



EMPLOYMENT TRIBUNALS

Claimant: Dr J Ndikum

Respondent: Chiesi Ltd

JUDGMENT

The application of the claimant, dated 14 April 2026 and supplemented by an addendum dated 15 April 2026, for reconsideration of the Interim Relief Judgment made on 14 April 2026 approved on 14 April 2026 and sent to the parties on 12 May 2026 (with written summary reasons approved on 15 April 2026 and sent to the parties on 12 May 2026), is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

1. The application to reconsider is made in respect of an Interim Relief Judgment. As I emphasised in the summary reasons for that Judgment delivered orally at the hearing and subsequently provided in writing after a request was made, that involved my undertaking the assessment required by section 129 of the Employment Rights Act 1996. I did not hear all of the evidence and determine the case having heard all the evidence. I was required to carry out an expeditious summary assessment as to how the matter appeared on the material available, doing the best that I could with the argument and untested evidence advanced by each party.

2. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the Judgment. The Court of Appeal in **Ministry of Justice v Burton** [2016] EWCA Civ 714 has emphasised the importance of finality, which militates against the discretion being exercised too readily. In exercising the discretion, I must have regard not only to the interests of the party seeking the 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.

3. In **Ebury Partners UK v Davis** [2023] IRLR HHJ Shanks said:

"The employment tribunal can therefore only reconsider a decision if it is necessary to do so 'in the interests of justice.' A central aspect of the interests

of justice is that there should be finality in litigation. It is therefore unusual for a litigant to be allowed a 'second bite of the cherry' and the jurisdiction to reconsider should be exercised with caution. In general, while it may be appropriate to reconsider a decision where there has been some procedural mishap such that a party had been denied a fair and proper opportunity to present his case, the jurisdiction should not be invoked to correct a supposed error made by the ET after the parties have had a fair opportunity to present their cases on the relevant issue. This is particularly the case where the error alleged is one of law which is more appropriately corrected by the EAT."

4. There is no reason why an application to reconsider an interim relief Judgment cannot be made, but I would observe that it seems to me that the nature of an interim relief hearing and Judgment is such that a reconsideration application is less likely to be successful in those circumstances than for any other Judgment, because of the summary assessment involved.

5. This application for reconsideration does not rely upon any information about events which have occurred since the hearing or say that evidence/documents have come to the claimant's attention since the hearing. The application appears to be based upon facts and arguments about which the claimant was aware at the time of the hearing.

6. The claimant produced a significant number of documents for his interim relief application. He provided a written document which outlined the submissions which he wished to make. He also made verbal submissions. He had a full opportunity to present the arguments which he wished to in support of his application. It appears to me that a large part of his current application for reconsideration is a second attempt to pursue those same arguments or to make me understand why it is that he says his claim for automatic unfair dismissal as a result of having made a protected disclosure or disclosures is likely to succeed. There is no prospect of my original decision being varied or revoked on that basis.

7. A substantial part of the reconsideration application is in practice a criticism of, or comment upon, the conduct of the interim relief hearing. I did have some time to read the documents provided in the case on 13 April 2026 (the day before the hearing), albeit I did not have the full day to do so. I also read documents on 14 April. I did read the claimant's pleadings and his written submissions. I did not say that I had not done so. I did not spend a lot of time criticising the claimant about the length of his documents (as contended), but I did endeavour to clarify with the claimant what it was he was contending and where those contentions could be found in the significant documentation provided. In my summary reasons I explained that the enormous amount of documentation provided had made it particularly difficult to determine the application. I endeavoured to read and understand all that I was able in the time available. I would observe that the standard practice for interim relief hearings is to list them for three hours (allocated for reading, submissions and Judgment). The claimant's application was allocated more time than is usual. I used that time as best as I was able to read the documents provided and to hear submissions. I did read the claimant's case. In my reasons I highlighted that this is clearly a complex case which will require many days to be heard. I did not feel that complexity assisted the claimant in arguing that he was likely to succeed in his claim. In an interim relief application, it is for a claimant to show that he is likely to succeed in his claim that he was automatically

unfairly dismissed as a result of having made a protected disclosure or disclosures. He did not do so.

8. In his reconsideration application the claimant places some reliance upon his vulnerability. I was aware of his ADHD, autism and PTSD, and had seen the document provided regarding adjustments. I endeavoured to ensure that the claimant was fully able to take an active part in the proceedings as best as he was able in accordance with the overriding objective and the need to deal with cases fairly and justly for both parties. I am sorry to hear what is said about the impact which the hearing had on the claimant. However, the Employment Tribunal does not have an obligation to undertake a welfare check on a party. I appreciate that the claimant was disappointed with the outcome of the hearing as was clear from what he said after the Judgment and reasons were provided, but the Tribunal cannot genuinely assess a party's welfare and has no capacity to provide support. In any event, I cannot see how any perceived lack of concern for the claimant's welfare which he believes was demonstrated by me when the Judgment had been delivered, could lead me to conclude that there was any prospect of my original decision being varied or revoked.

