



EMPLOYMENT TRIBUNALS

Claimant: Aliyah Khwarazmi

Respondent: The Gorse Academies Trust

JUDGMENT ON RECONSIDERATION

The claimant's application dated 13 April 2026 for reconsideration of the judgment sent to the parties on 30 March 2026 is refused pursuant to Rule 70(2) of The Employment Tribunal Procedure Rules 2024. There is no reasonable prospect of the judgment being varied or revoked.

REASONS

1. In a Judgment dated 29 March 2026 and sent to the parties on 30 March 2026 ("the Judgment"), the Tribunal struck out the claimant's claims that the respondent breached duties of care and of good faith in the claimant's contract of employment on the ground that they have no reasonable prospect of success. A further complaint of breach of contract was not struck out.
2. On 13 April 2026 the claimant applied for reconsideration of the Judgment.
3. Rule 68 of The Employment Tribunal Procedure Rules 2024 provides that:

"(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.”

4. Rule 69 provides that, except where it is made in the course of a hearing, an application for reconsideration must be made in writing within 14 days of the date on which the written judgment was sent to the parties.
5. Rule 70 sets out the process to be followed when reconsidering judgments and states as follows:

“(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.”

6. The first stage therefore is for the Employment Judge to consider the application and decide whether there are reasonable prospects of the judgment being varied or revoked. If the Employment Judge considers that there are no reasonable prospects of the judgment being varied or revoked, then the application shall be refused.
7. I have considered the claimant’s application for reconsideration in accordance with Rule 70(2). In doing so, I have reminded myself that a judgment can only be reconsidered if it is in the interests of justice to do so.
8. When dealing with applications for reconsideration, the Employment Judge should take into account the following principles laid down by the higher courts:

- a. Tribunals have a broad discretion to decide whether reconsideration of a judgment is appropriate in the circumstances, but this discretion must be exercised judicially (***Outsight VB Ltd v Brown [2015] ICR D11 EAT***);
 - b. There is an underlying public policy interest in the finality of litigation, and reconsiderations should therefore be the exception to the general rule that Employment Tribunal decisions should not be reopened and relitigated. Finality in litigation is central to the interests of justice (***Ebury Partners Ltd v Acton Davis 2023 EAT 40***);
 - c. The reconsideration process is not designed to give a disappointed party a 'second bite at the cherry'. It is "not intended to provide parties with the opportunity of a rehearing at which the same evidence can be rehearsed with different emphasis, or further evidence adduced which was available before" (***Stevenson v Golden Wonder Ltd 1977 IRLR 474***);
 - d. The Tribunal must seek to give effect to the overriding objective of dealing with cases fairly and justly, which includes dealing with cases in ways which are proportionate to the complexity and importance of the issues, avoiding delay, so far as compatible with proper consideration of the issues, and saving expense; and
 - e. The interests of both parties should be taken into account when deciding whether it is in the interests of justice to reconsider the judgment.
9. In his application for reconsideration the claimant writes, in summary, that:
- a. The duty of care is a live, triable issue based on the respondent's continuous knowledge of her vulnerability;
 - b. The Preliminary Hearing was insufficient to examine the bad faith timeline; and
 - c. The respondent's conduct in these proceedings mirrors the bad faith displayed during the dismissal.
10. None of the arguments set out in the claimant's application persuade me that it would be in the interests of justice to reconsider the decision.
11. I am satisfied that the claimant had the opportunity to put her case forward during the Preliminary Hearing. The reconsideration process is not designed to give parties a second opportunity to put forward arguments or evidence if they are not happy with the findings of fact or the conclusions reached by the Tribunal. There is a public interest in the finality of litigation.
12. For the above reasons I find that there is no reasonable prospect of the judgment being varied or revoked, and the claimant's application for reconsideration is refused.

Approved by:
Employment Judge Ayre
21 April 2026