Case Number: 3301532/2023

EMPLOYMENT TRIBUNALS

Claimant: Miss G Amissah

Respondent: London Borough of Islington

JUDGMENT

The Claimant's application dated **15 December 2025** for reconsideration of the judgment sent to the parties on **2 December 2025** is refused.

REASONS

1. On 2 December 2025 the judgment dismissing the claim was sent to the parties. This was a 117 page judgment which contained full written reasons for the Tribunal's findings of fact and the conclusions reached.

2. The Claimant has since sent a succession of emails to the Tribunal as follows:

   2.1 15 December 2025 3:59pm – containing the 17-page application for a reconsideration together with additional disclosure bundle.

   2.2 15 December 2025 6:27pm – containing a revised application and disclosure bundle.

   2.3 15 December 2025 7:02pm – attaching further disclosure.

   2.4 15 December 2025 8:10pm – concerning the deposit and costs.

   2.5 16 December 2025 1:40pm – concerning the deposit, costs, amendment of the claim and a re-hearing.

   2.6 16 December 2025 2pm - concerning the deposit and costs.

   2.7 16 December 2025 2:01pm - concerning the deposit, costs, amendment of the claim and a re-hearing.

3. This judgment will address the application for a reconsideration only. The correspondence concerning the deposit, costs, and amendment of the claim will be responded to separately.

Claimant's application

4. The grounds for reconsideration are contained in a 17 page application and spread out over the various emails sent on 15 December 2025, and is based upon alleged fresh evidence and material procedural irregularity, and the Claimant seeks a reconsideration in the interests of justice. The Claimant states that she is not challenging any factual findings, rather she is challenging the adequacy and transparency of the Tribunal's reasoning. The Claimant also states that the application concerns the issues about the self isolating email query[1], and also union emails[2], however the application document addresses other issues in the claim.

5. The Claimant has provided the Tribunal with additional material not placed before it during the original hearing. These documents comprise various text or WhatsApp messages between the Claimant and her colleagues about self isolating during the Pandemic; emails or extracts of emails between Mr Turnock and Mr Holt in HR about a draft letter to the Claimant and the conduct of union meetings from October 2020; a screenshot of a table from Islington Council about Covid scenarios; an email from Mr Turnock to the Claimant and Rose Graham following on from an email to Year 4 Parents and Carers on 22 November 2020 about isolating; a Governors' briefing from October 2020; and an email between the Claimant and her Union Representative on 11 November 2020.

6. The Claimant's reconsideration bundle in her email of 15 December 2025 at 3:59pm contains incomplete versions of the emails between Mr Turnock and Mr Holt from October 2020. These are in the same format or style as those taken from Mr Turnock's iPad or email account without his consent during 2020 – they appear to be either screenshots or photographs of the emails with parts missing. In the Claimant's second version of the reconsideration bundle at 6:27pm on 15 December 2025, these incomplete emails have been removed and replaced with the full versions which appear to have been disclosed by the Respondent on 15 December 2025 at 4:13pm. The cover email from the Respondent states:

   "We have reviewed the emails you refer to. The relevant email chain between Mr Holt and Mr Turnock was not included in the original SAR response due to an inadvertent administrative error when reviewing email threads with similar subject headings. The omission was not intentional. For completeness, we now enclose the email chains you have requested."

7. The Claimant makes reference to the decisions *in* ***Mayanja v City of Bradford Metropolitan District Council*** **[2025] EAT 160**, and also ***Ladd v Marshall*** **[1954] 1 WLR 1489**.

8. The Claimant argues that she did not receive a fair hearing as critical contemporaneous evidence was unavailable, incomplete or disclosed after the Tribunal had formed views on credibility and motive. The Claimant references a disclosure application she says she made on 25 July 2025 which was not placed before the Tribunal during the hearing. The Claimant says that this disclosure application related to HR advice.

