

Vegan Rights in the UK:

Promoting Animal Liberation Using Vegan Rights



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This book has been printed by Vegan Print using vegan ink on recycled paper.

Acknowledgements

The authors would like to thank:

Loukas Mitsou for formatting,

Linda Clark for proof reading and editing, and

Misty's Art for Animals for giving us permission to use prints of their paintings on the cover and inside of this book. The three animals captured in the paintings live at Tribe Animal Sanctuary Scotland ("TASS"), having been rescued from the animal-use industries. For more information see @updatesTASS on Facebook.

Jeanette Rowley & Barbara Bolton
June 2018

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Preface

The legal protections afforded to vegans in the United Kingdom (UK), and in the European Union (EU), are not well known or understood. Vegans are people who hold the moral conviction that it is wrong to exploit and kill non-human animals unnecessarily. Vegans in the UK have the same protections as those who hold religious beliefs. In the same way that someone who holds a religious belief has the right to manifest that belief, by living in accordance with it, so too do vegans have the right to live according to their moral conviction. Just as it is unlawful to discriminate against or harass someone because of their religious beliefs, it is unlawful to discriminate against or harass vegans because of their convictions.

These protections are little known and rarely used, and the main purpose of this book is to disseminate the key information about our rights to other vegans living in the UK, so that they are aware of the rights they hold, how those rights apply in common situations, and what remedies are available to them in the event of breach. It is important that they have this information in order that they can more knowledgeably assert their rights on behalf of themselves, their children and, ultimately, on behalf of non-human animals whose rights we recognise by living vegan.

This book develops themes contained in the guide: 'Vegan Rights: Questions and Answers,' published in 2014¹ and expands upon the topics introduced there by looking in more detail at the content of specific rights, discussing relevant court decisions from Europe and the UK, and predicting how a court may apply vegan rights to particular situations.

Widespread change, to help bring about animal liberation, will require a significant element of self-help by those of us who are able to do so, and our aim is to assist vegans to advocate for change. With that objective, this is the

¹Jeanette Rowley, 'Vegan Rights Questions and Answers', (2014) available at <http://www.theivra.com/Documents/Vegan%20Rights.pdf> (accessed June 2018).

first publication to provide example letters covering some of the most common situations encountered by vegans in the UK, to assist them in advocating for their rights with employers, schools, local authorities and service providers. Each letter and email will be worthwhile, increasing awareness of: (1) veganism and what it really means; that it is not a diet or a lifestyle, but rather a way of living in recognition of the rights of other animals; (2) the needs of vegans; to be able to avoid animal exploitation in all its forms, and (3) the legal requirements with respect to vegans. If we all advocate consistently for our rights, keeping our focus at all times on non-human animals, we can use vegan rights to promote veganism and respect for the rights of vegans at the same time.

It is also our hope that this book will also be read by employers and relevant people within government entities and private service providers, in order that they understand what the law requires, ensure they are taking the protected vegan conviction into account and avoid rights breaches.

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Disclaimer:

- 1. The content of this book is intended to be used for general information only. Nothing contained in this book is intended to nor does constitute legal advice, and it should not be relied upon or treated as a substitute for specific advice relevant to particular circumstances.**
- 2. The authors accept no responsibility for any errors, omissions or misleading statements, or for any loss which may arise from reliance on this book.**

3. Every situation is different and whether or not you wish to refer to your rights in discussions with employers (or others) will depend on the circumstances.
4. This book contains general information regarding the law as it stands at the time of writing and should not be taken as an indication that we necessarily agree with the law.

Introduction

What is veganism?

The term 'vegan' dates back to 1944 when a small group, including Donald Watson and Elsie Shrigley², agreed that a word was needed to refer to people who avoided not only the consumption of the flesh of non-human animals, but all forms of animal exploitation³. The definition was refined over the years and was included in the written constitution of The Vegan Society when it became a registered charity in 1979: veganism is "a philosophy and way of living which seeks to exclude - as far as is possible and practicable - all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose."⁴

Why vegan rights?

There are two questions that may be in the minds of readers at this point. We will address them both at the outset.

Why would someone's choice to follow a particular diet or lifestyle give them rights?

If you think of veganism as a diet or lifestyle, a matter of personal choice, something that can be done part time or in part, the concept of vegan rights is not likely to make much sense. However, veganism is not a diet. Veganism is not *about* food at all. What we eat as vegans is an incident of our moral

² Two of the co-founders of The Vegan Society.

³ Avoidance of all animal products dates back much further than that, with evidence of this as much as 2000 years ago. See, for example, The Vegan Society, 'History', <https://www.vegansociety.com/about-us/history> (accessed June 2018).

⁴ The Vegan Society, 'History', <https://www.vegansociety.com/about-us/history> (accessed June 2018). It is beyond the scope of this publication to look in detail at the history of the term 'vegan' or at the progression of the vegan movement, either within the United Kingdom or internationally. It should be noted that there is an interesting debate within the vegan community regarding whether or not respect for human rights is or should be encompassed by the definition of veganism; an alternative view is that human rights and non-human animal rights sit alongside one another within the sphere of social justice. Whatever the conclusion of that debate, it is generally accepted that veganism at least encompasses The Vegan Society definition set out above and it is this definition that we are referring to in this publication.

conviction that it is wrong to use and kill non-human animals. Vegans do not consume any animal products *because* we avoid all forms of animal exploitation in recognition of the rights of non-human animals. It is the fact that we hold and live according to this fundamental conviction that gives vegans the protections discussed in this book.

If our concern is for the rights of non-human animals, why are we writing a book about the rights of humans? If veganism is living in recognition of the rights of others then shouldn't we be talking about their rights rather than putting the focus once again onto us humans? After all, speciesism and a humanocentric perspective is the root cause of animal subjugation and exploitation.

The short answer to this is that we are talking about and promoting vegan rights *because* veganism is how humans recognise and give expression to animal rights.

Vegan rights are important to vegans, to ensure that they are able to live by their moral conviction that it is wrong to use and kill non-human animals unnecessarily but, more importantly, our rights matter for non-human animals because it is through veganism that we recognise and give expression to *their* rights.

Exploiting, hurting and killing non-human animals will stop only when people stop demanding it. When we buy things that have been taken from animals, their flesh, their skin, their milk, their eggs, their honey, and products that have been tested on them, we demand that they be used and killed for us. When we use animals in other ways, for entertainment, sport, recreation or as playthings, we support the subjugation and exploitation of animals as our property rather than recognising them as individuals with their own interests. When we realise or acknowledge that it is wrong to use living beings as tools, we stop. We go vegan.

Veganism is the rejection of the exploitation of animals; it is the refusal to support the use of living-beings as if they were things; it is the recognition of the basic right of other animals to live their own lives as free beings. Protecting vegans ensures that we are able to live according to that moral conviction; it ensures that we are able to avoid participating in the exploitation of animals. This is essential to veganism itself, to the growth of veganism and ultimately to putting an end to animal exploitation.⁵

Protecting Vegans

The legal rights of vegans living in the United Kingdom are important human rights, relevant to the dignity and security of those individuals. In our human rights and equality laws we have recognised that our fundamental convictions should be afforded the same level of protection as our religious beliefs. Vegans have recognised the moral requirement that we should not use living-beings as things and wish to live their lives according to that moral requirement. To put someone who has made that conscious moral decision in a position whereby it is impossible for them to avoid participating in animal exploitation is unconscionable.

For most of us, when we are in our own homes we have control over what we consume. Of course, this is not the case for everyone; for example, some people with disabilities depend on others and children rely on their parents' willingness and ability to respect their convictions. In certain situations, we are all dependent on others for access to products or services that are suitable for vegans, for example when we are in hospital. Perhaps partly because of a common misunderstanding as to what veganism is, many vegans in the UK experience real issues in terms of accessing suitable options in our public institutions, including our hospitals, schools and care homes⁶. We are also

⁵ For further reading on animal rights and veganism as the way in which we recognise the rights of other animals see Appendix 3 of this book.

⁶ A recent survey conducted by Go Vegan Scotland found many examples of this, as summarised in the report 'Results of Survey on Vegan Provision in Scotland' available at https://docs.wixstatic.com/ugd/d95b36_f4bccc9845854533ba8aea3cf8e590b2.pdf (accessed June 2018). Vegans can put in place a Power of Attorney authorising an appointed person to speak on their behalf if they become unable to communicate their needs. For more information on this topic see:

reliant upon others to some extent in our places of employment, and many vegans encounter discrimination and harassment in the workplace and elsewhere.

Some examples of situations vegans living in the UK have encountered in recent years include:

- a vegan patient in a hospital did not eat for three days because the hospital failed/refused to provide suitable food;
- vegans with eating disorders have been denied access to suitable food and force-fed animal products against their convictions;
- a vegan was told by the Department for Work and Pensions that they must apply for a job in a slaughterhouse or else they would lose access to benefits;
- vegan children have been made to sit through presentations by dairy farmers during which they were told that they should not be drinking plant milk and that they would only get the nutrients they need from consuming dairy (entirely incorrect information, but which went wholly unchallenged/was reinforced by the teacher supervising the class);
- vegan children have been taught, against their moral convictions and those of their parents, that animals are ours to use and kill (for example, by schools themselves bringing animals onto school grounds for a period of months to “rear them” before sending them to be slaughtered⁷ and through egg hatching activities);⁸
- vegan children and their parents have been ridiculed by students and by teachers;
- vegan children are being forced to participate in unnecessary experimentation on other animals;

Barbara Bolton, 'Ensuring your veganism is protected if you lose capacity to manage your affairs', available at <http://www.theivra.com/Documents/Power%20of%20Attorney.pdf> (accessed June 2018).

⁷ For example, the well-publicised case of the Lymington school which runs a “pig rearing” programme on school grounds: BBC News, 'Vegan parent complains about Lymington school's pigs' <http://www.bbc.co.uk/news/uk-england-hampshire-42782437> and BBC News, 'Lymington school pig rearing to return after vegan parent complaint', <http://www.bbc.co.uk/news/uk-england-hampshire-43194950> (accessed June 2018).

⁸ For example, Incredible Eggs, <https://www.incredibleeggs.co.uk/>; Living Eggs, <https://www.livingeggs.co.uk/>; Eggucation, <http://www.eggucation.co.uk/> (accessed June 2018).

- vegan children and their parents have been told by their school that they will not provide food that is suitable for vegans, with some schools expressly stating that they do not support veganism;
- vegan police officers and fire fighters have been refused uniform items made from animal-free materials.⁹

Vegans should not be placed in situations where they are essentially forced to participate in animal exploitation against their fundamental convictions. Vegans have rights and we can use these rights to challenge current practice and secure better provision.

Widespread change will require a significant element of self-help by those of us who are able to do so. This book is intended to give vegans living in the UK the information they need to be able to advocate effectively for their rights and the rights of others, to improve things for themselves and their families, and for others coming after them.

