

# ANIMAL JUSTICE UK

VOLUME 4 | DECEMBER 2017

## FISH WELFARE

Attorney Kelly Levanda reviews the welfare of fish used for consumption

## ZOO LICENSING

Anna Bushell gives an overview of the legislation affecting zoos

# INTERVIEW: DAVID FAVRE





# ANIMAL JUSTICE UK

ISSUE 4 | DECEMBER 2017

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## WELCOME

Welcome to the fourth edition of Animal Justice; the UK Centre for Animal Law's eMagazine for students with an interest in animal law and policy

The past few months have been a very busy time for the student team. As some of you may be aware, A-Law has relaunched as the UK Centre for Animal Law (see p.1) and we also have a brand new website up and running. The Student Team has been assisting with these changes and we are looking forward to all the exciting things to come as A-Law expands and takes on new challenges.

This edition features articles on a range of different animal welfare issues including those affecting zoo animals, fish and bees. We also have an update on A-law Student Group activity (see p.18). We are delighted to see that the student ambassador and group initiative in universities has really started to take off and that so many of you are interested in getting involved. We are keen to develop this further and this is something that we will be focusing on in the next few months.

Our essay competition 2017-18 has also been launched – see p.8 for further details on this year's topic and the terms and conditions for entry. We hope that you are interested by the topic and look forward to reading your responses.

We wish you all a very merry Christmas and a Happy New Year.

Edie, Grace & Sally  
A-law Student Team

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# RELAUNCH OF A-LAW

BY PAULA SPARKS

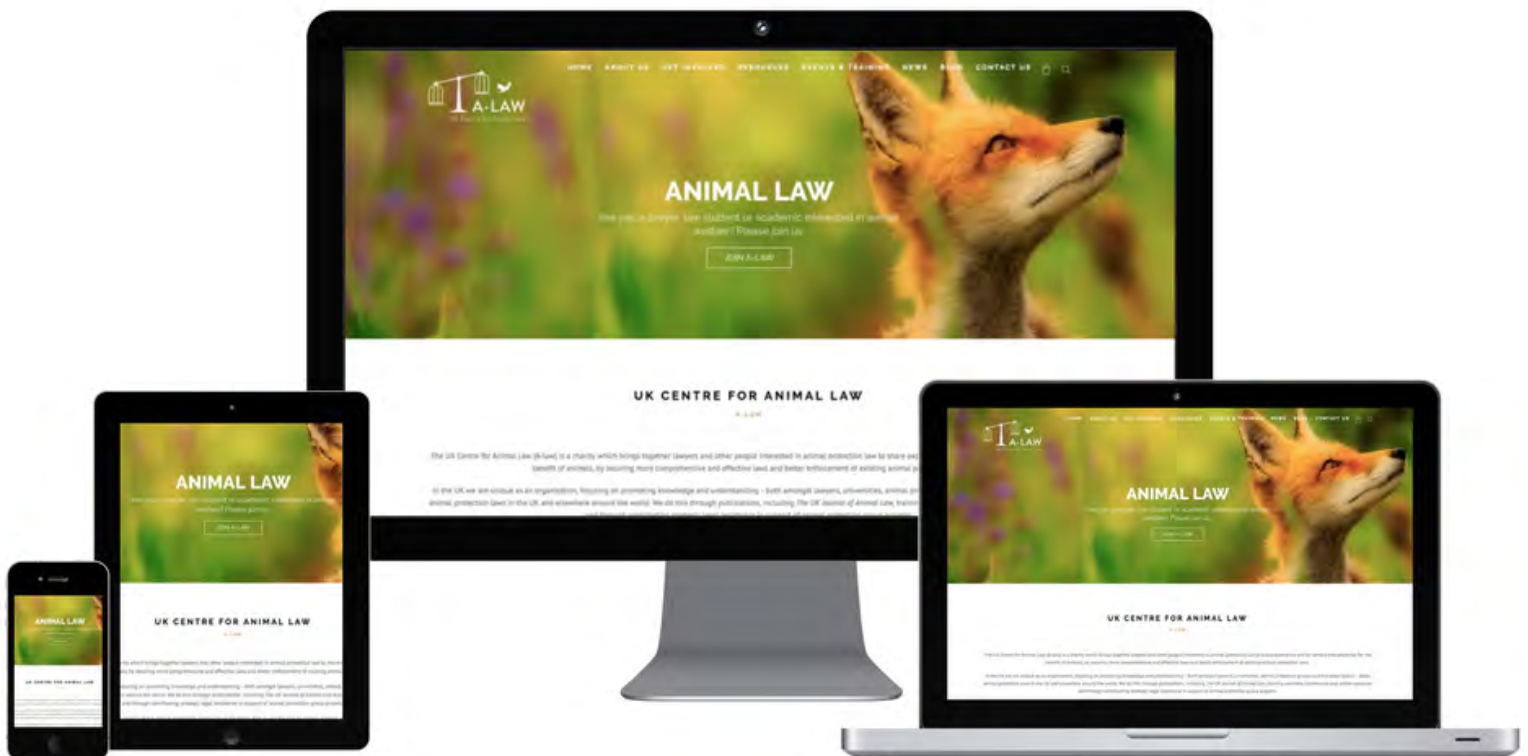
November has been an exciting month for us, seeing the re-launch of the Association of Lawyers for Animal Welfare as the UK Centre for Animal Law (A-law) and the unveiling of our new website.

The new name reflects the fact that A-law has evolved from a lawyers only group to having a membership composing scientists, vets, law students, lawyers, academics and others. What all our members have in common is a drive to make animal lives better using the law.

Membership of A-law is diverse. Our members may have different views about whether or not animals should have rights and, if so, the nature of those rights, whether

it is ethically acceptable to eat animals and how to tackle the big welfare problems of our day such as puppy farming. What is important is that A-law can provide a forum for informed debate and discussion and that we stimulate interest in the protection of animals and the advancement of animal interests in society.

A-law plays a pivotal role in promoting knowledge and understanding of the law - amongst lawyers, animal protection groups and the wider public - about animal protection laws applicable in the UK and elsewhere around the world, through publications (including the Journal of Animal Law and Animal Justice UK), training seminars, conferences and online resources, and by contributing strategic legal assistance in



support of animal protection groups' projects.

We continue to work with the legal profession to increase the depth of understanding of animal law within the UK legal community, which helps make law and justice in the UK more effective in protecting animals.

