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This publication is no longer current and is not being updated.



Home Office

Indecent and obscene materials

This guidance is based on the [Obscene Publications Act 1959](#) and the [Protection of Children Act 1978](#)

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Indecent and obscene materials

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This guidance tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about indecent and obscene materials and how to deal with them.

It covers:

- definitions and levels of seriousness of indecent and obscene materials
- prohibited images
- other obscene articles
- seizing indecent and obscene materials and powers of arrest

Changes to this guidance – This page tells you what has changed since previous versions of this guidance.

Contact – This page tells you who to contact for help with a specific case if your manager can't answer your question.

Information owner - This page tells you who the information owners are and tells you how the guidance can be updated.

The Safeguard and promote child welfare page tells you about your duty to safeguard and promote the welfare of children and tells you where to find more information.

See also

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Indecent and obscene materials

Indecent and obscene materials: changes to this guidance

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This page lists changes to the 'Indecent and obscene materials' guidance, with the most recent at the top.

Date of the change	Details of the change
14 October 2015	Revised by the Guidance, Rules and Forms team.

See also

[Contact Information owner](#)

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This section tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about the legislation, definitions and levels of seriousness involving indecent photographs and pseudo photographs of children.

The legislation covering indecent photographs and pseudo photographs

The Protection of Children Act 1978 broadly defines the following as offences. To:

- take or make any indecent photographs or pseudo photographs of a child
- show or distribute these photographs or pseudo photographs
- possess these photographs or pseudo photographs with intent to show or distribute them
- advertise for showing or distributing these photographs or pseudo photographs

Section 160 of the Criminal Justice Act 1988 also makes it an offence simply to possess any indecent photograph or pseudo photographs of a child.

Definitions

Term	Definition
Child	Section 45 of the Sexual Offences Act 2003, defines a child as a person who has not reached the age of 18 years.
Indecent	<p>The Sexual Offences Act 2003 does not define the term 'indecent', but you must apply the standard of decency which ordinary right thinking members of the public would set.</p> <p>The 'recognised standards of propriety' are outlined in (R v Stamford 1972). This judgment states that the recognised standards of propriety are objective and that the character of the owner or</p>

In this section

[Prohibited Images of children](#)

Related links

[Protection of Children Act 1978](#)
[Section 160 Criminal Justice Act 1988](#)
[Section 45 Sexual Offences Act 2003](#)
[Section 52 Civic government \(Scotland\) Act 1982](#)
[Section 3 Protection of children \(Northern Ireland\) Order 1978](#)
[R v Stamford 1972](#)

		the addressee is immaterial. If you are not sure about the nature of the material encountered refer to your line manager for further advice.	
	Photograph	<p>This includes any:</p> <ul style="list-style-type: none"> • film • video recording • copy of photograph or film or video recording • photo comprised in a film or video recording • photographic negatives • information on a computer which can be converted to photograph 	
	Pseudo photograph	<p>This is an image which has been made to look like a photograph, or a copy of such an image, and includes data (details), such as on a computer disc, that can be converted into a pseudo photograph.</p> <p>Levels of seriousness</p> <p>The Sentencing Advisory Panel (SAP) scale (see below) outlines the different levels of seriousness of images, with level 1 being the least and level 5 the most serious.</p> <p>Although levels 2 to 5 are fairly easily recognisable, you may find identifying some level 1 images less straightforward, as they may not be so obviously indecent.</p> <p>If this is the case, you must:</p> <ul style="list-style-type: none"> • consider the: <ul style="list-style-type: none"> ○ definition of 'indecent' ○ context, such as whether the image is part of a montage (a series) of images • above all, use your own common sense <p>If you are not sure whether material is indecent, discuss with your line manager.</p>	

The SAP scale

Level	Definition
Level 1	Images depicting erotic posing with no sexual activity
Level 2	Sexual activity between children or solo masturbation by a child
Level 3	Non-penetrative sexual activity between adults and children
Level 4	Penetrative sexual activity between children and adults
Level 5	Sadism or bestiality

Scotland and Northern Ireland

Section 52 Civic Government (Scotland) Act 1982 states offences very similar to those in the English and Welsh legislation, see related link.

Section 3 Protection of Children (Northern Ireland) Order 1978 states offences very similar to those in the English and Welsh legislation, see related link. .

General

If you find this kind of indecent or obscene material, you must always consider the possibility that where you found the material may also be the place where serious sexual offences were committed. If you believe this may have been the case, you must:

- consider that any occupants may be victims or witnesses, not just suspects
- take care so you preserve forensic security of what may be a crime scene
- inform the local police immediately

For more information, see related links.

Indecent and obscene materials

Prohibited non-photographic images of children

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This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about non-photographic indecent images of children.

