



EMPLOYMENT TRIBUNALS

Claimant: Ms Amanda Clare

Respondent: Mrs Kellie-Jay Keen

Heard at: By Cloud Virtual Platform on 07 November 2025

Before: Employment Judge Elizabeth Gibson

Representation

Claimant: In person

Respondent: In person

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the Tribunal is that the Respondent's reconsideration application in respect of the "Misidentification of Respondent as employer" is granted.

The name "Mrs Kellie-Jay Keen" in the reserved judgment dated 17 June 2025 is substituted with "Kellie-Jay Keen as leader, treasurer and representative of the board of the Party of Women from time to time" as Respondent to these proceedings.

Following this substitution, the orders made against "Mrs Kellie-Jay Keen" are now made against "Kellie-Jay Keen as leader, treasurer and representative of the board of the Party of Women from time to time".

REASONS

1. Following Keen's application dated 04 August 2025 for a reconsideration of a reserved judgment which was sent to the parties on 31 July 2025 and after an initial consideration, I determined that her application should proceed on a limited basis.
2. As set out in the Employment Tribunal's letter to Mrs Keen dated 23 September 2025, my provisional view was that there was a reasonable prospect that my reserved judgment could be varied or revoked. However this was only in relation to one of Mrs Keen's grounds for reconsideration – namely "Misidentification of Respondent as employer".
3. Mrs Keen asserted that the reserved judgment wrongly attributed employment liability to her personally and the correct Respondent should have been the Party of Women (the "POW").
4. This was a case brought by Ms Clare who made the following complaints, all of which were successful:
 - Unauthorised deduction from wages contrary to s13(1) of the Employment Rights Act 1996 (the "ERA 1996");
 - Breach of Contract for failure to pay her notice pay contrary to s86 of the ERA 1996;
 - Failure to pay holiday pursuant to Regulation 16(1) of the Working Time Regulations 1998 (the "WTR 1998"); and
 - Failure by Mrs Keen to provide her with a written statement of employment particulars contrary to s1 of the ERA 1996.
5. That hearing took place on 20 June 2025 on a Cloud Video Platform. Neither party was represented.

6. Both parties made written and oral representations to the reconsideration hearing on 7 November 2025. Both parties were invited to make further written submissions and provide further documentary evidence to me a week later (14 November 2025) in respect of the question whether the POW, as an unincorporated association ("UA"), could be the Respondent in its own right and was the employer in Ms Clare's claim.
7. To this end:
 - Mrs Keen submitted supporting statements including representations on legal status and employer identity including;
 - The POW's Constitution authorised 16 December 2023;
 - The POW's Financial Scheme dated 20 November 2023;
 - An addendum entitled "Political Party as a Legal Entity – Supporting Case Law which referred to two cases (without proper citation) - Ali v Green Party of England and Wales and Yemm v British National Party (ET/1803174/2006) ("Yemm"); and
 - A personal statement.
 - Ms Clare submitted the following:
 - Written representations in an email dated 14 November 2025 including:
 - Detailed representations;
 - Screenshots from her HMRC personal tax account; and
 - Screenshots from a Subject Access Request she had made to HMRC in respect of records naming the POW.
8. Both parties have submitted further representations which either repeated earlier submissions or were not relevant to the matters I had to determine.
9. Suffice to say Mrs Keen candidly accepted the POW had not managed the situation well and processes would be strengthened in the future.
10. Ms Clare (in an email dated 17 January 2026) offered to forward to the Employment Tribunal (the "ET") documents related to her Subject Access Request to HMRC. I decided these would not be required as they were not relevant to the matter because the fundamental question I had to determine was in respect of the POW's status as a respondent and employer.

