EMPLOYMENT TRIBUNALS

BETWEEN

Claimant		**Respondent**
Ms F Yasmin	AND	Dorset Wheels Limited

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD IN CHAMBERS AT Bristol ON 19 January 2026

EMPLOYMENT JUDGE J Bax

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the tribunal is that the claimant's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. The claimant has applied for a reconsideration of the judgment dated 4 November 2025, striking out the unfair dismissal claim, which was sent to the parties on 11 December 2025 ("the Judgment"). The grounds are set out in her application dated 24 December 2025, received at the tribunal office the same day.

2. The Employment Tribunal Procedure rules 2024 set out the rules of procedure. Rule 69 provides in respect of an application for reconsideration under Rule 68 that ,

> " 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.

3. The application was therefore received within the relevant time limit.

4. The grounds for reconsideration are only those set out in Rule 68, namely that it is necessary in the interests of justice to do so.

5. The grounds relied upon by the claimant are that she also had claims of harassment and sex discrimination and constructive dismissal was properly pleaded under the Equality Act 2010.

6. The earlier case law suggests that the interests of justice ground should be construed restrictively. The Employment Appeal Tribunal ("the EAT") in Trimble v Supertravel Ltd [1982] ICR 440 decided that if a matter has been ventilated and argued then any error of law falls to be corrected on appeal and not by review. In addition, in Fforde v Black EAT 68/80 (where the applicant was seeking a review in the interests of justice under the former Rules which is analogous to a reconsideration under the current Rules) 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".

7. More recent case law suggests that the "interests of justice" ground should not be construed as restrictively as it was prior to the introduction of the "overriding objective" (which is now set out in Rule 3). This requires the tribunal to give effect to the overriding objective to deal with cases fairly and justly. As confirmed in Williams v Ferrosan Ltd [2004] IRLR 607 EAT, it is no longer the case that the "interests of justice" ground was only appropriate in exceptional circumstances. However, in Newcastle Upon Tyne City Council v Marsden [2010] IRLR 743, the EAT confirmed that it is incorrect to assert that the interests of justice ground need not necessarily be construed so restrictively, since the overriding objective to deal with cases justly required the application of recognised principles. These include that there should be finality in litigation, which is in the interest of both parties.

8. In Outasight VB Ltd v Brown [2015] ICR D11, EAT, HHJ Judge Eady QC accepted that the wording 'necessary in the interests of justice' in rule 70 allows the tribunal a broad discretion to determine whether reconsideration of a judgment is appropriate in the circumstances. However, this discretion 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'*.

9. The Judgment dated 4 November 2025, only struck out the claim of constructive dismissal under the Employment Rights Act 1996. The Claimant did not have two years' service and therefore could not bring a claim of unfair dismissal under that act, unless she fell within one of the exceptions in s. 108 of the Employment Rights Act 1996. Discrimination and Harassment under the Equality Act 2010 are not one of the exceptions in s. 108 of the Employment Rights Act 1996. The Claimant did not fall within one of the exceptions and the Tribunal did not have jurisdiction to hear the unfair dismissal claim under the Employment Rights Act 1996.

10. Accordingly I refuse the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

11. The Claimant is correct that she can bring a claim of discriminatory constructive dismissal under s. 39 of the Equality Act 2010. The Judgment dated 4 November 2025 did not strike out that claim and it is still before the Tribunal and will be discussed at the case management hearing on 8 April 2026.

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Approved by
Employment Judge J Bax
Dated 19 January 2026

Judgment sent to Parties on
23rd January 2026

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Simon Fraser
For the Employment Tribunal

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