



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr D Ryan  
**Respondent:** Burmatex Limited

## JUDGMENT

The respondent's application dated **7th September 2020** for reconsideration of the judgment sent to the parties on **25th August 2020** is refused.

## REASONS

There is no reasonable prospect of the original decision being varied or revoked, because :-

1. There has been a hearing before a full tribunal where the unanimous decision was that, on the facts as found, the complaint of harassment succeeded.
2. There was uncontradicted evidence on oath from the Claimant, which was accepted, that Mr Haigh did use offensive words to the Claimant related to his disability, including on at least one occasion the phrase "why don't you fuck off and have a nosebleed, you little cunt?"
3. The credibility of the Claimant was fully considered in reaching that particular conclusion on the facts.
4. The application for reconsideration is misconceived because it is simply reiterating the submissions on the evidence and inviting us to reach a different decision on the same facts. We expressly did not find, as the Respondent asserts, that the Claimant had "misrepresented the truth", and there is absolutely no fresh evidence to suggest otherwise.
5. The Respondent is liable for the actions of Mr Haigh, who was clearly acting in the course of his employment.
6. The statutory defence (under section 109 (4) of the Equality Act 2010) has never been raised. This was a potential issue

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that was clearly in contemplation at the preliminary hearing. As recorded in paragraph 8 of Employment Judge O'Neill's Order the Claimant expressly stated that he "brings his claim against the Respondent who has failed to take steps to protect him from this harassment by Mr Hague (sic)." Nonetheless the Respondent adduced no evidence whatsoever of it having taken any steps to prevent Mr Haigh from doing what he did, or from doing anything of that description.

Employment Judge **Lancaster**

Date: 9<sup>th</sup> September 2020