Mrs Keen's submissions at the reconsideration hearing and in her further written representations

11. In summary Mrs Keen argued:

- The POW, a political party registered with the Electoral Commission was Mrs Clare's employer and that it should have been the respondent in this matter;
- As a litigant in person she did not appreciate when documents from the ET office were sent to her naming her as the respondent that it meant she would be personally liable for any potential award I made to the Claimant;
- Her ET3 response form clearly stated the POW was the employer;
- Ms Clare in fact knew she was employed by the POW and not by Mrs Keen in her a personal capacity because her work related entirely to POW's operations;
- The POW's banking activity operated through a bank account held by the Adult Human Female store which was connected to a POW PayPal account;
- Ms Clare made expense claims to the POW and she used a POW MacBook for her work;
- Mrs Keen effectively managed the POW and there was no human resources department within the organisation;
- Ms Clare was well aware of all of these matters and knew she was employed by the POW particularly given her experience of working with other political parties;
- Mrs Keen helpfully acknowledged mistakes had been made and said (at the reconsideration hearing):

"If I'd thought more, I may have done more due diligence etc. I did care and reaffirm that at the end of the day there will be a payment [to Ms Clare] but not from my bank account.";

- At the relevant time Mrs Keen was leader and treasurer of the POW, Paul Duddridge, was the nominating officer and there were no other additional board members appointed; and
- She said: "*The appointment of Ms Clare was discussed and agreed by us. In accordance with Article 38(3) [of the POW's constitution], this constituted a valid decision by the Board. There is no constitutional mechanism by which I could have personally employed Ms Clare on behalf of the Party. Nor was such an arrangement ever discussed or implied.*"

12. Mrs Keen also explained that the POW is a very small political party with just two people covering official roles. She said:

"I am the Party Leader and the person who manages almost every aspect of its work.... It is simply not credible that I would have been personally employing and paying Ms Clare out of my own finances. "

"Because I personally recruited Ms Clare and was her direct manager, I assumed the Employment Tribunal was addressing me in correspondence because I was the person who engaged Ms Clare on behalf of the Party. I believed I was being contacted as the representative of the employing organisation not as the employer in my own right."

13. I also considered the two cases Mrs Keen referred me to. She said: "*...legal capacity of political parties to function as entities capable of employing individuals is supported by relevant case law.*"

14. In *Ali v Green Party of England and Wales (2023)*, Mrs Keen asserted this case was one where the claimant brought proceedings directly against the Green Party rather than against a limited company or separately incorporated body.

15. This was incorrect – this was an Equality Act 2010 and Human Rights Act 1998 matter about discrimination between Dr Shahrar Ali, as Claimant and Ms Elizabeth Reason and Mr Jon Nott as first and second defendants and as representatives of the Green Party in the City of London County Court. It had been widely reported in media as between Dr Ali and the Green Party.

16. At paragraph 2 of the judgment HHJ Hellman said:

"The Defendants, Elizabeth Reason and John Nott, are sued as representatives of all members of the Green Party...It is common ground that the Green Party is an unincorporated association...."

17. In respect of Yemm, Mrs Keen said:

"This case illustrates how an unincorporated political party can still be treated as an employer in employment tribunal proceedings provided it acts through identifiable officers or agents."

18. Despite searching for this case, including on the National Archive, I was unable to find it.

19. However the fact that Mrs Keen acknowledges this proviso undermines her submission that the POW can be a respondent employer in its own right.

Ms Clare's Submissions at the reconsideration hearing and in her further written representations

20. In summary, Ms Clare argued that she was employed by Mrs Keen, she was correct in identifying Mrs Keen as the respondent in her ET1 and I should confirm the reserved judgment for the following reasons:

- Mrs Keen personally made all the decisions in respect of her engagement and exercised direct control and authority over her. This included Mrs Keen personally offering her the post of campaigns director and texting her to terminate the relationship;
- She had no contract of employment which meant she could not be entirely clear as to the identity of her employer and this was reflected in her decision to name Mrs Keen in her ET1;
- She had no written particulars of employment and had not received any pay slips during her employment which meant she was unclear as to the identity of her employer;
- She never met or heard from other representatives of the POW;

- In WhatsApp and email correspondence Mrs Keen had referred to herself as Ms Clare's employer;
- Mrs Keen referred to herself as "I" and did not use the expression "we" in such correspondence;
- Ms Clare was paid from a bank account in the name of AdultHumanFemale.S, an online merchandise store associated with Mrs Keen;
- She was awaiting confirmation (via a Subject Access Request and a Freedom of Information request to HMRC) in respect of Mrs Keen and/or the POW registration(s) as an employer for the purposes of PAYE ¹
- There was no reference to either Mrs Keen or the POW on Ms Clare's HMRC records;
- When she was working on her ETI claim form she named Mrs Keen as her employer which was her "best guess" given the lack of paperwork provided to her.
- At the hearing of her complaints there was no objection by Mrs Keen being named as respondent and neither was there an application from Mrs Keen to name the POW as the respondent; and
- The POW was not registered with the Electoral Commission at the time she employed in March 2024

21. In her written submission following the reconsideration hearing, Ms Clare also made an application for costs (in the sum of £350) in respect of her preparation costs for the reconsideration hearing and said she was entitled to interest on the amount awarded to her (£3069.20) in the reserved judgment.

