

‘F* Fred Nile’, ‘Bigots F*** Off’: Protesters Found Not Guilty of Offensive Language**

There is no list of words which are considered to be ‘[offensive](#)’ under NSW law.

Whether a word or phrase is offensive depends on the context in which it is used, and whether it would ‘wound the feelings, arouse anger or resentment or outrage in the mind of a reasonable person.’

The words must be said in or near a public place or school to constitute offensive language under the law.

Sydney Protest

In September 2015, Christian Democratic Party leader MP Fred Nile led a protest in Sydney against proposed same-sex marriage laws.

A [counter protest](#) was conducted at the same time by members and supporters of activist group Community Action Against Homophobia (CAAH).

During the protest, CAAH convenors Cat Rose and Patrick Wright were issued with [criminal infringement notices](#) (CINs) for offensive language after chanting ‘fuck Fred Nile’ and ‘bigots fuck off’.

CAAH member and LGBTI Officer for the National Union of Students, April Holcombe, received a CIN days after the event for saying:

“We need to make a stand against them and make sure us using

bad language about the fuckers is nothing compared to the epidemic of suicides there people contribute to".

Ms Holcombe later said:

"I was called 48 hours after the protest to be told that I had sworn, that this was on police footage, and that my \$500 fine was in the mail... The police are keeping tabs on protesters and trying to intimidate them with shady penalty notices".

Police then realised the CINs were invalid because they cannot be issued during a genuine demonstration or protest.

They then issued Court Attendance Notices instead.

In Court

The case reached a defended hearing before Magistrate Bradd in Downing Centre Local court yesterday, where the trio faced fines of up to \$660 and criminal records.

The court heard Ms Rose told police that "fuck off is part of the common vernacular", to which police responded "it's not part of children's vernacular" – implying kids were around.

In delivering judgment, His Honour said there was no evidence Ms Rose used the phrase "fuck off" when speaking to police – which may have amounted to offensive language.

He noted that whether the word "fuck" is part of a child's vernacular "depends on the words that a child listens to from others".

He remarked that phrases like "you fucking beauty" and "fucking hell" are unlikely to be held offensive in this day and age.

His Honour found that the phrase "fuck Fred Nile" was used to dismiss an argument against marriage equality, and was not sufficient to wound the feelings, arouse anger, resentment,

disgust or outrage in the mind of a reasonable person.

He found all three defendants not guilty of the charge.

The Aftermath

After court, Mr Wright declared:

“This is a big win for free speech and the right to protest... the police have attempted to scare marriage equality activists out of speaking up against bigotry. They have failed.”

Ms Rose stated:

“... with marriage equality still banned by law, the homophobes haven't been defeated. We'll keep protesting until we have our rights, and you can expect a few f-bombs along the way.”

Ms Hearn's solicitor added that offensive language laws have:

“for too long been used as a social control applied disproportionately against marginalised and vulnerable people”.

It seems the NSW government may still have some way to go before completely silencing the voices of protesters.

The next marriage equality rally will be held on 26 November at Sydney Town Hall.