



EMPLOYMENT TRIBUNALS

Claimant: Miss Tanya Langston

Respondent: Historic England

JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The claimant's application dated 6 July 2026 for reconsideration of the judgment sent to the parties on 25 June 2026 is refused.
2. There is no reasonable prospect of the Judgment being varied or revoked.

REASONS

3. On 6 July 2026 the claimant applied for reconsideration of the Judgment dated 10 June 2026 which was sent to the parties on 25 June 2026 ("the Judgment"). The grounds of the application are contained in a document of the same date.

The background to the reconsideration application

4. The application for reconsideration was drafted and filed before the claimant received the Reasons for the Judgment (which were sent on 21 August 2026), although extempore reasons had been provided on 9 June 2026 and the claimant may have listened to aspects of them, despite devoting her energies and much of the time during which Judgment was handed down to typing messages into the chat function of the CVP platform. That would have made it difficult for her to make any sensible form of note of the reasons provided.
5. The claimant first indicated a desire to apply for reconsideration in an email on 9 June 2026, although the email did not set out any grounds for reconsideration.

She sent two further emails on 11 June 2026 which might perhaps have been regarded as reconsideration applications but, on 15 June 2026 emailed the Tribunal requesting that it should discard all the emails she had sent after the Judgment, asserting that as she had not received the Reasons, her prior reconsideration applications were not valid. The Tribunal therefore disregarded the earlier reconsideration applications, such as they were.

6. On 7 July 2026, the claimant sent an email consisting of 2 pages of an email and 53-page reconsideration application, asking for it to be treated as her sole reconsideration application. This Judgment addresses only that application in consequence ("The Application"). The Judge apologises for the delay in the production of the Judgment and any anxiety or frustration that resulted. The Judge had two periods of annual leave, the Reasons to finalise, and other cases to hear which reduced the time available to consider the application and prepare the Judgment. The length and nature of the application (as detailed below) was a further complicating factor.
7. The Application contains separate page numbering and where reference is made in this judgment to pages in it, it is to the page references at the foot of that document; they are indicated as follows "(Page x)."
8. The Application appears to have been produced using some form of deep/large language AI programme, which the claimant has edited. In consequent it is often repetitive, very difficult to follow both in terms of the arguments contained within it and the references and numbering used, and makes references to claims which were never before the Tribunal, evidence to which the Tribunal was not referred, and arguments which were not articulated or advanced by the claimant during the hearing but which it is assumed formed part of the data the claimant input or which the AI program referenced in preparing the Application.
9. In consequence, it is not proportionate, nor in the interests of justice to respond to each ground or argument raised within the Application. The Reasons provide a full account of the Tribunal's findings, the arguments raised and the basis on which they were accepted or dismissed.

The Grounds of the Application

10. There appear to be three fundamental elements of the Judgment which the Claimant challenges in the Application:
 - 10.1 The recording that if the Tribunal were found to have erred in finding the dismissal was procedurally fair, it would have applied a 100% Polkey discount on the grounds that the claimant would inevitably have been dismissed had a fair process been followed.
 - 10.2 The dismissal of the claims against David Gray on the grounds that they had been withdrawn by the claimant.
 - 10.3 The dismissal of the whistleblowing claims on the grounds that they had been withdrawn by the claimant.

The Law

11. Rules 68 to 71 of The Employment Tribunal Procedure Rules 2024 (the “Rules”) provide:

“Reconsideration of judgments

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.*

(4) *If the application has not been refused under paragraph (2), the judgment must be reconsidered at a hearing unless the Tribunal considers, having regard*

to any written representations provided under paragraph (3), that a hearing is not necessary in the interests of justice.

(5) If the Tribunal determines the application without a hearing the parties must be given a reasonable opportunity to make further written representations in respect of the application.

Reconsideration by the Tribunal on its own initiative

71. Where the Tribunal proposes to reconsider a judgment on its own initiative, it must inform the parties of the reasons why the decision is being reconsidered and the judgment must be reconsidered (as if an application had been made and not refused) in accordance with rule 70(3) to (5) (process for reconsideration).