We are also very proud of our work with students and academics to promote the study of animal law at universities and to extend discussion about animal law matters to the academic community. Our amazing student team runs the annual national essay writing competition and is currently planning an ambitious diary of events for 2018.

The website has an important role in this. We have spent the last two years putting together a range of resources and information to inform visitors to the website about animal law, from information about animal law courses, events, books, articles and links to reading materials about setting up a student group and animal friendly corporate social responsibility policies for law firms.

We want the website to be a place where people can access and share information about animal law and stimulate discussion. We therefore encourage people to share on our blog their insights about, for example, studying animal law or volunteering for an animal protection group or setting up an animal friendly CSR policy.

We have achieved all this without a professional secretariat or paid staff, but we want to do more and in order to grow we need more resources. Ideally we would like to employ a legal coordinator to ensure that we can continue to provide these vital services.

Over the next 12 months we will be calling upon our members to support us financially

**"We continue to work with the legal profession to increase the depth of understanding of animal law within the UK..."**

through donations and fundraising and by spreading the word about A-law and animal law in universities, law firms, chambers and amongst the public. Animals need us now and everyone has a part to play.

**Paula Sparks is a barrister at Doughty Street Chambers and the chairperson of the UK Centre for Animal Law.**

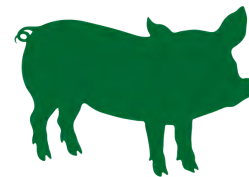
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Visit our brand new website at [www.alaw.org.uk](http://www.alaw.org.uk)



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## THE HUMANE LEAGUE UK



**the humane league**

We are delighted to welcome The Humane League as a registered charity in the UK.

The organisation was founded in the United States in 2005 and now looks forward to bringing its enthusiasm and drive to our shores.

The focus of the group is to create the biggest impact for animals. It does this by identifying where the largest amount of suffering is and works to change that. This has led to an ever growing campaign against the caged-hen egg industry.

You can find out more information about the charity here: <https://thehumaneleague.org>.





# ANIMAL OF THE ISSUE: CHICKEN

BY TIFFANY MITCHELL

This article will outline the author's views about how we view chickens, their complex cognition, communication skills, emotional capacity as well as how the law affords them only minimal protection.

## Media Portrayal

The portrayal of these animals as simple minded creatures generates cognitive dissonance, which encourages consumer purchases with minimal guilt. Society neglects to attribute cognitive abilities and intelligence to these animals, albeit, recent studies illustrate that "the forebrain of a bird, the section involved in higher-order cognitive capacities and problem solving, is actually derived from the same neuroanatomical

substrate as the mammalian forebrain." [1]

## Cognitive Abilities and Intelligence

Joanne Edgar, from the University of Bristol, performed non-invasive experiments with chickens that illustrated these animals are remarkably intelligent. [2] She performed multiple experiments where she puffed air in the face of chicks. The chicks observing the experiment displayed an increase in heart rate and became very vocal when the chicks were puffed with air, but when air was puffed in the opposite direction of the chicks, there was no response from the observing chicks. In a follow up experiment Joanna used two boxes; inside one box she puffed the chicks with air and in the other box she did not. Observing chicks, who had already completed



said experiment, displayed the same reactions as above; increased heart rate and increased vocalisation observing the chicks being placed into the 'danger' (air puff) box and no response observing chicks being placed into the neutral box (no air puff). This indicates that the observing chicks were able to perceive the danger and felt empathy for the chicks who were enduring the air puffs in the danger box.

### The Pecking Order

Transitive inference allows chickens to more accurately place themselves in the 'pecking order'. It is the skill of being able to draw logical inferences from two objectives that have not yet been compared. If chicken x has been defeated by chicken y, and then chicken y is defeated by chicken z, chicken x, via transitive inference, will reason that he/she does not have the ability to dominate chicken z and that he/she is subordinate to both. Although the pecking order seems like a simple concept, it is actually a complex behaviour involving sophisticated logical reasoning; this skill does not develop in humans until age 7.

### Communication Skills

Chickens have an impressive system for communication. They have, at minimum, 24 unique vocalisations as well as different visual displays. The fascinating aspect is how they manipulate these sounds and actions to communicate with one another effectively and strategically. They accord each action or vocalisation a specific meaning and they emit different pitches and tones of sound depending on every characteristic of the approaching prey.

They also have the capacity to deceive or manipulate each other. If male chickens are

successful in their forage for food, they will put on a performance for the female chickens to impress them. An inferior chicken, performing the same act nearby, will perform a silent dance to lessen the threat of an attack by the dominant male. [3]

### Biological Make-up

Chickens are emotional and sentient and their bodies are highly sensitive to their environment. A study provided evidence that hens had lower levels of corticosterone; which is a physiological measure of stress, when in a positive environment. They had a higher head temperature; which is associated with arousal, when in their preferred environment. The receptors on their bodies make them sensitive to touch, temperature, pressure and pain. Thus, exposure to extreme conditions and practices on factory farms, like debeaking, can be life threatening. The operation of beak-trimming (sometimes known as debeaking) means the removal of the tip of the beak, by means of a suitable instrument. [4]

Chickens use their beaks for numerous tasks; eating, drinking, nesting, exploration and self-defence. Their beaks are a complex sensory organ that contains many nerve endings. The tip of a bird's beak is called the 'bill tip organ' and it contains a cluster of nerve receptors that are sensitive to touch and sound. Hence, debeaking, an invasive and unbelievably painful procedure, can cause chickens to display guarding behaviours; among many other issues, that can last for months.

### Legal Protection

Current laws offer inadequate protection for chickens. The legislative regime reflects compromises based on economic expedience. The general concepts provide wide discretion.

For example, under the Welfare of Farmed Animals (England) Regulations 2007, it states under section 17, "animals not kept in buildings, shall, where necessary and possible, be given protection from adverse weather conditions." Another example, under Commission Regulations (EEC) in order to label the egg carton free-range "...hens have continuous daytime access to open-air runs...". Both examples illustrate obvious issues; when will it be deemed necessary to shelter animals from adverse weather? How accessible is the open air run? As well, free range is misleading as per guidelines under the Council Directive 1999/74/EC which lays down the minimum standards for the protection of laying hens. Section 4(4) states that the stocking density for open-air runs must not exceed nine laying hens per m2 of usable area – this is hardly what people expect of free-range.

