



EMPLOYMENT TRIBUNALS

Claimant: F

Respondent: Met Office for and on behalf of the Secretary of State for Science, Innovation and Technology of the United Kingdom of Great Britain and Northern Ireland.

RECONSIDERATION DECISION

The Claimant's application dated 30 June 2026 for reconsideration of the judgment sent to the parties on 22 June 2026 is refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

1. The Claimant was employed by the Respondent as a Trainee Meteorologist between November 2018 and May 2020. The Claimant brought four separate claims against the Respondent in relation to her dismissal and the failure of the Respondent to progress job applications she made after her dismissal. In relation to the First Claim, there had been a determination in relation to liability in 2021, but remedy remained to be determined. The remaining claims had not been determined in relation to either liability or remedy.
2. The Claimant refused to give the Respondent unredacted disclosure of an occupational health report (the "Badenhorst report") and her medical records. For this reason, I listed a hearing to consider strike out.
3. Following a strike out hearing on 19 June 2026, by reserved judgment sent to the parties on 22 June 2026, I struck out the Second, Third and Fourth Claims and debarred the Claimant from seeking any remedy in relation to the First Claim save for injury to feelings.

4. The Claimant made a reconsideration application on 30 June 2026 on the following grounds:
- factual errors regarding the solicitor's undertaking and the transmission of medical records;
 - mischaracterisation of the disclosure orders and the "schedule of loss" misapplication;
 - the Respondent's deliberate omission of the 30 September correspondence and bundle manipulation;
 - factual error and contradiction regarding historical disclosure;
 - factual error regarding Dr Sperber's report;
 - factual inaccuracy regarding the status and validity of the Badenhorst report;
 - serious procedural unfairness and failure to assist a vulnerable litigant in person;
 - rejection of the third-party verification compromise and an unfairly accelerated timetable;
 - the Respondent's systemic "cherry-picking".

The law on reconsideration

5. Rules 68 to 70 of the Employment Tribunal Procedure Rules 2024, make provision for the reconsideration of tribunal judgments as follows:

"Principles

68.— (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.*

Application for reconsideration

69. *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.

Process for reconsideration

70.—(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..”

6. Under these rules, the Tribunal therefore has discretion to reconsider a judgment if it considers it is in the interests of justice to do so.
7. Under rule 70(2), the judge must dismiss the application if they consider that there is no reasonable prospect of the original decision being varied or revoked. It is a mandatory requirement for a judge to determine whether there are reasonable prospects of a judgment being varied or revoked before seeking the other party's response and the views of the parties as to whether the matter can be determined without a hearing, potentially giving any provisional view, and deciding how the reconsideration application will be determined: T.W. White & Sons Ltd v White, UKEAT/0022/21.
8. In Outasight VB Ltd v Brown UKEAT/0253/14 the EAT held (at [46-48]) that the Rule 70 ground for reconsidering judgments (the interests of justice) (which was the predecessor under the Employment Tribunal Rules of Procedure 2013) did not represent a broadening of discretion from the provisions of Rule 34 contained in the replaced 2004 rules. HHJ Eady QC (as she then was) explained that the previous specified categories under the old rules were only examples of where it would be in the interests of justice to reconsider. The rules removed the unnecessary specified grounds, leaving only what was in truth always the fundamental consideration: the interests of justice. This means that decisions under the old rules remain pertinent under the new rules. I apply the same analysis in relation to the interpretation of the 2024 procedure rules, which refer to the same test: the interests of justice.
9. The key point is that it must be in the interests of justice to reconsider a judgment. That means that there must be something about the case that makes it necessary to go back and reconsider, for example a new piece of evidence that could not have been produced at the original hearing or a mistake as to the law. It is not the purpose of the reconsideration provisions to give an unsuccessful party an opportunity to reargue his or her case. If there has been a hearing at which both parties have been in attendance, where all material evidence had been available for consideration, where both parties have had their opportunity to present their evidence and their arguments the interests of justice are that there should be finality in litigation. An unsuccessful litigant in such circumstances, without something more, is not permitted to simply reargue his or her case, to have ‘a second bite at the cherry’ (per Phillips J in Flint v Eastern Electricity Board [1975] IRLR 277).
10. The expression ‘necessary in the interests of justice’ does not give rise to an unfettered discretion to reopen matters. The importance of finality was confirmed by the Court of Appeal in Ministry of Justice v Burton and anor [2016] EWCA Civ

714 where Elias LJ said that:

“the discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (Flint v Eastern Electricity Board [1975] ICR 395) which militates against the discretion being exercised too readily; and in Lindsay v Ironsides Ray and Vials [1994] ICR 384 Mummery J held that the failure of a party's representative to draw attention to a particular argument will not generally justify granting a review.”