Promoting Animal Liberation

More importantly, the rights of vegans are potentially powerful tools for vegan animal rights advocates, as discussed under “Why Vegan Rights” above. Taking the time to explain to our schools, hospitals, employers, local authorities, councillors and members of parliament what veganism really means and what is needed to enable us to live by our convictions, has the potential to increase awareness and understanding of the moral issue, encourage more people to reflect on their relationship with non-human animals and promote long-term positive change.

⁹ For these and other examples, see the results of a recent survey conducted by Go Vegan Scotland, as summarised in the report: ‘Results of Survey on Vegan Provision in Scotland’ available at https://docs.wixstatic.com/ugd/d95b36_f4bcc9845854533ba8aea3cf8e590b2.pdf (accessed June 2018), and Jeanette Rowley, ‘Veganism and Equality Research’, (2013-2014) available at <http://eprints.lancs.ac.uk/74384/> (accessed June 2018).

Plant-Based Diets

Many people use the term “vegan” loosely to refer to the practice of following a plant-based diet, exclusively or predominantly. This is highly problematic and not merely a question of semantics.

The words “vegan” and “veganism” denote a very important social justice movement with the objective of the complete eradication of animal exploitation. For over 70 years these words have been used to convey the important concept that we recognise that non-human animals matter and therefore we refuse to participate in their exploitation and killing. The words “vegan” and “veganism” are part of this movement, which works to end the subjugation and killing of non-human animals.

To use these words to describe nothing more than a personal dietary choice changes their meaning entirely. The misconception that veganism is nothing more than a restrictive diet is no doubt one of the causes of the issues faced by vegans, which we referred to above. Critically, other animals are completely lost in this misuse of the term “vegan,” undermining our efforts to encourage non-vegans to consider the morality of living non-vegan.

This co-opting of the term vegan has already happened to some extent, which is why some people refer to themselves as “ethical vegans”. That is an understandable step, given the mainstream dilution of the term, but if we adopt that description we accept that there is a form of veganism that is *not* based on the recognition of the rights of non-human animals. There is not. There is being vegan and there is following a plant-based diet. “Vegan” describes an important, fundamental ethical position, and we should continue to use it as such.

The distinction between being vegan and following a plant-based diet is also relevant in relation to the rights we hold. Veganism has been recognised as protected, as we discuss in detail in this book. Whether or not the protections would apply to someone who has adopted a plant-based diet, but does not

hold the conviction that it is morally wrong to use and kill non-human animals unnecessarily, would depend on the circumstances and whether or not their diet could be said to be an important incident of a serious and cogent philosophy.

Some people follow a plant-based diet for environmental reasons but are not vegan because they do not hold and live by the fundamental moral conviction that it is wrong to exploit and kill non-human animals unnecessarily. They may nevertheless have protections, depending on the specifics of their moral philosophy, as we discuss in more detail in Part 2. There is obviously an overlap or intersection between the moral principle at the heart of veganism and the moral principle that humans have a duty to act in the interests of the environment, and many people hold both these convictions. Similarly, the impact of the animal-use industries on world hunger is a further moral reason to adopt a plant-based diet. While there is a clear intersection between these convictions, the critical point for other animals is that only the vegan moral principle rejects speciesism and therefore all forms of animal exploitation. Our focus in this book is on the protections applicable to vegans, because our focus is on non-human animals.

An increasing number of people follow a plant-based diet for health reasons. As we discuss in this book, a broad view has been taken as to what non-religious beliefs will be afforded protection. It is therefore not impossible that the UK or European courts could find that a belief that everyone has the right to access to good quality plant-based foods is protected. On the other hand, a “belief” that plant-based foods are better for our health may be treated as an opinion based on current information, as opposed to a belief or conviction. Opinions based on current information do not attract the same protections as fundamental convictions or beliefs, as we discuss in Parts 1 and 2.

Other Human Rights

While our focus here is on the rights of other animals, that does not mean that we disregard the rights or interests of humans. There are many intersections between violations of human rights and the rights of other animals and there are many advocates drawing attention to the need to tackle all forms of exploitation and violence if we are to achieve justice.¹⁰ Certainly, the work we do to oppose the commodification and slaughter of non-human animals should always be done in a way that also respects the rights of other humans, avoiding and challenging, for example, racism, sexism, classism and discrimination in all its forms. Many vegan animal rights advocates are also participants in other, related, struggles for justice.

Not About Us

That veganism is the way in which we give expression to the rights of others sets it apart from other social justice movements. It is not we vegans who are used and killed, it is those whose rights we recognise by living vegan.¹¹ It is they who are subjugated, exploited and killed in their billions year on year. It is they who are denied the basic right not to be treated as a commodity and the right to live. Vegans live in recognition of those rights. While it is unconscionable that vegans be placed in a position whereby they are forced to engage in animal exploitation, that is unconscionable *because* what they are forced to participate in is exploitation and violence towards non-human animals.

Discrimination against vegans denies them the right to live in recognition of the rights of non-human animals and thereby supports and perpetuates injustice against non-human animals. We must keep that focus at all times when advocating for vegan rights and avoid the danger of making this, once again, all about us.

¹⁰ For example, see Sanctuary Publishers, <https://sanctuarypublishers.com/>; Animal Rights Zone, <http://arzone.ning.com/page/arzone-intersectionality-interviews>; Vegan Feminist Network, <http://veganfeministnetwork.com/tag/intersectionality/> (all accessed June 2018).

¹¹ This is a general statement and we recognise that many humans are subjugated, exploited and killed.

There is no equivalence between the incidents of discrimination and harassment faced by vegans, discussed in more detail in Part 3, and the dreadful systemic, state-sponsored rights violations inflicted upon groups of human-beings based on immutable characteristics such as race, sex and sexual orientation. We do not consider it appropriate to campaign for vegan rights in a way that suggests some sort of equivalence and we strongly urge anyone using the information we provide in this publication to refrain from doing so.

Growth of Veganism

Veganism appears to be growing, and rapidly. The most recent figures available in terms of an estimate of the number of vegans in the UK are based on the results of The Vegan Society survey in 2016, which indicated that there were around half a million vegans living in the UK.¹² It is open to debate just how reliable those figures are, particularly in terms of the meaning of “vegan” that was used, but it provides some indication of the growth of veganism, said to be around 350% over the ten-year period from 2006 – 2016. There is also significant anecdotal evidence of the growth of the UK vegan community.¹³

Obviously, this is incredibly positive and vegan advocates wish to encourage and promote this growth as much and as quickly as possible, for the sake of non-human animals. As veganism grows and becomes more mainstream it ought to become easier to live vegan, as old stereotypes fall away and we see an increase in awareness and understanding of veganism.

¹² The Vegan Society, 'Find out how many vegans are in Great Britain', <https://www.vegansociety.com/whats-new/news/find-out-how-many-vegans-are-great-britain> (accessed June 2018).

¹³ For example, vegan volunteer groups who hold regular vegan information street stalls report a marked increase in the number of people approaching their stalls who are already vegan. Go Vegan Scotland, for example, have been holding street stalls in Glasgow, Edinburgh and other towns and cities across Scotland since February 2016 and since then they have noted a marked increase in the number of people who approach their stalls who are already vegan, including many vegan children and families. This is only anecdotal, but it has been striking and it is not only in large cities, it has been notable in many smaller towns across Scotland, including in agricultural areas. Further anecdotal evidence can be seen in the marked increase in vegan venues (vegan run, not only plant-based), vegan menus and vegan fairs.

The flipside is that as veganism grows some may become more defensive, both individuals and businesses with a vested interest in the continued exploitation of animals. On an industry level we are seeing this already, with the animal use industries evidently increasingly concerned at the shift to plant-based alternatives using legal challenge as one method of defending their market,¹⁴ as well as advertising campaigns that appear to denigrate vegans.¹⁵ Similarly, we may see more issues on an individual level, with vegans facing discrimination and harassment, whether from a lack of understanding as to what veganism is¹⁶ or from people who are defensive about their own participation in animal exploitation.

Purpose of this book

It is important that vegans know their rights and are able to articulate those rights and stand up for themselves, and thereby for other animals, whenever

¹⁴ For example, France has passed a law banning the use of meat terms for plant-based products: Jane Dalton, 'France bans use of meat-like terms in packaging for vegetarian food', *The Independent* (21 April, 2018) <https://www.independent.co.uk/news/world/europe/france-ban-vegetarian-vegan-meat-terms-packaging-burgers-steak-bacon-a8315626.html> (accessed June 2018); a legal challenge was taken in Germany against TofuTown to prevent them from using dairy terms to designate their plant-based products which led to a decision from the European Court of Justice, on which, see Go Vegan Scotland, 'Why is there milk in everything', (25 November, 2017) <https://www.goveganscotland.com/single-post/2017/11/25/Why-is-there-milk-in-everything> (accessed June 2018); Hellmans made a claim against plant-based Just Mayo, see, Alexander C. Kaufman, 'Hellmann's Mayo Drops Lawsuit Against Eggless 'Just Mayo'' *Huffpost*, (19 December, 2014) https://www.huffingtonpost.co.uk/entry/just-mayo-lawsuit_n_6354824 (accessed June 2018); dairy industry complaints against Go Vegan World ads on the inherent practices involved in taking cows' milk from them backfired and led to a landmark Advertising Standards Agency ruling in favour of Go Vegan World: <https://goveganworld.com/landmark-judgement-animal-rights/> (accessed June 2018). As we see the animal-use industries become more sophisticated in their use of law in an attempt to hinder the growth of veganism, we will want to carefully consider what use we can make of it in promoting veganism and animal rights. For example, by making carefully crafted complaints to the advertising standards agencies about adverts that denigrate vegans/veganism, and perhaps more importantly adverts that are misleading, in particular where they misrepresent our use and killing of animals as benign. We should also consider how the law can be used to challenge the huge subsidies paid to the animal-use industries and the possibility of using the law to promote plant-based farming and businesses. These topics are outwith the scope of this publication but warrant further consideration.

¹⁵ For example, 2018 Irish National Dairy Council adverts garnered more complaints than all food and drink related adverts run in Ireland in the previous year: Sorcha McManigan, 'Advertising watchdog overwhelmed by complaints against new national milk campaign', *Greennews.ie*, (9 November, 2017) <https://greennews.ie/advertising-watchdog-overwhelmed-complaints-new-national-milk-campaign/> (accessed June 2018).

¹⁶ For example, in 2017 an NHS Trust explicitly excluded vegans from applying for an advertised job vacancy, apparently due to a misunderstanding that veganism is a severely restricted diet. In response the International Vegan Rights Alliance and The Vegan Society objected and ensured that the NHS advertisement was immediately amended. See The International Vegan Rights Alliance, 'NHS job vacancy excludes vegans (job ref 333-G-ED-0042: indeed.co.uk)' <http://theivra.com/NHS.html> (accessed June 2018).

possible. This book is intended to provide vegans based in the UK with information that may assist them in doing so.

It is also essential that businesses, employers, state entities and the government are aware of their obligations in relation to vegans and it is hoped that this book will be a very helpful and timely publication for this purpose.