### Unnecessary Suffering

Similar issues arise applying the concept of "unnecessary suffering." According to the Animal Welfare Act 2006, under s.4(1)(a) and s.4(1)(d); an individual commits an offence if the animal suffers and that suffering was unnecessary. Under s.4(3)(a) it asks if the suffering could have been reasonably avoided or reduced. As well, under s.4(3)(c) whether the conduct which caused the suffering was for a legitimate purpose. These are very ambiguous provisions and allow for much discretion.

In schedule 11 which is the Killing of Surplus Chicks and Embryos in Hatchery Waste, of the Welfare of Animals (Slaughter or Killing) Regulations 1995, s.1(a) permits the culling of surplus male chicks via mechanical apparatus or maceration. Maceration is the grinding of surplus chicks in high

**"The legislative regime reflects compromises based on economic expedience and the general concepts provide a wide margin of discretion."**

speed blades. This is commercially workable, in terms of destruction of vast numbers of male chicks produced by the industry, thus the suffering is deemed necessary and therefore justified.

These accounts of incredibly intuitive characteristics of chickens are merely some of the vast examples that exist. The next time someone calls you a "bird brain", you can thank them for the compliment!

**Tiffany Mitchell is a second year law student at Leicester University and holds a B.A in Law and Society with a certificate in criminology from Memorial University of Newfoundland, in Canada.**

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# THE WELFARE OF FISH USED FOR CONSUMPTION

BY KELLY LEVENDA

Fish are capable of experiencing pain, fear, and suffering. Like many land animals, we subject them to inhumane slaughter, poor living conditions, and cruelty, but we do not adequately protect their welfare. Without discussion and action, fish will continue to suffer greatly.

We need to start bringing fish into our circle of compassion. Globally, the total number of wild fish who are killed every year is one to three trillion. This estimate does not include shellfish, such as lobsters, crabs, and shrimp. For comparison, 68 billion land animals are killed every year for consumption.

The **evidence** of pain perception in fish strongly suggests that they experience pain

similarly to other vertebrates, such as dogs, cats, cows, pigs, and chickens. Their perception and cognitive abilities frequently match or exceed other animals, even **nonhuman primates**. Fish can learn and remember complex information, which means they are capable of suffering.

Fish on farms are intensively confined, which leads to fights and injuries, and they suffer from diseases and parasites. Before transport to slaughter, fish may be starved for up to a month. During transport, they are removed from water, which is very stressful for them. When we catch fish from the wild, some are crushed by the weight of fish in the net. (Some trawling nets are so large that they can hold 13 jumbo jets!) Fish suffer decompression





injuries when raised from deep water. This includes, for example, parts of their gut forced out through their mouth and anus, bulging eyes, and burst internal organs. Fish are snared by their gills with nets and spiked with hooks (sometimes for hours or days). They are also impaled on hooks to be used as live bait.

Similar to the slaughter of land animals, egregious animal abuse has been shown at fish slaughter facilities – an **undercover investigation** showed employees slicing off fins, tearing the heads off, and peeling away the skin of fish who were alive and conscious. In commercial slaughterhouses, fish are often placed in water with dissolved carbon dioxide or ice water to render them immobile (but not unconscious) before slaughter. They are also routinely killed through live gutting, which can take up to an hour to kill them, and asphyxiation in air, which can take up to four hours to kill them.

We are morally obligated to protect fish from unnecessary pain, which our current laws do not do. In the US, fish raised for consumption are not protected by the federal Humane Methods of Slaughter Act, which requires that animals are rendered unconscious before they are slaughtered. They are also not protected by the 28 Hour Law, regulating the transportation of animals, or the Animal Welfare Act, which protects certain animals used for research and exhibition.

Fish have more protection in the UK than the US. Although they are not protected by the Welfare of Farmed Animals (England) Regulations 2007 or the Welfare of Animals at the Time of Killing (England) Regulations 2015, they are protected by the Animal Welfare Act 2006, which says that animals cannot suffer unnecessarily. EU regulation 1099/2009 also protects fish, but only as to the key principle, which is that “animals shall be spared any

avoidable pain, distress or suffering during their killing and related operations.” (But after the UK leaves the EU, this regulation may no longer apply.) The UK has **opinions** from the Farm Animal Welfare Committee on the welfare of fish on the farm and at the time of killing, but these standards are voluntary and do not have the force of law. The Animals (Scientific Procedures) Act 1986, which protects animals used in experimentation from “avoidable suffering and unnecessary use,” also protects fish. But many of these laws are limited to prohibiting **“unnecessary” suffering**. Courts defer to industry standards in determining what is “unnecessary” suffering, so if something is an industry-wide practice, it is deemed that the suffering caused by it is necessary.

There are many ways we can legally protect fish. In the US, we could require them to be rendered insensible to pain before they are slaughtered. To increase protections for fish during their lives, we could expand the many laws that currently do not include them. We could decrease the suffering of wild-caught fish by regulating fishing methods and equipment. We could also decide not to consume them, speak out against the cruel fishing industry, and advocate for a world that protects all animals.

**Kelly is the student programs attorney at the Animal Legal Defense Fund. She works with law students to advance the emerging field of animal law. She is also the founder of Let Fish Live. She has a bachelor's degree in animal science and is interested in animal sentience, behavior, and welfare.**

# ANNUAL STUDENT ESSAY COMPETITION



## PRIZES

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### 1ST PRIZE

Published article in the A-Law Journal and £150 book vouchers.

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### 2ND PRIZE

£70 book vouchers.

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### 3RD PRIZE

£30 book vouchers.

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## DEADLINE

Friday 23rd February 2018.

## 2018 STUDENT PRIZE

It's that time of year again when we call on all you hard working and passionate students to get involved with our annual essay competition.

The title this year is the highly topical:

**Consider whether animal welfare legislation should be extended to include decapods.**

The competition is open to all students at any stage in their studies. Essays should be no more than 1,500 words long. For full details visit [www.alaw.org.uk/student-essay-competition](http://www.alaw.org.uk/student-essay-competition). Email your entries to [studentgroup@alaw.org.uk](mailto:studentgroup@alaw.org.uk).



# LIVERPOOL CONFERENCE BY GRACE WRIGHT

On 5th September 2017, A-law and Liverpool John Moores University School of Law hosted a conference on animal law, ethics and legal education.

Leading academics in the field of animal law gathered to present and discuss papers at the cutting edge of animal protection law and policy. Bridget Martin, Simon Brooman, Mike Radford, Darren Calley, Gareth Spark, Joe Wills, Michael Bowman, Marie Fox, Debbie Rook and many others were amongst those academics discussing topics as diverse as trophy hunting, a duty-based approach to animal rights and international wildlife law.

