Royal Commission
Legal Assistance Service

Fact Sheet
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Hate speech: What you can do about it

This fact sheet provides general guidance about hate speech and the law in the Australian Capital Territory (ACT). You should not rely on it as legal advice.

What is hate speech?

Hate speech means words, images or acts that show or encourage hate, unfair treatment or violence against people because of who they are.

Under Australian law, the legal term for hate speech is 'vilification'. It means public acts that encourage others to hate, mock or disrespect a person or group because of personal attributes which the law protects. These can include who they are, how they look or where they come from.

What do hate speech laws protect?

Hate speech laws usually apply to things people say or do in public, not in private.

Hate speech can happen in person, online or in other public spaces. It can include words, actions, gestures, recordings and things people wear, display or share like clothing, signs, flags or symbols.

Federal law protects people from some forms of racial vilification. The law is called the *Racial Discrimination Act 1975* (Cth). Public acts may be against the law if they are reasonably likely to offend, insult, humiliate or intimidate a person or group because of their race, colour, descent, national or ethnic origin.

Federal law protects people from unfair treatment because of sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or breastfeeding, family responsibilities, disability or age.

ACT law protects people from vilification because of their race, religion, sex, sexuality, gender identity, sex characteristics, disability, HIV/AIDS status. These protections are in the *Discrimination Act 1991* (ACT). They also apply to people because of their relationship with someone in one of these groups.

What is not covered by hate speech laws?

- Private conversations
- teaching, learning or research
- discussions about important public issues
- reporting the news fairly
- art, and
- some other situations where the law makes an exception.

When is hate speech discrimination?

Hate speech and discrimination are different, but they can overlap. Hate speech may be unlawful discrimination if it targets people because of who they are (their personal attributes) and leads to disadvantage or unfair treatment at school, work or when accessing services.

For example, hate speech because of a person's race may make a place hostile or unsafe. This may stop the person from taking part equally at work, participating in school or community life, or accessing housing or other services.

When is hate speech a crime?

Serious forms of hate speech can be a crime. In some states or territories, criminal laws protect a wider range of people than civil vilification laws. For more information about hate crimes, see our Hate Crimes Fact Sheet.

What to do if you see hate speech

Stay safe
Safety comes first. If you or someone is in danger, move to a safe place and call Triple Zero (000) for emergency services.

Record what happened
As soon as you can, record or write down:

- what someone said or did
- when and where it happened, including whether it was in public, online or in private
- who was involved.

This record may help if you later decide to report what happened or make a complaint.

Keep a record of anything that may show what happened, like:

- screenshots
- photos, videos or audio recordings
- copies of messages or posts online
- the names and contact details of witnesses.

These records can help police or other bodies to understand what happened and consider next steps. The records may also help to prepare evidence in a legal case.

Think about what you want to happen

Before you decide what to do, think about what you want. For example, you may want:

- the behaviour to stop
- an apology
- someone to look into what happened
- changes to workplace or organisational policies
- money for the harm
- police action.

Knowing what you want to happen can help you decide what to do next.

Report what happened

If you think what happened may be a crime, you can tell the police. They may ask you to describe what happened and what records you have. They will decide if they should investigate and if there is enough evidence to charge someone.

You can report the hate speech to the organisation where it happened if it is safe to do so. This may be an employer, school, university, sports club, venue, service, social media website or community group.

You can also report what happened to a government body or a community group that records hate events. Community groups may collect reports to find trends, raise awareness and call for change.

If it happened online see our Online Hate Factsheet.

Make a complaint

If you think what you saw or heard could be unlawful you may be able to make a complaint. You can complain to the Australian Human Rights Commission (AHRC) or to ACT Human Rights Commission. These bodies may look into the complaint and help both sides reach an agreement. If they cannot help you resolve it, you may be able to take legal action.

Time limits

You should complain to the AHRC or ACT Human Rights Commission within **24 months** of the event.

Both these bodies may decide not to accept a late complaint. It's a good idea to get legal advice before you make a complaint. Act quickly so you do not lose your right to complain.

Get legal advice early

Early legal advice can help you understand:

- your options
- any risks or costs
- the time limits that apply
- the outcomes you want and whether they are reasonable.

Contact Legal Aid ACT on 1300 654 314.

Get support

Experiencing or witnessing hate speech can be distressing. You may want help from someone you trust, a community group, a counsellor or another support service:

- Lifeline offers 24-hour crisis support and suicide prevention on 13 11 44
- Suicide Call Back Service is available on 1300 659 467
- eSafety counselling and support services offers support for online harm
- Kids Helpline offers counselling, support and resources for young people
- 13 YARN offers crisis support for Indigenous people
- Blueknot offers support for people affected by complex trauma.

For information about your rights and making a discrimination complaint, go to: Australian Human Rights Commission and ACT Human Rights Commission.

Disclaimer: This information is intended as a general information guide only. It should not be relied upon as legal advice. We recommend that you speak with a lawyer about your individual situation.

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