Please note that this book is intended to be used for general information only. Nothing contained in this book is intended to nor does constitute legal advice, and it should not be relied upon or treated as a substitute for specific advice relevant to particular circumstances. The authors accept no responsibility for any errors, omissions or misleading statements, or for any loss which may arise from reliance on this book.

How this book is structured

The book is split into four parts as follows:

- Part 1: **'Summary of Vegan Rights in the United Kingdom'** we summarise the rights of vegans in the UK and provide an overview of the main rights to be aware of.
- In Part 2, **'Vegan Rights in the UK: The Law in Detail'**, we look in more detail at where our rights come from, at the specifics of the main rights relevant to veganism, and at previous court decisions which may assist us. There will, of necessity, be some repetition of what is said in Part 1.
- Part 3: **'Vegan Rights in Practice'**, we consider specific scenarios and what rights may apply. Many of these scenarios are based on the actual experiences of vegans living in the UK, which were brought to our attention through reports to the International Vegan Rights Alliance ("IVRA") or Go Vegan Scotland ("GVS"),¹⁷ or in response to a survey or during a seminar.

¹⁷ Some of the example scenarios have come from the 2017/18 survey conducted by Go Vegan Scotland, as summarised in the report 'Results of Survey on Vegan Provision in Scotland', available at https://docs.wixstatic.com/ugd/d95b36_f4bccc9845854533ba8aea3cf8e590b2.pdf and Jeanette Rowley 'Veganism and Equality Research' (2013-2014) available at <http://eprints.lancs.ac.uk/74384/> (accessed June 2018).

- Part 4: **'Self-Help: Using Your Rights to Protect Yourself and Encourage Positive Change'**. In order that vegans can themselves challenge discrimination and push for better provision, we have provided sample letters covering some of the most common situations vegans face. These examples should help you to assert your rights when you encounter issues, to instigate dialogue with a view to generating positive change. Every situation will be distinct, and you may not see the precise circumstances that apply to you in our examples, but you will often be able to adapt an example to fit your particular circumstances.¹⁸

There are many acronyms throughout this book. We have included a Glossary at the end of the book covering the acronyms which are used repeatedly, and we have given the full definitions frequently throughout the book.



¹⁸ Any information and guidance given is in accordance with our Disclaimer as set out on page 6 of this book.

PART 1

A Summary of Vegan Rights in the United Kingdom

Vegans in the UK have protections under international, European and UK law. Their rights come from human rights treaties and equality laws which have evolved from human rights principles and provisions.

In this section we summarise these rights and refer to some examples for illustration purposes. We look firstly at our rights under human rights law, and then separately at our equality rights. While the two are related, the scope of our rights and the remedies available to us differ depending on whether we are claiming under human rights law or equality law. More detail is provided in Part 2.

A. Summary of Relevant Human rights

1.1 Freedom of thought, conscience and belief

The right to live practically as a vegan is grounded in the human right to freedom of thought, conscience and belief. Everyone has the right to this freedom, which is formally known as the right to freedom of thought, conscience and religion. This right is considered by human rights theorists to be one of the most important human rights. It is cited in the International Bill of Rights,¹⁹ in the European Convention on Human Rights ("ECHR")²⁰ and in the UK Human Rights Act 1998 ("HRA")²¹. It is also reflected in the Charter of Fundamental Rights of the European Union ("the Charter")²², however we are

¹⁹ The International Bill of Rights is the name given to three foundational documents. These are the Universal Declaration of Human Rights ("UDHR"), the International Covenant on Civil and Political Rights ("ICCPR"), and the International Covenant on Economic, Social and Cultural Rights (ICESCR): Respectively 'UDHR', adopted 10 December 1948 UNGA Res 217 A) (III) (UDHR), 'ICCPR', adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) and 'ICESCR', adopted on 16 December 1966, entered into force on 3 January 1976) 993 UNTS 3 (CESCR).

²⁰ Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights, as amended) (ECHR).

²¹ United Kingdom: Human Rights Act 1998 [United Kingdom of Great Britain and Northern Ireland], 9 November 1998.

²² European Union, *Charter of Fundamental Rights of the European Union*, 26 October 2012, 2012/C 326/02.

not going to consider the detail of the Charter here, as it is largely a restatement of the rights contained in the ECHR and because the UK Government has indicated that it will not be incorporated into UK law post-Brexit.²³

We all have complete freedom of thought, conscience and religion, meaning that no one can lawfully seek to limit what thoughts or beliefs we hold. This right is sometimes shortened to 'freedom of religion' but, in fact, this human right concerns both religious and non-religious beliefs equally.

We also have the right to manifest (or act in accordance with) beliefs that have protected status. In the EU beliefs are protected if they have "a certain level of cogency, seriousness, cohesion and importance", are "sincerely held and worthy of respect in a democratic society" and are "not incompatible with the fundamental rights of others".²⁴ Veganism has this protected status. It comes within the scope of the protection of the ECHR because it meets the test developed by the European Court of Human Rights ("ECtHR"). It is a protected non-religious belief for the purposes of human rights law, because the conviction that it is wrong to exploit and kill non-human animals unnecessarily is important, serious and cogent and worthy of respect in a democratic society.²⁵

²³ The Charter does go further than the ECHR in some important ways, for example it contains a freestanding prohibition of discrimination in Article 21, and the Equalities and Human Rights Commission and others are campaigning for the rights in the Charter to be protected in UK law post-Brexit, see for example, Jamie Doward, 'Brexit bill leaves a hole in UK human rights', The Guardian (13 January 2018) <https://www.theguardian.com/law/2018/jan/13/brexit-eu-human-rights-act-european-charter>

²⁴ The characteristics of a qualifying non-religious belief were discussed, for example, in *Campbell and Cosans v UK* (1982) Series A no 48 at para 36. The position in the US appears to be that veganism has not been recognised as a protected belief or "creed", see for example, Sarah Soifer, 'Vegan Discrimination: An Emerging and Difficult Dilemma' (2003) *Loyola of Los Angeles Law Review* 1709. While there was much coverage of the Canadian Human Rights Commission's expansion of its guidance on the meaning of protected "creed", suggesting that this would mean that veganism was protected, the Commission subsequently issued guidance noting that this would be dependent upon the approach taken by a court and that their guidance is non-binding. We understand that prior to their expanded definition being introduced the Canadian courts had failed to take the opportunity to recognise veganism as protected on at least two occasions.

²⁵ For example, *W v UK* (1993) 16 EHRR (Commission Decision) no 18187/91, ECHR, Decision of 10 February 1993. See also statements made by the Council of Europe: "the right to freedom of belief 'protects a wide range of non-religious beliefs including atheism, agnosticism, veganism and pacifism. For a belief to be protected under this article, it must be serious, concern important aspects of human life or behaviour, be sincerely held, and be worthy of respect in a democratic society'", See, Council of Europe, 'Religion and Belief', <https://www.coe.int/en/web/compass/religion-and-belief> (accessed June 2018), and the UK Equality and Human Rights Commission, 'Article 9: Freedom of thought, belief and religion' <https://www.equalityhumanrights.com/en/human-rights-act/article-9-freedom-thought-belief-and-religion> (accessed June 2018). This is discussed in more detail in Part 2.

The right to freedom of thought, conscience and belief has such a significant status in human rights that there are very strict rules about interference. The state (or government) can restrict the manifestation of protected beliefs (or acts which are intimately connected to the protected belief or conviction) only to the extent that those restrictions are prescribed by law and are necessary in a democratic society to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. Any restriction on the freedom to live according to fundamental convictions must also be proportionate, going no further than is necessary to achieve a legitimate aim.

For example, as we have the right to believe anything we like, we have the right to believe in murder. However, a belief in murder would not be protected, because it would not be considered to have “a certain level of cogency, seriousness, cohesion and importance,” or to be “worthy of respect in a democratic society”, or to be “compatible with the fundamental rights of others”. Therefore, the state is entitled to restrict the manifestation of that belief as it sees fit, subject to any other rights. Even if a belief in murder was a protected belief, the state would be entitled to restrict manifestation of that belief as necessary to protect public safety and the rights and freedoms of others, using proportionate means.

1.2 Application of the right to freedom of thought, conscience and belief, to veganism

As veganism is a protected belief, vegans have the right to: (i) believe that it is wrong to exploit and kill non-human animals unnecessarily, and (ii) manifest that by acting in accordance with that conviction, subject only to proportionate restrictions that are prescribed by law and are necessary in a democratic society in the interests of public safety, order, health, morals or the fundamental rights and freedoms of others.

Manifestation of the vegan conviction that it is wrong to exploit and kill non-human animals is primarily through the avoidance of using or consuming animals and things that have been taken from animals or tested on animals,

whether for food, clothing, entertainment or any other purpose. This is what we are entitled to do, subject only to proportionate limitations which are prescribed by law and are necessary in a democratic society.

1.3 Restrictions prescribed by law

In the UK we are unlikely often to encounter a direct, express legal restriction on our ability to manifest our vegan convictions; for example, a law requiring us to use or consume animals or animal products. What we do see, however, is apparently neutral laws that have an impact on the ability of vegans to live according to their vegan convictions.

For example, in the case of *W v UK* a claim was taken by a prisoner who had been refused exemption from working in a prison print room as part of a prison work rota, on the basis that using non-vegan inks was against his vegan convictions in breach of the ECHR protection of freedom of thought, conscience and belief.²⁶

The European Commission of Human Rights²⁷ accepted that vegan convictions were protected beliefs and that the apparently neutral policy of applying a standard rota to all prisoners may restrict the manifestation of these beliefs. However, the claim failed as (i) the Commission held that the restriction was prescribed by law, as it was set out in the prison rules which applied to all prisoners, and (ii) it was necessary to achieve a legitimate aim, as the requirement to work pursued the aim of preserving good order in the prison and it was necessary that the allocation of that work be perceived to be fair and without favouritism.

²⁶ *W v UK* (1993) 16 EHRR (Commission Decision) no 18187/91, ECHR, Decision of 10 February 1993.

²⁷ This Commission decision was prior to the 1998 Court restructure. Prior to 1998 (and Protocol 11) implementation of the ECHR was monitored by The European Commission of Human Rights, The European Court of Human Rights and The Committee of Ministers of the Council of Europe, with the Commission performing an initial review and in some cases brokering an agreement, passing any unresolved claims to the Committee of Ministers for a decision, from where it could be passed on to the court for a binding determination at the instigation of the state or the Commission. Since 1998 it has been monitored by a single court.

That case was very fact specific, as the claimant's assertion that use of the inks would violate his vegan convictions was only one of the bases on which he argued that the work assignment breached his rights, there was dubiety as to whether or not the inks were suitable for vegans and the penalties imposed on him for failing to comply with the rota were considered relatively minor. It does, however, provide a useful illustration of the exercise carried out by a court in considering if a restriction on our ability to act in accordance with our convictions is lawful.

1.4 Obligation to secure right to freedom of thought, conscience and belief

There is also a positive obligation on the state (government) to secure to vegans their right to act in accordance with their convictions by avoiding participation in the exploitation and killing of non-human animals.²⁸ Our ability to do so is directly affected by the availability of non-animal-based alternatives, for food, clothing, activities and non-food products.