Issues

22. At the hearing I said the primary and interrelated issues to be resolved were:

¹ I noted that subsequently Mrs Keen acknowledged (in an email to the EY dated 19 January 2026) "...that no payroll process had been formalised due to the very brief nature of her engagement."

- Whether Mrs Keen had employed Ms Clare in a personal capacity;
- Whether Mrs Keen had employed Ms Clare in her capacity as leader and representative of the POW; and
- Whether the POW as an UA was Ms Clare's employer and could be named as the respondent in her claim.

Evidence and Findings

23. The POW is a political party which is registered with the Electoral Commission. Its registration is dated 08 February 2024. Ms Clare's employment (in March/April 2024) commenced after this registration.

24. The POW is a UA. It has no legal identity separate from its members,

25. The POW's Constitution provides:

- At paragraph 22 that the officers of the party "*shall be the Leader, the Treasurer and the Nominating Officer*;
- At paragraph 24 that the leader "*shall be responsible for overseeing all activities of the Party, shall be the primary public face of the Party...*";
- At paragraph 24 that the treasurer "*shall be responsible for the assets, liabilities, finance and expenditure of the Party...*";
- At paragraph 26 the nominating officer "*shall be responsible for the interaction between the Party and Electoral Commission....*";
- At paragraph 31 that a board shall be established which shall be "*the supreme decision-making body in matters of Party organisation and management, subject only to decisions of any General Meeting of the Party...*", consisting of the leader, the treasurer, the nominating officer and any other person holding an office created by the board; and
- Paragraph 38 describes the board's wide powers including at (3) "*the appointment of staff within the Party...*"

26. The POW's Financial Scheme provides that the organisation will run its financial affairs to comply with the Political Parties, Elections and Referendums Act 2000 (the "PPERA").

27. At paragraph 6 it states:

"Kellie-Jay Keen, the registered treasurer of Party of Women is responsible for the whole party's compliance with the requirement of the [PPERA] including at paragraph 16 to "ensure that campaign expenditure and claims payments are duly authorised, received and paid on time...."

28. The Constitution vests power in the POW's board to appoint staff and the board consisting of Mrs Keen and Mr Duddridge appointed Ms Clare.

29. Mrs Keen is the leader and treasurer of the POW. She is also a board member of the POW.

30. Ms Clare' claim in the ET1 form named Mrs Keen as the respondent with her address as Northgate House, Bath which was the POW's address, not Mrs Keen's home address.

31. The Early Conciliation ACAS certificate names the POW as the prospective respondent.

32. The Acknowledgement of Claim, Notice of Claim and all correspondence to the parties from the ET office referred to Mrs Keen as the respondent.

33. Ms Keen's response in the ET3 form named the POW as the Respondent.

34. At the initial hearing, neither party raised the question whether Mrs Keen was the correct named respondent in this matter despite all the evidence being in relation to the Claimant's work as the campaign director for the POW during the run-up to the 2024 local elections.

35. However I granted Mrs Keen's application for reconsideration in respect of the identity of the respondent having given this question further thought.

36. Ms Clare had good reason to be confused given by the lack of paperwork from Mrs Keen. I am satisfied in making her best guess as to the identity of her employer; she

made a genuine mistake in naming Mrs Keen in the ET1. This was not due to carelessness on her part.

37. Ms Clare's assertion's that she believed Mrs Keen to have employed her in a personal capacity is not made out from her evidence and submissions, particularly given that her campaign work was for the POW's local election candidates.

38. Mrs Keen was acting in the capacity as Ms Clare's manager for the POW.

The Law

39. The relevant law in this matter relates to two questions which I have asked myself:

- Whether a political party which is an unincorporated association without legal personality can be the employer and a respondent in ET proceedings? (the "UA question"); and
- Whether an ET has the discretion to substitute a new party following a reconsideration where the original respondent was mistakenly named by the Claimant and the ET? (the "Substitution Question")

The UA Question

40. A UA is a group of individuals linked together by a form of contract, the terms of which are the association's constitution and rules.