12. 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 (Rule 68).
13. Rule 70(2) empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.
14. The test of whether it was necessary and in the interests of justice to vary or revoke a judgment or Order where application is made under Rule 70 and the nature of the assessment to be conducted was considered in Scrannage v Rochdale Metropolitan Borough Council [2018] UKEAT/0032/17 by Her Honour Judge Eady QC at [22] to [23]:

“22. The test for reconsideration under the ET Rules is thus straightforwardly whether such reconsideration is in the interests of justice (see Outasight VB Ltd v Brown UKEAT/0253/14 (21 November 2014, unreported). The “interests of justice” allow for a broad discretion, albeit one that 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.

23. Where the application for reconsideration is made on the basis of “new evidence”, the test the ET will apply remains that laid down by the Court of Appeal in Ladd v Marshall [1954] 3 All ER 745 (Outasight paragraph 49), which provides that three conditions must be met as follows

- 1) that the evidence could not have been obtained without reasonable diligence for use at the original hearing;*
- 2) that it is relevant and would probably have had an important influence on the hearing; and*
- 3) that it is apparently credible.”*

15. In Trimble v Supertravel Ltd [1982] ICR 440 the Employment Appeal Tribunal (“EAT”) held 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 68/60 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”.

16. 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.”

17. Similarly in Liddington v 2Gether NHS Foundation Trust EAT/0002/16 the EAT held per Simler P at [34] that:

“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 by 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.”

18. In Employment Rights Advice Ltd v Craig Vernon & Volkmaster Ltd UKEAT/0082/18/LA Mrs Justice Stacey reviewed the decision in Scranage relating to new evidence, noting at paragraph 27:

“27. It is not an absolute test. There might be cases where the interests of justice would permit fresh evidence to be adduced notwithstanding that the principles laid down in Ladd v Marshall are not strictly met. Examples of when this might arise include where a party has been genuinely ambushed, or if there was some additional factor or mitigating circumstances. It cannot be a closed category because the nature of the interests of justice test is, self-evidently, that the interests of justice are paramount. It is impossible to anticipate all the number of different circumstances which may arise that might occur require re-visitation of a particular issue because it is in the interests of justice to do so.

19. In common with all powers under the Rules, preliminary consideration under Rule 70 (2) must be conducted in accordance with the overriding objective which appears in Rule 3, namely to deal with cases fairly and justly. This includes dealing with cases in ways which are proportionate to the complexity and importance of the issues, and avoiding delay. Achieving finality in litigation is part of a fair and just adjudication.

The law: Adequacy of reasons

20. The reasons do not have to be of uniform length or substance but must be proportionate to the significance of the issue and, for decisions other than judgments, they may be very short (see rule 60(6)). In any event, as pointed out by the Court of Appeal in Anya v University of Oxford [2001] IRLR 377 at 381, the duty on courts and tribunals to give 'adequate and intelligible' (or, as it was put in Clark v Clark Construction Initiatives Ltd [2008] EWCA Civ 1446, [2009] IRLR 718, 'candid, intelligible, transparent and coherent') reasons for their decisions exists independently by virtue of the body of case law on art 6 of the Human Rights Convention (as applied by ss 2 and 6 of the Human Rights Act 1998).
21. Where reasons are given for a judgment, there are specific matters that they must cover (rule 60(7)). They must (a) identify the issues which the tribunal has determined, (b) state the findings of fact made in relation to those issues, (c) concisely identify the relevant law and state how that law has been applied to those findings in order to decide the issues.
22. Those requirements are a 'guide and not a straight jacket' (see Balfour Beatty Power Networks Ltd v Wilcox [2006] EWCA Civ 1240, [2007] IRLR 63 at [25]) if the judgment shows that there has been 'substantial compliance' with the requirements of it, which 'can only be achieved by sufficient detail in respect of each of its components as to enable a party to understand the conclusions reached' (see Greenwood v NWF Retail Ltd [2011] ICR 896 63).
23. As the Court of Appeal noted in English v Emery Reimbold & Strick Ltd [2002] EWCA Civ 605, [2003] IRLR 710 at [19-21]

"This does not mean that every factor which weighed with the judge in his appraisal of the evidence has to be identified and explained. But the issues the resolution of which were vital to the judge's conclusion should be identified and the manner in which he resolved them explained. It is not possible to provide a template for this process. It need not involve a lengthy judgment. It does require the judge to identify and record those matters which were critical to his decision. If the critical issue was one of fact, it may be enough to say that one witness was preferred to another because the one manifestly had a clearer recollection of the material facts or the other gave answers which demonstrated that his recollection could not be relied upon. ..."

