with the order. The difference in ***Ibbotson*** was that in that case separate proceedings would have to be brought for a breach of the statutory obligation before any criminal sanction could be imposed. The same is true under section 1 of the 1998 Act. ^
Steel v United Kingdom 28 EHRR 603, ***Garyfallou AEBE v Greece*** 28 EHRR 344 and ***Lauko v Slovakia*** 33 EHRR 994 merely illustrate the application in very different factual situations of the three criteria in ***Engel v The Netherlands (No 1) 1*** EHRR 647 without adding any points of principle. ___
Applying the criminal standard of proof is wrong in three respects. First, it undermines one of the purposes of section 1 of the 1998 Act, namely, to render it easier to obtain an anti-social behaviour order than it would be to obtain a conviction for a comparable offence. Second, it conflates the two elements in section 1 of the 1998 Act. There is no reason why the criminal standard should be applied in relation to the question whether section I.(1)(b) is satisfied: that is a matter of evaluation as to future risk, and simply does not lend itself to being tested by reference to the criminal standard of proof. Third, in relation to the issues generally under section 1, the Court of

Appeal's approach subverts the proper classification of an anti- social behaviour order as involving civil proceedings.
The civil standard of proof should be regarded as a single fixed standard. However, the more serious the allegation the more cogent the evidence will need to be see ***in re H (Minors) (Sexual Abuse: Standard of Proof)*** [1996] AC 563.
Solley QC in reply. ***Kostovski v Netherlands*** (1989) 12 EHRR. 434 and ***Saidi v France*** (1993) 17 EHRR 251 involved a lack opportunity to examine witnesses.
The criminal standard of proof would not lie comfortably with the hearing of hearsay evidence under the Civil Evidence Act 1995. There should be a declaration of incompatibility under section 4 of the Human Rights Act 1998.
Fulford QC in reply. ***Raimondo v Italy*** 18 EHRR 237 and ***Guzzardi v Italy*** 3 EHRR 333 involved very different proceedings from an anti-social behaviour order. See also ***Krone-Verlog GmbH v Austria*** (Application No 28977/95) (unreported) 21 May 1997 and ***Nottingham City Council v Zain (A Minor)*** [2002] 1 WLR 607.
Their Lordships took time for consideration.
17 October. LORD STEYN
My Lords, section 1. of the Crime and Disorder Act 1998 ("the Act") provides for the making of anti-social behaviour orders against any person aged ten years or over. It came into force on 1 April 1999. Between 1 April 1999 and 31. December 2001. magistrates in England and Wales made 588 such orders and refused 19. It is important social legislation designed to remedy a problem which the existing law failed to deal with satisfactorily. This is the first occasion on which the House has had to examine the implications of section 1.
There are two appeals before the House. They are unrelated but raise overlapping issues. Both cases involve the power of the magistrates' court under section 1 of the Act, upon being satisfied of statutory requirements, to make an anti-social behaviour order prohibiting a defendant from doing prescribed things. Breach of such an order may give rise to criminal liability. That stage has, however, not been reached in either case. In the case of ***Clingbam*** no order has been made. In the case of the ***McCann*** breathers antisocial behaviour orders have been made against all three. The appeals are therefore concerned only with the first stage of