EMPLOYMENT TRIBUNALS

Claimant: Valdis Riekstins

Respondent: Finance a Vehicle Limited (formerly known both as Car Sales Solutions Limited and Hunter Devine Capital Limited)

Heard at: Southampton (by Teams) **On:** 25 September 2026

Before: Employment Judge Lumby

REPRESENTATION:

Claimant: Ms E Bacon (counsel)
Respondent: Mr J Ogunshakin (counsel)

JUDGMENT
ON APPLICATION FOR RECONSIDERATION

The judgment of the Tribunal is that the judgments dated 8 November 2018 and 4 March 2019 are revoked.

REASONS

1. The Tribunal considers that it is necessary in the interests of justice to revoke both judgments for the reasons set out in this judgment.

Background

2. The claimant brought complaints of unlawful deduction from wages and a failure to provide written particulars of terms of employment. He presented his claim on 5 March 2018, naming Car Sales Hampshire Ltd ("CSH") and Paul Taylor as respondents. However, when the Tribunal sent the claim and hearing documents to CSH and Mr Taylor on 13 March 2018, it removed Mr Taylor as a respondent. The claimant sought reconsideration of Mr Taylor's removal on 26 March 2018.

3. The respondent was added as a respondent on 6 April 2018. It is currently called Finance a Vehicle Limited. At the relevant date, it was called Car Sales Solutions Limited; before that it was called Hunter Devine Capital Limited. Mr Taylor is a director of the respondent but not of CSH. At the relevant time, they shared a business and email address. I accept that Mr Taylor has limited writing and reading ability and relies on others to fill in and send forms and other communications on his behalf and to read to him incoming correspondence.

4. CSH and the respondent filed substantially identical ET3 responses on 10 April 2018. These were accepted by the Tribunal on 5 June 2018.

5. The respondent says that CSH led on handling the case on behalf of itself and the respondent; it contends that the claimant worked with CSH rather than the respondent, so it took the lead. Mr Tricker, who is understood to be legally qualified in some respect, was instructed by CSH to represent both companies.

6. On 2 July 2018, the Tribunal sent hearing directions to an incorrect email address for Mr Tricker.

7. On 13 August 2018, the claimant sent a list of documents referring to revised particulars. The respondent disputes that the revised particulars were filed with the Tribunal or served on either respondent.

8. The Tribunal used an incorrect email address on two further occasions, on 9 and 19 October 2018; the latter correspondence contained a strike-out warning. On 25 October 2018, the strike-out warning was re-sent to the correct representative address.

9. On 8 November 2018, both responses were struck out for non-compliance/not being actively pursued. This is the first judgment I am being asked to revoke. The Tribunal sent the strike-out judgment on 13 November 2018, together with a notice giving the final hearing date incorrectly as 14 March 2019.

10. On 21 November 2018, CSH sought reconsideration, queried the respondent's position as a party and stated that it wished to defend the claim. The Tribunal issued a corrected notice for 4 March 2019. The respondent disputes that the corrected notice was dispatched or received.

11. The claimant opposed reconsideration and the removal of the respondent as a party on 26 November 2018. On 13 December 2018, the Tribunal stated that CSH's application would be addressed at the final hearing.

12. The final hearing took place on 4 March 2019, neither the respondent nor CSH attended; Mr Taylor says he was unaware of the corrected hearing date and intended to attend on 14 March 2019. The Tribunal found that the respondent and not CSH employed the claimant and awarded £5,280 gross in respect of unpaid

wages and £1,956.00 for failing to provide a written statement of the particulars of his employment. CSH's reconsideration application was not considered, notwithstanding the Tribunal's statement on 13 December 2018. This is the second judgment I am asked to revoke.

13. Between 23 March and 9 May 2019, the respondent sought reasons and clarification and lodged an appeal against the substantive decision. That appeal remains to be determined and is currently stayed, pending this decision.

14. Between February and July 2024, further documents and Tribunal answers emerged; as a result, the respondent amended its appeal and on 18 June 2024 again applied for reconsideration of both judgments in this case. The Tribunal refused reconsideration on 9 July 2024, incorrectly relying on the ongoing appeal. The respondent appealed that refusal on 24 September 2024. That appeal was successful, with the EAT on 18 May 2026 remitting the June 2024 reconsideration application to the Tribunal. It is that application I am asked to consider.