Other speakers included Peter Stevenson from Compassion in World Farming (CIWF) who spoke about Brexit and the challenges and opportunities for farm animal welfare and Chris Butler-Stroud who discussed the quasi-legal debate surrounding whaling management.

It was also great to have a skype conversation with Kathy Hessler, Clinical Professor & Director at the Animal Law Clinic Center for Animal Law Studies Lewis & Clark Law School in the USA. Kathy shared her experiences of animal law and education in the United States. The event included lectures and smaller break out sessions with plenty of opportunities for questions and debate.

The event presented the opportunity to learn from leading experts in the animal law and ethics field as well as the chance to meet like-minded people. Conference attendees came from a range of diverse fields and so the event also acted as an effective forum for interesting discussion outside of the lecture theatre.

Papers from speakers can be found on the A-law website at [www.alaw.org.uk](http://www.alaw.org.uk).





# A SUMMARY OF THE LEGISLATION AFFECTING UK ZOOS

BY ANNA BUSHELL

Zoos have long been an important part of the character of the UK and most people have an opinion on their role in society. Zoos have the power to evoke a variety of emotions; childhood memories of an exciting visit to see exotic creatures, passion and admiration for the crucial conservation work that they carry out, sadness of a lonely individual in a sub-standard zoo or the horror when hearing of a serious accident.

Like all workplaces, zoos have a raft of legislation to comply with to enable them to function. Here I will summarise some of the main pieces of zoo and animal welfare law affecting animal collections.

Regardless of whether an animal collection

operates as a zoo (open to the public) or a private operation, there are certain pieces of legislation that must be followed in order to obtain a licence to keep animals. These are primarily concerned with animal welfare, health and safety and aspects of conservation.

Whilst we are still in a pre-“Brexit” state, the **EC Zoos Directive 1999 (EC Directive 1999/22/EC)** is the fundamental legal basis for zoo standards. It legislates for licencing and inspecting of zoos with reference to husbandry standards to satisfy biological needs, high standards of preventative and curative veterinary medicine, accurate record keeping and active participation in education, research and conservation.





The EC directive is incorporated into UK law through the **Zoo Licensing Act 1981** (ZLA). This is the Act that most interested parties are familiar with and it is regularly cited in the media. The Act was amended in 2002 to fully conform to the EC Directive and to allow for more stringent standards to be incorporated in terms of husbandry, conservation and education. As the name suggests, the Zoo Licensing Act sets the standards for animal collections to be granted an operational licence (or have a licence renewed). Without such a licence, a collection that fulfils the definition of zoo may not be open to the paying public. In essence, zoos are locations open to the public for 7 or more days per year that display animals that are not normally domesticated within the UK. This therefore means that other locations with non-domestic species such as pet shops or private animal collections are not within the scope of the act.

Minimum standards for zoos to conform to are found in Government issued guidelines which provide a practical interpretation of the ZLA. The Secretary of State's **Standards of Modern Zoo Practice** (SSMZP) (2004) cover a range of topics including animal welfare and husbandry, conservation, education, health and safety, provision of facilities for the public, staff training, animal transport and the requirement to display a copy of the zoo licence at the entrance to the zoo. The Zoos Forum is an independent group of industry experts who provide advice relating to the ZLA and other relevant legislation.

The **Dangerous Wild Animals Act 1976**, (Modification Order) 1984, and (Modification Order) 2007 is only of relevance to private animal collections containing non-domestic species with the potential to cause harm and not those zoos operating under the ZLA. It works in a similar way to the ZLA, proscribing standards of animal management and safety

protocols.

Further to the provisions in the ZLA and DWA in terms of welfare, zoo animals are considered as "protected animals" for the purposes of the **Animal Welfare Act 2006**. Species covered by this are defined as those either commonly domesticated in the UK or those under human management. It is only relevant to vertebrates. It places an individual responsibility on those caring for animals to prevent harm so applies to zoo keepers as well as the zoo operators. It is based on the widely known 5 freedoms concept as developed by the Farm Animal Welfare Council (1992).

To enable conservation and sustainability objectives to be met, zoos need to move animals between zoos not only in the UK but around the world. This needs to be done safely, ensuring the welfare of the animals whilst on route.

The **Welfare of Animals (Transport) (England) Order 2006** is primarily designed for farm stock transportation but applies equally to zoo animals. It covers all modes of transport, and requires the journey to be logged from the moment an animal is loaded until it arrives and is unloaded from the vehicle. There are different requirements depending on the distance to be travelled and the planned duration of the journey.

Air travel is monitored by the International Air Transport Association (IATA). IATA publishes **Live Animals Regulations** usually on an annual basis, commonly referred to as the IATA Regulations. IATA sets guidelines on the air transport of various items including live animals and biological samples. For the animals, these set specific transport container designs to ensure the animal's welfare in transport and also to comply with the

processes and facilities used by different airlines.

Biosecurity, preventing the transmission of pests and pathogens is crucially important. Conservation breeding programmes in zoos often require animals to be transferred between zoos in Europe to manage the genetic diversity of species. The **Balai Directive (EC Directive 92/65/EEC)** concerns the movement of non-domestic species between EU member states. The Directive covers live animals, semen, ova and embryos. It is not applicable to domestic species (although there are a few situations where it may be). It is concerned with health and requires strict regimes of

biosecurity and veterinary management, with the aim of reducing import testing between Balai approved facilities.

When moving animals, zoos also need to consider The **Convention on International Trade in Endangered Species (CITES)** 1973. CITES is an international agreement concerning trade in animals and plants, although many mistake it for a conservation agreement. It is hugely applicable to conservation based zoos as it is of relevance to endangered and sensitive species. If a zoo wishes to move a species listed by the convention it may require an Article 10 certificate to do so. It not only covers live animals but also dead animals, veterinary/pathology samples, reproductive tissues, skins and skulls.

Veterinary management and care of animals is an essential requirement of all animal collections, as required by the ZLA and DWA. Vets have a raft of applicable legislation to comply with; some are particularly pertinent to zoos.

The **Veterinary Surgeons Act 1966** is a regulatory act requiring registration and standards of professional conduct. It makes carrying out surgery on vertebrates (excluding amphibians and fish) a criminal act if conducted by a non-veterinarian. It is hoped that this act will be extended to cover amphibians, fish and invertebrates in the future. Whilst vertebrate medicine is restricted to registered vets, emergency care can be undertaken by anyone and some non-invasive procedures can be carried out by veterinary nurses and veterinary students.