9. I do not find there to be a prospect of my original decision being varied or revoked based upon the claimant's observations on the process followed.

10. Within the application, the claimant shows a lack of understanding of the difference between his pleaded case and the other things included in the numerous other documents sent to the Tribunal which did not form part of that pleaded case. That lack of understanding was also apparent at the interim relief hearing. I was required to decide if his pleaded case was likely to succeed. That was the main reason why I drew a distinction between the pleaded alleged protected disclosures and those which were not pleaded. The claim form is not a document which simply gets the ball rolling, it was the document which I needed to consider when deciding if the claimant was likely to succeed in his claim. I do not find there to be a prospect of my original decision being varied or revoked based upon the claimant's wish to rely upon other documents or his observations on my wish to consider the actual alleged protected disclosures pleaded.

11. There are elements of the reconsideration application which are contentions that I erred in law. Those are things which would be more appropriately addressed with the Employment Appeal Tribunal (and potentially addressed by the EAT if I have erred). The claimant summarises his reconsideration application by referring to numerous errors of law, and those are more appropriately matters of appeal rather than reconsideration.

12. I do not find that it is necessary in the interests of justice to reconsider the Judgment, based upon the application made by the claimant. There is no reasonable prospect of the original decision being varied or revoked, based upon the reasons given. The application for reconsideration is refused.

13. Prior to undertaking this reconsideration of my Judgment, I had already considered the claimant's application for recusal. My decision on the recusal application has been provided separately. As I decided that I should not recuse myself from the claim, it was appropriate and necessary for me to determine the reconsideration application.

Provision of a transcript at public expense

14. At the same time as applying for reconsideration, the claimant has also requested that public funds should be used to pay for him to be provided with a transcript of the interim relief hearing. In order to ensure that the matters I am considering are addressed in one place (as far as possible) and to assist the claimant as a litigant in person, I thought it appropriate to consider that application at the same time and to record it in this document (even though it is a case management decision and not technically a Judgment).

15. Any party can obtain a transcript of a Tribunal hearing (or part of a hearing) if they wish to do so, but the standard position is that the party is required to pay the relevant fee to obtain the transcript. The claimant relies upon his current lack of income and inability to fund the transcript privately, being a vulnerable party with PTSD, his autism and ADHD, and the interests of justice, to support his application. He says that the transcript is directly material to all pending proceedings, including this reconsideration, his appeal and a complaint being made against me. He also says that without the transcript, a disabled party in acute psychiatric distress at the hearing must rely on unaided recollection.

16. The Joint Presidential Guidance on recording of Employment Tribunal hearings and the transcription of recordings, provides that whether to grant an application for a transcript at public expense is a judicial decision. It says that a transcript is only prepared at public expense where it is necessary in the interests of justice to ensure the effective participation of a vulnerable party or by way of reasonable adjustment for a person with a disability, and for which supporting evidence has been provided.

17. Whether or not a transcript should be obtained and whether that is at public expense in relation to any complaint against me or any appeal, will be a matter for the JCIO and/or the Employment Appeal Tribunal.

18. As I have determined the reconsideration application and decided that there is no prospect of my original decision being varied or revoked, the transcript will not be required for, or of assistance in, the reconsideration application. For that application, the claimant has been able to make the points that he wishes to without a transcript as he clearly had sufficient recollection of the hearing to do so.

19. I cannot see that a transcript of what was said at the interim relief hearing will be of any assistance with the ongoing claim because of the difference between the issue I was determining and that which will be determined at the final hearing. The Employment Tribunal at the final hearing in the claim will make determinations based upon the evidence which it hears, not what was said in the interim relief hearing. It will certainly not make any decisions based upon how that interim relief hearing was conducted.

20. I accordingly do not find that provision of a transcript at public expense is necessary in the interests of justice. It would not assist the claimant with effective participation in the claim in the future.

21. The claimant will, of course, be able to obtain such a transcript at his own expense (if he has funds to do so) should he so choose. However, I have not

ordered that such a transcript should be provided at public expense.

Employment Judge Phil Allen

10 June 2026

JUDGMENT SENT TO THE PARTIES ON

18 June 2026

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FOR THE TRIBUNAL OFFICE