11. Rule 70 gives the Tribunal a broad discretion to determine whether reconsideration of a decision is appropriate. 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.

35. 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.”

Assessment of the application under Rule 70(2)

GROUND 1

12. The Claimant argues that the judgment is based on factual errors because the Claimant's solicitors had given an undertaking that the Claimant's medical records had been provided to the joint expert in 2024.
13. This ground does not accurately reflect the finding in the judgment. It is clear that the Claimant's solicitors had confirmed that they had received a copy of the Claimant's medical records from the Claimant and sent them to the expert. I stated at paragraph 25 of the judgment that the solicitors did not provide an undertaking that the solicitors had *verified* that those records which were provided to the expert were a *complete* copy of the Claimant's medical records.
14. It is accepted that the relevant expert had been provided with a version of the Claimant's medical records (that is implicit from what is set out in paragraphs 25 and 26). The Claimant says that this was a complete copy of her medical records. However, even if true, this does not undermine the conclusion I reached. The

provision by the Claimant of material seen only by an expert does not cure the fundamental unfairness of the Respondent being unable to test the expert evidence by reference to the underlying records or verify the completeness of what was provided.

GROUND 2

15. The Claimant alleges that I mischaracterised the disclosure orders and that there was no requirement to provide unredacted medical records directly to the Respondent. In paragraphs 56 and 57 I made a finding that the Claimant had at these points in the proceedings (in 2024), failed to disclose her medical records to the Respondent *at all*. Clearly medical records will be updated from time to time and therefore, even if the Claimant had provided a copy earlier in proceedings (in 2021), an updated version was required at this point when the medical records were ordered to be provided.
16. In paragraph 58 I made a further finding that the Claimant had not submitted an updated schedule of loss. This finding has been misunderstood by the Claimant. It relates to a breach of an order in relation to the provision of the schedule of loss itself, rather than in relation to medical records.

GROUND 3

17. The Claimant alleges that the Respondent manipulated the hearing bundle and omitted material correspondence, leading to an unsafe finding that she had “cherry picked” evidence. I do not accept that this affects my reasoning. I found that the Claimant had control of relevant medical material and declined to disclose it, thereby depriving the Respondent of a fair opportunity to respond. My conclusion on fairness was based on the absence of full disclosure, not on isolated items of correspondence.
18. If the Respondent had improperly written to a different medical expert (Dr Slinn), this is again something which could be raised during the final hearing by the Claimant, and any relevant submissions made in that regard. However, this does not affect the Claimant’s obligation to disclose relevant documents which are in her possession or control. She must still disclose them.

GROUND 4

19. The Claimant alleges that I erred in finding that the Respondent had not previously had full disclosure of her medical records. However, the Claimant herself has conceded that a historical copy provided to the Respondent in 2021 had pages missing which she says were blank and she removed herself. It remains the position that the Respondent was not given a complete copy of the medical records in 2021. The Respondent has not been able to see a full copy to verify that the removed pages are indeed blank.

GROUND 5

20. The statement, in paragraph 11 of the judgement that “[t]he Claimant then obtained her own report from Dr Sperber” is stated by the Claimant to be framing it as “rogue, unilateral and uncooperative”. As can be seen on the face of paragraph 11, this is merely a statement of the fact that it was not a joint expert report, and I did not frame it in the way the Claimant suggests.

GROUND 6

21. The Claimant alleges that I made a factual error regarding the disclosure and/or redaction of the Badenhorst report. I consider that it is clear from the judgment that I was aware that a redacted version of the report had been disclosed, but that I found that an unredacted version should be disclosed by the Claimant.
22. I found that both the Badenhorst report and the Claimant’s broader medical records were highly relevant to liability and remedy issues, particularly because the Claimant seeks to recover career-long losses based on her health. I determined that partial or redacted disclosure prevented proper scrutiny of the Badenhorst report and medical records and affected the fair determination of the issues to which these documents were relevant.
23. The Claimant argues that I failed to take account of the circumstances in which the Badenhorst report was produced and her objections to its accuracy. I did take these into account but disagreed with the Claimant that this entitled her to withhold disclosure. This is clear in paragraph 66.