15. CSH has been liquidated and removed as a party to the appeal.

EAT reconsideration judgment

16. In his judgment from the EAT, HHJ Tayler set out a more detailed chronology, to which I have referred.

17. It is unnecessary to summarise HHJ Tayler's judgment in detail but a few paragraphs bear repeating; first, paragraph 79:

"79. I have concluded that the appeal against the refusal of reconsideration must be allowed. Mr Way accepted that the reasoning was insufficient but contended that the application was bound to be out of time. I do not accept that is the case due to the manner in which documentation has come to light during the EAT proceedings. The Employment Tribunal should have considered whether to grant an extension of time. Alternatively, the time limit only applies to applications for reconsideration by parties, but not to reconsideration by the Employment Tribunal of its own motion, which may be on a request from the EAT: ***Banerjee v Royal Bank of Canada*** *[2021] ICR 359. Here I do request that the Employment Tribunal consider the merits of the reconsideration application."*

18. The parties have agreed that the time limit does not need to be considered. Having heard from the parties and considered the evidence and the merits of the reconsideration application, this should in any event be considered as a

reconsideration of the Tribunal's own motion. This is because the EAT has requested it in that paragraph 79.

19. I also mention paragraph 82:

"82. While it is clear that there were issues with the naming of respondents and the use of inaccurate email addresses etc, the Employment Tribunal will need to know what the substantive consequences were and whether CSS did not have a fair and proper opportunity to present its case. It is incumbent on CSS to be transparent and not to take points on matters of procedure that did not cause any unfairness."

The reference to fair and proper opportunity to present its case is back to paragraph 74:

74. Reconsideration is particularly apt to deal with procedural problems that have occurred in the Employment Tribunal if they mean that a party may not have had a "fair and proper opportunity to present [their] case": ***Trimble v Supertravel Ltd*** *[1982] ICR 440.*

20. The judgment also reiterates the mandatory stages for a reconsideration. I will consider this further below.

Reconsideration hearing

21. The hearing was to consider the remitted reconsideration application. I heard evidence from Mr Taylor, who provided a witness statement. Both parties provided skeleton arguments. Submissions were made by Ms Bacon on behalf of the claimant and Mr Ogunshakin on behalf of the respondent. A Latvian interpreter was provided for the claimant. I was provided with a bundle running to 428 pages together with an authorities bundle. I have read all documents to which I was directed in the bundles and all of the other documents. I have considered all this and taken it all into account in reaching my decisions.

22. Ms Bacon argued that reconsideration is not necessary in the interests of justice. All relevant communications, including the strike-out warning and the corrected hearing date, reached either Mr Tricker or the email address provided by the respondent and CSH. Accordingly, all procedural failings were rectified. Revocation would prejudice the claimant, who has awaited payment for more than eight years, undermine finality in litigation and be disproportionate to the value of the claim. The position should be looked at in the round, considering all the circumstances.

23. Mr Ogunshakin argued that the procedural defects taken together had deprived the respondent of a fair and proper opportunity to present its case. Tribunal correspondence repeatedly used an incorrect representative email address; the first post-strike-out notice gave the wrong hearing date; there is no proof that the corrected notice was dispatched; and later correspondence named only CSH. The respondent was a dormant company at the time. Mr Taylor relied on others but had demonstrated a keenness to participate. It therefore lost the opportunity to contest the issue of whether the claimant was employed and if so by whom as well as to address revised particulars which the respondent says were neither served nor formally accepted. Revocation is sought in the interests of justice.

24. I reserved judgment at the hearing.

Reconsideration principles

25. Reconsideration is governed by Part 12 of the The Employment Tribunal Procedure Rules 2024 (the "Rules"). Slightly different rules applied to the previous reconsiderations, but I have applied the 2024 Rules; however, my decision would have been the same, regardless of the rules applied.

26. Part 12 of the Rules is set out below.

Part 12

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 no later than 14 days of the later of—*

(a)the date on which the written judgment sought to be reconsidered was sent to the parties,

(b)the date that any written summary reasons were sent, if these were sent separately from the judgment, or

(c)the date that any written full reasons were sent, if these were sent separately from the judgment.

