

Tuesday September 12, 2023

The Members of the Sentence Advisory Council Tasmania

Re: Expansion of Section 11B of the Sentencing Act 1997 (Tas) to Address Age-Based Hatred and Prejudice

Dear Members of the Sentence Advisory Council,

I am writing on behalf of the Council on the Ageing (COTA) to make comments on the Consultation Paper – *Motivation of Prejudice or Hatred as an Aggravating Factor in Sentencing*.

As you would be aware, COTA is dedicated to advocating for the rights and well-being of older members in our community.

We wish to express our view regarding the existing provisions within the Sentencing Act 1997 (Tas), specifically Section 11B, which pertain to aggravated sentencing. It is our belief that these provisions may not sufficiently address cases where offenders are motivated by prejudice, hostility or hatred towards a victim based on their age.

As advocates for older people in our community, we firmly contend that age-based hatred or prejudice deserves recognition and condemnation within the framework of sentencing law. In particular ageism is a destructive form of discrimination resulting in elder abuse. The World Health Organisation defines ageism as “the stereotyping and discrimination against individuals or groups on the basis of their age; ageism can take many forms, including prejudicial attitudes, discriminatory practices, or institutional policies and practices that perpetuate stereotypical beliefs.”

While we appreciate the current provisions addressing aggravated sentencing, we find they may be lacking in addressing the unique challenges faced by older members of our society who may fall victim to such hatred or prejudice.

With this in mind, we would ask that Section 11B of the Sentencing Act 1997 (Tas) be expanded to make it mandatory, rather than discretionary, for the court to consider whether an offender is motivated by prejudice, hostility or hatred towards a victim based on age. While we understand the importance of discretion in the judicial process, we believe that mandatory consideration of such factors is essential to sending a clear message that age-based hatred or prejudice will not be tolerated in our society.

We are particularly drawn to the provisions outlined in South Australian Section 11(1) of the Sentencing Act, which require the court to consider whether the offender was motivated by hostility or prejudice based on various grounds, including age. This approach aligns with our goals of advocating for the rights and dignity of older people who may be vulnerable to such forms of hatred or prejudice.

Patron

*Her Excellency the Honourable Barbara Baker AC,
Governor of Tasmania*

Therefore we respectfully urge the Sentence Advisory Council Tasmania to consider the expansion of Section 11B of the Sentencing Act 1997 (Tas) to include age-based hostility or prejudice as a mandatory consideration in determining sentencing.

We believe that such a reform would not only provide protection to older members of our community but also serve as a deterrent, denouncing behaviour motivated by age-based hatred or prejudice.

Thank you for allowing consideration and representations on this matter by organisations such as COTA Tasmania.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Ingrid Harrison'.

Ingrid Harrison
President COTA Tasmania
Mobile 0418342450