



OFFENSIVE behaviour is not just unpleasant, in certain circumstances offensive behaviour is also unlawful.

### **What is offensive behaviour?**

According to section 7(1) of the Equal Opportunity Act, 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) is done with the intention of inciting gender, racial or religious hatred.

Generally, a complaint of discrimination must fall within the four broad categories covered by the Equal Opportunity Act: these are education, employment, provision of goods and services, and provision of accommodation. However, a complaint based on "offensive behaviour" does not have to fall within those categories. The action complained of must instead conform to the criteria outlined above.

### **The act must be done in public**

According to section 7 (2) of the act, an act is taken not to be done in private if it...

- (a) causes words, sounds, images or writing to be communicated to the public;
- (b) is done in a public place;
- (c) is done in the sight and hearing of persons who are in a public place.

This means that offensive behaviour on social media, in the context of the act, is also unlawful.

### **Offensive behaviour is specific**

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

For example, one person complained that their supervisor encouraged staff who directly reported to them to be insubordinate. While the person complaining was offended, it is important to understand that offensive behaviour is more than just "behaviour that disrespects" or "hurts a person's feelings." The offensive behaviour must meet the three criteria outlined above.

Similarly, if someone posted hurtful comments on social media, it must meet the requirements outlined above.

### **Unlawful vs criminal**

Many people, when they see the word "unlawful," tend to assume that it is a criminal offence, but this is not correct. The 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.

If you are a recipient of offensive behaviour, you can lodge a complaint at the EOC. "Offensive behaviour" is covered under the Equal Opportunity Act. This applies to all acts done in public, inclusive of social media, that are intended to offend, insult, humiliate or intimidate another person or a group of people because of their gender, race, ethnicity, origin or religion, and which is done with the intention of inciting gender, racial or religious hatred.

To lodge a complaint: Visit the EOC's website, [www.equalopportunity.gov.tt](http://www.equalopportunity.gov.tt) and go to the lodge a complaint tab. You can also send an e-mail to [complaints@eoc.gov.tt](mailto:complaints@eoc.gov.tt).

The EOC investigates all complaints and provides conciliation.