9. Much of the new disclosure is said to relate to a query from Mr Turnock on 22 November 2020 about whether the Claimant was self-isolating. The Claimant says that the new disclosure shows that they had spoken on 21 November 2020 and Mr Turnock knew she was self-isolating so there was no need for him to have queried her status the next day, and she repeats her arguments that she was singled out and selected for scrutiny whereas others were not. The Claimant alleges that the

[1] Issues 3.2.15; 4.1.15; and 5.1.16
[2] Issues 3.2.11; 3.2.13; 4.1.11; 4.1.13; 5.1.12; and 5.1.14

Tribunal misapplied the burden of proof and that it was in error by accepting simple assertions from the Respondent in the absence of cogent evidence.

10. The Claimant refers to the new disclosure of emails between Mr Turnock and Mr Holt in HR. One email exchange of 5 October 2020 concerns HR advice on a draft letter to the Claimant about her conduct and in response Mr Turnock stated *"The member of staff in question is now the NEU rep for the school after a union putsch which is going to make things interesting."*

11. A second email exchange of 14 October 2020 concerns Mr Turnock seeking advice on a pro forma or agreed format for union meetings. The response from Mr Holt was that there was no pro forma however the areas for discussion would include staffing concerns (not just about health and safety), well-being, and also appraisals etc; and that agenda items should be sent 24 hours before the meeting; with any other business discussed at the start of the meeting should anything come up at the last minute.

12. An email exchange of 16 October 2020 about the conduct of the union meetings was already before the Tribunal in the final hearing.

13. The Claimant says that had this material been before the Tribunal it would have had an important influence on the outcome and at the very least it would have required the Tribunal to reassess the weight placed on the Respondent's explanations and credibility.

14. The Claimant goes on to ask the Tribunal to reconsider the findings regarding all events including the self-isolation incident[3] as the Tribunal's reasoning relies upon a flawed assessment of the evidence.

15. Within the body of the two emails of 15 December 2025 at 3:59pm and 6:27pm the Claimant also argues that the Tribunal has allowed the Respondent to advance a materially new explanation for its conduct for the first time during cross examination whereas the explanation did not appear in the ET3 or witness statements. This appeared to be directed towards the issue about self isolating.

16. With respect to the issue about self isolating the Claimant argues the Tribunal was in error by finding that she only became aware of the email query after resigning, whereas she says that the contemporaneous documents show that she was aware of it before resigning and this impacts causation in her constructive dismissal claim.

17. The Claimant also says that the finding that she was unaware of the isolation query is now contradicted by contemporaneous documents she has now disclosed which consist of her WhatsApp messages with Rose Graham on 20 and 21 November 2020, and a newly disclosed email from the Respondent where Mr Turnock sent an email about home learning on 22 November 2020 where he tells the Claimant and Ms Graham to keep in contact and that he would stay in touch. The Claimant says this supports evidence Mr Turnock had already spoken to her and told her that she must isolate and that he knew she was isolating.

18. The Claimant refers to ***Law Society and others v Bahl*** **[2003] IRLR 640** and argues that while a tribunal may identify an obvious non-discriminatory explanation that arises naturally from its own primary findings of fact, such an explanation must be one that was apparent from the evidence. The Claimant again argues a misapplication of the burden of proof.

19. The Claimant states that with respect to the query about whether she was self-isolating, four comparators were in materially the same position and that the

[3] Issues 3.2.15; 4.1.15; and 5.1.16

Respondent's case depended upon her being in a different position because her isolation status was said to be uncertain. The Claimant says the Respondent failed to disclose public health advice or contemporaneous risk assessments which she says should support an adverse inference. The Claimant further alleges that the Tribunal accepted a new justification from the Respondent without examining whether it had been pleaded; whether she had fair notice; whether it had been challenged in cross-examination; and whether it was consistent.

20. The Claimant also challenges the judgment saying the Tribunal had formed an adverse assessment of her credibility because there was no reason for her to be handling iPads, and the Claimant refers to the case of ***Mayanja*** about the danger of making an overarching assessment of credibility which is then used globally in all subsequent assessments.

