

## Jurisdiction

The general rule used to be that English and Welsh courts did not accept jurisdiction over offences committed outside England and Wales. That general rule is now subject to a number of statutory exceptions, as the UK has extended its jurisdiction to become extra-territorial for specified offences, and has made special provision for the determination of where the actus reus of the offence took place. The common law also provides for an extension of jurisdiction in certain circumstances.

The starting points for jurisdictional matters are the provisions of the Sexual Offences (Conspiracy and Incitement) Act 1996 and section 72 of the Sexual Offences Act 2003 (in force from 1 May 2004). Section 72 of the Sexual Offences Act 2003 confers extra-territorial jurisdiction on the courts of England and Wales in respect of a number of offences contrary to the Sexual Offences Act 2003 and offences contrary to the Protection of Children Act 1978 and section 160 of the CJA 1988 (the Video Recording Act 1984 and 2010 is not mentioned).

There are very difficult jurisdictional issues about whether material hosted overseas is within reach of the English criminal law. It will depend on a range of factors including who posted the material on the site, where it is hosted and what the person intends the material to do. If a web site is hosted abroad and is downloaded in the UK, the case of *R v Perrin* [2002] 4 Archbold News 2 will apply.

*R v Perrin* is specifically concerned with 'publishing' electronic data under the Obscene Publications Act 1959 and states that the mere transmission of data constitutes publication. It is clear from the decision in *R v Perrin* and in the earlier case of *R v Waddon* (6 April 2000 unreported), that there is publication both when images are uploaded and when they are downloaded. In the case of *R v Waddon* the Court of Appeal held that the content of American websites could come under British jurisdiction when downloaded in the United Kingdom.

The Obscene Publication Act 1959 has been amended to deal with electronically stored data or the transmission of such data (see section 1(3)).