41. A UA is the form commonly adopted by members of clubs, sports clubs, charities and other not-for-profit organisations. It has no legal identity separate from its members, unlike a corporation such as a limited company. Its lack of a discrete legal identity is at the root of many of the problems that third parties encounter in dealing with such organisations.

42. I have considered the Employment Appeal Tribunal ("EAT") cases of **Nazir & Anor v Asim & Anor [2010] UKEAT 033** ("Nazir") and **Affleck and others v Newcastle Mind and others (1999) IRLR 405** ("Affleck").

43. In Affleck it was held that the question of who was the employee's employer was to be answered by reference to the general law applicable to UAs.

44. Although this case was in respect of a charity where continuity of employment was at issue, the EAT held (at paragraph 36):

"We have no doubt that employees of unincorporated associations...do have continuity of employment despite changes in the composition of the committee which constitutes their employer. It is our view that the way that comes about is through the contract of employment being made with the management committee and its members for the time being."

45. In Nazir the EAT considered two questions: "(1) whether it was possible for a UA to be named at all and (2) whether it is necessary for all the members of a committee of a UA to be joined if the proceedings are to be properly constituted."

46. It held at paragraph 42 in considering Affleck:

"To our mind it remains good practice for a claimant employee to name a representative who was a member of the management committee at the relevant time and state that he is sued on his own behalf and all other members of the executive committee at the relevant time" and at paragraphs 45, 46 and 49:

...it is our experience common in employment tribunals for an employee to bring a claim naming a UA as respondent. This is hardly surprising: many employees will complete their own claim forms; they will likely to give the name of the UA as their employer...and they cannot be expected to know about the legal status of a UA, still less about the practice advocated in Affleck...

There are reasons why the practice in employment tribunals ought to differ from the practice before the civil courts. We have the following points particularly in mind. FirstlyThirdly undue formality is to be avoided in tribunal proceedings ...Fourthly as we have said employees generally cannot be expected to know about the special legal position of unincorporated associations. These matters are relevant to the overriding objective of dealing with cases justly; and therefore to be taken into account in construing the Rules...

...the practice advocated in Affleck remains good practice...

47. I also noted the relevant section of Harvey on Industrial Relations and Employment Law (at paragraph 295) and summarise below the following relevant elements:

- *"Employees employed by an unincorporated association are employed not by all the members of the association, but by its management or executive committee and the committee's members from time to time;*
- *Therefore the correct respondents are the members of the relevant committee at the relevant time (ie at the time the particular cause of action arose);*
- *This issue arises because an unincorporated association has no legal personality of its own;*
- *In Affleck, the EAT considered that, as a matter of practice, it would be preferable, when bringing proceedings against a committee, for a representative respondent to be nominated, so that "one person would be named as the respondent sued on his own behalf and on behalf of all other members of the executive committee at the relevant time"; and*
- *The procedure set out in Affleck was approved by the EAT in Nazir where it was also held that, unlike the position in the civil courts, an unincorporated association could be sued in its own name in employment tribunals."*

The Substitution Question

48. By virtue of Rule 35(1) of the Employment Tribunal Procedure Rules 2024 (the "Rules"), ETs have the power at any time either on their own initiative, or on the application of a party to add any person as a party by way of substitution or otherwise:

"...if it appears that there are issues between that person and any of the existing parties falling within the jurisdiction of the tribunal which it is in the interests of justice to have determined in the proceedings"

49. By Rule 35(2) of the Rules, the ET may on its own initiative or on the application of a party remove any party that appears to have been wrongly included in the proceedings.

50. General guidance on adding or removing parties is contained in paragraphs 16 to 21 of the Presidential Guidance General Case Management (the "PG-GMC") Guidance Note 1

51. The PG-GCM confirms that asking to add or remove a party is a kind of amendment application to which the same considerations apply as to any other application to amend.

52. Apart from these specific provisions, the power to add or substitute respondents has always been available as part of the ET's general powers to regulate its own procedure (see Rule 30).

