



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr Dale White

**Respondent:** T.P.M. Management Limited

## RECONSIDERATION

The Respondent's application dated 9 July 2026 for reconsideration of the judgment sent to the parties on 25 June 2026 is refused. The judgment is confirmed.

## REASONS

### Introduction and Background

1. The Respondent applies for reconsideration of the judgment sent to the parties on 25 June 2026. By that judgment, the Claimant's complaints of unfair dismissal and wrongful dismissal succeeded. The complaint concerning unauthorised deductions from wages / national minimum wage did not succeed.
2. The Respondent's (amended) application for reconsideration was dated 9 July 2026. It was therefore presented within 14 days of the date on which the judgment was sent to the parties. I am satisfied that the application was made in time under rule 69 of the Employment Tribunal Procedure Rules 2024.
3. I have considered the application and the submissions made by the Respondent carefully. In summary, the Respondent asks the Tribunal to reconsider the judgment on the basis that it says the Tribunal: (a) erred in its treatment of the Claimant's role and the distinction between the Respondent's status as the responsible person and the Claimant's practical role; (b) placed undue weight on alleged deficiencies in training and misunderstood the proper interpretation of the Regulatory Reform (Fire Safety) Order 2005; (c) failed properly to take account of the Respondent's monitoring arrangements and systems; (d) failed properly to take

account of the Croner process; (e) failed properly to apply the unfair dismissal authorities on the range of reasonable responses; (f) failed properly to treat the seriousness of health and safety misconduct as capable of justifying dismissal; (g) gave insufficient weight to the Respondent's size and resources; and (h) failed properly to recognise what the Respondent describes as a pattern of dishonesty. Those grounds are advanced in support of the Respondent's challenge to the unfair dismissal and wrongful dismissal conclusions. I address them below.

4. The Respondent relies in particular on two authorities in support of those grounds. The first is *St Mungo's Community Housing Association v Finnerty* [2022] EAT 117, relied on in relation to the Tribunal's approach to the employer's reasoning and the range of reasonable responses. The second is *London Borough of Brent v Fuller* UKEAT/0453/09, appeal dismissed at [2011] EWCA Civ 267, relied on for the proposition that an employer may take account of relevant background circumstances, including previous similar matters even where no formal warning was given, and that the range of reasonable responses must be assessed against that background. I address those authorities below where they arise. They do not alter the separate reconsideration test set out in rules 68 to 70.
5. I do not repeat the original judgment. I address the principal matters raised only insofar as necessary to explain why the threshold in rule 70(2) is not met.

## The law

6. Rule 68 of the Employment Tribunal Procedure Rules 2024 provides, so far as material:

*“(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.”*

7. Rule 69 provides that, except where made in the course of a hearing, an application for reconsideration must be presented in writing and copied to all other parties within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or, if later, within 14 days of the date on which the written reasons were sent. The application must explain why reconsideration is necessary. I have addressed time above because it is a necessary threshold requirement.

8. Rule 70 sets out the procedure for applications. At this stage, rule 70(2) provides that, if the Tribunal considers that there is no reasonable prospect of the original decision being varied or revoked, the application must be refused. If the application is not refused, the Tribunal must then send notice to the parties under rule 70(3), seek responses and views on whether the application can be determined without a hearing, and proceed in accordance with rule 70(4) and (5). I am therefore required first to decide whether the application passes the rule 70(2) sift.
9. The reconsideration jurisdiction is an exception to the important principle that litigation should be final. It is not an appeal and it is not a mechanism by which a party may reargue the case because it disagrees with findings of fact, evaluative judgments, or the weight given to evidence. In Trimble v Supertravel Ltd [1982] ICR 440, the Employment Appeal Tribunal drew the distinction between a procedural shortcoming that has denied a party a fair opportunity to present its case, which may properly be addressed by review, and an alleged error of law after the matter has been ventilated and properly argued, which is for appeal. That remains an important guide to the modern reconsideration jurisdiction. The same emphasis on finality appears in Council of the City of Newcastle upon Tyne v Marsden [2010] ICR 743, EAT, where the Tribunal must have regard to the interests of both parties and the legitimate expectation that a substantive decision, once reached after a fair hearing, will ordinarily be final unless there is a sufficient reason in the interests of justice to depart from that position.
10. The reconsideration authorities therefore require me to ask whether it is necessary in the interests of justice to revisit the judgment, while keeping firmly in mind the public interest in finality and the limited nature of the reconsideration jurisdiction.
11. The question for me at this stage is whether the application has a reasonable prospect of leading to the original judgment being varied or revoked.