GROUND 7

24. The Claimant alleges that there was procedural unfairness in that I failed to appropriately assist her as a litigant in person. I do not accept this. The Claimant was given repeated explanations, both orally and in writing, of the relevance of the medical evidence and my concerns about the fairness of the hearing if there was no full, updated disclosure. It was made clear to the Claimant that a refusal to disclose may lead to strike out. She was also given numerous opportunities to make representations and to alter her position regarding her willingness to disclose the unredacted Badenhorst report and her complete and unredacted, up-to-date medical records, which she remained unwilling to disclose. I infer from the content of the reconsideration application that she maintains this position, even having read the reserved judgment.
25. Further, the Claimant was sent a skeleton argument prepared by Counsel for the Respondent. This set out the legal test for strike out and attached authorities. These were sent to the Claimant on 11 June 2026, over a week before the hearing.

GROUND 8

26. The Claimant argues that I failed to adopt a proportionate alternative to strike out, including accepting third-party verification to ensure that redactions of her medical records only related to the Badenhorst report. It is clear from the strike out judgment that it is not accepted that redactions relating to the Badenhorst report are

acceptable in any event. My determination was that an unredacted version of both the Badenhorst report and the medical report must be disclosed. Therefore, this proposal would not address the fundamental issue of non-disclosure. I explained in my judgment why there was a departure from Employment Judge Housego's previous decisions (paragraph 63). Further, Judge Housego's decision to allow the medical records to be redacted to remove references to the Badenhorst report related only to the preparation of a new expert report, so that this was not affected by Dr Badenhorst's views (paragraph 23).

27. It is not disputed that at the time of this expert report being prepared, in 2024, the Claimant refused to provide even the redacted medical records to the Respondent. Based on this, I concluded that her past conduct indicated that further orders would not secure compliance. The Claimant points to having provided (incomplete) medical records in 2021 as making this finding incorrect. However, my conclusion was based on the events of 2024.
28. The disclosure deadline for the disclosure of these documents was not brought forward from 26 June 2026 to 25 May 2026 as asserted by the Claimant. Instead, she was asked (given her statement at the Preliminary Hearing that she would not ever disclose them, see paragraph 67) to confirm by 25 May 2026 whether she was willing to make full disclosure by 26 June 2026. She did not do so.
29. The Claimant contends that a fair trial remained possible because another joint expert had access to the medical records. I rejected that submission. I found that fairness required both parties to have access to all relevant documents and those included unredacted copies of the Badenhorst report and the Claimant's medical records.
30. Finally, the Claimant argues that the decision was disproportionate and failed to consider the interests of justice. I considered proportionality in detail (paragraphs 70 to 75) and concluded that strike out, although a draconian measure, was proportionate in the circumstances.

RESPONDENT'S CHERRY PICKING

31. The Claimant makes reference to other medical expert reports and points to a double standard in relation to the treatment of the Claimant and Respondent in relation to cherry picking. However, these points relate to the Respondent challenging or "ignoring" reports. That is open to either party: if they wish to dispute the contents of a report they can do so. Non-disclosure of relevant evidence is an entirely different matter. The points the Claimant makes under this heading are all matters the Claimant could have raised to argue at the later hearing that the Badenhorst report should be disregarded in favour of other medical reports. It does not, however, mean she can simply refuse to disclose the Badenhorst report.

CONCLUSION

32. As set out in Liddington, a 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. Any asserted error of law is to be corrected on appeal.

33. For the reasons set out above, I consider that the grounds set out in the Claimant's reconsideration application are either misconceived or simply seek to re-argue points considered in the strike out hearing.
34. At its heart, the strike out relates to the Claimant's refusal to disclose relevant documents. Even at reconsideration stage, the Claimant remains steadfast in her refusal to disclose unredacted copies of the Badenhorst report and her medical records.
35. Having carefully considered the Claimant's application and bearing in mind the importance of finality in litigation and the interests of both parties, I am not satisfied that there is any reasonable prospect of the judgment or any part of it being varied or revoked.

Approved by
Employment Judge Volkmer
Date: 6 July 2026

SENT TO THE PARTIES ON
06 July 2026