

procedure for commencing civil proceedings in the magistrates' court; (b) The requirement to consult each other "relevant authority" and adjoining authorities where an order specifies neighbouring areas, demonstrates that it is not contemplated that penal sanctions be imposed; (c) Criminal sanctions are found in Part I of the 1998 Act under the heading "Crime and Disorder: general" which covers prohibitions on sex offenders (section 2) and "Crime and disorder strategies" (section 5) thus emphasizing the preventative nature of the provisions; (d) Prosecutions are not conducted by the Crown Prosecution Service.

The categorization for what constitutes a criminal offence formulated in *Customs and Excise Comrs v City of London Magistrates' Court* [2000] 1 WLR 2020 should be adopted. On that basis applications for anti-social behaviour orders involve none of the hallmarks of a criminal matter; there is no formal accusation, made on behalf of the state or by any private prosecutor, that a defendant has committed a breach of the criminal law.

There is no relevant or viable concept of "quasi-criminal" in respect of hearsay evidence, although there may be varying standards of the civil standard of proof. That is a wholly different matter to a "quasi-criminal" approach to matters of admissibility of evidence.

If applications under the 1998 Act for an anti-social behaviour order are civil in nature, the decision of the High Court in *Clingham* is final and no right of appeal lies to the House of Lords, as section 1(1)(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".

*Charles Garside QC* and *Peter Cadwallader* for the Chief Constable of Greater Manchester. Applications for anti-social behaviour orders are civil proceedings. Any proceedings for the breach of an order are criminal proceedings. It was the intention of Parliament that applications for anti-social behaviour orders should be civil proceedings. That result was effected by section 1 of the 1998 Act.

Criminal proceedings are begun by arrest, charge and production at court or by laying an information followed by summons or warrant. Applications for anti-social behaviour orders are begun by complaint. That is the method for commencing civil proceedings in magistrates' courts: see Part 2 and sections 51 and 52 of the Magistrates' Courts Act 1980. *Botross v Hammersmith and Fulham London Borough Council* (1994) 93 LGR 268 was a case with special facts. It concerned section 82(1) of the Environmental Protection Act 1990. The Act and that section had a long legislative history going back to 1875. It had been decided in many cases that the nature of such proceedings was criminal, in part, because the sanctions available included a fine. The court concluded that when Parliament enacted the 1990 Act it had made a mistake in legislating for such proceedings to be begun by complaint and had never intended to change the nature of such proceedings.

The procedure for applications for anti-social behaviour orders (section 1(2) of the 1998 Act) and sex offender orders (section 2(2) of the Act) are identical. Applications for sex offenders orders are civil proceedings: see *B v Chief Constable of Avon and Somerset Constabulary* [2001] 1 WLR 340.