When giving reasons a judge will often need to refer to a piece of evidence or to a submission which he has accepted or rejected. Provided that the reference is clear, it may be unnecessary to detail, or even summarise, the evidence or submission in question. The essential requirement is that the terms of the

judgment should enable the parties and any appellate tribunal readily to analyse the reasoning that was essential to the judge's decision."

24. In High Table Ltd v Horst [1997] IRLR 513 at 518, CA, Peter Gibson LJ pointed out that 'whilst [the tribunal] must consider all that is relevant it need only deal with the points which were seen to be in controversy relating to those issues, and then only with the principal important controversial points'.

Discussion and conclusions

25. The permissible grounds for reconsideration are only those set out in Rule 70, namely that it is in the interests of justice to vary or revoke the Judgment.
26. It is helpful for ease of reference to repeat the grounds in the Application here.

The Grounds of the Application

27. There appear to be three fundamental elements of the Judgment which the claimant challenges through the Application:

27.1 The recording that if the Tribunal were found to have erred in finding the dismissal was procedurally fair, it would have applied a 100% Polkey discount on the grounds that the claimant would inevitably have been dismissed had a fair process been followed.

27.2 The dismissal of the claims against David Gray on the grounds that they had been withdrawn by the claimant.

27.3 The dismissal of the whistleblowing claims on the grounds that they had been withdrawn by the claimant.

Was the application made in time?

28. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2024 contains the Employment Tribunal Rules of Procedure 2024 ("the Rules"). Under Rule 68 an application for reconsideration under Rule 70 must be made within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties. The application was therefore received within the relevant time in respect of first two areas of challenge at 27.1 and 27.2 above.
29. However, the Judgment dismissing the claims of whistleblowing was dated 6 June 2025 [3] and was sent to the parties on 25 June 2025. Any application for reconsideration in respect of that decision had to be submitted by 9 July 2025 and is therefore almost a year late.
30. The claimant was clearly aware of the dismissal of the claims of whistleblowing because on 17 April and on 19 May 2026 she applied to reinstate them. It is worthy of note that she did not allege in either of those applications that she had not clearly withdrawn the claims (which was the basis for their dismissal recorded in the case management order at paragraph 106.5 of that Order), as she now alleges in this Application (Page 12 para 2.2). Those earlier applications were

refused by Judge Woodhead on 26 May 2026 when he stated that the claimant withdrew them. The claimant did not renew the application at any stage during the hearing but does so for the first time in the Application.

31. Accordingly, I dismiss the Application to reconsider the Judgment dismissing the whistleblowing claims – the application has already been made and rejected, the renewed application is out of time, and the claimant has identified no basis for the delay. Lastly, the application is entirely without merit for reasons detailed in Judge Woodhead's direction of 26 May 2026. There is no reasonable prospect of the Judgment being varied or revoked in consequence.
32. I have undertaken a review of the claimants' Application to identify the specific arguments made in support of the Grounds and the Judgment to identify the paragraphs of the Reasons which address the points. (References in square brackets (e.g. [25]) are references to paragraph numbers from the Written Reasons.)
33. The Claimant's arguments appear to be as follows:
 - 33.1 *Ground 1* The finding that there a 100% chance that the Claimant would fairly have been dismissed was perverse. Here the claimant argues that the Tribunal's finding represents (see Page 5 para 1.3).:
 - 33.1.1 *"a speculative conclusion of "inevitable failure" by double-counting an untested capability hypothesis onto an unrelated SOSR termination"; and/or*
 - 33.1.2 An error of law because of a failure to apply Software 2000 Ltd v Andrews, in relation to which the claimant argues that any finding about her capability (for the purposes of assessing the prospect of a fair capability dismissal) had to take into account that a fair employer would have afforded her SQL training (see Page 28 para 11, page 29 bottom para and page 30 para 8.12)
 - 33.2 *Ground 2* The dismissal of the claims against David Gray was an error of law or was perverse because the claimant did not unequivocally and unambiguously withdraw the claims (Page 11 paras 1.2 and 1.3)
 - 33.3 *Ground 3* – the dismissal of the claims which were before the Tribunal was perverse because it failed to take account of relevant evidence and/or represented an error of law because:
 - 33.3.1 The Judge failed to apply the burden of proof correctly or
 - 33.3.2 failed to construct the hypothetical comparator's characteristics correctly or to consider how such a comparator would have been treated.
34. The Ground 3 arguments are particularly opaque, and it is difficult to understand which claim in the list of issues they relate to – the claimant does not reference any specific claim. Furthermore, the arguments are spread across twenty-two separately identified grounds and the summary at 33.3 of this Judgment

