

evidence, direct or hearsay it may turn out that the defendant has no answer to the case **under section 1** (1). For the sake of completeness, I need only add that the use of the Civil Evidence Act 1:995 unless in cases under the first part of section 1 are not in any way incompatible with the Human Rights Act 1998.

The standard of proof

· Having concluded that the relevant proceedings are civil, in principle it follows that the standard of proof ordinarily applicable in civil proceedings, namely the balance of probabilities, should apply. However, I agree that, given the seriousness of matters involved, at least some reference to the heightened civil standard would usually be necessary: ***In re H (Minors) (Sexual Abuse: Standard of Proof)*** [1996] AC 563, 586D-H, per Lord Nicholls of Birkenhead. For essentially practical reasons, the Recorder of Manchester decided to apply the criminal standard. The Court of Appeal said that would usually be the right course to adopt. Lord Bingham of Cornhill has observed that the heightened civil standard and the criminal standard are virtually indistinguishable. I do not disagree with any of these views. But in my view pragmatism dictates that the task of magistrates should be made more straightforward by ruling that they must in all cases under section 1 apply the criminal standard. If the House takes this view it will be sufficient for the magistrates, when applying section T (I){a) ***to be sure c*** that the defendant has acted in an anti-social manner, that is to say, in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself. The inquiry under section I(I)(b), namely that such an order is necessary to protect Persians from further anti-social acts by him, does not involve a standard of proof: it is an exercise of judgment or evaluation. This approach should facilitate correct decision-making and should ensure consistency and predictability in this corner of the law. In coming to this conclusion, I bear in mind that the use of hearsay evidence will often be of crucial importance.

For my part, hearsay evidence depending on its logical proactiveness is quite capable of satisfying the requirements of section 1.

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Simon Cordell's Skeleton Argument (2) Pdf

[2003] AC

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R (McCann) v Manchester Crown Ct (HL)(E)

Lord Steyn

A XII The submissions of Liberty

The House gave permission to Liberty to intervene in the ***McCann*** case in writing and orally. The contribution of Liberty has helped to sharpen the focus of the debate on issues under the Human Rights Act 1998. It is, however, unnecessary to deal separately with the submissions of Liberty. The reasons I have given are also dispositive of the issues and arguments raised by Liberty.

· *Jurisdiction*

Section x(x)(a) of the Administration of Justice Act 1960 only permits an appeal from a decision of the High Court “in any criminal cause or matter”. In my view the proceedings under the first part of **section 1** do not satisfy this criterion. It follows that in the ***Clingman*** case the House did not have jurisdiction to entertain the appeal.

· *Disposal*

For these reasons as well as the reasons given by Lord Hope of Craighead I would dismiss the appeals in the ***McCann*** case and formally declare that there was no jurisdiction to hear the ***Clingham*** case.

LORD HOPE OF CRAIGHEAD