Human rights obligations apply to States and State entities. The government must therefore ensure that vegans are able to act in accordance with their vegan convictions in government-run entities such as hospitals, schools, prisons and care homes, and State entities such as parliament and local authorities (councils). The government also has an obligation to pass such laws as are necessary to ensure that vegans can live in accordance with their convictions outside these government entities, subject only to necessary and proportionate limitations which are prescribed by law.

1.4.1 Food Examples

For example, the requirements of a vegan patient who is reliant upon a hospital for food and drink during their stay must be taken seriously. If the hospital does not provide suitable food, the vegan patient will not be able to live according to their convictions and will be in the unconscionable position of

²⁸ ECHR Art 1 obligation to secure to everyone within their jurisdiction the rights and freedoms set out in the ECHR.

having to breach their fundamental convictions or go hungry.²⁹ A vegan who has their request for suitable food denied would have a potential claim against the government entity for breach of their right to freedom of thought, conscience and belief. If that claim went before the European Court of Human Rights (ECtHR) (after going through the UK courts) the court would balance the interests of the vegan patient against the interests of the community as a whole.

Where a claim is made in relation to the ethical expression of fundamental convictions in a way that concerns food, the ECtHR has made it very clear that it regards the disadvantage to the applicant to be significant. That is unsurprising when we consider the importance of access to food. In two cases the ECtHR found that diet was an expression of protected beliefs and that the state was in breach of a prisoner's right to act in accordance with those beliefs by failing to provide suitable food. The state's argument that it was not in breach because the overall approach was a fair balance between the interests of the prisoner and the other prisoners and the prison failed as the ECtHR found that providing suitable food would not have caused significant disruption or have affected the quality of meals generally. Therefore, the state was in breach of the prisoner's right to act in accordance with his protected beliefs by failing to provide him with suitable food. We discuss these cases in detail in Part 2.³⁰

If a claim was made in the UK in relation to our State's failure to provide suitable food for vegans, in assessing whether or not there was a breach of our right to manifest our protected belief we could expect the court to put significant weight on the disadvantage caused by denial of suitable food; there would be a high burden on the state to show that on balance they shouldn't have to provide it because of the associated disruption or burden. A court could take into account the fact that: many UK hospitals and schools provide

²⁹ See examples of this in the recent survey conducted by Go Vegan Scotland, as summarised in the report 'Results of Survey on Vegan Provision in Scotland' available at https://docs.wixstatic.com/ugd/d95b36_f4bcc9845854533ba8aea3cf8e590b2.pdf (accessed June 2018).

³⁰ *Jakóbski v Poland* App No 18429/06 (ECtHR 7 December 2010), *Vartic v Romania* App no 14150/08 (ECtHR 17 March 2014).

excellent vegan options on their daily menus; most vegan food is inclusive in that it can be eaten by anyone, vegan or non-vegan; vegan options are often cheaper to prepare, and the respected dietetics associations of the UN, US and UK all recognise a fully plant-based diet as nutritionally adequate, with a growing body of evidence indicating that not eating any animal protein is better for our health. Plant-based food also fits well with national and local government objectives on sustainability and the environment.

Therefore, on the basis of their right to freedom of thought, conscience and belief, vegans should be requesting food that is suitable for them in all of our State institutions: schools, hospitals, care homes, prisons and local authorities. The Vegan Society currently has a campaign pressing governments and local authorities to ensure that good vegan options are available as standard.³¹ In order to ensure that they are not in breach of our rights, our governments and local authorities should be ensuring that every state entity offers good vegan options on a day to day basis. Some local authorities are beginning to recognise the importance of supporting plant-based eating in terms of health, sustainability and the environment.³²

1.4.2 Non-Food Examples

As discussed above, vegans avoid participating in the commodification, exploitation and killing of nonhuman animals in any way, and not only in relation to food. The approach outlined above can also be applied to non-food related matters. If requests for accommodation from vegans are refused, a state entity must justify the failure to enable vegans to live according to their conviction by demonstrating that doing so would cause too much disruption and/or be too heavy a burden, financially or otherwise, such that it would be detrimental to overall interests. If it is possible to meet a legitimate objective while accommodating the request of vegans, and meeting such requests

³¹ The Vegan Society, 'Catering for everyone', <https://www.vegansociety.com/take-action/campaigns/catering-everyone> (accessed June 2018).

³² For example, West Lothian College in Scotland, information available at The Vegan Society, 'Success Stories', <https://www.vegansociety.com/take-action/campaigns/catering-everyone/success-stories> (accessed June 2018), and a company that caters to over 100 NHS hospitals, Angela Crown, is supplying plant-based meals.

presents no overriding problems, then the state is unlikely to be able to justify refusing to meet the needs of vegans.

For example, a vegan school pupil may request exemption from a requirement to dissect the dead bodies of animals. If a request is refused the school would need to justify that refusal on the basis that it would be unduly disruptive or burdensome to provide an alternative. In considering whether or not the state had carried out the balancing exercise appropriately, the court could take into account: the necessity of the procedure to achieve an educational objective, the availability of alternatives and the fact that other schools/local authorities have been able to provide alternatives.

The same exercise could be carried out for other non-food matters. For example, vegans in state employment, such as the police service or fire service may request alternatives to standard issue uniform items that are made from animal skin. If an employee requests a non-animal version of a standard issue item and it is reasonably straightforward to obtain that for them, without causing a lot of disruption or disproportionate additional cost, it would be difficult for the state employer to justify refusing that request. A court would take account of the fact that other employers manage to provide vegan alternatives. For example, we understand that the Royal Mail offers leather-free boots to its employees; while no longer a State entity, the court may look to equivalent private businesses, where relevant.

Personal protective equipment such as safety boots for the UK fire service will need to be certified to meet the appropriate safety standards. If, following research, it appears that there are no suitable animal-free boots available, then the state would have a good justification for failing to accommodate the request. However, non-animal products are becoming more readily available and therefore it is becoming more difficult for employers to refuse to accommodate vegan requirements. For example, we are advised that vegan fire personnel in the UK can be accommodated with appropriate footwear and that the vegan alternative is outperforming standard issue boots.

The prison print room case referred to previously demonstrates that our rights do have limits and there will be scenarios in which a court would find that in refusing a request, the state had struck the correct balance between the rights of a vegan and the interests of the wider community. It should be noted, however, that the disadvantage caused to a vegan from having to use inks that may have been tested on animals (it could not be established definitively one way or another) might be seen as of less significance than, for example, having to dissect an animal's body knowing the animal was killed for that purpose or having to wear an animal's skin day on day, knowing an animal was killed because of demand for that product. The greater the detrimental impact on the vegan the more of a burden on the state to justify its failure.

Therefore, on the basis of their right to freedom of thought, conscience and belief, vegans should request that they be given animal-free alternatives to non-food products/activities.

In Part 2 we look at these issues in more detail and consider some of the more complex non-food matters, such as medication.

1.5 Parental rights

Vegan parents have the right to respect for their convictions in relation to state provision of education, under both international and European human rights law. This applies not only to the core education process, but to each and every function that a state body undertakes in the sphere of education and teaching, including functions considered to be ancillary. The right is not absolute and the UK has caveated the obligation so that it has to comply only in so far as that is compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure. Nevertheless, if education is not in conformity with the parental right to respect for their philosophical beliefs, the state will have to justify that. They will have to show that the protected beliefs were properly considered, and that there were good

reasons for taking the approach they did, and that the way they approached it in an objective and critical way, catering for a diversity of beliefs.

There have been successful parental rights claims in the UK. For example, the claim that the infliction of corporal punishment in a state school breached the parents' right to ensure that their children were educated in conformity with their philosophical conviction, that it is wrong to use physical violence against children, led to the abolition of corporal punishment in UK state schools (and later all UK schools).³³ We are not aware of many claims by vegan parents based on their right to have their children educated in conformity with their philosophical convictions,³⁴ but the corporal punishment case demonstrates just how impactful a successful claim can be, leading to a wholesale change in the law and the broader social mind-set in a very short period of time.

Vegan parents can refer to their parental right to respect for their protected convictions in challenging and/or seeking provision of alternatives for their children, for example in relation to:

- classroom / school use of animals;
- school trips to places where animals are used / killed;
- talks by external speakers that promote the use of animals;
- speciesist texts, and
- failure to provide suitable food options.

1.6 Contracting Out

To the extent that the government contracts out its responsibilities to private third parties, it must ensure that those third parties comply with our rights. For example, if a local authority care home is full and an elderly vegan person is

³³ See relevant parts of Section 2 for more detail.

³⁴ A recent high-profile case concerning a school's use of pigs for the stated purpose of educating pupils about food led to vegan parents challenging the school on the basis of their parental rights as well as the children's rights. See for example, BBC News, 'Vegan parent complains about Lymington school's pigs', (23 January, 2018) <http://www.bbc.co.uk/news/uk-england-hampshire-42782437>; and BBC News, 'Lymington school pig rearing to return after vegan parent complaint', (23 February, 2018) <http://www.bbc.co.uk/news/uk-england-hampshire-43194950> (accessed June 2018).

placed by Social Services in a private care home, the management of that care home will be required to take on the human rights responsibilities of the local authority and ensure that the way they treat their vegan client does not contravene human rights obligations.

1.7 Private Entities

The positive obligation on the government to ensure that vegans are able to avoid participating in animal exploitation extends beyond state run entities, as the UK government is required to “secure to everyone within their jurisdiction” the right to freedom of thought, conscience and belief,³⁵ and to adopt such laws or other measures as are necessary to give effect to that right.³⁶ If vegans are not able to live practically as vegans as a result of action or inaction by private (non-government) entities, the government has an obligation to take steps to secure to vegans their ability to live according to their convictions. This is particularly relevant in relation to private employers, but also applies to private service providers. The duty to secure to vegans their right to live according to their convictions means the government should pass laws applicable to private bodies to ensure that they respect those rights. As discussed later, the UK equality laws may go some way to achieving this.

1.8 Without distinction

The government is obliged to ensure that the right to freedom of thought, conscience and belief is made available without distinction on the basis of any protected characteristic. This means that to the extent that the government ensures that people in the UK have freedom of religious beliefs, they must extend that same level of protection equally to qualifying non-religious beliefs, where relevant. For example, if vegetarian food was provided in order to cater

³⁵ ECHR Art 1 obligation to secure to everyone within their jurisdiction the rights and freedoms set out in the ECHR.

³⁶ ICCPR Article 2(2); also required in terms of ECHR Art 1 if necessary to secure the right.

for religious dietary requirements, vegan food should also be provided if requested by vegans.