Possession of prohibited images of children

Section 62 of the Coroners and Justice Act 2009 states it is an offence to possess a prohibited image of a child. The offence is targeted only at non-photographic images, so specifically does not include photographs and pseudo photographs.

Definition of a prohibited image

For an image to be prohibited, it must:

- be pornographic
- be grossly offensive, disgusting, or of an obscene character
 - you must give the words 'offensive', 'disgusting' and 'obscene' their ordinary everyday meaning
- focus solely or principally on a child's genitals or anal region, or portray any of the following acts:
 - a person performing an act of intercourse or oral sex with or in the presence of a child
 - an act of masturbation by, of, involving or in the presence of a child
 - an act which involves penetration of the vagina or anus of a child with a part of a person's body or with anything else
 - an act of penetration, in the presence of a child, of the vagina or anus of a person with a part of a person's body or with anything else
 - a child performing an act of intercourse or oral sex with an animal (whether dead, alive or imaginary)
 - a person performing an act of intercourse or oral sex with an animal (whether dead, alive or imaginary) in the presence of a child

You must use common sense and consider the material in context.

External links

[Section 62 Coroners and Justice Act 2009](#)

Related content

[Extreme pornography](#)

Definition of pornographic

An image is pornographic if it is of such a nature that you may reasonably assume it to have been made solely or principally for the purpose of sexual arousal.

Even if an image is pornographic, it is not a prohibited image unless it also satisfies all the other aspects of the offence.

General

If you find this kind of indecent or obscene material, you must always consider the possibility that where you found the material may also be the place where serious sexual offences were committed. If you believe this may have been the case, you must:

- consider that any occupants may be victims or witnesses, not just suspects
- take care so you preserve forensic security of what may be a crime scene
- inform the local police immediately

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This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about 'extreme pornography' and how it is defined.

Extreme pornography

Section 63 of the Criminal Justice and Immigration Act 2008 states it is an offence to possess an image of 'extreme pornography', which is defined as an image which is both:

- pornographic
- extreme

Definition of pornographic

An image is pornographic if it is of such a nature that you may reasonably assume it to have been made solely or principally for the purpose of sexual arousal.

Where an image forms part of a series of images, you must decide whether or not it is pornographic by considering the:

- image itself
- context of the whole series of images

Definition of extreme

An image is extreme if it:

- is grossly offensive, disgusting or otherwise obscene
- portrays in an explicit and realistic way, an act which:
 - threatens a person's life
 - results, or is likely to result, in serious injury to a person's genitals, anus or breasts
 - involves sexual interference with a human corpse
 - shows a person performing intercourse or oral sex with an animal (whether dead or alive)

Related content

[Prohibited non-photographic images of children](#)

External links

[S.63 Criminal justice and immigration act 2008](#)
[S.42 Criminal justice and licensing \(Scotland\) act 2010](#)

For all the above requirements of 'extreme', it is necessary that a reasonable person (like you) looking at the image would think that the person or animal was real.

Image

Image means any:

- moving or still image, however produced or stored
- any other data (details), however stored, which is capable of conversion into a moving or still image

Northern Ireland

The Criminal Justice and Immigration Act 2008 also applies in Northern Ireland.

Scotland

Section 42 of the Criminal Justice and Licensing (Scotland) Act 2010 states the same offence, with the same definitions of pornography and image, but states that an image is extreme if it depicts, in an explicit and realistic way, any act which:

- takes or threatens a person's life
- results, or is likely to result, in a person's severe injury
- constitutes rape or any other non-consensual penetrative sexual activity
- involves sexual activity:
 - whether directly or indirectly, with a human corpse
 - between a person or an animal (whether alive or dead)

It is important to note the subtle differences between these definitions of what is extreme.

General

If you find this kind of indecent or obscene material, you must always consider the possibility that where you found the material may also be the place where serious sexual offences were committed. If you believe this may have been the case, you must:

- consider that any occupants may be victims or witnesses, not just suspects

- | | | |
|--|---|--|
| | <ul style="list-style-type: none">• take care so you preserve forensic security of what may be a crime scene• inform the local police immediately <p>For more information on the legislation, see related links.</p> | |
|--|---|--|

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Other obscene articles

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This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about publishing other obscene articles that are not indecent photographs or prohibited images.

Obscene publications

It is an offence to publish an article which is obscene. It is important to note that simple possession is not an offence under the Obscene Publications Act 1959.

The obscenity test

Section 1 of the Obscene Publications Act 1959 states an article is obscene if its effect would tend to deprave and corrupt people who are likely to read, see or hear the matter.

For the exact wording of the act, see related link.

