



EMPLOYMENT TRIBUNALS

Claimant: Ms J Wilkinson
Respondent: Cleveland Fire Authority

JUDGMENT

The claimant's application dated 9 October 2025 for reconsideration of the judgment and written reasons sent to the parties on 25 September 2025 is refused.

REASONS

The Application

1. The claimant submitted an application for a reconsideration of the Tribunal's judgment which had been delivered orally at a hearing on 24 July 2025 and was later sent, together with written reasons, to the parties on 25 September 2025. By that judgment, the claimant's complaints of unfair dismissal and discrimination arising from disability relating to her dismissal were upheld. Her complaints of discrimination arising from disability relating to the commencement of stage 3 of the formal capability procedure in or around September 2023 and of victimisation relating to her dismissal were dismissed.
2. Her application was made on 9 October 2025. The claimant provided a significant number of documents in support of her application (although some had to be re-sent subsequently in a format which the Tribunal could open). Her application was referred to me on 3 November 2025.

The Principles for determining the Application

3. A tribunal has power to reconsider any judgment where it is necessary in the interests of justice to do so: Rule 68 of the Employment Tribunal Procedure Rules 2024. An application by a party for reconsideration may be made at a hearing or in writing. If it is made in writing, it must be sent to the Tribunal, with copies to all other parties, within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties, or, if later, within 14 days of the date that the written reasons were sent, and it must set out why reconsideration of the original decision is necessary: rules 69

and 90. The claimant has applied for reconsideration within the required timeframe.

4. Pursuant to paragraph 6 of the Senior President of Tribunals' Practice Direction on Panel Composition, an application for a reconsideration must first be considered by an Employment Judge under rule 70(2). As contemplated by the accompanying Presidential Guidance, it will further the interests of justice and be in accordance with the overriding objective for me (as the Employment Judge who chaired the full tribunal which made the original decision) to deal with the claimant's application for reconsideration. If I consider there is no reasonable prospect of the original decision being varied or revoked, I must refuse the application. This aspect of the procedure provides an important protection for the other party, in that that other party should not be put to the time and expense involved in responding to the application if the Employment Judge considers that there is no reasonable prospect of the judgment being varied or revoked. The Employment Judge's role upon considering such an application in the first instance is to act as a filter to determine whether there is a reasonable prospect of the Judgment being varied or revoked.
5. If I consider that there is some reasonable prospect of the original decision being varied or revoked, I must seek a response from the respondent and seek the views of the parties on whether the matter can be determined without a hearing. The application would then be determined by the full tribunal, whether it is dealt with at a hearing or on the papers.
6. In deciding whether it is necessary to reconsider a judgment in the interests of justice, the Tribunal must seek to give effect to the overriding objective to deal with cases fairly and justly. This obligation is provided in Rule 3. The obligation 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.
7. The obligation includes taking into account established principles. Those established principles mean that the Tribunal must have regard not just to the interests of the party seeking the review, but also to the fact that a successful party should in general be entitled to regard a Tribunal's decision on a substantive issue as final and to the public interest requirement that there should, as far as possible, be finality of litigation. As the court stressed in *Flint v Eastern Electricity Board [1975] IRLR 277, QBD*, "it is very much in the interests of the general public that proceedings of this kind should be as final as possible."
8. As Simler P said in *Liddington v 2Gether NHS Foundation Trust*

UKEAT/0002/16/DA:

“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, and the opportunity for appellate intervention in relation to a refusal to order reconsideration is accordingly limited.

Where, as here, 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.”

9. There must be some basis for reconsideration; the process is not an opportunity for a party to provide further evidence or to seek to reopen matters which the Tribunal has determined without good reason.

The Application

10. I have carefully considered the claimant’s application and the grounds she sets out for her application, and I have concluded that there is no reasonable prospect of variation or revocation of the original decision.
11. The claimant has not identified whether many of her supporting documents were or could have been referred to at the hearing, or whether they are new evidence.
12. I am satisfied that we understood, and gave proper consideration to, the evidential points made at the hearing. I am also satisfied that we understood, and gave proper consideration to, the representations made at the hearing and the submissions of the parties. That is set against the backdrop of those facts which had already been determined by the (differently constituted) Tribunal in Claim One being accepted and not in dispute. Matters which were raised at the hearing which were relevant to the claimant’s extant complaints are covered, either in broad or specific terms, in the judgment. This does mean that not all the matters that the parties told us about are recorded in our findings of fact: that is because we limited them to points that were relevant to the legal issues. The points in the application for reconsideration made at the original hearing were either ones which we did not accept or made no difference to our decision. To the extent that the claimant is relying on evidential points which were or could have been raised at the hearing, these points in the application for reconsideration attempt to re-litigate evidential matters which were or could have been addressed at the original hearing.
13. If the claimant is seeking to persuade the Tribunal, in the interests of justice, to reconsider its judgment on the basis of new evidence the test set out in *Ladd v*

Marshall applies. Normally that means showing:

- (a) that the evidence could not have been obtained with reasonable diligence for use at the original hearing;
- (b) that it is relevant and would probably have had an important influence on the hearing; and
- (c) that it is apparently credible.

14. There is nothing to suggest that the test in *Ladd v Marshall* is made out. It is not in the interests of justice to permit the claimant to advance new evidence or seek to re-litigate her position in a reconsideration application in those circumstances.
15. The basis of the claimant's application, in essence, is that she disagrees with the Tribunal's assessment of the evidence and its conclusions and is seeking to reargue the claimant's case. Many of the points made now in the reconsideration application are substantially the same as those she made at the hearing, and, to the extent we considered them relevant, we took them into account when reaching our decision. To the extent that they were not raised during the hearing, they could have been raised then and would then have been taken into account by the Tribunal in reaching its decision. It is clear to me that really what the claimant is saying is that she is seeking a second bite at the cherry. The claimant is of course entitled to disagree with the tribunal's assessment of the evidence. That is not a proper basis on which to overturn the judgment, however.
16. The claimant also argues that the Tribunal did not make findings or reach conclusions about several alleged 'post-act detriments'. It appears that she is saying that these additional matters amounted to victimisation pursuant to section 27 Equality Act 2010 but the Tribunal failed to deal with those matters. However, the claimant's claim of victimisation related only to the detriment of dismissal. This is set out in her claim form, was confirmed at the case management hearing, was clear from the agreed list of issues and was further discussed and agreed at the start of the liability hearing. She also refers to an additional 'protected act' in Ground 6 of her application. The protected acts she relied upon were: presenting Claim One; presenting Claim Two; and giving evidence in Claim One: again, this was clarified at the case management hearing and was further discussed and agreed at the start of the liability hearing. No application to amend her claim was made to rely on additional protected acts or additional alleged detriments. The Tribunal has made findings and reached conclusions on the extant claim of victimisation – relating to the protected acts relied upon and her dismissal. The Tribunal is not required to make findings or reach conclusions on matters which are not relevant to the complaints it has to determine.
17. I am satisfied that we applied the law correctly in this case. The application for reconsideration does not raise any error of law, any procedural error or any other matter which would make reconsideration necessary in the interests of justice.
18. In conclusion, having carefully considered the claimant's application, and bearing in mind the importance of finality in litigation and the interests of both

parties, I consider there is no reasonable prospect of the original decision being varied or revoked, and it is not necessary in the interests of justice to reconsider the judgment. It follows that I must refuse the application.

Approved by:

Employment Judge L Robertson

2 December 2025

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided they will be placed online.

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/