represents an attempt to draw disparate and often time conflicting threads of arguments together.

35. Each argument is addressed in turn

Ground 1:

36. This ground of the Application is misconceived. The primary basis for the rejection of the unfair dismissal claim was that the claimant's dismissal was fair and that it followed a fair process (see [259] – [275], particularly at [261] the reason for dismissal, [269] the cause of the breakdown of relations, [271-2] the fairness of the process, and [272-3] that the dismissal was within the range of reasonable responses).
37. The Tribunal did not find that the process followed was unfair, and therefore it was unnecessary to make a finding as to whether the claimant's dismissal would have followed a fair process. However, to provide finality by seeking to address points that might be raised in satellite litigation if the matter were remitted following appeal, the Tribunal made findings relevant to Polkey. Unless and until the claimant successful appeals the Tribunal's conclusion that her dismissal was fair, arguments as to the Tribunal's approach to Polkey are otiose.
38. In any event, the arguments the claimant has articulated in support of her challenge to the Tribunal's finding on Polkey are similarly misconceived – they rely on an assertion that the claimant was dismissed on grounds of capability; that was not the Tribunal's finding. It found the reason was some other substantial reason ([261]); arguments as to capability had been abandoned at the start of the hearing (see [16]). Consequently, the basis of for the findings of contributory conduct and Polkey relate to conduct *not* capability (see [276-277]).
39. To the extent that the claimant argues (see Page 6 para 2.4) that the Tribunal erred or made a perverse finding that her dismissal was fair on the grounds that the respondent acted reasonably in finding that the allegations of harassment were made in bad faith, and that that was the basis of the breakdown of the relationship, the Tribunal's finding was that the primary cause of the breakdown was the claimant's conduct during the investigation of the impact of her return to work having made such allegations, not solely the allegations themselves (see [136-140]). It was that assessment which the Tribunal found to be within the range of reasonable responses (see [269 and 272-3]).
40. There is nothing in Ground 1; it is entirely misconceived.

Ground 2:

41. The circumstances in which the claims were dismissed upon their withdrawal is detailed at [17-18]. The claimant's withdrawal was clear and unambiguous, contrary to her assertion at Page 11 paras 1.2 and 1.3. The discussion about withdrawal was caused by the claimant's unprompted statement that she was not alleging that Mr Gray had made any comment or done anything because of or for a reason related to her asserted disability - she had been asked why she was asserting that it was for that reason and responding by stating she was not making

such an allegation. There was no pressure exerted on the claimant in respect of that concession, it was made entirely voluntarily.

42. It was appropriate for the Judge to invite the claimant to consider withdrawing the claims in light of that position, and later to explain the risk of pursuing them and requiring a witness to attend to answer them where the claimant was not advancing any argument which was at the heart of the claim she was making against that individual.
43. The claimant did not at any stage during that discussion reassert that she was alleging Mr Gray had done or said anything for a reason connected to her disability, nor did she apply to reinstate the claim at any stage during the hearing, whether on the basis now asserted or any other.
44. Consequently, had the claimant not withdrawn the claims, the Tribunal would have dismissed them on the basis that she had disavowed the allegation which was at their heart and would have found that their pursuit in that context was unreasonable conduct.
45. The Tribunal notes the pattern in this litigation of the Claimant clearly and unequivocally withdrawing claims, later appearing to regret such decisions, and later again seeking to argue that she did not withdraw them.

