

INCITING OTHERS

Stirring up hatred or
ridicule is not okay –
know where the line is.

Equal Opportunity Tasmania

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Celebrating Difference
Embracing Equality



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Anyone who publicly encourages others to hate another person or group because of particular personal characteristics may be breaking the law.

Similarly, encouraging people to have serious contempt for others or to severely ridicule them because of those characteristics may be against the law.

People can complain about such behaviour if it targets them on the basis of their:

- race, colour, nationality, ethnic origin or status as an immigrant
- sexual orientation
- lawful sexual activity
- religious belief, affiliation or activity
- disability

Ridiculing or expressing contempt for someone based on any of these characteristics may also be against the law (see separate brochure: *Offensive behaviour*).

What is a 'public act'?

Public acts are those actions other people can hear or see, and include displaying or sending out information to other people, whether by distributing leaflets, posting billboards, commenting on radio or television, or posting comments online.

For example, abuse shouted from a backyard, in a public park, or on a footpath or street is likely to be considered a public act, as is a poster that can be seen by passing pedestrians or vehicle traffic. Any behaviour that can be observed by others may be considered to be a public act.

Other behaviour that may be considered to incite hatred, serious contempt or severe ridicule include:

- distributing derogatory material
- making inflammatory public speeches
- creating abusive websites

Is the behaviour capable of inciting others?

In order to be unlawful, the behaviour must be capable of inciting the strong emotions of hatred, serious contempt or severe ridicule in other people. It is not enough for the behaviour to express such hatred or contempt.

Exceptions to the law

Accurately and fairly reporting a public act is a defence to a complaint of incitement. Making a statement in good faith in the public interest is also a defence to such a complaint. Anyone wanting to rely on this defence (exception) would have to prove it properly applied to their action.

Are you concerned about a public act?

If you want to find out more or make a complaint, contact our office. This service is free. We cannot give legal advice, but we can explain how the law works and what it covers. We can also help with writing down a complaint.

The law in action

Brad is an Aboriginal man playing football in the local league. During a match, members of the opposing team began abusing him and other team members, and urged the crowd to do the same. Supporters on the sidelines responded and got involved and Brad and the other Aboriginal players were racially abused as they left the ground. Brad felt it is important to take a stand against racism in sport and made a complaint on the basis that the behaviour of the other team's players incited their supporters to abuse and ridicule him and other players because they are Aboriginal.

During a protest held in Hobart various signs were displayed linking homosexuality to paedophilia. Images of the protest, including the signs, were published in the media and through the internet and Facebook. Leaflets and bumper stickers with similar themes were later distributed. The behaviour was clearly intended to portray homosexuals as deviants and a threat. A complaint of incitement on the basis of sexual orientation and lawful sexual activity was dealt with against the organiser of the rally and various people involved in the production and distribution of the material. The media outlets that reported on the rally were not subject to a complaint because they were providing fair and accurate reporting of a public event.