

# OFFENSIVE BEHAVIOUR

Know where the line is –  
when being offensive is  
against the law.

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Celebrating Difference  
Embracing Equality

# OFFENSIVE BEHAVIOUR

It is against the law to **offend, humiliate, intimidate, insult** or **ridicule** another person on the basis of their:

- race
- age
- sexual orientation
- lawful sexual activity
- gender
- gender identity
- intersex variations of sex characteristics
- marital status
- relationship status
- pregnancy
- breastfeeding
- parental status
- family responsibilities
- disability

The behaviour or conduct can take any form, such as gestures, actions, speaking, writing, printing or displaying messages (including on the internet or social media).

## In what situations is such behaviour against the law?

To be against the law, such behaviour must be related to one of these places or activities:

- Work – whether the work is paid or voluntary
- Training or studying – for example at school, TAFE or university, or workplace training
- Providing or accessing facilities or services
- Buying or selling goods
- Club membership or club-related activities
- Hotels and pubs

- Housing and accommodation – including short-term accommodation such as a hotel or hostel
- Office and other business premises
- The design or implementation of state laws or programs
- Making or implementing industrial awards, enterprise agreements or industrial agreements

## Would a reasonable person realise the effect of the behaviour?

To be unlawful, a reasonable person would realise the behaviour would offend, insult, intimidate or humiliate the person. This is known as the 'reasonable person test'.

## Exceptions

There are some exceptions (defences) to this part of the law. The exceptions include:

- accurate and fair reporting of a public act
- public acts done reasonably and in good faith for purposes in the public interest (this includes public discussion and debate, as well as things said or done for academic, artistic, scientific or research purposes)

## Have you been offended, humiliated, insulted, ridiculed or intimidated on the basis of a personal characteristic?

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

Raffi has cerebral palsy and is bullied at school. The bullying involves her being called 'spaz' and 'crip'. This causes her to feel insulted, ridiculed and humiliated. It could be unlawful and the basis of a complaint of offensive conduct.

A manager at Robert's firm gives free movie tickets to the partners of all employees as a bonus but excludes same-sex partners. Robert queries this decision and the manager responds by telling Robert that he does not have 'a real partner'. This causes Robert to feel offended and ridiculed and he decides to make a complaint.

Jenny gets an e-mail being circulated among work colleagues that includes a cartoon that presents negative ideas about Aboriginal people. Jenny raises this with her manager and is told to 'lighten up or else'. Because the cartoons made her feel humiliated and insulted and the manager's response made her feel even more offended, ridiculed and intimidated, the behaviour could be the basis of a complaint.

Gary has decided to ask to reduce his working hours to care for his young son. He gets harassed by his supervisor about being a 'housewife'. This causes him to feel ridiculed and humiliated and he finds it offensive. As the comment seems to relate to his gender, parental status and family responsibilities, Gary could make a complaint about it.