



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr M Fiaz

**Respondent:** Home Office

**Employment Judge Steward**

## JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the Tribunal is that the Claimant's application dated 28<sup>th</sup> April 2026 for reconsideration of the Judgment dated 10<sup>th</sup> April 2026 is refused because there is no reasonable prospect of the decision being varied or revoked.

## REASONS

1. By application dated 28<sup>th</sup> April 2025 by way of email the claimant made an application for reconsideration of the Judgment dated 10<sup>th</sup> April 2025 and sent to the claimant on the 14<sup>th</sup> April 2026. The application is therefore within time limits.

### The Law

2. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules").

3. Under Rule 70 of the Rules, the Employment Tribunal may, either on its own initiative or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision may be confirmed, varied or revoked.

4. Rule 71 provides that an application for reconsideration under Rule 70 must be made in writing (and copied to all other parties) within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties.

5. The process by which the Tribunal considers an application for reconsideration is set out in Rule 72. Rule 72(1) provides that where an Employment Judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused and the Tribunal shall inform the parties of the refusal.

6. Guidance for Tribunals on how to approach applications for reconsideration was given by Simler P in the case of Liddington v 2Gether NHS Foundation Trust UKEAT/0002/16/DA. Paragraphs 34 and 35 provide as follows: “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.

Where [...] 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.”

7. The claimant’s application was received within the relevant time limit in accordance with Rule 71. The application has also been copied to the respondent.

8. The application for reconsideration appears to be made on the central ground that the claimant did not get the OHS Report until late 2025 and that was the principal reason for the delay in bringing the disability claim.

9. For ease of reference I include the main elements below of paragraph 5 of the judgement

***The accompanying statement in support of this application refers to the OHS report confirming that due to the illness the C is covered by the Equality Act. The OHS report is at page 149 in the bundle and the date of the assessment was 29/4/2021. The report makes it clear that the thyroid condition would be considered under the disability legislation within the meaning of the Equality Act 2010. It is also clear that the C was aware of this report. The OHS report discusses a phased return to work over 4-6 weeks. There is correspondence between the C and Gemma Morgan dated the 18.5.2021 where Ms Morgan outlines the nature of the discussions she had with the C at the meeting on the 18.5.21 which includes the OHS. At***

***page 178 in the bundle a further email from Ms Morgan to the C on the 8.6.21 references the OHS report and the 4-6 week phased return to work as outlined in the OHS. At page 180 Helen Winwood in an email to the C and Ms Morgan on the 14.7.21 references the OHS report and the agreement of the 4-6 week phased return to work in line with the OHS. The C said in cross examination that he got the OHS in early 2025. On the balance of probability, I do not accept this. The evidence in the bundle shows the C was aware of the OHS and had discussed it with Ms Morgan. As a result of the OHS a planned return to work was considered and outlined at page 180 in the email from Ms Winwood. Even so if the C position was accepted and he didn't get the OHS report until early 2025 he still delayed for a considerable period (some 10 months or so) before he brought the claim for disability discrimination.***

10. I gave careful consideration to both the evidence in the bundle on this point and the oral evidence that I heard. On the balance of probability, I was satisfied that the claimant was aware of the OHS Report in 2021 as outlined and this was a permissible logical and reasoned to draw this inference from the evidence.

11. If there was an error of law, this is a matter for appeal and not reconsideration. The claimant has suggested there were material errors but does not seem to suggest there were errors of law.

12. This application does not raise any new information or which he could not have raised at the hearing which would make reconsideration necessary in the interests of justice. 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.

13. There was a balanced assessment of all the evidence that was available both oral and written and both parties were able to articulate through submissions as well. The fact I preferred the respondents case and arguments on the points in dispute is not unusual and was as a result of the evidence provided.

14. In the circumstances the application for reconsideration is rejected on the basis there is no reasonable prospect of the judgment being varied or revoked. Accordingly, the application for reconsideration is therefore refused.

**Employment Judge Steward**

15 May 2026