

Offensive behaviour is covered in the act



so that it can be classed as offensive behaviour:

A person shall not otherwise than in private, do any act which—

(a) is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of persons;

(b) is done because of the gender, race, ethnicity, origin or religion of the other person or of some or all of the persons in the group; and;

(c) which is done with the intention of inciting gender, racial or religious hatred.

The Equal Opportunity Commission receives complaints from members of the public who have alleged that an employer or some other person committed offensive behaviour.

For example, one person said that her supervisor called her delusional; and another complained that their supervisor encouraged the

staff who directly reported to them to be insubordinate. While the person complaining might have felt genuinely offended, it is important to understand that offensive behaviour is more than just behaviour that disrespects you or hurts your feelings.

Offensive behaviour must meet the three criteria outlined above.

Further, the act creates an exception for things said and done in a place or worship. Anything said from the pulpit of a church, masjid, mosque or any place where religious services are conducted, cannot be used to ground a complaint.

This exception is in deference to the freedoms of conscience, religion and expression that is protected by Section 4 of the Constitution.

However, the exception for behaviours done in a place of worship applies only to complaints under the Equal Opportunity Act; it does not apply generally to other legislation and a person can be sanctioned by other legal processes for what they have said or done. For example, the speaker can be sued in the high court for defamation if they slander another

person. If they used language that is insulting, annoying, violent, obscene, or indecent, they could be charged with disturbance of the peace, and it is possible that they could be charged with provoking a breach of the peace, if what they said brings into contempt or attacks, ridicules or vilifies another person's religion – sections 49 and 96A of Summary Offences Act Chap 11:02

Given the word "offensive" in the title, people assume that it is a criminal offence, but this is not correct.

The Equal Opportunity Act does not criminalise any discriminatory conduct. A person cannot be found guilty of offensive behaviour in the criminal sense; they cannot be made to pay a fine to the state or sentenced to imprisonment. Rather it is a civil claim where one party is suing the other for compensation for the wrong that they have committed.

To lodge a complaint:

Visit the EOC's website, www.equalopportunity.gov.tt and go to the **LODGE A COMPLAINT** tab. You can also send an e-mail to complaints@eoc.gov.tt.

IMAGINE the following scenario:

You are doing your job and in so doing, you upset a well-known authority figure. This person then posts racist remarks about you on their social media page. This results in many of the authority figure's followers posting negative comments about you. What will you do? What can you do?

The racist remarks are not tied to a category that is covered under the Equal Opportunity Act: these are education, employment, provision of goods and services and provision of accommodation.

However, the good news is that the act makes provisions for people to lodge a complaint under the category, "Offensive Behaviour".

The scenario above is not imaginary.

This complaint was recently brought to the commission and lodged as a complaint under "Offensive Behaviour."

The case was referred to the Equal Opportunity Tribunal for adjudication to determine whether or not the case meets the following three criteria outlined in section 7(1) of the Equal Opportunity Act