Ground 3

46. The claimant's arguments relating to the Tribunal's errors in identifying the appropriate comparators and the burden of proof must be viewed in context. The claimant's arguments as to both points derive from her focus on a claim which was not made and which was not before the Tribunal— namely whether Mr Kirk was appointed without an appropriate process and she was therefore treated less favourably than him in her recruitment (see Page 7 para 3.3 and see Page 10 para 6 and specifically pages 14 at para 3.1.1 and 23 at para 12.1 where that argument is repeatedly made).
47. The claimant did not identify or rely upon Mr McConnagh or Mr Leary as comparators during the hearing (as asserted at Page 9); nor were they identified in the list of issues as comparators for the sex discrimination claims.
48. The claimant did argue that Mr Kirk and/or Mr Reeves were actual comparators (as asserted at Page 24 'Ground 11') but the Tribunal made specific findings as to the material circumstances relating to Mr Kirk's training, its funding, and the work allocation to Mr Reeves and Mr Kirk in comparison with the claimant's (see [44 and 45, and also 55]).
49. The Tribunal did not solely rely on the difference in Band as alleged at para 11.3, but in any event, the Claimant accepted during cross examination that the Bands indicated different levels of seniority, and that Mr Kirk line managed her at stages. The difference in band was a relevant factor in determining the reason why work was allocated to each, but the Tribunal made appropriate findings as to what work was allocated to Mr Kirk and Mr Reeves and the reasons why at [44], [45] and [55].

50. The claimant's argument at 'Ground 13' (Page 36 para 13.1) that the Tribunal failed to consider that the respondent funded Mr Kirk's SQL training but denied or withheld equivalent training from the claimant is simply wrong - the Tribunal considered the issues and specifically found that the claimant was offered and encouraged to undertake SQL training initially (see [36] and [38]). The claimant's factual assertion was rejected and reasons for that rejection provided.
51. The arguments at 'Ground 14' (Page 37) were never made at all.
52. Certain of the claimant's wider arguments are simply nonsensical, referring to claims or arguments which she had never made and which were not before the Tribunal, see for example reference to:
- 52.1 Claims of victimisation (page 15 'Ground 4', page 51 'Grounds 21 and 22')
- 52.2 Claims of failure to make reasonable adjustments (Page 21 'Ground 7', page 39 'Ground 15' and Page 41 para 15.4, Page 47 para 20.3)
- 52.3 Claims of libel (Page 32 'Ground 10')
- 52.4 Allegations relating to the things arising from her disability, whether:
- 52.4.1 that her conduct in raising the grievance arose from her disability (see Page 16 para 5.1) - such an argument was never made (as recorded at [274] in relation to her allegations in the grievance or her conduct more generally), nor was it put to witnesses in cross examination. The claimant did assert that the dismissal was because of something arising from her disability but that was a bare assertion; the claimant did not argue what arose from her disability or provide evidence to support such an assertion so as to demonstrate any causal link.
- 52.4.2 That her performance errors arose from her disability (see Page 20 para 6.2.2). That argument was never made nor was it put to witnesses in cross examination.
53. The remaining points in the application are no more than an attempt to relitigate points and arguments which were considered and rejected at the final hearing. As stated in Liddington such matters do not provide an appropriate or proper basis for an application for reconsideration.
54. Ground 3 is therefore entirely without merit.

Conclusion

55. Having considered the central arguments and the supporting points made by the claimant I am satisfied that there is no reasonable prospect of her demonstrating that it is in the interests of justice for the Judgment to be varied or revoked.
56. There was no denial of natural justice in this case; rather the Tribunal considered the evidence and the claimant's arguments that were put before it, in relation to the claims which were before the Tribunal, and determined that they should be

dismissed. The points of significance were considered and addressed at the hearing in the extempore Judgment and again in the written reasons.

57. Accordingly, I dismiss the application for reconsideration pursuant to Rule 72(1) because it is entirely without merit.

Approved by

Employment Judge Midgley

Dated: 2 September 2026

Sent to the parties on

25 September 2026

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