21. The Claimant says that the Tribunal accepted the Respondent's evidence and found its witnesses were honest and reliable without distinguishing between to two Throughout the application the Claimant argues that there is a lack of reasoning in the judgment and that it is not compliant with ***Meek v City of Birmingham District Council*** **[1987] IRLR 250.**

22. The Claimant also challenges the Tribunal's findings about the reason why Mr Turnock sent his email about "taking a contract out"[4] and she says that Mr Turnock could point to no explanation, whereas the Tribunal made a finding on the reasons why, and she says that the Tribunal misapplied the burden of proof. The Claimant also argues that the Tribunal failed to show it had properly considered the issue of unconscious influence, and she adds that her difficulty is not with the outcome reached but the adequacy of the reasoning and that the Tribunal's explanation does not show how the Respondent proved that race played no part whatsoever in her treatment.

23. The Claimant also refers to the issue about her use of credentials under her email signature[5] and she argues a lack of reasoning from the Tribunal about why it made the findings it did, given she says by various explanations from Mr Turnock and a lack of evidence from Mrs Sergides on the issue.

Law

24. Rule 3 of the Employment Tribunal Rules of Procedure 2024 provide as follows:

Overriding objective

3.—(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes, so far as practicable—

(a) ensuring that the parties are on an equal footing,

(b) dealing with cases in ways which are proportionate to the complexity and importance of the issues,

(c) avoiding unnecessary formality and seeking flexibility in the proceedings,

(d) avoiding delay, so far as compatible with proper consideration of the issues, and

(e) saving expense.

[4] Issues 3.2.13; 4.1.14; and 5.1.15
[5] Issues 3.2.12; 4.1.12; and 5.1.13

(3) The Tribunal must seek to give effect to the overriding objective when it—

(a) exercises any power under these Rules, or

(b) interprets any rule or practice direction.

(4) The parties and their representatives must—

(a) assist the Tribunal to further the overriding objective, and

(b) co-operate generally with each other and with the Tribunal.

25. Part 12 of the Rules provides:

Reconsideration of judgments

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.

(4) If the application has not been refused under paragraph (2), the judgment must be reconsidered at a hearing unless the Tribunal considers, having regard to any written representations provided under paragraph (3), that a hearing is not necessary in the interests of justice.

(5) If the Tribunal determines the application without a hearing the parties must be given a reasonable opportunity to make further written representations in respect of the application.

Reconsideration by the Tribunal on its own initiative

71. Where the Tribunal proposes to reconsider a judgment on its own initiative, it must inform the parties of the reasons why the decision is being reconsidered and the judgment must be reconsidered (as if an application had been made and not refused) in accordance with rule 70(3) to (5) (process for reconsideration).

26. The Court of Appeal in ***Ministry of Justice v Burton and anor*** **[2016] EWCA Civ 714** observed (paragraph 21) that the discretion to act in the interests of justice is not open ended and should be exercised in a principled way, and it emphasised the importance of finality.

27. In ***Ebury Partners UK Ltd v Acton Davis*** **[2023] IRLR 486** it was held:

"The employment tribunal can therefore only reconsider a decision if it is necessary to do so "in the interests of justice." A central aspect of the interests of justice is that there should be finality in litigation. It is therefore unusual for a litigant to be allowed a "second bite of the cherry" and the jurisdiction to reconsider should be exercised with caution. In general, while it may be appropriate to reconsider a decision where there has been some procedural mishap such that a party had been denied a fair and proper opportunity to present his case, the jurisdiction should not be invoked to correct a supposed error made by the ET after the parties have had a fair opportunity to present their cases on the relevant issue. This is particularly the case where the error alleged is one of law which is more appropriately corrected by the EAT." [24]

28. Similarly in ***Trimble v Supertravel Ltd*** **[1982] ICR 440** the court emphasised that alleged errors of law fall to be corrected by the appeal tribunal. Moreover, in ***Newcastle Upon Tyne City Council v Marsden*** **[2010] ICR 743** it was held:

"…the view that it is unjust to give the losing party a second bite of the cherry— seems to me entirely appropriate: justice requires an equal regard to the interests and legitimate expectations of both parties, and a successful party should in general be entitled to regard a tribunal's decision on a substantive issue as final (subject, of course, to appeal)." [17]

29. The case of ***Ladd v Marshall*** **[1954] I WLR 1489** provides guidance on the issue of admission of new evidence after the end of a hearing. The court held that the party seeking to adduce fresh evidence must show (1) that the evidence could not have been obtained with reasonable diligence for use at the original hearing; (2) that it is relevant and would probably have had an important influence on the hearing; and (3) that it is apparently credible.