53. In **Cocking v Sandhurst (Stationers) Ltd [1974] ICR 650** ("*Cocking*"), the forerunner of the EAT held that as the claimant's original complaint was presented in time it followed that the industrial tribunal (as the ET was in 1974) also had jurisdiction to allow the amendments which were necessary to enable it to do so.

54. In considering whether to exercise my discretion to allow an amendment which will add or substitute a new party, I should: (as per Sir John Donaldson at page 657):

- Only do so if it is satisfied that the mistake sought to be corrected was a genuine mistake and was not misleading or such as to cause reasonable doubt as to the identity of the party being claimed against; and
- Have regard to all the circumstances of the case. In particular, I should consider any injustice or hardship which may be caused to any of the parties.

55. I also considered two further EAT cases in relation to the question of substitution in the context of Ms Clare and Mrs Keen's matter because I had made a final order against Mrs Clare in the reserved judgment - and the potential substitution order I would make would not strictly speaking be a case management order as the case was concluded because a judgment had been promulgated.

56. These cases related to applications for "review" under a previous iteration of the ET's procedural rules. The Rules show that review has been replaced with applications for reconsideration pursuant to Rule 69.

57. The cases are

- **Watts v Seven Kings Motor Co Limited [1983] ICR 135** ("*Watts*") which held, following *Cocking* that the industrial tribunal had the discretion to substitute one party by amendment for another in certain circumstances.

In this case the tribunal had made an order awarding the claimant compensation for unfair dismissal against the named respondent (S Ltd) before the identity of the true employer (R) was ascertained. The EAT held that this factor made no difference to the application of Coking, and duly substituted R as the respondent in place of S Ltd.

- **Linbourne v BR Constable (Gatwick Moat House) [1993] UKEAT 338 92 0902** ("Linbourne").

In this case the identity of the true employer (Q) was known throughout the tribunal hearing. As no application had been made to substitute Q, the tribunal, after a full hearing on the merits, concluded that the claimant's dismissal was unfair, but dismissed the complaint against the named respondent (C) as there was no case against him. It subsequently refused to permit the claimant to amend so as to make the substitution. The EAT, however, not only allowed Q to be substituted in place of C, but, adopting the tribunal's findings on the fairness of the dismissal, ordered Q to pay the compensation which the tribunal would have ordered if it had been able to do so.

58. Considering these cases, I am able to conclude that the fact that a final order has been made against a named respondent does not preclude a subsequent application to substitute a new respondent as in Ms Clare's and Mrs Keen's case.

Further Findings and Conclusions

The UA Question

59. In relation to the UA Question, having listened to Mrs Keen's and Ms Clare's oral submissions and having reviewed their written representations, it seems to me neither of them fully understood what is meant by an UA having no legal identity. This phrase does not mean the POW does not exist; it means that it cannot act like any other legal entity such as a limited company or a person.

60. The most well-known definition of a UA comes from Lawton LJ in **Conservative and Unionist Central Office v Burrell [1982] WLR 522**, who defined the entity as "*two or more persons bound together for one or more common purposes, not being business purposes, by mutual undertakings each having mutual duties and*

obligations, in an organisation which has rules which identify in whom control of it and its funds rests and on what terms and which can be joined or left at will".

61. The same Judge described an UA as a "*creature of contract*", where the contract in question is made between the members of the association. The terms on which they contract with each other are the association's rules.
62. On the basis of the findings I have made I am satisfied at the time Ms Clare completed her ET1 she mistakenly thought her employer was Mrs Keen in a personal capacity.
63. Ms Clare's mistake was understandable given she had no documents to speak of relating to her employment. Her mistake was not fatal to her claim.
64. I accept she brought the complaints against Mrs Keen because that was her "best guess". I find it was only after the event and following Mrs Keen application for reconsideration that Ms Clare sought to make her evidence fit this assertion because she was worried she would not receive her unpaid wages or compensation for her other complaints.
65. I find Mrs Keen's evidence in respect of her not employing Ms Clare in her personal capacity compelling. The evidence shows on balance that Mrs Keen was Ms Clare's manager or boss in respect of the local election campaign for the POW.
66. Notwithstanding these findings and having applied the law to the circumstances of this case, I further find that the POW, as represented by Mrs Keen in her capacity as an officer and board member was Ms Clare's employer.
67. Therefore the correct respondent in this matter is Kellie-Jay Keen acting in her capacity as leader, treasurer and representative of the board of the POW, an unincorporated association from time to time (the "New Respondent").

