

9. It is for the Respondent to satisfy the court to the criminal standard that the Appellant has acted 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. However, the second limb of the test “does not involve a standard of proof: it is an exercise of judgment or evaluation” (*R (McCann) v Manchester Crown Court* [2003] 1 A.C. 787 at [37]).
10. In *R v Dean Boness* [2006] 1 Cr. App. R. (S.) 120, the Court of Appeal provided general guidance as to the creation of prohibitions forming an ASBO. The court held that:
  - (i) prohibitions should be individually tailored to the individual and that each individual prohibition must be necessary [28];
  - (ii) an ASBO can include prohibitions not to undertake minor criminal activity that may be covered under separate legislation [30-1]. However, an ASBO should seek to prevent a person from being able to commit that offence, rather than further penalise him when he does commit it [35]; and
  - (iii) the terms of the ASBO must be proportionate so as to be commensurate with the risk identified [37].

#### SUBMISSIONS

##### The first limb of the test under s.1(1)(a) of the 1998 Act

11. The organisation of large-scale raves, whether or not they fall within the parameters of s.63 of the Criminal Justice and Public Order Act 1994 and whether on private property or common land, fall within the definition of anti-social behaviour. The Home Office Guidance: ‘*A Guide to anti-social behaviour orders*’ specifies noise nuisance, particularly when late at night, as an example of anti-social behaviour.
12. It is submitted that, a person who helps organise or supplies equipment for a rave, where there is loud music late at night (except where there is a licence to do so and/or the music is played on licensed premises), has *prima facie* done an act in contravention of s.1(1)(a) of the 1998 Act.