30. The court in ***Flint v Eastern Electricity Board*** **[1975] ICR 395** addressed the issue of where evidence was alleged to have been suppressed by a party:

"It seems to me that all those cases — there are others, but I will not take time to cite them all — show that in the ordinary courts, that is to say, the Court of Appeal, the High Court and the county court, there is plainly a residual class of unusual case where in justice it is right that there should be a re-trial to enable fresh evidence to be given, even though to some extent it may be said that the evidence was available."

31. The court in ***Flint*** went on to consider the issue of the interests of justice:

"First of all, they are the interests of the employee. Plainly from his point of view it is highly desirable that the evidence should be given, because it follows, from what I have already said, that there is at least some, perhaps good, chance that if it is given his case will succeed. One also has to consider the interests of the employers, because it is in their interests that once a hearing which has been fairly conducted is complete, that should be the end of the matter. Although this is a case where one's sympathy is with the employee, because it is his claim for a redundancy payment and the employers have more money than he has, it has to be remembered that the same principles have to be applied either way because one day a case may arise the other way round. So, plainly, their interests have to be considered.

But over and above all that, the interests of the general public have to be considered too. It seems to me that it is very much in the interests of the general public that proceedings of this kind should be as final as possible; that is should only be in unusual cases that the employee, the applicant before the tribunal, is able to have a second bite at the cherry. It certainly seems to me, hard though it may seem in the instant case, that it would not be right that he should be allowed to have a second bite at the cherry in cases which are perfectly simple, perfectly straightforward, where the issues are perfectly clear and where the information that he now seeks leave at a further hearing to put before the tribunal has been in his possession and in his mind the whole time. It really seems to me to be a classic case where it is undesirable that there should be a review."

32. Further in ***Outasight VB Limited v Brown*** **UKEAT/0253** it was held:

"49. More specifically, as to an application to introduce fresh evidence after the determination of a case, the approach laid down in Ladd v Marshall will, in most cases, encapsulate that which is meant by the "interests of justice". It provides a consistent approach across the civil courts and the EAT. Should a different approach be adopted in the ET because the principles of Ladd v Marshall are no longer expressly set out in the Rules? I do not think so. Those principles set down the relevant questions in most cases where judicial discretion has to be exercised upon an application to admit fresh evidence in the interests of justice.

50. In saying that, I allow that the interests of justice might on occasion permit evidence to be adduced where the requirements of Ladd v Marshall are not strictly met, but it was ever thus. Hence, the residual category allowed by Rule 34(3)(e) 2004 Rules and the recognition of how this might then be used in cases such as Flint and Deria. As to what circumstances might lead an ET to allow an application to admit fresh evidence, that will inevitably be case-specific. It is, of course, always dangerous to try to lay down any general principles when dealing with specific facts, particularly where - as here - one party is not represented and where the point was not fully argued below. That said, it might be in the interests of justice to allow fresh evidence to be adduced where there is some additional factor or

mitigating circumstance which meant that the evidence in question could not be obtained with reasonable diligence at an earlier stage (Deria). This might arise where there are issues as to whether there was a fair hearing below; perhaps where a party was genuinely ambushed by what took place or, as in Marsden, where circumstances meant that an adjournment was not allowed to a party when otherwise it would have been (there apparently because of an error on the part of that party's Counsel)."

33. The courts in ***Flint*** and ***Outasight*** were both addressing different and earlier versions of the Employment Tribunal Rules of Procedure, however the principles remain valid that there may be circumstances whereby new material (which may been available during the original hearing) may justify a re-hearing.

34. The EAT in ***Mayanja v City of Bradford Metropolitan District Council*** **[2025] EAT 160** cautions tribunals against making an overarching assessment of credibility that is then relied upon in all further assessments.[6]

Conclusions on application

Late disclosure

35. I will deal first with the issue about late disclosure, applying the guidance in ***Ladd v Marshall***.

36. Whereas the Claimant has not stated it as such, much of this new disclosure is material which was in her possession at the time of the last hearing as it comprises of messages (or WhatsApp messages) between the Claimant and her colleagues about self isolating, and also one message between the Claimant and her trade union representative.