B. Summary of Equality rights

1.9 EU Equality Law

In addition to our human rights, everyone in the UK has protections under European equality law. European equality provisions require the government to prohibit discrimination on a number of protected grounds, including on the grounds of non-religious beliefs.³⁷ These protections have been incorporated into the UK through the UK Equality Act 2010 (“the Equality Act”), applicable in England, Scotland and Wales.³⁸

1.10 The UK Equality Act 2010

The Equality Act consolidated, harmonised and strengthened equality law in the UK, which had up until then been covered by a set of Acts of Parliament

³⁷ European equality directives include: Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation; Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services; European Parliament and Council Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

³⁸ Northern Ireland has devolved powers to develop and administer its own equality laws. The writers are not experts in Northern Irish law and so cannot comment in detail on the legal position there. We note that while NI is not covered by the Equality Act and has not put in place a consolidating Equalities Act, it has a number of pieces of legislation in relation to equalities. In particular the Fair Employment and Treatment (Amendment) Regulations (NI) 2003 (FETO) outlaw discrimination in employment and in the provision of goods, facilities and services and in the provision of further and higher education, and public bodies are under a general equality duty in terms of Section 75 of the Northern Ireland Act. The NI Equalities Commission has confirmed that veganism is a protected characteristic, as it is a protected philosophical belief: <http://www.equalityni.org/Individuals/I-have-a-work-related-problem/Religious-belief-Political-opinion>. For more information please contact the Equality Commission for Northern Ireland: <http://www.equalityni.org/Home>. The position in the Republic of Ireland may be distinct. There the Employment Equality Act and Equal Status Acts of 1998 – 2015 refer to “religion” as a protected characteristic but not to other beliefs. This has been commented on by the European Equality Law Network, which noted that “the provisions do not adequately prohibit discrimination on the grounds of religion or belief”. However, they also noted that recent decisions from Irish courts have indicated that in practice philosophical beliefs may be given protection, see page 29 of the European Commission, ‘European Network of legal experts in gender equality and non-discrimination: Country Report, Ireland 2017’, <https://www.equalitylaw.eu/downloads/4450-ireland-country-report-non-discrimination-2017-pdf-1-85-mb> (accessed June 2018). For more information contact the Irish Human Rights and Equality Commission www.ihrec.ie

put in place in order to comply with European Directives, which dealt with equality obligations in specific contexts.³⁹

The Equality Act provides that “philosophical beliefs” are a protected characteristic. Protected philosophical beliefs are those that satisfy the test already referred to in relation to the human right of freedom of thought, conscience and belief, that it is a belief that is: genuinely held and not an opinion based on presently available information; has a certain level of cogency, seriousness and importance; is worthy of respect in a democratic society and is not incompatible with human dignity and the fundamental rights of others.⁴⁰

1.11 Veganism as a Philosophical Belief

The UK Equality and Human Rights Commission (“EHRC”), which is the regulatory body responsible for monitoring the UK’s implementation of the EU equality provisions in Britain, recognises veganism as a protected philosophical conviction; the UK Government has conceded that veganism is a protected conviction and the UK Employment Appeal Tribunal noted the recognition of veganism as a protected philosophical conviction in the context of confirming that beliefs in relation to the environment and climate change were also protected. There is little doubt that veganism is a protected philosophical belief under the Equality Act.

While there have been no public decisions on vegan equality claims as such, cases that might be said to have relevance to potential vegan claims, and which have resulted in reported decisions, include a claim by: (1) an environmentalist and (2) a vegan, based on his “belief in the sanctity of life” which extended to “his fervent anti-fox-hunting belief”.

³⁹ Implemented by legislation such as: The Equal Pay Act 1970; The Sex Discrimination Act 1975; The Race Relations Act 1976; The Disability Discrimination Act 1995; The Employment Equality (Religion or Belief) Regulations 2003; The Employment Equality (Sexual Orientation) Regulations 2003; The Employment Equality (Age) Regulations 2006; The Equality Act 2006; The Equality Act (Sexual Orientation) Regulations 2007.

⁴⁰ The characteristics of a qualifying non-religious belief were discussed in, for example, *Campbell and Cosans v UK* (1982) Series A no 48 at para 36.

In the case of *Grainger plc v Nicholson* 2009, the Employment Appeal Tribunal (“EAT”) drew on decisions from the ECtHR regarding protected non-religious beliefs and found that a philosophical belief about the environment and climate change could be a protected belief, if genuinely held. In reaching this view the EAT had regard to human rights cases such as *W v UK*⁴¹, (the prison print room case referred to previously) in which veganism was found to be a protected moral conviction.⁴²

In the case of the vegan claimant who claimed to have been dismissed for his anti-fox-hunting views, *Hashman v Milton Park*, the Employment Tribunal held that a belief in the sanctity of life and the moral duty to avoid unnecessary suffering to animals constituted a protected philosophical belief in Mr Hashman’s case.⁴³

We discuss both these decisions in more detail in Part 2.

1.12 What is Prohibited

The Equality Act refers to four main ways in which a person can suffer discrimination and unfair treatment in relation to protected characteristics. These are: a) direct discrimination; b) indirect discrimination; c) harassment and d) victimisation.⁴⁴

⁴¹ *W. v UK* App. No. 18187/91 Before the European Commission of Human Rights (1993) 16 EHRR CD44.

⁴² Although the EAT judge noted that *W v UK* was not binding in relation to veganism being protected due to this having been conceded by the UK, the published decision narrates a finding by the Commission that veganism is protected: “*The Commission recalls that the applicant refused to work in the print shop because, as a vegan, he wished to avoid contact with animal products or products which had been tested on animals. The Commission notes that the Government does not contest that veganism is capable of concerning “conscience” or “belief” within the meaning of Article 9 of the Convention. The Commission’s case law establishes that this provision protects the sphere of private, personal beliefs and the acts which are intimately linked to these attitudes. The Commission finds that the vegan convictions with regard to animal products fall within the scope of Article 9(1) of the Convention ...*”

⁴³ *Hashman v Milton Park (Dorset) Ltd* [2011] ET 3105555/2009 (31 January 2011). [2011] ET 3105555/2009 (31 January 2011). For further discussion see Part 2.

⁴⁴ For more detailed information please see the following websites: Citizens Advice, <https://www.citizensadvice.org.uk/law-and-courts/discrimination/what-are-the-different-types-of-discrimination/> and the Equality and Human Rights Commission, <https://www.equalityhumanrights.com/en/equality-act/equality-act-2010>.

a) Direct discrimination

Direct discrimination occurs when you are treated less favourably than someone else in a similar context, simply because you are vegan. To claim direct discrimination you must compare yourself to a non-vegan who has not been disadvantaged, unless it is very obvious that your veganism is the reason you have been disadvantaged.

Examples of situations that could amount to direct discrimination

- An interviewer rules out your job application on the basis that you are vegan. You are clearly the best candidate but they do not want to employ vegans.
- You are told you cannot attend a work function because you are vegan and it wouldn't go down well. None of your colleagues have been excluded. They are all non-vegan.
- You are told, off the record, by a senior colleague, that you will not be considered for promotion, despite being skilled and qualified, because you are vegan.

There is an exception for direct discrimination where the particular occupational activities or of the context in which they are carried out mean that being non-vegan is a genuine and determining occupational requirement.

b) Indirect discrimination

Indirect discrimination can occur when you are subject to a rule, a practice or a policy that applies to everyone but, because you are vegan, it puts you at a disadvantage. Formal and informal practices are covered, as are long-standing and newly made policies and plans for the future. To claim indirect discrimination, you need to show that other vegans would also be disadvantaged by the policy or rule, even although there may not be other vegans who are affected.

Examples of situations which may constitute indirect discrimination

- A restaurant has a practice on Sundays of offering a “buy one get one free” drink when customers order the Sunday “roast”, which is not vegan. Because you are vegan, and select a vegan meal option, you are disadvantaged.
- Your line manager creates what they think is a fair rule for the rota for buying “milk” for the kitchen. This applies equally to everyone but disadvantages vegans as purchasing milk that has been taken from cows is against their convictions.

It is possible to defend a claim of indirect discrimination if it can be shown that there is a reason for the rule, practice or policy, which would be considered by a reasonable person to be a good reason. In legal terms, this is known as an “objective justification”. In determining if there is a good reason for the policy a court can consider things like health and safety, business costs, the need to make a profit and efficiency. The policy must also be shown to be an appropriate and proportional way of achieving that legitimate aim. The burden of proof is on the person who creates the rule, practice or policy to show that it has a legitimate aim and is proportionate. If there was an alternative measure which was as good and which would not have put vegans at a disadvantage, it would be difficult for them to show that it was a proportionate means of achieving the legitimate aim.

c) Harassment

In the Equality Act “harassment” is a term used in the broadest sense. You are a victim of harassment if you are made to feel distressed, intimidated, degraded, humiliated or offended or when you are subjected to an environment in which you feel that your dignity is violated.

Some examples of what constitutes harassment are: spoken or written abusive comments (including what is written in emails or on social media);

sketches or images that you find shocking and personally degrading, offensive; gestures that are designed to ridicule and humiliate you; jokes or facial expressions that are designed to demean you and your ethical orientation.

An important element of this provision of the Equality Act is that the harassment does not have to be intentional; the person or people making the comments may not intend to make you feel humiliated or to create a hostile or offensive environment, but what matters is whether or not they had that impact on you.

Examples which may constitute harassment

- You are out with colleagues in a restaurant and some of them start making offensive jokes about your food. This escalates after a few drinks, when they start to make animal sounds every time you pass by.
- You are eating lunch at your desk when your colleagues come back into the office. They immediately start making offensive comments about what your food looks like and enthusing with each other about what they have just eaten.
- You are at a team building event. At the end of the day the final task is that you each write an anonymous, supportive and memorable observation for a named colleague about the usefulness of the day. The anonymous comments are sealed and passed to the named recipients. When you open yours, you are horrified and shocked to find no words written but an offensive drawing relating to veganism.

d) Victimisation

You are victimised if, when you have raised a complaint under the Equality Act about the way you have been unfairly treated, you are made to feel as if you

are a 'trouble maker' or you are singled out in some other way, such as being left out or denied certain privileges from which others benefit.

Example which may constitute victimisation

You feel that your dignity was violated because you were the subject of offensive and humiliating jokes over a sustained period of time. During this time, you started to feel anxious about going to work and had feelings of dread in the office. Although you had quietly endured these conditions, you felt that things had reached unacceptable levels on one occasion and you realised at that time that a boundary of respect had been breached. You went to see your line manager about it but were not taken seriously. In fact, as a result of raising the complaint under the Equality Act, you subsequently felt ignored, overlooked and ostracised. You were also left out of important meetings which you had previously attended.

1.13 Who has the obligation?

The Equality Act applies to all employers, public and private, and to all providers of goods and services to the public, whether public or private, and to public functions and education. By extending protections beyond employers the UK has chosen to go further than is required under EU law.

The prohibition against discrimination, direct and indirect, applies in all these areas. The prohibition on harassment and victimisation in relation to protected beliefs applies expressly in the employment context but does not expressly feature for service providers or in primary education. However, in practice harassment and victimisation will often also constitute direct discrimination. We look in detail at the obligations on the health service and in education in Part 2.