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).*

27. HHJ Tayler in his decision set out how these rules should be applied as follows, citing his own judgment in *Tesco Stores Limited v Element & others [2026] EAT 33.*

22. There have been some changes in the wording in the ETR from that in the ETR 2013 and in relation to the composition of the Employment Tribunal that can

conduct each step. Taking those changes into account, the parties agreed that the mandatory stages now are:

1. Has an application for reconsideration been made? [Rule 69]

2. If so, the application for reconsideration must be considered by the Employment Judge [Rule 70(1) and PDPC para 6]

3. Was the application for reconsideration submitted in time? [Rule 69]

4. If not, should time be extended?

5. If not in time, and time is not extended, refuse as out of time (time dismissal)

6. If in time, or time extended, is there no reasonable prospect of the judgment being varied or revoked?

7. If so, dismiss the application for reconsideration because there is no reasonable prospect of the judgment being varied or revoked and inform the parties of the refusal. (prospects dismissal) [Rule 70(2)]

8. If not, permit the application for reconsideration to proceed (permission to proceed decision)

9. If a permission to proceed decision is taken a notice must be sent to the parties specifying the period by which any written representations in respect of the application (written representations) must be received by the ET, and seeking the views of the parties on whether the application can be determined without a hearing (permission to proceed notice) - the permission to proceed notice may also set out the EJ's provisional views (provisional views) on the application [Rule 70(3)]

10. On receipt of responses, or expiry of time for response, to the permission to proceed notice the EJ must decide whether the reconsideration should be determined on the basis of written representations or at a hearing - the judgment must be reconsidered at a hearing unless the EJ considers, having regard to any written representations, that a hearing is not necessary in the interests of justice (method of determination decision) [Rule 70(4)]

11. If the judgment subject of the reconsideration application was made by a panel the EJ must decide whether the reconsideration should be determined by an EJ or panel (panel composition decision) [PDPC and PC Guidance para 14]

12. If the reconsideration application is to be determined on the basis of written representations the parties must be given a reasonable opportunity to make further written representations) [Rule 70(5)]

13. Determine the application for reconsideration (reconsideration decision)

23. This analysis may seem a little overengineered, but it is necessary to follow a structured approach to the mandatory stages of determining a reconsideration application.

28. I will return to these so-called mandatory steps below.

29. As referred to above, the grounds for reconsideration are only those set out in Rule 68, namely that it is necessary in the interests of justice to do so.

30. The earlier case law suggests that the interests of justice ground should be construed restrictively. The Employment Appeal Tribunal ("the EAT") in *Trimble v Supertravel Ltd [1982] ICR 440* decided 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 68/80* (where the applicant was seeking a review in the interests of justice under the former Rules which is analogous to a reconsideration under the current Rules) 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".

31. More recent case law suggests that the "interests of justice" ground should not be construed as restrictively as it was prior to the introduction of the "overriding objective" (which is now set out in Rule 3). This requires the tribunal to give effect to the overriding objective to deal with cases fairly and justly. As confirmed in *Williams v Ferrosan Ltd [2004] IRLR 607 EAT*, it is no longer the case that the

"interests of justice" ground was only appropriate in exceptional circumstances. However, in *Newcastle Upon Tyne City Council v Marsden [2010] IRLR 743*, the EAT confirmed that it is incorrect to assert that the interests of justice ground need not necessarily be construed so restrictively, since the overriding objective to deal with cases justly required the application of recognised principles. These include that there should be finality in litigation, which is in the interest of both parties.

32. In considering necessary in the interests of justice, regard should be had to Rule 3, including seeking to give effect to the overriding objective to deal with cases 'fairly and justly'. This includes:

    a. ensuring that the parties are on an equal footing

    b. dealing with cases in ways which are proportionate to the complexity and importance of the issues

    c. avoiding unnecessary formality and seeking flexibility in the proceedings

    d. avoiding delay, so far as compatible with proper consideration of the issues; and

    e. saving expense.

33. I referred above to HHJ Tayler's reference to the case of *Trimble v Supertravel Ltd [1982] ICR 440* where procedural problems that have occurred in the Employment Tribunal meant that a party may not have had a "fair and proper opportunity to present [their] case". The EAT held that the tribunal's 'procedural mishap' should have rectified by granting a review. In so holding, the EAT made the following observations:

    a. it is irrelevant whether a tribunal's alleged error is major or minor

    b. what is relevant is whether or not a decision has been reached after a procedural mishap

    c. since, in that case, the tribunal had reached its decision on the point in issue without hearing representations, it would have been appropriate for it to hear argument and to grant the review if satisfied that it had gone wrong

d. if a matter has been ventilated and properly argued, then any error of law falls to be corrected on appeal and not by review.