37. These messages would probably not have had an important influence on that hearing as Mr Turnock was unable to remember a great deal about matters allegedly occurring five years earlier during the Pandemic. The Claimant has argued that she was treated less favourably than her comparators and there was no need to check up on her as she had spoken to Mr Turnock who knew she was isolating.

38. At paragraph 571 of the judgment the Tribunal determined that the Claimant had not established a *prima facie* case of discrimination, nevertheless and for the sake of completeness, the Tribunal moved to the second stage of the burden of proof and asked the question of the reason why Mr Turnock sent the email on 22 November 2020 about checking if the Claimant was isolating. The Tribunal accepted the explanation of Mr Turnock that there was ambiguity around bubbles at that time about adults not in the same class as infected children. Whereas the Claimant appears to suggest that there was no ambiguity, the Tribunal was satisfied that at least Mr Turnock believed there to have been ambiguity and he was asking the business manager to check the position in order to complete the reporting he was required to undertake. Whereas the Claimant argued that she was singled out for additional scrutiny, that was not made out on the evidence and the late disclosure of the messages with colleagues would not have altered that finding.

39. Similarly, the Governors' briefing of 22 October 2020 which contains a section on Covid-19 arrangements and isolating, would not have added anything to the case, and nor would it have had any influence on the hearing. The issue in this claim was about Mr Turnock's query to KM about whether the Claimant was isolating, and as we have already found Mr Turnock considered there to be some ambiguity.

[6] Paragraphs 38 and 39

The inclusion of these documents would not have had any influence on that. The same is true of Mr Turnock's email of 22 November 2020 at 9:01pm to Ms Graham and the Claimant – at the very most Mr Turnock is updating both on a message he sent to Year 4 Parents and Carers and he asks Ms Graham and the Claimant to keep in touch. There was no further inference to be drawn from the innocuous email, even when viewed in the context of Mr Turnock's email to KM that same evening to check if the Claimant was isolating. This appears to be entirely innocuous correspondence which would not have had any influence on the hearing had it been put before us.

40. As regards the emails between Mr Turnock and Mr Holt of 5 October 2020 about a draft letter to the Claimant about her conduct, I am not satisfied that this was material which was also not available at the time of the last hearing. The versions in the first reconsideration bundle are in the same format or style as those documents taken from Mr Turnock's iPad without his consent, allegedly disclosed to the Claimant in Autumn 2022 by an anonymous whistleblower. The same is true of the emails dated 14 October 2020 about the conduct of the union meetings. In the original reconsideration bundle these also appeared to be screenshots or photographs of emails, missing portions of the email, and they are the same type of capture as those emails taken from Mr Turnock's email account potentially unlawfully. In the second version of the reconsideration bundle these documents have been removed and replaced by fuller copies which appear to have been disclosed to the Claimant by the Respondent on 15 December 2025. I am not satisfied that the Claimant did not already have these two exchanges in her possession at the time of the original hearing – the format of those documents is suggestive that they were copies of documents taken from Mr Turnock's iPad or email account earlier and were already in the Claimant's possession.

41. Leaving aside whether the Claimant had these documents or not, had these been presented at the time of the original hearing I am not minded that either exchange would have had an important influence on the outcome of that hearing because it was known that Mr Turnock sought advice on the conduct of the union meetings which he found difficult, and it was known that advice was sought on a draft letter to go to the Claimant about her conduct. The contents of both exchanges do not alter the original findings nor the conclusions later in the judgment, rather both support those findings and conclusions.

42. As regards the remainder of the new disclosure, the email or message between the Claimant and Mr Buttifint of 11 November 2020 was already in the Claimant's possession but it would have added nothing to the case, nor would it have had any influence on the outcome had it been provided earlier.

43. As regards the Claimant's application for disclosure which she says was made on 25 July 2025 for disclosure of HR advice, this was not put before the Tribunal nor was it raised in the hearing despite numerous opportunities to do so. The issue of disclosure was raised daily but this matter was not raised during the course of these daily discussions. The Claimant now appears to have these emails, which as I have indicated may have been in her possession already, and they would have had no influence on the outcome of the hearing.

