



Robin Cooper  
Principal

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Spencer Woodcock  
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Dear Mr Woodcock,

Thank you for your undated letter which was received in this office on 14 October.

You asked about the guidance given to our officers in determining the indecent or obscene nature of imported material. As I explained in my letter of 8 August, ultimately it is for the courts to determine what is indecent or obscene. However, we find it useful for enforcement purposes to provide our staff with practical guidelines to assist them when detecting material at import. This we base on current and recent court judgments. At present our Departmental guidance on this subject is not available to the public although we do intend to make it available in the near future under the Open Government initiative.

In our guidance the terms indecent and obscene are afforded their ordinary dictionary meanings, although we take into consideration the type of material which cannot be lawfully traded in the UK. Material is considered obscene and we would seek to prohibit importation if the material is either "sexually explicit" or portrays acts of gratuitous violence. For material to be sexually explicit in this context it must clearly show sexual acts taking place, such as penetration or oral contact with the genitals. In areas such as bondage or sado-masochism, keys factors in assessing

the possibly obscene nature of material would be tying up in unnatural positions, the use of gags and the depiction of violence in a sexual context, eg. rape or torture.

For material depicting violence to be considered obscene for the purposes of the import prohibition it must be visually explicit. In general scenes of mutilation, cannibalism, dismemberment, violence against women and violence against animals for instance are likely to be considered obscene. Judgments are often made through comparison with films which have received a certification from the British Board of Film Classification and are freely and legally available in the UK.

The criteria for indecent material is a more complex area. Generally, the prohibition covers indecent photographs of children (ie. those under the age of 16) to reflect the domestic legislation in this area.

I must stress that these are only guidelines and represent our interpretation of the law after taking into consideration the prevailing standards of society. Although we take account of the Obscene Publications Act when formulating the guidelines, so as to abide by European Court judgments in this area, our guidelines are not meant to be a direct reflection of that Act. Because of domestic legislation regulating the display and controlled sale of obscene publications, there may be occasions where Customs do not seek to prohibit material which under domestic legislation cannot lawfully be sold in certain establishments but which may be sold under licence elsewhere. I would therefore, advise you to consult the police for guidance on what type of material might breach the Obscene Publications Act and other domestic legislation in this area.

I trust the above information will be of assistance to you.

Yours sincerely,

  
CJR Cooper

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