1.14 Public sector equality duty

In addition to the specific requirements to refrain from and prevent discrimination, harassment and victimisation on account of vegan convictions, government bodies also have a duty called the “Public Sector Equality Duty” or “PSED”. This requires the public sector (including hospitals, schools, local authorities, police, fire, transport authorities, and private organisations carrying out public functions) to go further than merely refraining from discriminating against people who hold vegan beliefs. They must also have due regard, in carrying out their functions, to the need to eliminate discrimination and advance equality of opportunity.

This duty means that public bodies must remove or minimise disadvantages suffered by vegans on account of their vegan convictions, and take steps to meet the needs of vegans, where those needs are different to the needs of non-vegans. This is important to keep in mind when dealing with a government entity which is failing to take steps to enable vegans to live according to their convictions.

1.15 Equality Surveys

Sometimes the way organisations monitor how they meet different needs is by asking people to fill in questionnaires. You may have seen questionnaires that ask you to declare specific details about yourself, including if you have a religion. By collecting this information, organisations and employers can assess how their policies and practices meet the needs of a diverse society. To date there is no evidence of veganism being incorporated into these questionnaires. It is common to see a list of traditional religions, without any provision for non-religious beliefs or convictions, other than perhaps atheism. If vegans participate they often have to add their ethical orientation to a section called “other”, if available. Although we recognise that many people feel uncomfortable disclosing personal information, we do recommend that vegans participate in this way, because it raises awareness and will help

encourage positive changes in favour of veganism as well as producing helpful data.

C. Claims

Very few human rights-based claims have been taken by vegans, either domestically to the UK courts or to the ECtHR. It would be useful to have one or more claims made to the courts in order that we draw attention to these rights and the vegan convictions that give rise to them.

We know that vegans living in the UK experience direct and indirect discrimination, harassment and victimisation, because we frequently receive correspondence from vegans who find themselves in these circumstances. Nevertheless, we are not aware of many vegan claims made under the Equality Act having reached the stage of a formal published decision. This may be because of the expense of taking a formal claim to an employment tribunal or court, the stress of the process, and/or because many claims settle informally.

It would be very useful to see one or more test cases on equality and veganism come before the UK employment tribunals or courts, in order to bring the rights of vegans to the attention of all employers and service providers and in order that we have more guidance as to how the Equality Act will be interpreted by judges in relation to discrimination against vegans.

However, awareness of our rights as vegans is not only relevant in relation to making formal claims, it will also be useful to help us obtain the things we need in our daily lives and help pave the way for others, including vegan children, to live according to their convictions. Instigating a dialogue with schools, hospitals, care homes and employers (among others), informed by reference to our rights, will educate, improve awareness, increase understanding and ultimately improve provision. From our own experience of assisting people with these issues, in some cases we have been able to

secure rapid alterations and public apologies.⁴⁵ Importantly, improving social conditions for vegans is a critical part of bringing about the transformation in society that is needed in order to secure animal liberation. In Part 3, we give some example scenarios and discuss how the law applies in those situations, which should help vegans in their discussions and negotiations.

D. Leaving the EU - Brexit

1.16 Human Rights

The fact that the UK is in the process of leaving the European Union (EU) does not necessarily mean that we will withdraw from the European Convention on Human Rights (“ECHR”), as countries can be party to that convention without being members of the EU. Withdrawal from the ECHR does not therefore flow automatically from Brexit. The UK would need to make a separate decision to withdraw from the ECHR. The current Prime Minister, Theresa May, had at one stage expressed an intention to withdraw from the Convention, but since the Brexit vote the position has changed and current indications are that the UK may remain party to the ECHR and subject to the European Court of Human Rights (“ECtHR”). This is a moving situation and the position may have changed by the time of publication. The Equalities and Human Rights Commission (“EHRC”) is providing updates.⁴⁶

If we remain a signatory to the ECHR and the Human Rights Act (“HRA”) remains in place, the discussion in this book about the rights contained in those instruments will continue to apply. If we withdraw from the ECHR it is likely that the UK will replace the HRA with another rights instrument, such as a Bill of Rights. This could change the way the UK incorporates and interprets its rights obligations. However, the rights contained in the International

⁴⁵ For example, in 2017 an NHS Trust explicitly excluded vegans from applying for an advertised job vacancy, apparently due to a misunderstanding that veganism is a severely restricted diet. In response the International Vegan Rights Alliance and The Vegan Society objected and ensured that the NHS advertisement was immediately amended. See: International Vegan Rights Alliance, <http://theivra.com/NHS.html> (accessed June 2018).

⁴⁶ See <https://www.equalityhumanrights.com/en/our-human-rights-work/what-does-brexit-mean-equality-and-human-rights-uk> (accessed June 2018).

Covenant on Civil and Political Rights (“ICCPR”)⁴⁷ would continue to apply and the discussion in this book regarding those rights would remain applicable.

1.17 Equality Act

European Equality Directives are EU law and therefore the UK will not necessarily be bound by them after we leave the EU, depending on the terms of our exit. The Equality Act will remain part of UK law unless and until it is repealed or amended. The EU (Withdrawal) Bill indicates that the equality protections will remain part of UK law post-Brexit and that current European Court of Justice (“ECJ”) caselaw interpreting those provisions will continue to be applied. This is a developing situation and there is much ongoing discussion about how the Government’s plans would work in practice. Things may change by the time of publication.⁴⁸

E. Conclusion to Part 1

We have set out the main rights applicable to vegans living in the UK in terms of human rights law and equality law. Our right to freedom of thought, conscience and belief gives us a basis upon which to press for adequate provision for vegans in our state entities and for government action to ensure adequate protection in the private sphere, while our equality laws protect us from discrimination based on our fundamental convictions in both the public and the private spheres. We can refer to both our human rights and the equality protections in advocating for suitable provision and alternatives. In terms of human rights we must also keep in mind the parental right to respect for their fundamental convictions and in relation to equality laws we should refer to the PSED as well as the rules on discrimination when dealing with a public entity.

⁴⁷ Article 18 of the ICCPR deals with the right to freedom of conscience.

⁴⁸ See, Equality and Human Rights Commission, ‘Healing the divisions: a positive vision for equality and human rights in Britain’, <https://www.equalityhumanrights.com/en/publication-download/healing-divisions-positive-vision-equality-and-human-rights-britain> (accessed June 2018).

The discussion above may be a sufficient summary of your rights for your purposes, in which case you may wish to jump on to the Part 3, where we look at particular scenarios and how these rights may apply in those situations. If you are interested in more detail, in precisely what the rights cover, their origins and how they have been interpreted, you may want to read Part 2. In Part 4 we provide example letters to assist you in advocating for better provision / challenging discrimination.⁴⁹



⁴⁹ Any information and guidance given is in accordance with our Disclaimer as set out on page 6 of this book.

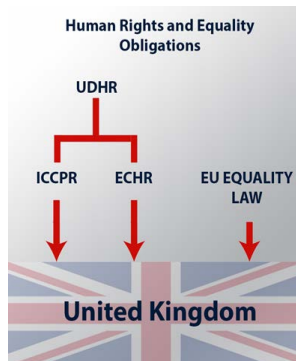
PART 2

Vegan Rights in the UK: The Law in Detail

A. Relevant Human Rights Law

2.1 International Human Rights

A detailed discussion of the origins of human rights law is beyond the scope of this book. It is sufficient to note that much of international human rights law stems from the United Nations and a period of activity immediately following the Second World War, when concern for human rights was high on the international agenda, for obvious reasons.⁵⁰



The United Nations (the UN) was established in 1945, with one of its stated objectives being to “reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women, and of nations large and small.” The UN adopted the Universal Declaration of Human Rights (“UDHR”) in December 1948 in which a number of individual rights

⁵⁰ Prior to that there had been key international agreements on specific human rights issues, for example: the 1815 Declaration Relative to the Universal Abolition of the Slave Trade; the International Agreement for the Suppression of the White Slave Trade of 1904 (League of Nations Treaty Series, vol. 1, p. 83), and the League of Nations Slavery Convention of 25 September 1926.

were set out, including the right to freedom of thought, conscience and religion. Article 18 of the UDHR provides that:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

The UDHR also set out the right to freedom from discrimination, including on the basis of "political or other opinion",⁵¹ the right to freedom of expression⁵² and peaceful assembly.⁵³

Most countries of the world are members of the UN and so bound by the UDHR (which is a UN General Assembly resolution), including the UK. However, it is essentially an aspirational document, containing general principles rather than binding legal rights.

The UDHR was followed at an international level in 1966 by the adoption of two international human rights treaties, the International Covenant on Civil and Political Rights ("the ICCPR") and the International Covenant on Economic, Social and Cultural Rights. The ICCPR gave legal effect to a number of the aspirational rights set out in the UDHR, and it is legally binding on states that sign up to it; most states have signed up to the ICCPR, including the UK.

One of the key rights contained in the ICCPR is the right to freedom of thought, conscience and religion. Article 18 explains that:

⁵¹ UDHR Article 2 "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

UDHR Article 7 "All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination."

⁵²UDHR Article 19 "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

⁵³ UDHR Article 20 "Everyone has the right to freedom of peaceful assembly and association."

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

For our purposes it is important to note the reference to: "freedom of thought"; "freedom of conscience"; and adoption and manifestation of "beliefs".

As a signatory to the ICCPR, the UK is required to:

- (1) respect and ensure these rights to all individuals within its territory, and
- (2) adopt such laws or other measures as are necessary to give effect to these rights.

There is, therefore, a positive obligation on the UK to ensure that everyone in the UK has freedom of thought, conscience and religion, and an obligation to pass such laws as are necessary to achieve that.

The ICCPR also contains the right to freedom from discrimination, including on the grounds of “political or other opinion,”⁵⁴ the right to freedom of expression⁵⁵ and peaceful assembly.⁵⁶

The ICCPR is an international treaty that operates on a State to State (country to country) level. It lacks any intrinsic enforcement mechanism for individuals on an international level; it does have an Optional Protocol which allows individuals to take complaints directly to the Human Rights Commission, but the UK has not signed up to that Protocol.⁵⁷ Nevertheless, State parties to the ICCPR are required to ensure that individuals within their territory have a remedy for breaches of their ICCPR rights.⁵⁸ It may be that the overlap between the rights set out in the ICCPR and in the European Convention on Human Rights (“ECHR”) mean that the remedies available to individuals under the ECHR (discussed below) also satisfy the UK’s obligations under the ICCPR.

⁵⁴ “Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. (Article 2(1)) The ICCPR does not contain a freestanding prohibition on discrimination as is contained in the UDHR Article 7.

⁵⁵ “1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (order public), or of public health or morals.” (Article 19) <http://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

⁵⁶ “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (order public), the protection of public health or morals or the protection of the rights and freedoms of others.” (Article 21)

⁵⁷ Enforcement of the ICCPR in the UK therefore currently consists of reviews of state reports by the Human Rights Committee of the ICCPR, for example; United Nations, Human Rights, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F6BR%2FCO%2F6%2FADD.1&Lang=en (accessed June 2018).

⁵⁸ “Each State Party to the present Covenant undertakes:

- (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- (b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- (c) To ensure that the competent authorities shall enforce such remedies when granted. (Article 2(3)).

