

article 6 of the Convention, all the normal rules of evidence which apply to a criminal prosecution in domestic law must be applied to them. This is of crucial importance to the use which may be made in these proceedings of hearsay evidence. In domestic terms, hearsay evidence under the Civil Evidence Act 1995 would be inadmissible in these proceedings if they are to be classified as criminal. In Convention terms, the persons against whom anti-social behaviour orders were sought would be entitled to the protection of article 6(3)(d) if it applies to them. Under that paragraph every person charged with a criminal offence has the right to examine or have examined the witnesses against him. But much of the benefit which the legislation was designed to achieve would be lost if this is how these proceedings have to be classified. It would greatly disturb the balance which section 1 of the Crime and Disorder Act 1998 seeks to strike between the interests of the individual and those of society.

44 The reason for this is not hard to find. So often those who are directly affected by this conduct lack both the inclination and the resources to do anything about it. Above all, they have been intimidated and they are afraid. They know that they risk becoming targets for further anti-social behaviour if they turn to the law for their protection. It is unrealistic to expect them to seek the protection of an injunction under the civil law. Reports to the police about criminal conduct are likely to result in their having to give evidence. In this situation the opportunity which civil proceedings provide for the use of hearsay evidence is a valuable safeguard. It greatly increases the prospect of persuading those who are likely to be exposed to further anti-social behaviour to co-operate with the authorities in protecting them from such conduct.

The facts

45 The facts of the *Clingham* case have been described by my noble and learned friend Lord Steyn, and I gratefully adopt his account. As he has pointed out, it is a striking feature of that case that two of the statements relied on were anonymous and two of them were by persons who were in fear of reprisals if they were to be called on to give evidence. I should like to deal in my speech with the facts in the case of *McCann*, which has similar characteristics.

46 The defendants in the case of *McCann* are three brothers who all live in the Ardwick area of Manchester. They were aged 16, 15 and 13 on 17 May 2000 when anti-social behaviour orders were made against them by Judge Rhys Davies QC, the Recorder of Manchester, sitting in the Crown Court with lay magistrates.

47 The Chief Constable of Greater Manchester had been collecting evidence against the defendants for a period of about five months between May and September 1999. They had been accused by various members of the public in the Beswick area of Manchester of threatening and abusive behaviour, causing criminal damage, theft and burglary. On 28 September 1999 the Chief Constable consulted with Manchester City Council, the council for the relevant local government area, as required by section 1(2) of the Crime and Disorder Act 1998. They agreed that an application for anti-social behaviour orders should be made. The Chief Constable laid complaints against the defendants at Manchester Magistrates' Court on 22 October 1999, and summonses were served on them on 1 November