 2025