The UK Equality and Human Rights Commission (“the EHRC”)⁵⁹ monitors the implementation of the ICCPR in the UK.⁶⁰

2.2 European Human Rights

On a regional level, in 1953 the European Convention on Human Rights and Fundamental Freedoms (the ECHR⁶¹) came into force among the then member states of the Council of Europe, including the UK. The ECHR contains very similar rights to those set out in the ICCPR (which it preceded), including the right to freedom of thought, conscience and religion:

Article 9

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

The ECHR also contains the right to freedom of expression,⁶¹ peaceful assembly,⁶² and freedom from discrimination, including on the grounds of “political or other opinion”:

⁵⁹ The EHRC was set up under the Equalities Act 2006 as an independent national equality body to monitor and enforce the UK’s equality and anti-discrimination obligations: Equality and Human Rights Commission, ‘Who we are’, <https://www.equalityhumanrights.com/en/about-us/who-we-are> (accessed June 2018).

⁶⁰ See Equality and Human Rights Commission, ‘International Covenant on Civil and Political Rights’ <https://www.equalityhumanrights.com/en/our-human-rights-work/monitoring-and-promoting-un-treaties/international-covenant-civil-and> (accessed June 2018).

Article 14

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.⁶³

The ECHR obliges state parties to "secure to everyone within their jurisdiction" the rights and freedoms set out in the ECHR,⁶⁴ thereby placing a positive obligation on the government to ensure that the rights are provided, and not only a negative obligation to refrain from interfering with those rights. Therefore, there is a positive obligation on the UK government to ensure that individuals within the UK have freedom of thought, conscience and religion, including the right to act in accordance with those beliefs, subject only to such proportionate limitations as are prescribed by law and are necessary in a democratic society.

⁶¹ "1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary." (Article 10)

⁶² "1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. 2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the state." (Article 11)

⁶³ The ECHR does not contain a freestanding prohibition on discrimination as is contained in the UDHR Article 7. The EHRC is of the view that there ought to be a freestanding right to freedom from discrimination, not only a prohibition against discrimination in relation to access to the other rights contained in the ECHR, (see, for example, <https://www.equalityhumanrights.com/en/publication-download/healing-divisions-positive-vision-equality-and-human-rights-britain>;

<https://www.equalityhumanrights.com/en/human-rights-act/article-14-protection-discrimination>, accessed June 2018) and has noted the UK Government's refusal to sign up to Optional Protocol 12 of the ECHR which provides a free-standing right to equality. The Charter of Fundamental Rights of the European Union does contain a freestanding prohibition of discrimination, in Article 21.

⁶⁴ Article 1 of the ECHR.

Unlike the international treaties, the ECHR *does* provide a remedy directly to individuals. Under Article 34 of the ECHR individuals, non-governmental organisation and groups of individuals can apply to the European Court of Human Rights (“ECtHR”) in Strasbourg, claiming that their ECHR rights have been breached by their government.⁶⁵ Before doing so, the individual must exhaust local remedies, by taking a claim all the way through their national courts/tribunals until they have no further recourse to a remedy within their country. The UK is required to comply with decisions of the ECtHR.⁶⁶

The right to freedom of thought, conscience and religion is also reflected in the 1989 Convention on the Rights of the Child, which the UK ratified in 1992. Although the UK has not incorporated that convention into UK law, Parliament has committed to having due regard to the convention rights in passing new legislation or policy.

The above rights are also reflected in the Charter of Fundamental Rights of the European Union (“the Charter”), however we are not going to consider the detail of the Charter here as it is largely a restatement of the rights contained in the ECHR and because the UK Government has indicated that it will not be incorporated into UK law post-Brexit.⁶⁷

⁶⁵ Each state initially had to sign up to this remedy and the UK did so in 1966.

⁶⁶ Prior to 1998 (and Protocol 11) implementation of the ECHR was monitored by The European Commission of Human Rights, The European Court of Human Rights and The Committee of Ministers of the Council of Europe, with the Commission performing an initial review and in some cases brokering an agreement, passing any unresolved claims to the Committee of Ministers for a decision, from where it could be passed on to the court for a binding determination at the instigation of the state or the Commission. Since 1998 it has been monitored by a single court.

⁶⁷ The Charter does go further than the ECHR in some important ways, for example it contains a freestanding prohibition of discrimination in Article 21 and it obliges States to implement EU law in accordance with the fundamental rights. The EU (Withdrawal) Bill makes it clear that the Charter of Fundamental Freedoms will not remain part of EU law, but the ECHR and others are campaigning to have the rights contained in it reflected in UK law post-Brexit. See for example: Jamie Doward, ‘Brexit bill leaves a hole in UK human rights’, The Guardian (13 January 2018) <https://www.theguardian.com/law/2018/jan/13/brexit-eu-human-rights-act-european-charter> (Accessed June 2018); Equality and Human Rights Commission, ‘Healing the divisions: a positive vision for equality and human rights in Britain’ <https://www.equalityhumanrights.com/en/publication-download/healing-divisions-positive-vision-equality-and-human-rights-britain> (accessed June 2018); Equality and Human Rights Commission, ‘Our Brexit work’, <https://www.equalityhumanrights.com/en/our-brexit-work> (accessed June 2018).

2.3 The UK Human Rights Act

The UK has given effect to the ECHR through the Human Rights Act 1998 ("the HRA"). The HRA does not transpose the rights contained in the ECHR into national law, instead it creates two key obligations that give effect to the rights of the ECHR:

1. in so far as it is possible to do so, UK legislation must be read in a way which is compatible with ECHR rights. Where it is not possible to do so, *i.e.* where the legislation conflicts with rights set out in the ECHR, the UK courts can issue a declaration of incompatibility; this does not affect the validity of the law, instead it is up to parliament to decide if and how to amend the law to address the fact that it has been found to be incompatible with the ECHR.⁶⁸
2. it is unlawful for a public authority (including a court or tribunal, or any person or body carrying out public functions) to act in a way which is incompatible with a ECHR right.⁶⁹

Therefore, there can be legal challenges by anyone who considers that they have suffered as a result of the UK's failure to comply with the ECHR:

- (1) by challenging legislation as being incompatible with ECHR rights⁷⁰,
or

⁶⁸ This is because of the principle of Parliamentary Sovereignty. See Liberty, 'How the Human Rights Act works', <https://www.liberty-human-rights.org.uk/human-rights/what-are-human-rights/human-rights-act/how-human-rights-act-works> (accessed June 2018).

⁶⁹ HRA, Article 6.

⁷⁰ For example, the UK Supreme Court found that a restriction of pension benefits for same sex couples compared to heterosexual couples was unlawful in terms of the EU Directive. They concluded that the exception contained in the 2010 Equality Act allowing such treatment must be dis-applied. The decision provides useful insight into how the above legal principles will be applied by the courts *Walker (Appellant) v Innospec Limited and others (Respondents)* [2017] UKSC 47, available at <https://www.supremecourt.uk/cases/docs/uksc-2016-0090-judgment.pdf>

(2) by taking a claim against a State body for breach of ECHR rights through its action or failure to act.

These challenges could be taken by someone who considers that they have suffered a breach of their rights, either as a result of legislation that conflicts with the right to freedom of thought, conscience or belief, or as a result of a State body taking action or failing to take action in a way that breaches that right.

When presented with a claim based on the ECHR the UK courts must take into account decisions of the ECtHR, which usually results in the UK court applying the principles established by the ECtHR.⁷¹

2.4 Freedom of thought, conscience and belief

We have seen that international, European and UK law protects our right to freedom of thought, conscience and religion. What does this mean in practice?

As is clear from the wording of the right, freedom of thought and conscience are given equal protection along with freedom of religion. The Human Rights Committee for the ICCPR has noted that:

"The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18(1) is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community with others. The Committee draws the attention of States parties to the fact that the freedom of thought and the freedom of conscience are protected equally with the freedom of

⁷¹ Section 2 of the HRA, and see: The Supreme Court, 'The Supreme Court and Europe', <https://www.supremecourt.uk/about/the-supreme-court-and-europe.html> (accessed June 2018).

religion and belief. The fundamental character of these freedoms is also reflected in the fact that this provision cannot be derogated from, even in time of public emergency, as stated in article 4(2) of the Covenant.”⁷² (emphasis added)

As convictions and non-religious beliefs have the same status as religious beliefs we will refer from here on to “freedom of thought, conscience and belief” rather than “thought, conscience and religion”, because veganism is not a religion and the protections we are concerned with here are those applicable to “thought”, “convictions” and non-religious “beliefs”.

In considering the content of the right to freedom of thought, conscience and belief, it is necessary to distinguish between the right to hold a belief and the right to put it into practice.

You can believe anything you like. The state, i.e. the government, cannot limit this right in any way. Whether or not you are entitled to manifest your belief, by taking certain action or participating in a particular activity, is another question. If a belief is not protected, the government can restrict manifestation of that belief as it sees fit, subject to any other applicable rights. If a belief is protected then the state may restrict the manifestation of that protected belief only if they can show that the restriction is: (1) prescribed by law and (2) necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others. It must also be proportionate.

Whether or not the state/government can restrict the manifestation of a belief is therefore a question with two parts:

1. is the belief a protected belief?; and, if it is,

⁷² In General Comment 22: The right to freedom of thought, conscience and religion (Art 18); 30.07.1993 CCPR/C/21/Rev.1/Add.4, General Comment adopted by the Human Rights Committee under article 40, paragraph 4, of the International Covenant on Civil and Political Rights, Addendum, General Comment No. 22 (48)(art. 18).

2. is the restriction prescribed by law and necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others?

Any restrictions must also be proportionate, going no further than is necessary to achieve the objective.

2.5 Manifestation of Protected Beliefs

The first question for a court will be whether or not the belief or conviction is protected. In order to be protected the belief must “attain a certain level of cogency, seriousness, cohesion and importance,”⁷³ be sincerely held and “worthy of respect in a democratic society”, and not be “incompatible with human dignity or the fundamental rights of others”.⁷⁴ If the belief does not satisfy these criteria it is not a protected belief and you will not have the right to act in accordance with that belief.

For example, you can believe in murder but that does not mean that you have a protected belief or the right to manifest that belief, because a belief in murder would not be considered to have “a certain level of cogency, seriousness, cohesion and importance,” or to be “worthy of respect in a democratic society” or “compatible with the fundamental rights of others”, and so would not qualify as a protected belief in law. Therefore, the state is entitled to restrict the manifestation of that belief as it sees fit, subject to any other rights. Even if a belief in murder was a protected belief, the state would be entitled to restrict manifestation of that belief as necessary to protect public safety and the rights and freedoms of others.

⁷³ Definitions of these terms include: Cogency: clear, logical, convincing, lucid; Seriousness: gravity or solemnity; Cohesion: a level of connectedness or interrelatedness; Importance: being of great significance.

⁷⁴The characteristics of a qualifying non-religious belief were discussed in, for example, *Campbell and Cosans v UK* (1982) Series A no 48 at para 36.