**Decision: The Judgment's Conclusions, the Respondent's Grounds and Reargument**

12. The judgment did not find that the Claimant had no fire-safety role. It accepted that he had practical involvement with fire-safety administration over many years, that the Respondent had genuine concerns about fire safety, that fire safety was important, and that the Claimant's email of 20 July 2024 was inaccurate because not all priority A items had been dealt with.
13. The judgment nevertheless concluded that dismissal was unfair. The reasons included the ambiguity of the Claimant's role, the Respondent's own statutory and practical responsibilities, the absence of clear systems and training, the way in which the disciplinary and appeal reasoning treated the Claimant as responsible

for matters not clearly allocated to him, and the distinction between an inaccurate statement and proved deliberate dishonesty.

14. I address the Respondent's principal grounds below. For the reasons that follow, each ground seeks to reargue matters already determined rather than argue a basis on which reconsideration is necessary in the interests of justice.

#### The Claimant's role and the responsible person / competent person distinction

15. As to the Claimant's role, the Respondent says the Claimant only needed to be competent to arrange contractors and that he was not treated as the legal responsible person. That submission does not provide a basis for reconsideration. The original judgment did not find that the Claimant had no practical fire-safety role; on the contrary, it found that he had longstanding practical involvement in fire-safety administration, including obtaining assessments, keeping records and reporting matters to the board. However, the judgment also found that this practical involvement had developed over many years in an informal and unsupervised setting, and that the evidence did not establish that the Claimant had been given sole, clearly defined, trained and monitored responsibility for ensuring implementation of the 2022 Fire Risk Assessment (FRA) recommendations. That was not simply a point about the Claimant's subjective understanding. It was also a finding about the Respondent's own arrangements at the time. The Respondent's systems, terminology and allocation of responsibility were unclear: the Claimant was asked for updates as the on-site steward, and the disciplinary process then treated his practical role as if it had always been a clear delegated compliance responsibility. The Respondent's oral evidence did not remove that ambiguity. The judgment therefore did not overlook this point; the application seeks to revisit a conclusion already reached on the evidence, namely that the Respondent was not itself clear at the material time about the precise boundary between the Claimant's practical tasks, the board's responsibility, and any later audit or competent-person function.

#### Training and the Fire Safety Order

16. As to training and the Fire Safety Order, the Respondent's application focuses on Article 21 and argues that the Claimant did not require fire-safety training in order to arrange contractors or carry out practical tasks. That does not answer the reasoning in the judgment. The judgment's point was broader and is not dissimilar to the points already responded to above. It found that the Respondent's disciplinary reasoning did not clearly or consistently distinguish between the Respondent's role as the responsible person under the Fire Safety Order, any competent person appointed to assist, and the Claimant's practical steward/caretaker role. The lack of training was part of that analysis, not because

the Tribunal treated training as a free-standing statutory precondition to every practical task, but because the Respondent relied on serious culpability for failures in implementing and monitoring the fire risk assessment recommendations without having clearly trained, instructed, supervised or managed the Claimant in relation to that alleged responsibility. The original judgment also found that the Respondent's own systems for tracking, allocating and monitoring those recommendations were weak and were only belatedly professionalised. In that context, the central difficulty for the Respondent is not answered by saying that the Claimant could arrange contractors. The issue was whether, before dismissal, the Respondent had made sufficiently clear to him, and to itself, that he personally bore the responsibility later attributed to him in the disciplinary process. The judgment found that it had not. The Respondent's application therefore reargues a point that the judgment expressly addressed.

#### Monitoring and systems

17. As to monitoring and systems, the Respondent relies on the July 2024 email request for an update. That evidence was considered. The judgment accepted that the Respondent had genuine concerns and that the July email was inaccurate. It was nevertheless open to the Tribunal to find that one request for an update did not answer the wider weaknesses in systems, governance, clarity of responsibility and the later disciplinary reasoning.

#### Croner process

18. As to the Croner process, the Respondent says that it obtained external HR support and followed that advice. That point was before the Tribunal and was taken into account. It does not, however, answer the reasoning in the judgment. External HR input may be relevant to procedure, but it does not determine whether the investigation, the disciplinary reasoning, the appeal reasoning, or the sanction fell within the range of reasonable responses. The question remained whether, on the evidence before the dismissing and appeal officers, dismissal for misconduct was reasonably open to the Respondent. As explained in the Judgment, the Respondent is accountable for the decisions they make, with or without HR advice. The judgment found that the defects identified above were substantive, not merely procedural. Reliance on Croner therefore does not identify a matter overlooked or any basis on which reconsideration is necessary in the interests of justice.