34. Both parties have referred to the Court of Appeal's decision in *Phipps v Priory Education Services Ltd 2023 EWCA Civ 652, CA* in relation to errors by advisors depriving parties of a fair opportunity to present their case. The Court of Appeal held that the general rule that a party to tribunal proceedings cannot rely on the default of their representative is not a blanket rule. In the exceptional circumstance where a party has not had a fair opportunity to present their case, that is a significant procedural shortcoming which may appropriately be dealt with by reconsideration. It was clear in that case that the application should have been granted on the ground that it was necessary in the interests of justice; relevant factors included that the strike-out occurred entirely because of the adviser's improper conduct in which the claimant was not implicated, the application for reconsideration was made promptly, the claimant had not at any stage been given a fair opportunity to present their case, and any supposed alternative remedy the claimant had against the adviser was fanciful. In the Court of Appeal's view, these factors very substantially outweighed the public interest in finality of litigation, and the injustice to the respondent of having the case restored and of having wasted a significant sum in costs.

35. In reconsidering a case, the tribunal should take into account all relevant facts and circumstances - *Neary v Governing Body of St Albans Girl's School and anor 2010 ICR 473, CA*.

36. Ms Bacon has also drawn my attention to the case of *Aslam v Transport UK London Bus Ltd [2025] EAT 113*, where the EAT held that the tribunal had erred in law by revoking a decision on the basis that the claimant's case had not been expressly pleaded in the claim form. In that case, the EAT found that the distinction between the claimant's pleaded complaint and the claim the tribunal had upheld was incredibly narrow.

Application of reconsideration mandatory steps

37. I have set out the mandatory steps to by HHJ Tayler at paragraph 27. I now briefly consider these to ensure that these have all been correctly taken. Where I refer to a numbered step, this a reference to the relevant numbered step set out in paragraph 27 above.

a. Steps 1 to 8 are not relevant as this is a reconsideration at the Tribunal's own motion.
b. Steps 9 and 10, the Tribunal has decided the reconsideration should be determined at a hearing, to which neither party has objected. Step 12 is therefore not relevant.
c. Step 11, the original final hearing was conducted by a judge sitting alone and the Tribunal considers this is appropriate for the reconsideration determination. Neither party has objected to this approach.
d. This is the determination required by Step 13.

38. I am therefore satisfied that the mandatory steps have been correctly followed.

39. Rule 71 requires the Tribunal to inform the parties of the reasons why the decision is being reconsidered if being reconsidered at the Tribunal's own motion. This is explained at paragraph 18 above and occurred because the EAT requested this in their judgment.

Tribunal consideration

40. I have carefully considered this case, taking into account the matters set out above. The issue I have considered is whether it is necessary in the interests of justice to revoke or vary either or both of the judgments in this case.

41. I begin by considering whether the respondent has been deprived of a fair and proper opportunity to present their case.

42. I consider three potential factors contributed to the respondents' cases being struck out and their non-attendance at the final hearing on 4 March 2019; these are procedural irregularities by the Tribunal, the actions of the respondent's and CSH's representative Mr Tricker and the respondent's own actions. I shall consider each briefly in turn and then assess the cumulative effect.

43. I find that the use of the wrong email address by the Tribunal and the manner of the naming of the respondent party on correspondence were major causes of the strike out of the respondent in November 2018. The position was compounded by initially stating the hearing date incorrectly, leading to Mr Taylor not attending on the correct date. These both prevented the respondent from presenting its case.

44. Ms Bacon rightly pointed out that these errors by the Tribunal were corrected by it. I can see the argument that these corrections would lead to a conclusion that there was no longer a procedural irregularity. However, I also find that there was ongoing

confusion by Mr Taylor and that both he and Mr Tricker genuinely believed that the final hearing remained as 14 March 2019.

45. The actions of Mr Tricker therefore require further analysis. He promptly applied for reconsideration of the strike out. More importantly, the evidence suggests he was unaware of the hearing date correction. I find that this a situation similar to *Phipps*; a party has not had a fair opportunity to present their case due to a significant procedural shortcoming which may appropriately be dealt with by reconsideration. There are also similar relevant factors including that the strike-out occurred entirely because of conduct in which the claimant was not implicated, the application for reconsideration was made promptly, the respondent had not at any stage been given a fair opportunity to present their case, and any supposed alternative remedy the respondent had against Mr Tricker was fanciful.

46. I therefore conclude that, notwithstanding any awareness by Mr Tricker, the procedural irregularities deprived the respondent of the chance to present his case at the 4 March 2019 hearing. This is the case even though emails were sent to the respondent's and CSH's common email address. I accept that in the ordinary course, this might be sufficient to impute awareness. However, I find that the combination of how the Tribunal identified the respondent parties on correspondence (suggesting that the respondent was not a party), the fact that CSH was treated as leading the case for it and the respondent and Mr Taylor's reading difficulties provide a reasonable explanation of the respondent's lack of awareness.

