properly analysed ***Amand v Home Secretary*** [1943] AC 147 and ***R v Board of Visitors of Hull Prison, Ex p St Germain*** [1979] QB 42,5 support that approach. They decide that a cause or matter would be classified as criminal if, carried to its conclusion, it might result in a conviction and sentence. That analysis demonstrates that the criminal sanction for a breach of an anti-social behaviour order cannot affect the proper classification of the proceedings that are brought for the imposition of ail anti-social behaviour order. It is also entirely consistent with the analysis adopted in many other areas of the law, for example, interim injunctions, sex offenders' orders and orders under the Company Directors Disqualification Act 1986.
The question whether any act is "prohibited" by section r. of the 1998 Act is not answered by reference to the question whether the preconditions for making an anti-social behaviour order are exactly co-extensive with some other substantive criminal offence— e.g. under the Public Order Act 1986 or the Prevention from Harassment Act 1997. The correct question is whether section 1 itself prohibits any act. It does not. In any event there are substantial differences between, on the one hand, section 4A of the Public Order Act 1986 and section 1 of the Protection from Harassment Act and, on the other, section 1: of the 1:998 Act.
Tor the purposes of article 6 there are several reasons why the preconditions to making an anti-social behaviour order take it outside the criminal realm. The order seeks to deal with anti-social behaviour, not with

crime, and it seeks to do so by preventing future crimes rather than by punishing past ones. If a sanction is imposed for the purposes of deterrence or punishment, then it is likely to be regarded as a criminal penalty: see ***Oztiirk v Germany*** (1984) ***6*** EHRR 409; ***Han v Customs and Excise Comrs*** [2.001] 1 WLR 2253. By contrast, a sanction that is imposed for preventive reasons is not so regarded (even if it involves a restriction on liberty, and/or an interference with property rights, and/or it is imposed in the context of criminal proceedings: see ***Raimondo v Italy*** (1994) £HRR 237; ***M v Italy*** (1990) 70 DR 59. A decision whether to impose an anti-social behaviour order does not involve the determination of a criminal charge simply because the matters on which reliance is placed might also happen to constitute the necessary elements of a criminal offenc**e:** see ***Pelle v France*** (1986) 50 DR 263; ***McFeeley v United Kingdom*** (1980) 3 EHRR 161. Finally, the existence of past misconduct cannot of itself trigger an antisocial behaviour order: there must also be a need for protection for the future under section r(I)(b).
An anti-social behaviour order is clearly not a criminal penalty. Section 1(4) precludes any order being made other than as a prohibition. The court can neither fine nor imprison a person. There is a very significant difference in the European jurisprudence between imposing a restriction on a person's liberty (which will not be a criminal penalty) and depriving a person of his liberty (which will be a criminal penalty): see ***Guzzardi v Italy*** 3 LEIRR 333; ***Raimondo v Italy*** 18 EHRR 237. The court cannot deprive a person of his liberty under the cloak of an anti-social behaviour order, and the fact that an order might interfere with his freedom of movement (e g by excluding him from designated areas) does not convert it into a criminal penalty.
The fact that a person may be imprisoned for acting in breach of an antisocial behaviour order doc not mean that the imposition of the order itself involves any criminal penalty: see by analogy ***Ibhotson v United Kingdom*** (1998) 27 EHRR CD 332. The reason why a different conclusion was reached in ***Steel u United Kingdom*** 28 EHRR 603 was that the penalty was available to he imposed at the outset by the sentencing court in order to enforce compliance