



EMPLOYMENT TRIBUNALS

Claimant: Ms J Bowley
Respondent: Althaus Digital
Heard at: Nottingham
On: 7 January 2026
Before: Employment Judge L Brown

Representation

Claimant: In person
Respondent: Mr Mc Phail, Counsel

RECONSIDERATION JUDGMENT

1. Applications for a reconsideration of a Tribunal judgment are an exception to the principle that a decision of the Employment Tribunal is final, save for appeals on a point of law. The test when dealing with an application for a reconsideration is contained within Rule 68 of The Employment Tribunal Procedure Rules 2024 (“Procedure Rules”) which provides:

68. Principles

- (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.*
3. In **Outasight VB Ltd. v Brown UK EAT/0253/14**, the Employment Appeal Tribunal considered the Tribunals' powers under what was then Rule 70 of the Employment Tribunal Rules of Procedure 2013. At paragraphs 27 – 38 of her Judgment Her Honour Judge Eady QC, as she then was, set out the legal principles which govern reconsideration applications, and observed as follows: -
- “The interests of justice have thus long allowed for broad discretion, albeit one that 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.”*
- These principles were recently affirmed by His Honour Judge Shanks in **Ebury Partners UK Ltd v Acton Davis [2023] EAT 40**.
4. 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 emphasized the importance of finality.
5. Moreover, in **Liddington v 2Gether NHS Foundation Trust EAT/0002/16/DA** the President of the Employment Appeal Tribunal held:

“34...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.

35. 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...”

Reconsideration Application

6. Rule 69 requires that any application for reconsideration must be presented in writing within 14 days of the date on which the written record, or other written communication, of the original decision is sent to the parties. The Reserved Interim Relief Judgement was sent to the parties on **23 February**

2026 and accordingly the Claimants' application made on the **28 February 2026** has been made in time.

7. The Claimant produced a 17-page document in support of her application for Reconsideration which I have read and considered carefully, and which challenges the basis for my Judgment where I refused the application for Interim Relief.
8. I have already provided detailed reasons for my findings and the conclusions reached in the Judgment and I do not repeat them here.
9. However, I address two particular points made by the Claimant. The first point is that one fact recited by me was an error. She said as follows: -

At paragraph 57 of the judgment, the Tribunal states that the Respondent "provides an Inclusion Support Provision known as Cognassist" and describes Cognassist as an assessment tool used by the Respondent for apprentices.

This description is inaccurate.

Cognassist is a third-party cognitive assessment platform, not the Respondent's inclusion support provision. The Claimant's concerns related to the Respondent's reliance on Cognassist assessments alone as evidence to claim Additional Learning Support (ALS) funding, without sufficient evidence that support had actually been delivered to learners.

10. The point being made here is that I should have referred to it being a third-party platform used by the Respondent and that it did not own the platform i.e., that instead of using the word 'provides' I should presumably have used the word 'used'. I did in fact understand that it was not owned by the Respondent and that it was a third-party platform but of course accept that my Judgment did not use the word 'used' instead of 'provides.' I see no relevance in this submission to the central issues before me. The central issue of whether they were in some unlawful manner misusing this application remains and is not affected by the use of the word 'provide'. The central legal issue remains the same. This did not affect my finding of whether the Claimant had a 'pretty good chance' of succeeding in her claims at the final hearing.
11. The Claimant has also complained in essence about being ambushed by the late provision of a bundle by the Respondent. A postponement of the hearing on these grounds was canvassed by me before the parties, and I heard submissions on this. I suggested the Claimant take a break to consider the bundle, and then to tell me if she still sought a postponement. We adjourned to give her time to consider the bundle. Upon her return she stated that she no longer sought an adjournment of the hearing and wished to proceed. I told her if at any time she needed a break she should ask me. At no point did she request a break which I refused.
12. The application for Reconsideration does not identify any error of law, any procedural error, or any other matter which would make reconsideration necessary in the interests of justice.

13. Accordingly, the application is refused under Rule 68 of the Procedure Rules on the basis that there is no reasonable prospect of the original decision being varied or revoked.

Approved by:

Employment Judge L Brown

3 April 2026

Judgment sent to the parties on:

7 April 2026.....

For the Tribunal:

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Notes

Judgments (apart from judgments under rule 51) and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

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