47. Not considering the first reconsideration application and allowing an amended claim without serving it first on the respondent parties and giving them the chance to comment further deprived the respondent of a fair and proper opportunity to present their case. I do not consider that *Aslam* adds much to this debate, given the differences between that case and this one.

48. Looking at this as a whole, I therefore find that the procedural irregularities deprived the respondent of a fair and proper opportunity to present their case. Applying *Trimble*, I consider that it is appropriate to hear their case, meaning revocation and a fresh hearing is appropriate.

49. However, I should take into account all relevant facts and circumstances before making a decision, following *Neary*.

50. I therefore next consider whether the respondent's case had any merits so this should be given any weight in considering all the circumstances. The respondent

argues that the claimant was an independent contractor retained by CSH at a time when the respondent was dormant. A contract between CSH and the claimant has been produced although the claimant challenges its admissibility and provenance. The Tribunal on the other hand found that the respondent employed the claimant, providing cogent reasons for this in its written reasons. HHJ Tayler noted in his judgment that:

8. In attached particulars of claim it was stated:

> *1. The first Respondent in this case is Mr Paul Taylor. The second respondent in this case is Car Sales Hampshire Ltd.*
>
> *2. The Claimant's place of work was at the Company premises located at 2 Pegham Close, Laveys Lane, Fareham, Hampshire, PO15 6RX.*
>
> *3. It is accepted by the Respondent that the Claimant was an employee of Car Sales Hampshire Ltd.*

9. It is possible that paragraph 3 included a typographical error and that it should have stated that it was accepted by the claimant that he was an employee of CSH. In any event, it was not asserted in the claim form that the claimant was an employee of CSS.

51. I make no findings of fact on these points so as not to bind the tribunal considering this case again. However, I find that there are reasonable arguments on both sides and genuine issues to be determined. Given this and taking into account the sums involved, I consider that a rehearing of the case is not disproportionate.

52. Ms Bacon argued that revocation would prejudice the claimant, who has awaited payment for more than eight years and undermine finality in litigation. I have sympathy for the claimant here. HHJ Tayler acknowledged that the length of the appeal process is unfortunate and I agree. It is also the case that the appeal is ongoing, if I do not revoke the judgments, there will be a further delay before it is concluded. Indeed, if the appeal succeeds, the case could be remitted once again to the Tribunal. Ironically, the quickest route to finality may well be revocation and a fresh hearing in early course. I do for that reason ask the parties to think carefully before bringing fresh appeals, including to this decision.

53. Stepping back and weighing all these factors in the round, I consider that the procedural irregularities and the confusion they caused outweigh the prejudice

caused to the claimant by further delaying payment and to the principle of finality in litigation. The Tribunal corrected the errors before the 4 March 2019 final hearing but the confusion continued. Mr Tricker could have been more assiduous but then respondent's confusion was instead reinforced. As a result, these irregularities deprived the respondent from having a fair and proper opportunity to present their case. That case potentially has merit and so should be considered.

54. The irregularities impacted on both judgments and so it is right that both should be revoked. I note in relation to the strike out in particular the use of the wrong email address, the confusion as to who the respondent parties were and the failure to address the promptly made reconsideration application. The strike out was therefore inappropriate and revocation is necessary in the interests of justice. I also note the confusion over the hearing date for the substantive judgment, meaning Mr Taylor did not attend and so could not present the respondent's case. As a result, revocation of the second judgment is necessary in the interests of justice.

55. Variation has not been proposed by either side. In any event, I consider that there is no appropriate variation. Neither judgment will therefore be varied.

56. Revocation is a proportionate response, taking into account the various factors in Rule 3. It will ensure that the parties are on an equal footing, is proportionate to the complexity and importance of the issues and may even mitigate further delay and expense.

57. I conclude therefore that it is necessary in the interests of justice to revoke both judgments.

Decision

58. Accordingly, the judgment of the Tribunal is that the judgments dated 8 November 2018 and 4 March 2019 are revoked.

Next steps

59. A new final hearing will be organised to consider this case. A case management order addressing this and the timetable to it will be separately issued.

Approved by
Employment Judge Lumby
19 October 2026

Judgment sent to the parties on:
29th October 2026
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For the Tribunal:
Simon Fraser
……

Note

Public access to employment tribunal decisions
Judgments (apart from judgments under rule 51) and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.