



Action Against
Islamophobia

Empowerment . Advocacy . Justice

Fact Sheet

Hate Speech, Intimidation & Offensive Conduct



NSW Fact Sheet – Responding to Hate Speech/ Intimidation/ Offensive Conduct

All people in Australia are entitled to protection against discrimination and racism under various state and federal laws. Hate speech, intimidation and offensive conduct are types of offences which can be Islamophobia motivated and can amount to criminal offences or consequences. Whether the action is criminal in nature or not, these examples of hate should be reported. This factsheet will begin by **describing what hate speech, intimidation and offensive conduct are** and how the law identifies them as crimes or offences. **It will then provide information that helps you understand the best ways to respond to hate speech, intimidation and offensive conduct that are motivated by anti-Muslim hate.**

Descriptions

The information below includes descriptions that align with NSW jurisdictions.

Hate Speech

Hate speech commonly refers to threatening violence on the grounds of race or religion. This can include intentionally inciting or threatening racial or religious hatred, physical force and vilification. The NSW offence for hate speech **only applies** if the threat of violence is made publicly ([NSW](#)). Under the Commonwealth offence, hate speech is a crime even if the threat is not made publicly ([Cth](#)).

An example of hate speech is someone threatening to assault or hurt a person because they are Muslim at a park.

Intimidation

Intimidation generally occurs when someone stalks or intimidates another person **with the intention** of causing fear of physical or mental harm **in any place**. This can include stalking or intimidating another person with the intention of causing fear of physical or mental harm. Intimidation is prosecuted in NSW under the Crimes (Domestic and Personal Violence) Act 2007 ([NSW](#)).

An example of intimidation is someone swearing and making threatening gestures with the intention of causing fear of physical or mental harm towards a person because they are Muslim at a social club dinner.

Offensive conduct

Offensive conduct often occurs when a person behaves in an offensive manner in or near, or within view or hearing from a **public space or school**. The **conduct must be offensive** to be considered an offence; meaning that it causes outrage, disgust, resentment, or wounds the feelings of a reasonable person. In NSW, **offensive conduct is a Summary offence** which is

considered a less serious criminal offence ([NSW](#)). However, police can issue a Criminal Infringement Notice (CIN) to the offender which can include an on-the-spot fine of \$500 as a criminal consequence.

An example of offensive conduct is a person in a public shopping centre repeatedly yells anti-Muslim slurs at a woman wearing a hijab, causing alarm and distress to the victim and those nearby.

Reporting the matter

Incident is occurring now

- **If there is an immediate threat or violence:** Call 000
- If it is safe to do so, **gather information on:**
 - Description of the offender
 - Verbal or physical conduct such as exact words or symbols or gestures
 - CCTV footage if available
 - Vehicle registration and description
 - Contact details of witnesses
- Once it is safe to do so, **attend a police station to report the incident.**

Incident has been reported to police

- Police may direct you to the appropriate police station to report the incident and, if necessary, transfer the matter to the station responsible for the area where it occurred.
 - It is important to **report the incident as soon as possible** as CCTV footage can be erased within 8-28 days.
 - A police officer will be allocated the investigation of the incident
 - Police will gather evidence and lay charges where appropriate. To identify the offender, there must be legal identification from verifiable records such as government or corporate records.
 - The Courts will determine final sentencing or penalties.
 - The matter will be directed to the Engagement and Hate Crimes Unit (EHCU) once it is flagged as hate crime related whether it was hate speech, intimidation or offensive conduct.
 - If the offender is charged with a “Hate Speech” offence, this will be reflected in the wording of the charge.
 - If the Courts accept that the intimidation or offensive conduct was a hate crime related offence, then the charge will include an aggravating factor of hate motivation.
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Report it to Action Against Islamophobia (AAI)

Reporting to AAI helps:

- support the victim;
- document the incident;
- identify trends;
- assist with referrals to police, legal services and support services where appropriate.

Report here: [Report an Incident to AAI](#)

Support Line: (02) 8377 4199