



EMPLOYMENT TRIBUNALS

Claimant: D Deamer

Respondent: Littlefair Care Home Limited

UPON a reconsideration, without a hearing, on the Tribunal's own initiative under rule 71 of the Employment Tribunal Procedure Rules 2024, of the judgment made on (the first) reconsideration on 20 October 2025, in which the Tribunal overturned the decision to strike out the response, written reasons in respect of which were sent to the parties on 18 November 2025

JUDGMENT

1. The reconsideration is refused.
2. The part heard hearing will reconvene on **23, 24 and 25 February 2026** as previously notified to the parties.

REASONS

1. Having considered the parties' submissions/written representations sent in by 4 February 2026 as requested by the Tribunal, Employment Judge Rice-Birchall concludes that it is not in the interests of justice or in accordance with the overriding objective to reconsider the decision for the reasons set out below.
2. The Tribunal, in making its original decision on reconsideration, assessed whether reconsideration was necessary in the interests of justice and concluded that it was, as it considered that the sanction imposed (to strike out the respondent's response) was not compatible with the overriding objective to place parties on an equal footing and to deal with cases in ways which are proportionate to the complexity and importance of the issues.
3. In any event, the (first) decision on reconsideration was made in the interests of justice, as the original strike out was ambiguous as to which case management orders had allegedly been breached. There had been no order for specific disclosure or inspection.
4. In circumstances in which a fair trial appeared to remain possible, it was open to the Tribunal to conclude that reconsideration of the strike out judgment was in the interests of justice.

5. Had the decision to reconsider the strike out of the response not been made on 20 October 2025, the Tribunal would, in any event, have relied on Tribunal Rule 22(3) to allow the respondent to participate fully in the proceedings. That is because it is in the interests of justice to allow the claimant to be cross examined; to hear the respondent's evidence; and to allow the respondent's submissions in order to be able to determine causation, in circumstances in which the claimant alleges that the principal reason for his dismissal was that he made a protected disclosure.
6. It is not in the interests of justice for the Tribunal to now reconsider its decision on (the first) reconsideration. If the Tribunal were now to reconsider its decision, the part-heard hearing listed for February 2026 would have to be abandoned and the claim re-listed for a further hearing. A five day hearing would not be listed until September 2028 in this region. It is not in the interests of justice for such a delay to occur and it is not within the overriding objective of avoiding delay and unnecessary expense.
7. This claim was presented on 11 December 2020. If the hearing were to be abandoned and the claim relisted, the likely hearing date would be almost 8 years after the claim was presented and over 8 years from the claimant's dismissal. As stated above, it is not in the interests of justice or in accordance with the overriding objective for there to be such a significant delay. Further, such a delay may call into question whether a fair trial is still possible.

Approved by

Employment Judge Rice-Birchall
11 February 2026