Veterinary medicines and their licensing are covered by the **Veterinary Medicines Regulations 2008**. These require close





management by zoo vets in terms of labelling, storage, handling, recording and dispensing.

Many drugs used in zoos fall within the remit of the **Misuse of Drugs Regulations 2001, Amendment 2005** which regulates the use of controlled drugs. It is primarily concerned with "street" narcotics but compounds such as Immobilon (used for large/dangerous animal anaesthesia) are listed within the schedules. Again, the management and use of listed drugs must be carefully controlled and there are penalties for misuse.

Opening a site to the public, employing a team of staff, working with dangerous animals and potentially dangerous chemicals and machinery means that health and safety considerations are of paramount importance within zoological collections.

Like most workplaces the **Health and Safety at Work Act 1974** is applicable to animal collections, as is the **Management of Health and Safety at Work Regulations 1999**. Amongst other things, these give rise to the requirements for risk assessments and associated safe working protocols in all aspects of zoo work.

Zoos with certain dangerous wild animals will have control measures to manage potential escapes and emergency situations. These include shotguns, rifles and remote chemical immobilisation equipment (dart guns and blow pipes). These are regulated through the Firearms Acts 1968 and 1997. Staff members that use this equipment must be trained and licensed according to the legislative requirements.

Further to these areas there are additional laws that zoos must be aware of and comply with. The relevance of these depends upon the focus of the zoo or animal collection, the

types of animals they care for and their requirements.

The **Animals Act 1971** considers liability for damage done by animals. Zoos may be affected if an animal escapes and causes damage, or damage done by animals that roam freely or those used in educational displays.

Zoos are obliged under the ZLA to carry out research from which conservation benefits accrue to species of wild animals. The **Animals (Scientific Procedures) Act 1986** is concerned with the use of laboratory animals. This may be applicable to zoo animals, depending on the nature of proposed research. It is possible that some invasive veterinary projects may be subject to this legislation. If so, a licence must be obtained from the Home Office.

**Animal By-Products Regulations 2005**, amendment 2009 is of relevance where animals die in the zoo and need to be disposed of and for zoos housing carnivorous species. It covers the collection, storage, handling, use and disposal of animal by-products. This must be carefully monitored and recorded by the zoo. Facilities and paperwork are inspected by the local authority on an annual basis.

This is by no means an exhaustive list and the exact legislation affecting individual collections should be examined by reference to that zoo and its unique circumstances.

**Anna Bushell has a Masters Degree from the Royal Veterinary College and worked as a zoo manager for 15 years, both in the UK and overseas. She recently embarked on a career change gaining the Graduate Diploma in Law and has just started the LPC course.**



## BOOK REVIEW: 'BEES-AT-LAW' BY NOËL SWEENEY

BY MARIAN HUSSENBUX

Unless we have been stung, we seem to love bees. They wear stripy fur coats, emit a sound evocative of summer in a garden, live in a structured and interesting community and most of us know that they perform an indispensable role pollinating much of the food we need. If we eat honey – a commodity whose use dates back to ancient civilisations – the creation of that sweet product will be a major factor in our appreciation of these industrious beings.

The writer of the comprehensive work *Bees-at-Law* is a barrister who has a special expertise in animal law, so he brings a depth of knowledge to a fascinating subject. The book examines and explains in detail the legal status and rights of these complex creatures,

and the rights and responsibilities of those who keep and benefit from them.

How the bee relates to us and our requirements, our responsibilities for her and each other, how she is represented in law, are illustrated by many cases which came to court in several jurisdictions. How the bee relates to us and our requirements, our responsibilities for her and each other, how she is represented in law, are illustrated by many cases which came to court in several jurisdictions, covering nuisance, danger and negligence, to cite but a few causes of concern. Bees might swarm and sting, they might indeed be provoked to do so, causing complicated legal cases. Bees might even be claimed to be 'trespassers' on land other than



where their hive is situated.

Over the years, bees have been the subject of much litigation. This appears to arise in part from a fundamental question: Are bees wild or domesticated creatures? Are they, as Roman lawyers categorised, in a classification still used in England & Wales and other common law countries, *ferae naturae*, or *domitae naturae*?

The Jurist Justinian defined the status of the bee in his Body of Civil Law (529-565) thus:

'Bees are wild by nature; and so if a swarm alight on your tree, it is not to be considered yours, until you have hived it, any more than the birds which build their nests there; and hence, if it be hived by another, it becomes his property ...'

Under a legal system like ours, greatly concerned about title (who legally owns an object), possession (the actual holding of an object, whether legal or not) and liability (who can be held legally responsible for any act or omission), the free-flying bee, whether wild or hived, makes an especially interesting subject. *Animus revertendi* – an intention to return – is a significant concept. Bees fly freely once they have left the owner's hive, but the beekeeper expects them to return, and to remain his or her property. But what if they do not?

Judges in **Kearry v Pattinson** in 1939 found that the owner of bees who had swarmed onto a neighbour's land lost his rights to the bees – a decision questioned by Sweeney and other lawyers.

Justinian's judicial definition was referenced in an Iowa court case in 1903, in which bees were alleged to have stung a team of horses on the property of another individual, and it

was adapted to take account of how society uses this creature to our advantage. The court observed:

'Bees may not be confined like the wild beasts. To roam seems to be necessary to their existence... bees, while generally classed as *ferae naturae*, are so useful and common as to be all but domesticated...'

However, there are truly wild bees, whom nobody claims as their property. In a notable case in New Hampshire in 2008 such bees were the subject of legal action. In **Belhumeur v Zilm** the plaintiff tried to take action for negligence and nuisance, having been stung by wild bees 'on or about their [Zilm's] premises'. This action tied up several courts in many complex arguments.

In the case **Tutton v Walter** in W. Sussex, 1981, bees owned by Tutton foraged on a field of oil seed rape belonging to Walter's company. This field was sprayed with pesticides the judge accepted were harmful to bees. The defendant argued that the bees were 'trespassers' on his land, so he was not liable for the 33 colonies killed by the spraying.

Categorising the bees as 'trespassers' was an attempt to place bees in a category between domesticated and wild. The outcome was that bees cannot be compared to human trespassers, who are wrong doers, as they are, on the contrary, beneficial creatures.

