

“1. It appears to the local authority, the Royal Borough of Kensington and Chelsea, that the following conditions are fulfilled with respect to you, namely—(a) that you have acted between 9 December 1999 and 15 April 2000 on or in the vicinity of the Wornington Green Estate, London W10 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 yourself, namely by: assaulting residents, threatening to assault children of residents, verbally abusing residents and police officers, threatening and intimidating shopkeepers, engaging in car related crime, throwing objects at persons and property and entering property as a trespasser; and (b) that an anti-social behaviour order is necessary to protect persons in the Royal Borough of Kensington and Chelsea in which the harassment, alarm or distress was caused, or was likely to be caused from further anti-social acts by you . . .”

92 Counsel submitted that the great majority of this conduct constituted the commission of separate criminal offences. They also relied on the close similarity between the wording of section 1(1)(a) of the 1998 Act and the wording of sections 4A and 5 of the Public Order Act 1986. Section 4A, as inserted by section 154 of the Criminal Justice and Public Order Act 1994, provides:

“(1) A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, he—(a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or (b) displays any writing, sign or other visible representation which is threatening, abusive or insulting, thereby causing that or another person harassment, alarm or distress.”

Section 5 provides:

“(1) A person is guilty of an offence if he—(a) uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or (b) displays any writing, sign or other visible representation which is threatening, abusive or insulting, within the hearing or sight of a person likely to be caused harassment, alarm or distress thereby.”

Section 1(1) of the 1998 Act provides:

“An application for an order under this section may be made by a relevant authority if it appears to the authority that the following conditions are fulfilled with respect to any person aged ten or over, namely—(a) that the person has acted, since the commencement date, 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 . . .”

93 In reliance on authorities, the majority of which were considering the meaning of the term “criminal cause or matter”, counsel further submitted that an application under section 1 of the 1998 Act is a criminal proceeding because it can result under section 1(10) in the imposition of a term of imprisonment. Counsel cited *Proprietary Articles Trade Association v Attorney General for Canada* [1931] AC 310, 324 where Lord Atkin stated: