

# Doctor Faces Downing Centre Local Court for Harassing Tinder Date

By Ugur Nedim and Sonia Hickey.

A Sydney doctor who was dumped by her tinder date has pleaded guilty to four harassment related charges, [after sending more than 9,000 texts to her former date](#), as well as emails to the man's new girlfriend, his colleagues and the new couple's friends and family members.

40-year old radiologist Denise Lee a was due to face a five-day hearing in [Downing Centre Local Court in Sydney](#) last month, but instead accepted four of the ten charges brought against her, including three of using a carriage service to harass, menace or offend and onn of intimidation.

## **9,000 messages**

According to police papers, Dr Lee and Matthew Hoberton met via Tinder and went out together 10 dates between July 2015 and December 2015.

During the last three meetings, Mr Holberton told the doctor he intended to end their relationship, but Ms Lee refused to accept this.

Mr Holberton contacted police in December 2015, after Lee continued to text message him despite the man blocking her main number.

In January 2016, Holberton moved to Victoria and began dating Ms Dempster.

The court heard that Ms Lee sent a tirade of text and iMessages to Holberton after they broke up, many of which

were described as 'vile', 'angry', 'hurtful' and 'threatening', including : "I am going to fuck your life up", "I will get my revenge" and "whatever you value most, I'll target".

When Lee found out that Hoberton had started dating someone new, she began an email campaign against the woman, Ms Dempster, contacting her friends, colleagues and family members, making hateful remarks and questioning the professional integrity of the family.

The 'carefully crafted' emails were sent to 127 people from 38 different addresses, using services such as ProtonMail which encrypts the date and obscures the identity of the sender. [According to reports](#), many of these emails only came to the attention of police after Lee's matter had been listed for sentencing.

Lee was sacked from her radiology job at I-MED, Australia's largest medical imaging network, and suspended by the Medical Council of NSW when charges were laid against her.

### **Mental health application unsuccessful**

In October, Magistrate Michael Barko refused a defence application for the charges to be dismissed on mental health grounds under [section 32 of the Mental Health \(Forensic Provisions\) Act 1990](#) (NSW).

The section provides a mechanism for persons suffering from mental conditions to be diverted away from the criminal justice system provided they undertake a court-mandated mental health treatment plan for a period of up to 6 months.

Conditions that may trigger the operation of the section include depression, anxiety, acute substance dependency as well as more severe conditions such as bipolar disorder, anti-social personality disorder and schizophrenia.

Although his Honour agreed Lee was suffering from a mental condition, he concluded it was not more appropriate to deal with the matter by way of a treatment plan than otherwise in accordance with the law. He described Lee's conduct as 'vile' and said it had 'a very real impact on the victims', before dismissing the section 32 application.

His Honour ordered Lee to face a sentencing hearing in Downing Centre Local Court in February 2020.

### **The offence of intimidation or stalking**

The [offence of intimidation or stalking is contained in section 13 of the Crimes \(Domestic and Personal Violence\) Act 2007](#), which prescribes a maximum penalty of five years in prison for a 'person who stalks or intimidates another person with the intention of causing the other person to fear physical or mental harm'.

For the purposes of the section:

- causing a person to fear physical or mental harm includes causing the person to fear physical or mental harm to another person with whom he or she has a domestic relationship,
- a person intends to cause fear of physical or mental harm if he or she knows that the conduct is likely to cause fear in the other person,
- the prosecution is not required to prove that the person alleged to have been stalked or intimidated actually feared physical or mental harm, and
- an attempt to commit the offence is enough to establish the offence.

'[Intimidation](#)' is defined [by section 7](#) of the Act as:

- conduct (including cyberbullying) amounting to harassment or molestation of the person,
- an approach made to the person by any means (including

by telephone, telephone text messaging, e-mailing and other technologically assisted means) that causes the person to fear for his or her safety, or

- any conduct that causes a reasonable apprehension of injury to a person or to a person with whom he or she has a [domestic relationship](#), or of violence or damage to any person or property.

The court may have regard to any pattern of violence (especially violence constituting a domestic violence offence) in the person's behaviour when determining whether conduct amounts to intimidation.

'Stalking' is defined by [section 8](#) of the Act as including:

- the following of a person about,
- the watching or frequenting of the vicinity of, or an approach to, a person's place of residence, business or work or any place that a person frequents for the purposes of any social or leisure activity, and
- contacting or otherwise approaching a person using the internet or any other technologically assisted means.

Again, the court can consider any pattern of violence when determining whether conduct amounts to stalking.

A person with who there is a 'domestic relationship' is someone who:

- is or has been married to the other person,
- is or has been a de facto partner of that other person,
- has or has had an intimate personal relationship with the other person, whether or not the intimate relationship involves or has involved a relationship of a sexual nature,
- is living or has lived in the same household as the other person,
- is living or has lived as a long-term resident in the same residential facility as the other person and at the

same time as the other person (not being a facility that is a correctional centre or detention centre),

- has or has had a relationship involving his or her dependence on the ongoing paid or unpaid care of the other person,
- is or has been a relative of the other person, or
- in the case of an Aboriginal person or a Torres Strait Islander, is or has been part of the extended family or kin of the other person according to the Indigenous kinship system of the person's culture.

Defences to the charge include:

- [Self-defence](#),
- [Duress](#), and
- [Necessity](#).

### **Using a carriage service to menace, harass or offend**

[Using a Carriage Service to Menace, Harass or Cause Offence](#) is an offence under section 474.17 of the Criminal Code Act 1995, which carries a maximum penalty of imprisonment for three years.

Using a carriage service to menace occurs when a person uses emails, text messages, phone calls and social media communications to harass, menace or offend. The law states that an offence is committed if a person:

- uses a carriage service; and
- does so in a way (whether by the method of use or the content of a communication, or both) that reasonable persons would regard as being, in all the circumstances, menacing, harassing or offensive.

Again, defences to the charge include:

- Self-defence,
- Duress, and
- Necessity.

## **Going to Downing Centre Court?**

If you have been accused of a criminal or traffic matter and will be attending Downing Centre Local or District Court, call Sydney Criminal Lawyers anytime on (02) 9261 8881 to arrange a free first appointment with an experienced criminal defence lawyer who will advise you of your options and the best way forward.

Our head offices are located directly across the road from Downing Centre Courthouse.