A wealth of facts about bees have been researched – the Apiarist Minister in Australia who in 1885 introduced the idea of a bee sanctuary on Kangaroo Island, the Manchester Bee, that symbol of the industrious textile workers who created the city's wealth, the fact that, under Islamic and Jewish law, bees were unclean, but, to add



to injury, honey was not, and, at the other end of the spectrum, in yet another example of man's ingenuity in finding employment for other animals, the use of the western honeybee to sniff out illegal drugs, as they have proved to have an acute ability to respond to the presence of pure cocaine and heroin.

The bee is a potent symbol, evoking many concepts applicable to the human condition, and Sweeney's final chapter, 'Searching for the Soul of a Bee', takes us further into the sphere of our relationship with the bee, and indeed other creatures. This chapter illustrates the manner in which all non-human animals are made subject to our dominion and how the law underpins that relationship. Many readers will be aware that over the past 1000 years, worldwide, animals could be arraigned, tried in court and sentenced to death. Sweeney vividly describes the case of a sow who suffered this terrible punishment in 1386 in Normandy, having been found guilty of killing a child.

How is this relevant to bees? They were in fact subject to the same system. As far as back as 864, the Council of Worms decreed that bees who had stung a man to death should be suffocated in the hive.

'An eye for an eye' – the ancient *Lex talionis* – could profitably be applied to every being.

The concept of the soul, who has one and who does not, is another device useful for human purposes in that we can categorise living beings by this yardstick and treat them well or badly according to our categorisation. For Porphyry, bees had souls '... special spirits who love justly, and who, having performed such things as are acceptable to the gods, will return whence they came.' Sir William Petty, 17th. century English economist, scientist and

philosopher, maintained that 'their souls seem... like the souls of men.' The Petty family crest bears the image of a hive of bees, and the motto *Ut apes geometriam* – As bees possess geometry by nature hints at other characteristics possessed by this wonderful creature, and one which might be especially appreciated by a surveyor.

Sweeney highlights the many dangers bees currently face at our hands, a recent instance of which is the controversial use of neonicotinoid poisons sprayed on crops. Sweeney contends: 'Wherever they are harmed by our pesticides and suffer from indiscriminate spraying they are 'entitled' to be protected from us... Bees need a legal 'personality' to match ours and their own.' To sum up, bees need justice, to which humans, as their agents, have recourse. But, if as Sweeney says, 'you are designated to be a thing as a matter of law' you are outside the protection of the law.

If Te Urewera and the Whanganui River in New Zealand can be granted 'a legal personality' – that is 'a legal entity...' having 'all the rights, powers, duties and liabilities of a legal person', why cannot our fellow creatures, including the bee, enjoy this status? "What bees have to tell our world does not need words, only wisdom."

So said Sweeney in his introductory letter to this reviewer, a phrase which encapsulates as well as any what the reader – lawyer, layperson, beekeeper - will learn from this book.

For the legal professional reader, there is a Table of Cases, a Table of Statutes – referring also to legislation in the European Union, Canada and the United States - and a Table of Statutory Instruments.

Bees-at-Law, which encompasses so many spheres in which the human, animal and the bee try to co-exist, could be unique, and it is highly recommended.

It can be ordered from the website:  
[www.bees-at-law.co.uk](http://www.bees-at-law.co.uk).

**Marian is a semi-retired teacher and translator, is International Campaigns Secretary of the Animal Interfaith Alliance ([www.animal-interfaith-alliance.com](http://www.animal-interfaith-alliance.com)) and previously clerk of Quaker Concern for Animals and RSPCA volunteer.**

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### **About Noël Sweeney**

Noël Sweeney of Veritas Chambers is a practising barrister who specialises in criminal law and human rights and animal law. He has lectured widely and written on all aspects of the legal status of animals. He is a member of the UK Centre for Animal Law, the Animal Welfare Science Ethics and Law Veterinary Association and the British Beekeepers' Association. Sweeney is a Visiting Professor in Animal Law at the University of Winchester.



# WANT TO GET INVOLVED? BECOME AN AMBASSADOR FOR A-LAW

**A-law is looking for students across the UK to act as A-law student ambassadors at their university.**

The student ambassador scheme has been established as a way for students to independently promote animal law at their university. As a student ambassador, you will act as a point of contact for new members, publicise A-law's work within the university, and collaborate with the student coordinators in working towards A-law's aims.

We are flexible with how each student ambassador would like to execute their role - there's no minimum, nor maximum - but we encourage student ambassadors to organise at least one event or student outreach/engagement activity per year.

A-law is available to assist student ambassadors by:

- Arranging for a speaker to attend and speak at your university;
- Assisting with debate topics;
- Providing a forum for agenda, and topics for discussion;
- Offering training i.e. FOI requests; and
- Providing resources e.g. leaflets and posters.





We currently have student ambassadors at the following universities:

- **University of Winchester**
- **University of Bristol**
- **University of Law Chester**
- **Manchester Metropolitan University**
- **University College London**
- **University of Liverpool**
- **University of Strathclyde**
- **University of Edinburgh**

If you're interested in taking on this role, please email [studentgroup@alaw.org.uk](mailto:studentgroup@alaw.org.uk) with:

- Confirmation that you are currently a student member of A-law;
- Permission for us to share your contact details with current and new student members at your university;
- A short bio (with a picture if possible), and permission to share this information on our website and/or in Animal Justice UK; and
- A brief overview of what you'd like to achieve as a student ambassador.

We keep your name and contact details secure, giving it only to new student members at your university (once permission is granted).

## MEET SOME OF OUR NEW AMBASSADORS

### MANCHESTER METROPOLITAN UNIVERSITY – JOSHUA JOHN LUKE



I am a second year Law student at Manchester Metropolitan University. I currently work in the animal industry, mainly with companion animals. I have spent much of my life growing

up in rural South Wales working with a variety of animals, walking my dogs and exercising my horses.

My aim is to represent A-law's interest at MMU and to encourage fellow students to consider the importance of animal welfare law, not only here in the UK but on an international scale and how we can further develop our welfare legislation here in the UK. I am also hoping to bring the issue of animal welfare into a more prominent position within the law school, so that students can have the opportunity to debate such a fundamental issue.

### UNIVERSITY COLLEGE LONDON – RILEY FORSON



I am a final year Law student at UCL. I have always loved animals and on becoming a law student have developed a strong passion for environmental law and the discourse surrounding animal rights within legal frameworks. Alongside my degree I am currently co-authoring a research paper for the UN on environmental issues, am a campaigner for Born Free and am embracing life as a full on vegan following the motto of 'small acts of kindness turn into great waves'!