It is a matter of opinion whether or not something is obscene, or whether it could deprave or corrupt, so you must use your own common sense in coming to a decision. If in doubt, discuss with your line manager.

Definition of 'publishes' for investigations involving obscene material

A person 'publishes' an article if they:

- distribute it
- circulate it
- sell it
- let it on hire
- give or lend it
- offer it for sale or letting on hire

For an article containing matter to be looked at or listened to, if they:

External links

[Obscene Publications Act 1959](#)
[Section 51 Civic government \(Scotland\) Act 1982](#)

- show
- play
- project it

A person publishes data (details) stored electronically, if they transmit that data.

This is an unusual offence, but it is possible that you will find this kind of material when you are searching premises. If this does happen, it is important that you fully investigate it to establish what the people involved:

- have done with the articles
- intend to do with them

Scotland

Section 51 Civic Government (Scotland) Act 1982 states offences very similar to those to the English and Welsh legislation, see related link.

If you are in any doubt, discuss with your line manager.

For more information, see related link.

General

If you find this kind of indecent or obscene material, you must always consider the possibility that where you found the material may also be the place where serious sexual offences were committed. If you believe this may have been the case, you must:

- consider that any occupants may be victims or witnesses, not just suspects
- take care so you preserve forensic security of what may be a crime scene, and
- inform the local police immediately

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Seizing indecent or obscene articles

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This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about the powers of Immigration Enforcement immigration officers to seize and retain (keep) any indecent or obscene articles.

The Police and Criminal Evidence Act 1984 (PACE) gives you power to seize evidence of an offence:

- when you are on premises lawfully (sections 19 and 20)
- from arrested people (section 32)

These powers include the power to retain (keep) articles for forensic examination and analysis.

If you seize indecent or obscene material, you must always consider the importance of forensic analysis, whether for:

- fingerprints
- DNA
- examining computers or other electronic devices

For more information on the legislation, see related links.

External links

[Section 19 Police and Criminal Evidence Act \(PACE\) 1984](#)
[Section 20 Police and Criminal Evidence Act \(PACE\) 1984](#)
[Section 32 Police and Criminal Evidence Act \(PACE\) 1984](#)

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Powers of arrest: indecent and obscene materials

<p>About this guidance Indecent photographs of children: Definitions Extreme pornography Other obscene articles Seizing obscene or indecent materials Employee assistance program EAP</p>	<p>This page tells criminal investigators in Immigration Enforcement Criminal and Financial investigation (CFI) teams about the powers of Immigration Enforcement criminal investigators to arrest for offences involving indecent and obscene materials.</p> <p>All the offences linked to indecent and obscene materials are arrestable under section 24 of the Police and Criminal Evidence Act 1984 (PACE). But you must bear in mind that, as an Immigration Enforcement criminal investigator, your powers of arrest only apply if you are investigating immigration crime.</p> <p>This means you can take action if:</p> <ul style="list-style-type: none">• you come across indecent or obscene material during the course of your enquiries• it forms part of your investigation <p>Otherwise, you cannot specifically search for it. If you are in any doubt, discuss with your line manager.</p> <p>For more information on the legislation, see related link.</p>	<p>External links Section.24 Police and Criminal Evidence Act (PACE) 1984</p>
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Indecent and obscene materials

Employee Assistance Programme (EAP)

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This guidance tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about the Employee Assistance Programme (EAP).

Criminal investigators in Immigration Enforcement criminal investigation teams must inform their line manager if they have concerns about viewing obscene or indecent materials before viewing the material.

The Employee Assistance Programme (EAP) provides:

- independent support to staff
- a confidential self-referral service – independent from human resources and line management
- support 365 days a year

For more information on the Employee Assistance Programme, see related link.

External links

Links to staff intranet removed

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This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams who to contact if you need more help with a question about indecent or obscene materials.

If you have read this guidance and still need more help, you must first ask your line manager.

If you need further help, you may contact:

Official - sensitive – do not disclose – start of section

The information in this page has been removed as it is restricted for internal Home Office use only

Official - sensitive – do not disclose – end of section

Changes to this guidance can only be made by the Guidance, rules and forms team (GRaFT). If you think the policy content needs amending you must contact the Criminal investigation operational guidance team, who will ask the GRaFT to update the guidance, if appropriate.

The GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send to Guidance - making changes.

See also

[Changes to this guidance](#)
[Information owner](#)

External links

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This page tells you about this version of the 'Indecent or obscene materials' guidance, and who owns it.

Version	1.0
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Guidance owner	Removed official sensitive
Cleared by Director	Removed official sensitive
Director's role	Director – immigration enforcement Director - operational policy and rules
Clearance date	15 June 2015

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[Contact](#)