EMPLOYMENT TRIBUNALS

Claimant		Respondent
Richard Wilks	**-vs-**	**Flourish (Gloucestershire) Limited**

JUDGMENT

The Claimant's application for reconsideration of the judgment given orally on 10 September 2026 with full reasons and which was sent to the parties with full written reasons on 25 September 2026 is refused.

REASONS

1. I have undertaken preliminary consideration of the Claimant's application dated 7 October 2026.

The Law

2. 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 considered 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).

3. 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 see rule 68.

4. Rule 70(2) empowers me to refuse the application based on a preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.

5. A well-established principle from the authorities is that the reconsideration procedure is not there to act as a quasi-appeal on a point of law. In **Trimble v Supertravel Ltd [1982] IRLR 451**, Browne-Wilkinson P stated *'If the matter has been ventilated and properly argued [at the original hearing] then errors of law of that kind fall to be corrected by this appeal tribunal'*.

6. The reconsideration procedure is designed to correct an oversight or 'some procedural occurrence' such that a party can be said not to have had a fair opportunity to present their argument on a point of substance. See also **Ebury Partners UK Ltd v Davis [2023] EAT 40**

7. The importance of finality was confirmed by the Court of Appeal in **Ministry of Justice v Burton and anor [2016] EWCA Civ 714** in July 2016 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."

8. Similarly in **Liddington v 2Gether NHS Foundation Trust EAT/0002/16** the EAT chaired by Simler P said in paragraph 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."

9. 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.

The Application

10. As I note above, preliminary assessment of an application for reconsideration must be carried out in accordance with Rule 3 (which requires that cases are dealt with 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.

11. I have given full and proper consideration to the grounds set out by the Claimant in his application dated 7 October 2026 but conclude that they are either:

9.1 points which were argued at the hearing and which, if there was an error of law, should be corrected on appeal; or

9.2 points which were not argued at the hearing; or

9.3 attempts to re-open issues of fact on which the Tribunal heard evidence and made a determination. In that sense they represent a "*second bite at the cherry"* which undermines the principle of finality. Such attempts have a reasonable prospect of resulting in the decision being varied or revoked only if the Tribunal has missed something important, or if there is new evidence available which could not reasonably have been put forward at the hearing. A Tribunal will not reconsider a finding of fact just because the Claimant wishes it had gone in his favour.

12. The Claimant was given full opportunity to put his case and, in accordance with the List of Issues, I made the relevant and necessary findings of fact and

reached the conclusions on the basis of the findings. The Claimant's application is primarily a challenge to the findings made and is impermissible.

Conclusion

13. Having considered all the points made by the Claimant I am satisfied that there is no reasonable prospect of the original decision being varied or revoked. The points of relevance and significance were considered and addressed at the hearing. The application for reconsideration is refused.

Employment Judge Walters

24 October 2026

Sent to the parties on:
09 November 2026
For the Tribunal Office