My objectives as the UCL A-law ambassador are to facilitate a greater role for animal law within the UCL community and to use my role to further develop my own understanding of how our legal framework impacts animals. This is something I am actively trying to do within my environmental law module. I hope to establish an on-going relationship between A-law and UCL to encourage others to be involved in understanding and championing the law related to animals.

## UNIVERSITY OF LIVERPOOL – CORRINA LEWIS



Hi, my name's Corrina and I'm currently a third year law student at the University of Liverpool. I wanted to become a student ambassador for A-law as animal rights and welfare are issues that I feel very strongly about, and believe should be the focus of more UK law courses.

My aim at UoL is to bring together like-minded students in order to broaden the general understanding of animal law and dispel the stigma that the topic of animal rights quite often brings (because let's face it, we've all been given the 'look' from colleagues and peers when discussing our passion).

I am also in the process of gathering the support of others in order to set up a student union registered A-law group at the University of Liverpool (so, if any of you at UoL are reading this and see me around campus, please come and say hello!).

## MEET OUR NEW UNIVERSITY GROUP

## UNIVERSITY OF BRISTOL - SARAH, EMILY & VIKTORIA



Hello! We are Sarah Williamson, Emily Turner, and Viktoria Petrova.

All three of us are MA in Law students at the University of Bristol. We met six weeks ago during orientation. Since then we've worked together to get more involved on campus.

We share a passion for animal rights. Sarah found out about A-Law, and we enthusiastically agreed to create a student society at our University.

Bristol has an active animal rights movement, given the presence of Viva!, Bristol Animal Save, FARM, and other organizations. We plan to work alongside them and our University's veg society to spread awareness about animal rights, and to increase knowledge of the philosophical and legal issues surrounding animal rights and A-Law's efforts in those fields.

At our first meeting, we brainstormed ideas about how to become an official University of Bristol society, and how to reach out and collaborate to achieve our goals. We are currently working on plans for events we will run. There is much we can contribute to the creation of a better and fairer world for all life, and we cannot wait to get started!

**If you are interested in starting an A-law University Group, please visit our website where you can download our How To Guide, or email Sally at [studentgroup@alaw.org.uk](mailto:studentgroup@alaw.org.uk)**



# AN INTERVIEW WITH PROFESSOR DAVID FAVRE

BY EDIE BOWLES

Professor Favre (pictured) teaches Property, International Environmental Law, Wildlife Law, and Animal Law at Michigan State University, prior to this he was a practicing attorney in Virginia. He has written several articles and books dealing with animal issues including such topics as animal cruelty, wildlife law, the use of animals for scientific research, and international control of animal trade. His books include Animal Law and Dog Behavior, Animal Law: Welfare, Interest, and Rights, and International Trade in Endangered Species.

## Did you always know that you wanted to be an academic?

No, I went to law school with the goal of saving the environment. But, shortly after I

began the practice of law, I had the opportunity to teach a course in environmental law at the college level, and a year later began looking for a full time law position and was hired by a Law College in Detroit Michigan.

## When did you decide you wanted to focus on Animal Law?

After I began my teaching position I thought about what sorts of articles I wanted to write. It seemed everyone else in the environmental law area was writing on air and water pollution and I wanted to find a different focus. So, I ended up writing a law review article on Wildlife Rights in 1979.

## How did you get into Animal Law?

In 1981 there was a national legal conference on animal issues in New York City. I was invited to speak because of my published article. The next year a number of the attorneys that were at the New York Conference met again in San Francisco and decided to form a NGO organization, the Animal Legal Defence Fund. I became a Board member and served on the Board of the organization for 22 years. Through my activities with the Board I became familiar with the full scope of animal issues. As a representative of ALDF I attended seven international meetings of the treaty CITES (for protection of Endangered Species). I wrote a book about the operation of the treaty and several articles. This brought me into contact with many individuals around the world.



Professor David Favre



### **How much of your focus is Animal Law?**

It is my primary scholarly focus at this point in time. I have been able to create an Animal Law Program at my Law College. We have the large legal website – [www.animallaw.info](http://www.animallaw.info), a few courses, a Journal of Animal and Natural Resource Law and most recently a Clinic for Animal Welfare where our law students are able to actually practice animal law in the real world.

### **What is the rest of your focus?**

I balance my work time with the joys of family and living on a farm with dog, cat, sheep and chicken.

### **How is your day at work spent?**

I am a traditional academic professor, balancing teaching, research and writing, administrative obligations, and attending and organizing conferences. For example I am presently helping organize the III Global Conference on Animal Law to be held in Hong Kong this coming May.

### **What animal welfare protection are you most proud of?**

Having been a creator of ALDF is a very important achievement in my life, along with the full animal law program at my University. I think my body of scholarly writing is perhaps most important as it attempts to set a comprehensive set of ideas before the readers about how animals can obtain legal rights. In today's digital world I can see that my articles are being considered around the world, this is very gratifying. I am presently helping redraft the Dog Law of Michigan, and while it will not have my name on it, it will be something that continues into the future. Also this year I will see the publication of a book,

"The Respectful Use of Animals" which is my first effort to reach out to the general public.

### **Do you enjoy the work?**

I have been blessed with a long and healthy life which I think in part is because I am so busy and intellectually active. While of course there are days not so good, there is always a new idea to write about, or a new set of eager students who want to learn about animal law. Often there are trips to other cities and countries to meet other animal people and seek to help the animals. And animal people are always good people, interesting people. It is an excellent life, I hope that others can find such a satisfactory path for their lives.

### **How can someone steer his or her career towards this area?**

This is still a new and growing area. There are not clear paths for careers. It requires each individual to reflect upon; What skill set do I have to help the animals – or what skill set do I want to obtain? (becoming a lawyer, a field scientist, an organizer, or perhaps a communication specialist) "Where would I like to be in five years?" It is also the case for many lawyers in the United States that they make a living practicing law in general areas and volunteer on the side to work with others on animal issues.

### **What tips would you give to students who want to work in this area?**

Dream big, work hard, be persistent. Begin networking with others in the animal area, personal connections are everything. Progress comes with working with others.

# IN THE NEWS

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## NONHUMAN RIGHTS PROJECT FILES FIRST EVER PETITION FOR HABEAS CORPUS ON BEHALF OF CAPTIVE ELEPHANTS

The Nonhuman Rights Project (NhRP) has filed the first ever petition for habeas corpus on behalf of elephants, namely three captive elephants Beulah, Karen and Minnie.