44. Leaving aside the guidance in ***Ladd v Marshall***, I am also not minded on the basis of ***Flint*** and ***Outasight*** that there is anything exceptional about this late disclosure, or that it would be in the interests of justice so as to justify the exceptional step of granting a reconsideration and a re-hearing. There must be finality in litigation, and it is not fair on the other party or the public in general, to give losing parties a second bite of the cherry by granting a re-hearing on the basis of documents that were for the most part already in the possession of the losing party.

Credibility

45. Turning now to the issue of the Claimant's credibility and her reliance on the case of ***Mayanja***, and whether the Tribunal adopted an approach of preferring the Respondent's evidence over that of the Claimant.

46. The issues in this case where whether the acts happened or not; if they did happen were they discriminatory; and if so, were they breaches of contract; and if so, did the Claimant resign in response to them?

47. The Tribunal's task was made more complicated due to the manner in which some of the matters allegedly came to the attention of the Claimant who argued that she had stumbled across the email of Mr Turnock dated 19 November 2020 when checking who owned an iPad, and it was further argued that some of these matters were disclosed to her by a confidential whistleblower in Autumn 2022 which was after her resignation.

48. The Tribunal had to grapple with when each matter came to the attention of the Claimant, and it noted that it had concerns about the reliability what the Claimant was saying about her access to the iPad and when these matters were disclosed to her. Notwithstanding those concerns, the Tribunal elsewhere indicated where it preferred the Claimant's evidence over that of Mrs Sergides, for example at paragraphs 76 and 94 of the judgment. Accordingly, the Tribunal did not adopt an approach of preferring the Respondent's evidence over that of the Claimant, rather each allegation and each dispute of fact was tested by the Tribunal. It was nevertheless incumbent upon the Tribunal to explain why it had concerns about when the Claimant became aware of these matters due to the apparent implausibility of the explanations as to how they came into her possession.

Alleged error of fact

49. Following on from the issue of when these matters came to the attention of the Claimant, the Claimant argues in her reconsideration application that she was aware of Mr Turnock's email of 22 November 2020 about self isolating, prior to her decision to resign. We are referred to the email from the Claimant to Mr Buttifint of 11 May 2025 where this is referred to.

50. The Claimant's account had always been that the emails improperly obtained from Mr Turnock's iPad or email account (save for the 19 November 2020 email) were disclosed to her by an anonymous whistleblower in Autumn 2022. This was the Claimant's evidence to us in the hearing. Clearly this was incorrect.

51. The Tribunal has already addressed this matter within the findings of fact:

"283. On Sunday 22 November 2020 at 9:08pm Mr Turnock emailed KM the Business Manager to discuss committee meeting minutes and said "Also we need to check whether SA is actually isolating or not but I'll talk to you about that in the morning." This is another email taken from Mr Turnock's email without his consent by someone who the Claimant says was her whistleblower. The Claimant was not a party to this email but referred to it in her grievance in June 2022 which is inconsistent with her arguments about having been disclosed things in Autumn 2022 by her confidential whistleblower."

52. This is further considered in the conclusions section:

"574. Whereas the Claimant says she was disclosed this email in Autumn 2022, it was referenced in her grievance of 13 June 2022 so she at least knew about it by then, but this was still after her resignation. Even if the Claimant had known about this earlier, and prior to her decision to resign, we find that this was neither

calculated nor likely to seriously damage or destroy mutual trust and confidence, either in isolation nor cumulatively with the other matters in this case. This was a trivial routine query and nothing more. We dismiss the complaint of a breach of contract."

53. The Tribunal has not made an error in its fact finding as it kept open the possibility that what the Claimant had said about receiving documents in Autumn 2022 had been inaccurate as it was referred to in the grievance in June 2022. The Tribunal then considered the position if the Claimant had seen the email before her decision to resign, and the Tribunal found that it would not have been a breach whenever it was that the Claimant had seen it.