#### St Mungo's / Finnerty

19. I accept the principle in St Mungo's Community Housing Association v Finnerty [2022] EAT 117. Where the issue is not that the conduct is inherently trivial, a

Tribunal deciding that dismissal was outside the band of reasonable responses must engage with the employer's reasoning and explain why that reasoning is defective, or otherwise why dismissal was not reasonably open to the employer on the evidence. That is what the judgment did. It engaged with the Respondent's reasoning and explained the defects relied on: role ambiguity, the Respondent's own responsibilities, lack of clear systems and training, the distinction between inaccuracy and dishonesty, and the Claimant's long service and disciplinary record. The Respondent's reliance on *Finnerty* is therefore no more than a disagreement with that reasoning.

#### Fuller and the range of reasonable responses

20. I accept the principle in *London Borough of Brent v Fuller* UKEAT/0453/09, appeal dismissed at [2011] EWCA Civ 267. An employer may take account of relevant background circumstances, including earlier similar matters even where no formal warning was given, and the Tribunal must apply the statutory range of reasonable responses test against the relevant factual background without substituting its own view. That principle does not assist the Respondent on reconsideration. The judgment did not proceed on the basis that background circumstances were irrelevant. It considered the background relied upon by the Respondent, including the fire-safety context, the July 2024 email, the Claimant's practical role over time, and the Respondent's case about dishonesty. The conclusion was that, on these particular facts, dismissal was outside the range of reasonable responses. Reliance on *Fuller* therefore does not disclose a reconsideration ground; it is another way of arguing that the Tribunal should have weighed the factual background differently.

#### Size and resources

21. As to size and resources, the Respondent says that insufficient weight was given to the fact that it was a small business with limited resources. That was a relevant factor and was considered. It did not require a different conclusion. The judgment did not impose the standards of a large employer, nor did it require a sophisticated HR infrastructure. The defects identified were basic matters of clarity, investigation, reasoning and proportionality in circumstances where the Respondent relied on serious allegations of fire-safety misconduct and dishonesty. The application therefore seeks to reargue the weight given to a factor already taken into account.

#### Dishonesty / pattern of dishonesty

22. The Respondent's ground here is that the evidence showed a documented pattern of dishonesty. I accept that the wider evidential context was relevant and that it was considered where it formed part of the case and the evidence. However, the

live disciplinary and Tribunal dishonesty issue was focused on the 20 July 2024 email. The Respondent's final-hearing case was that the July email was dishonest and that the surrounding fire-safety evidence supported that conclusion. It was not advanced as a separate series of discrete dishonesty allegations requiring findings on each alleged falsehood now relied upon.

23. Matters such as the timesheet/raking leaves issue, the suspension meeting wording, disputes about whether documents had been received, selected smoke-alarm log points and the 11th-floor alarm were considered to the extent they were raised in evidence, documents or submissions. The original judgment expressly referred, for example, to the suspension meeting, the transcript, the Claimant's evidence that he found the manner and setting humiliating, and the conclusion that the suspension issue was not determinative of the dismissal claims. Those matters were either background, procedural matters, or part of the wider fire-safety evidence. They were not the principal pleaded or disciplinary reasons in the same way as the July email and the alleged failure to implement/report on the FRA recommendations. The Tribunal was not required to convert every evidential point into a discrete dishonesty finding where that was not how the case was put.
24. The judgment expressly considered the July email. It accepted that it was inaccurate. It did not accept that dishonesty was proved and the Judgment found that the Claimant's evidence was credible on this specific point. The Respondent's application seeks to repackage other evidential matters in order to persuade the Tribunal to reach a different credibility conclusion. That is precisely the kind of reargument and cherry-picking of the evidence which the reconsideration authorities warn against.
25. For those reasons, the dishonesty ground does not disclose any reasonable prospect of the judgment being varied or revoked. It is an attempt to reargue the factual and evaluative conclusions reached after hearing the evidence.

## Conclusion

1. For those reasons, I am satisfied that there is no reasonable prospect of the original judgment being varied or revoked. The application seeks to reargue factual and evaluative conclusions reached after hearing the evidence. The Respondent's challenge to the unfair dismissal conclusion is consequential on the grounds addressed above. The wrongful dismissal challenge likewise turns on the same attempted reargument, particularly the Respondent's disagreement with the Tribunal's finding that the conduct proved did not amount to repudiatory breach.

The application is refused under rule 70(2) of the Employment Tribunal Procedure Rules 2024.

2. The judgment sent to the parties on 25 June 2026 is confirmed.

**Employment Judge Winfield**

**Date: 29 September 2026**

Sent to the parties on  
30 September 2026