The elephants were all captured from the wild and have been used for years to provide entertainment in travelling circuses and fairs.

The NhRP seeks the release of the elephants to a charity-run natural habitat sanctuary for ex-performing animals.



## ANIMAL SENTIENCE AND ARTICLE 13

On 15 November 2017 a vote took place in the House of Commons on a proposed amendment to the EU (Withdrawal) Bill, which proposed to incorporate into UK law Article 13 of the Lisbon Treaty.

Article 13 states that the EU and its member States “shall, since animals are sentient beings, pay full regard to the welfare requirements of animals” when formulating and implementing the EU’s policies.

In the wake of the negative press that this received, A-law drafted a legal briefing note which provides a neutral analysis of the legal position and the difficulties inherent in the proposed amendment.

A copy of the briefing note can be found on the A-law website at [www.alaw.org.uk](http://www.alaw.org.uk).



## MANDATORY SLAUGHTERHOUSE CCTV

DEFRA announced plans on November 12th to make CCTV mandatory in all slaughterhouses in England – animal welfare is a devolved responsibility – through legislation to be introduced in early 2018. There will be a phase-in period of six months.

The key details are that (i) CCTV will operate in “all areas of the slaughterhouse where live animals are present”, (ii) Food Standard Agency (FSA) Official Veterinarians (OVs) will have unrestricted access to the footage and (iii) the footage will be retained for 90 days.

This represents fulfillment of a manifesto commitment and follows a consultation which ran from August to September of this year, the results of which were overwhelmingly in favour of CCTV on the stated terms. Of 3869 responses, only 19 were opposed to CCTV installation in all areas where there are live animals. The response of the general public in particular is striking, with 3737 in support and only 5 opposed. (The report notes that the public tended to cite exposés in support of their view.) Per MP for the Environment Michael Gove, the DEFRA press release noted that the consultation “highlights the strength of feeling among the public” viz-a-viz animal welfare.

The consultation elicited a mixture of perspectives. Charity respondents tended to focus on the success of past filming and its usefulness in litigating welfare breaches, and abuse prevention in general. Farmers – all but two in favour – noted the potential beneficial impact on worker discipline and training. The public, comprising the vast majority of respondents, emphasized the importance of animal welfare generally. Veterinarians and a combined response from the British

Veterinary Association and related organisations were in support and relayed the importance of CCTV monitoring not supplanting or replacing physical checks.

Access to the footage will not be subject to Freedom of Information requests, and therefore difficult to access (exposés notwithstanding) for non FSA OVs. This is because the footage will remain the property of Food Business Operators (FBOs), which are not public authorities and so fall outside the ambit of FOI legislation. The Government will legislate for access “by those who require it” for the purposes of monitoring, verification and enforcement; who these will be in more specific terms – i.e. other than OVs – awaits further clarification. Relatedly, the view of the Information Commissioner’s Office pursuant to the consultation is that data protection will be in issue. This consideration appears material to advocacy aimed at increasing the accessibility of the footage.

The FSA states in an Impact Assessment (IA) published this year that OVs will likely “spend more of their routine inspection time” reviewing CCTV footage. The assessed costs do not include extra hiring. Commenting on the IA, the FSA stated that potentially increased enforcement may imply “additional resource and training”. Whether ‘resource’ alludes to hiring is unclear. There may in consequence be a reduced physical presence in abattoirs.

Government materials and industry response make clear that it is hoped the measures will increase public confidence and mitigate damage to the reputation of abattoirs. As such, advocates may wish to consider the potential for these measures to portray as ‘humane’ what is, in Animal Aid Director Isobel Hutchinson’s words “brutal and pitiless business that can never be cruelty-free”.



Finally, prior to these measures, "92% of cattle, 96% of pigs, 88% of sheep and 99% of poultry" (2016 FSA CCTV Survey) were 'processed' in premises operating some form of CCTV for the purposes of animal welfare. However, the positioning of such cameras varied, and this remains an important issue with regard to the current proposals.

## EUROGROUP FOR ANIMALS' TRADE AND WELFARE LAUNCHES

On October 18th 2017, Eurogroup for Animals' Trade & Animal Welfare Project launched its model animal welfare provisions. The aim? To get them inserted in all future EU Free Trade Agreements. The key concepts on which those provisions rest are: very strong cooperation mechanisms; the protection of the right to regulate and conditional liberalisation based on equivalence of standards. The launch saw the presence of Trade Commissioner Cecilia Malmström, several Members of the European Parliament and representatives of Member States. All reacted positively and Commissioner Malmström even indicated she would look into the idea of conditional liberalisation for specific products.

The provisions are not yet online but you will be able to find them here (<http://www.eurogroupforanimals.org/trade-and-animal-welfare>) when they are.

## INCREASE IN MAXIMUM SENTENCES FOR ANIMAL CRUELTY OFFENCES

Environment Secretary Michael Gove has announced plans for the maximum sentence for animal cruelty offences to be increased from 6 months imprisonment to 5 years. The proposed changes would bring the UK in line with the maximum sentences for animal

cruelty offences available in Australia, Canada, the Republic of Ireland and Northern Ireland.

## A-LAW AT WEST MIDLANDS VEGAN FESTIVAL BY ABI SCOTT

On Sunday 29th October A-Law exhibited at the West Midlands Vegan Festival. The festival attracts thousands of visitors each year, so it was the perfect setting for A-Law to showcase its recent re-branding and current projects to members of the public.

The A-Law stand (staffed by A-Law volunteers Natalie and Abi) included new banners and an impressive table display. Visitors were able to read the summary of A-Law's Brexit manifesto and peruse copies of the Journal, as well as ask questions about our organisation and the work we perform. Students were catered for, too, with leaflets and information about our student group.

There were a variety of stalls at the festival ranging from food, drink and health products to clothing, books and campaign groups. We were especially pleased to see a local team from Lush, who have generously supported the production of our Brexit manifesto through their Charity Pot fund. We even spotted one of our own charity pots of their stall.

The day was a success with plenty of interest in A-Law and our work. We look forward to appearing at similar events around the country soon.

**We were delighted as always to receive your submissions. We welcome submissions on any aspect of animal law from students, including book reviews, event reviews, news, case comments & critiques of legislation. Send any submissions or feedback to Grace at [studentgroup@alaw.org.uk](mailto:studentgroup@alaw.org.uk).**

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