54. The fact that the Claimant referenced the email of 22 November 2020 during May 2022 to Mr Buttifint does not impact the Tribunal's conclusions at paragraphs 587 and 588 of the judgment as the Claimant's race was not a factor in the decision of Mr Turnock to send that email; this did not amount to a breach of contract in any event; and we have been unable to make a finding on what this email came to the attention of the Claimant. It is not in the interests of justice for the judgment to be reconsidered on this basis as this does not impact the overall judgment, nor the Tribunal's consideration of the cumulative effect of the matters identified. This was simply an innocuous email sent by a senior manager who was required to report on how many people were isolating.

Inadequate explanations from the Respondent / burden of proof

55. The Claimant makes a number of criticisms of the original judgment to the effect that the Tribunal misapplied the burden of proof provisions, or has made findings and reached conclusions about the reason for treatment in the absence of an explanation by the Respondent. One such example relates to the email sent by Mr Turnock to Mrs Sergides on 19 November 2020 where he inappropriately and unprofessionally joked about taking out a contract. Mr Turnock did not dispute sending the email, rather he could not recall the reason why it was sent.

56. As set out in the liability judgment, the Tribunal determined that there had not been less favourable treatment of the Claimant on grounds of race in comparison with the two named comparators. It was open to the Tribunal to dismiss the allegation at that stage, however the Tribunal looked to see whether it could construct a hypothetical comparator. That would not have assisted in this case due to the difficult working relationship between Mr Turnock and the Claimant, therefore the Tribunal moved to the second stage and asked the reason for the treatment. This, as other cases have recorded, does not prejudice a claimant as it presupposes they have passed the first part of the burden of proof and it is to their advantage. This approach was permissible on the basis of ***Brown v London Borough of Croydon and anor*** **[2007] ICR 909, CA** and also ***Hewage v Grampian Health Board*** **[2012] IRLR 870** both referenced within the judgment, whilst noting the caution expressed in ***Field v Pye*** **Co** ***Ltd & others*** **[2022] IRLR 948**.

57. In this case, the Tribunal explored the issue in considerable detail at paragraphs 548 – 568 of the judgment, and applying the decision in ***Bahl v Law Society*** **[2004] IRLR 799** the Tribunal found that it was able, from its own fact finding, to point to an obvious reason for the treatment. The Claimant appears either to disagree with this approach or the conclusion reached nevertheless findings of discrimination or discriminatory intent are serious matters, and as such, care should be exercised before drawing such an inference.

58. To the extent that the Claimant seeks to argue that this approach, or any other conclusion reached, was an error of law, then the appropriate course is to appeal to the Employment Appeal Tribunal rather than by way of a reconsideration. This is clear from the cases of ***Ebury Partners UK Ltd***; ***Trimble****;* and ***Marsden***.

Insufficient reasons

59. The Claimant makes repeated arguments that the Tribunal has provided insufficient reasons for its conclusions, and the judgment is not ***Meek*** compliant.

60. Whereas the Claimant may disagree with the findings and the conclusions, all of these have been explored in considerable detail in this 117 page judgment, considering each of the allegations in isolation and cumulatively, and sufficient reasons have provided with respect to each of the legal issues that were decided.

Conclusion

61. I have considered the Claimant's application for reconsideration in detail and I conclude that a reconsideration of the judgment of 28 November 2025 is not in the interests of justice. None of the grounds of the Claimant's application meet the high threshold which would justify a re-hearing. Much of the Claimant's application seeks to re-litigate matters which have already been decided, and any late disclosure would not have had any influence on the outcome of the hearing.

62. Both parties had a fair opportunity to present their cases during the original hearing, and whereas the Claimant is clearly dissatisfied with the outcome, I am not minded that there was any error in the findings and conclusions which would impact the overall judgment in this case that the Claimant was not discriminatorily constructively dismissed.

63. To the extent that the Claimant maintains that the judgment contains errors of law, the appropriate way forward is for an appeal to the Employment Appeal Tribunal.

64. I therefore dismiss the Claimant's application dated 15 December 2025 for a reconsideration on the basis that it is not in the interests of justice to grant it.

Approved by

Employment Judge Graham
8 January 2026

JUDGMENT SENT TO THE PARTIES ON

15 January 2026

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FOR THE TRIBUNAL OFFICE