



# EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant**  
**Ms F Thorn**

**AND**

**Respondent**  
**Nationwide Building Society**

**JUDGMENT OF THE EMPLOYMENT TRIBUNAL**

**HELD IN CHAMBERS AT Bristol ON 22 April 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 reserved judgment dated 26 January 2023 which was sent to the parties on the same day ("the Judgment").
2. This is the seventh application to reconsider the Judgment following the liability hearing which took place between 9 and 26 January 2023.

3. 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.
4. The application was made more than 3 years after the time to make it had expired.
5. Under Rule 5(7) the Tribunal may, on its own initiative or on the application of a party, extend or shorten any time limit specified in the Rules or in any decision, whether or not (in the case of an extension) it has expired.
6. 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.
7. The grounds relied upon by the claimant are these:
  - a. Material concerning protected disclosures and internal knowledge was not available to her to allow a proper pleading and advancement of a whistleblowing case at the time of the hearing.
  - b. Her representative was aware of the whistleblowing issues but did not advance them.
  - c. Due to this the Tribunal determined ordinary unfair dismissal only.
  - d. She did not have a fair hearing in January 2023 because she could not present her case in relation to whistleblowing.
8. 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”.
9. 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.
  10. 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'*.
  11. This application was made on a similar basis to the previous applications, which were dismissed. The application has been made significantly outside of the time limit to do so. There must be a finality to the litigation. The Claimant is seeking to retrospectively add a new cause of action and re-open the liability decision. It is not in the interests of justice to extend time for the application and the application to do so is refused.
  12. In any event the matters about disclosure and the conduct of her barrister at the liability hearing and whether she had a fair hearing have been relied upon in earlier applications for reconsideration and have been rejected. A claim in relation to whistleblowing was not put before the Tribunal or was sought to be added at the liability hearing. The application adds nothing which is likely to alter or vary the original decision. The application would have been refused in any event.
  13. Accordingly, I refuse the application for reconsideration pursuant to Rule 70(2) because there is no reasonable prospect of the Judgment being varied or revoked.

Case No. 1402955/2020  
1404843/2020  
1404750/2021

---

Approved by  
Employment Judge J Bax  
Dated: 22 April 2026

Judgment sent to Parties on  
30 April 2026

Jade Lobb  
For the Tribunal Office