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Lord Hutton
behaviour order against a defendant involves a determination of his civil rights and engages article 6(I), I am of the opinion that there is no unfairness in the admission of hearsay evidence against him, because the provisions of section 4 of the Civil Evidence Act 1995 lay down considerations which ensure that hearsay evidence is fairly weighed and assessed, section 4 providing:
"(1) In estimating the weight (if any) to be given to hearsay evidence in civil proceedings the court shall have regard to any circumstances from which any inference can reasonably be drawn as to the reliability or otherwise of the evidence.
"(z) Regard may be had, in particular, to the following—(a) whether it would have been reasonable and practicable for the party by whom the evidence was adduced to have produced the maker of the original statement as a witness; (b) whether the original statement was made contemporaneously with the occurrence or existence of the matters stated; (c) whether the evidence involves multiple hearsay; (d) whether any person involved had any motive to conceal or misrepresent matters; (e) whether the original statement was an edited account, or was made in collaboration with another or for a particular purpose; (f) whether the circumstances in which the evidence is adduced as hearsay are such as to suggest an attempt to prevent proper evaluation of its weight."
The submissions of counsel on behalf of the defendants and on behalf of Liberty have laid stress on the human rights of the defendants. However, the European Court has frequently affirmed the principle stated in ***Sporrong and Lonnroth v Sweden*** 5 F.HRR 35, 52, para 69, that the search for the striking of a fair balance "between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights" is inherent in the whole of the Convention. In these cases which your Lordships have held are not criminal cases under the Convention and therefore do not attract the specific protection given by article 6(3)(d) (though even in criminal cases the European Court has recognised that "principles of fair trial also require that in appropriate cases the interests of the defence are balanced against those of witnesses or victims called upon to testify": see ***Doorson v The Netherlands*** (1996) F.HRR 330, 358, para 70), and having regard to the safeguards contained in section 4 of the 1995 Act, I consider that the striking of a fair balance between the demands of the general interest of the community (the community in this case being represented by weak and vulnerable people who claim that they are the victims of anti-social behaviour which violates their rights) and the requirements of the protection of the defendants' rights requires the scales to come down in favour of the protection of the community and of permitting the use of hearsay evidence in applications for anti-social behaviour orders.
The standard of proof
I am in agreement with the opinions of my noble and learned friends Lord Steyn and Lord Hope of Craighead on this point and for the reasons which they give I would hold that in proceedings under section 1 of the 1998 Act the standard of proof that ought to be applied to allegations about the defendants' past behaviour is the criminal standard.

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