The Substitution Question

68. I am satisfied that I can substitute the New Respondent in the place of Mrs Keen in her personal capacity pursuant to Rule 35(1) of the Rules because it is in the interests of justice to do so. The fact an order awarding a claimant compensation for unfair dismissal against an originally named respondent before the identity of the true employer was ascertained is no bar to the application of the process set out in Cocking.

69. I am also satisfied that Ms Clare's mistake was genuine and was not misleading so as to cause reasonable doubt as to the identity of the party being claimed against. Indeed it was Mrs Keen's case that in her personal capacity she was not the true employer

70. In coming to this decision I have had regard to all the circumstances of the case as can be seen in the section on evidence and findings in this judgment

71. I have also considered any injustice or hardship which may be caused to both of the parties and have concluded there is none to Mrs Keen personally.

72. In respect of Ms Clare I understand she has not received any payment pursuant to the order I made in the reserved judgment. This delay in recovering her unlawful deductions in wages and compensation for the other complaints she made is no doubt frustrating especially when coupled with the time and expense she has forfeited in respect of the reconsideration application.

73. However this does not amount to sufficient injustice and hardship to tip the balance in favour of not substituting the New Respondent in the place of Mrs Keen.

74. Mrs Keen had every right to make her reconsideration application and every right to appeal the rest of my decision to the EAT.

75. The result of my conclusions is that the order for Mrs Keen (as the respondent in the reserved judgment) to pay to Ms Clare the sum of £3069.20 in respect of her successful complaints becomes an order against the New Respondent.

The Claimant's Application for Costs

76. Costs do not follow the event in ETs. as they do in the civil courts. In other words, if a party is successful in bringing or defending a claim, the ET will not necessarily make an order that the unsuccessful party pays its costs.

77. The power to make costs orders and preparation time orders is set out in Rules 73 to 77 of the Rules.

78. Costs awards have traditionally been viewed as the exception rather than the rule and there is much case law in this respect. Rule 73(1) provides that a costs order can be made in respect of the costs incurred by a party while legally represented or while represented by a lay representative

79. Ms Clare was not represented at the reconsideration hearing therefore her application for a costs order fails.

80. However, I have given Ms Clare's the benefit of the doubt and assumed she was fact applying for a preparation time order. This is an order made against one party (called the paying party) to make a payment to another party (called the receiving party) in respect of the receiving party's preparation time while not legally represented. (Rule 73(2)).

81. "Preparation time" means time spent by the receiving party working on the case, including time spent by any of their employees or advisers, but does not include time spent at a final hearing (Rule 72).

82. An ET has the discretion to make a preparation time order on its own initiative or on the application of a party,

83. Under Rule 74(2) an ET must consider making preparation time order where it considers that any of the following apply:

- A party has acted vexatiously, abusively, disruptively, or otherwise unreasonably in the bringing or conducting of the proceedings, or a part of them;
- Any claim, response or reply has no reasonable prospect of success; and
- A hearing has been postponed or adjourned on the application of a party made less than seven days before the date on which that hearing begins, (together the "Threshold Criteria").

84. In these circumstances, there are two separate stages in my decision-making process. First, I must decide whether one of the Threshold Criteria applies and then I must decide whether to exercise my discretion to make a preparation time order.

85. In my determination none of the Threshold Criteria apply to Ms Clare's application. Ms Clare stated Mrs Keen's application for reconsideration was unreasonable and had caused her "*delay and cost*" and was claiming £350 to cover printing and preparation since the reconsideration application.

86. I note there have been various ill-tempered emails between the parties, but I do not consider that Mrs Keen has acted vexatiously, abusively, disruptively, or otherwise unreasonably in the bringing or conducting of the proceedings, or a part of them;

87. On this basis and in exercising my discretion, I decline to make a preparation time order against Mrs Keen having regard to all the circumstances, including the fact that Ms Clare as a litigant in person has participated in these proceedings with little or no access to specialist help and advice.

Approved by:

Employment Judge Gibson
05 February 2026

JUDGMENT SENT TO THE PARTIES ON
18 February 2026

Jade Lobb
FOR THE TRIBUNAL OFFICE