There have been a number of decisions in which the courts have considered whether or not the test for protected beliefs was satisfied by moral convictions that could be said to be comparable to veganism. For example, pacifism and opposition to military service have been found to be protected. In the case of *Arrowsmith v UK*⁷⁵ the Commission held that the Article 9 right to freedom of thought and conscience covered pacifism, as:

“pacifism is a philosophy and ...falls within the ambit of the right to freedom of thought and conscience. The attitude of pacifism may therefore be seen as a belief ('conviction') protected by Article 9.”

In *Bayatyan v Armenia* the ECJ held that:

“opposition to military service, where it is motivated by a serious and insurmountable conflict between the obligation to serve in the army and a person's conscience or his deeply and genuinely held religious or other beliefs, constitutes a conviction or belief of sufficient cogency, seriousness, cohesion and importance to attract the guarantees of Article 9.”⁷⁶

Another example is the conviction that it is wrong to inflict physical violence upon children, as we discuss later.

2.6 Veganism as a matter of thought, conscience and belief

Veganism has been recognised as a protected belief or conviction. In *W v UK*⁷⁷ the European Commission on Human Rights considered whether or not the Article 9 right to manifest a protected conviction or belief had been breached. A claim had been brought by a prisoner who had not been

⁷⁵ *Arrowsmith v UK*, App no 7050/75 [1978] ECHR (12 October 1978)

⁷⁶ *Bayatyan v Armenia* (2011) 54 EHRR 467, at 110.

⁷⁷ *W v UK* (1993) 16 EHRR (Commission Decision) no 18187/91, ECHR, Decision of 10 February 1993.

permitted to be excluded from working in the prison print room, which he claimed was a breach of his vegan beliefs, as the inks used in the print room were not suitable for vegans.

In considering the complaint the Commission noted that: “the (UK) Government do not contest that veganism is capable of concerning “conscience” or “belief” within the meaning of Article 9,” and went on to note that Article 9 “protects the sphere of private, personal beliefs and the acts which are intimately linked to these attitudes”, and found “that the vegan convictions with regard to animal products fall within the scope of Article 9 para 1 of the Convention.”⁷⁸

The UK Equalities and Human Rights Commission also notes that the Article 9 right: “protects a wide range of non-religious beliefs including atheism, agnosticism, veganism and pacifism.”⁷⁹

Vegans in the UK therefore have the absolute right to believe that it is morally wrong to subjugate, exploit and kill non-human animals unnecessarily and, because it is protected, to live according to that belief or conviction, subject only to necessary and proportionate restrictions prescribed by law. The UK is obliged under the ECHR to secure to all vegans within the UK that right, including by passing such laws as are necessary to do so.

2.7 Restrictions Prescribed by Law

Previous decisions provide some guidance as to the extent to which the state may interfere with the manifestation of a protected belief. In the case of *W v UK*, the prisoner print room case referred to previously, the prisoner was unsuccessful in his claim, as the government successfully argued that the

⁷⁸ *Ibid.*

⁷⁹ Equality and Human Rights Commission, ‘Article 9: Freedom of thought, belief and religion’, <https://www.equalityhumanrights.com/en/human-rights-act/article-9-freedom-thought-belief-and-religion> (accessed June 2018).

restrictions on the manifestation of his protected beliefs were prescribed by law, necessary and proportionate.⁸⁰

The Commission found that the interference with the right of the prisoner to live according to his beliefs was "prescribed by law," in that any requirement to work was contained in the Prison Rules which applied to all prisons. It also found that the rule was necessary to achieve a legitimate aim as the requirement to work pursued the aim of "preserving good order in the prison" and it was "necessary to have a system of allocation of work which is perceived to be fair and without favouritism and that as a result prisoners inevitably do not enjoy free choice of employment."

The Commission noted that "all prisoners were generally required to work in the print shop for a period of 13 weeks, after which time other employment was available," and determined that the principle of proportionality had not been infringed and the interference was justified.

However, these cases all turn on their own particular facts and the particular facts of that case tended towards a finding against the applicant: there was uncertainty around whether or not the dyes were suitable for vegans, his vegan convictions were only one of his reasons for refusing the work and "relatively minor penalties" had been imposed on him for refusing to comply with the normal work regime. This can be contrasted with the consequences for someone if they are denied suitable food, for example, which is essential to survival.

Nevertheless, the decision provides a useful illustration of the exercise a court will carry out in determining if a restriction on the right to manifest protected convictions or beliefs is lawful.

⁸⁰ *W v UK* (1993) 16 EHRR (Commission Decision) no 18187/91, ECHR, Decision of 10 February 1993.

2.8 Obligation to secure right to freedom of thought, conscience and belief

There is also a positive obligation on the state (government) to secure to vegans in the UK their right to act in accordance with their convictions by avoiding participating in the exploitation and killing of non-human animals.⁸¹ Our ability to do so is directly affected by the availability of non-animal-based alternatives, for food, clothing, activities and non-food products.

Human rights obligations apply to States and State entities. The government must therefore ensure that vegans are able to act in accordance with their vegan convictions in government-run entities such as hospitals, schools, prisons and care homes, and State entities such as the parliament and local authorities (councils). The government also has an obligation to pass such laws as are necessary to ensure that vegans can live in accordance with their convictions outwith the public sphere, subject only to necessary and proportionate limitations which are prescribed by law.

2.8.1 Food Examples

For example, the requirements of a vegan patient who is reliant upon a hospital for food and drink during their stay must be taken seriously. If the hospital does not provide suitable food the vegan patient will not be able to live according to their convictions and will be in the unconscionable position of having to breach their fundamental convictions or go hungry. A vegan who had their request for suitable food denied would have a potential claim against the government entity for breach of their right to freedom of thought, conscience and belief. If that claim went before the European Court of Human Rights (ECtHR) (after going through the UK courts) the court would balance the interests of the vegan patient against the interests of the community as a whole. In doing so it would allow the state a “margin of appreciation,” which means they recognise that national governments are particularly well placed

⁸¹ ECHR Art 1 obligation to secure to everyone within their jurisdiction the rights and freedoms set out in the ECHR.

to assess social needs and weigh up the various factors that are considered in creating national laws. However, that only goes so far.

Where a claim is made in relation to the ethical expression of fundamental convictions in a way that concerns food, the ECtHR has made it very clear that it regards the disadvantage to the applicant to be significant. That is unsurprising when we consider the importance of access to food.

In the case of *Jakóbski v Poland*, the ECtHR decided that the Polish government was required to ensure that a prison provided food that was suitable for a prisoner who did not eat meat due to his Buddhist faith, according to which he avoided consuming the flesh of sentient beings. The prison had failed to provide him with meat-free meals despite requests, and he had had to rely on food parcels.⁸²

The court noted that the protection does not cover every act motivated by religion or belief, but that “observing dietary rules can be considered a direct expression of beliefs in practice.”⁸³

In *Jakóbski* the ECtHR decided that it was appropriate to examine the applicant’s complaint from the standpoint of the state’s positive obligation to comply with Article 9(1) rather than their obligation to justify any interference under Article 9(2), and noted that the principles applied in both are broadly similar.⁸⁴ “In both contexts regard must be had to the fair balance to be struck between the competing interests of the individual and of the community as a whole, and in both contexts the state enjoys a certain margin of appreciation in determining the steps to be taken to ensure compliance.”⁸⁵

Nevertheless, the court concluded that the state had not struck a fair balance between these interests in this case, because providing suitable food would not have caused significant disruption in terms of the management of prisons,

⁸² *Jakóbski v Poland* App No 18429/06 (ECtHR 7 December 2010).

⁸³ *Ibid* at 45.

⁸⁴ *Ibid* at 46 – 47.

⁸⁵ *Ibid* at 46–47.

nor in terms of the quality of meals generally or the financial impact. On balance, the state was in breach of the applicant's right to freedom of thought, conscience and belief.

The ECtHR held that: "Whilst the court is prepared to accept that a decision to make special dietary arrangements for just one prisoner could have financial implications for the custodial institution and thus indirectly on the quality of treatment of the other inmates",⁸⁶ it had to decide whether or not the state had struck a fair balance in this case. They were not persuaded that the provision of a vegetarian diet would involve disruption to management of the prison or any decline in meal standards⁸⁷ and therefore the state had not applied a fair balance between the interests of *Jakobski* and those of the institution and the other prisoners.

Although *Jakobski* was not a case concerning the rights of a vegan, diet was recognised as the manifestation of his ethical convictions and, as diet is a core incident of vegan convictions, the decision is highly relevant to vegans.⁸⁸

Shortly after the *Jakobski* decision, in 2010, admissibility criteria were introduced which meant that applications to the ECtHR would firstly be subject to a filtering process whereby they would be declared inadmissible if the court determined that the applicant's complaint did not relate to something that put them at a "significant disadvantage".⁸⁹ This afforded the court some flexibility, as there is considerable discretion involved in determining whether or not something amounts to a "significant disadvantage". In making this assessment the court considers the severity of the rights breach complained of, including

⁸⁶ Ibid at 50.

⁸⁷ Ibid at 52.

⁸⁸ See also, *X v UK* App no 5947/72 15 ECHR Dec & Rep 8 (1976) p.8, a Jewish prisoner in a UK prison claimed to have been refused Kosher food, which meant he was not able to manifest his Jewish beliefs, and was being forced to follow a diet mainly of bread at detriment to his health. The claim was based on Article 9, on the basis that the state had interfered with his right to manifest his religion. The Commission found that in that case the authorities had respected his rights as he had been offered Kosher food through the Jewish visitation committee. Obtaining food from an outside source is very different to being provided with food by the prison, and it may be that a focus instead on the positive obligation of the state would have achieved a different outcome, as in *Jakobski*.

⁸⁹ Protocol 14 ECHR.

the objective impact of the alleged breach and the subjective view of the applicant.

After the introduction of admissibility criteria, a similar application was made by a prisoner in Romania, in the *Vartic* case.⁹⁰ In *Vartic* the state argued that dietary requirements are not protected as a manifestation of thought, conscience and belief, and that even if there had been a breach of the right to freedom of thought, conscience and belief, there was no significant disadvantage to the applicant. The ECtHR disagreed, noting that it had already found that diet could be an expression of protected beliefs, and that as no alternative had been available to *Vartic* he had been put at a significant disadvantage. As in *Jacobski*, the court found that it would not be unduly disruptive or burdensome to provide food that was suitable, particularly given that the prison offered various other special meals. Therefore, the prison authority had breached the rights of the prisoner by not providing appropriate food.

These two decisions are very useful in terms of predicting how a court would consider a failure to provide food that is suitable for vegans in UK State entities, such as prisons, hospitals and schools.

It seems likely that a claim based on the failure or refusal of a State entity to provide food suitable for vegans would pass the threshold test of significant disadvantage. While it may be that the dependence factor, or lack of an alternative, is greater in a prison context than a hospital setting, nevertheless we rely on a hospital providing us with food when we are in-patients. It seems unlikely that a court would find that the threshold of significant disadvantage had not been met because a patient had access to the outside world in a way that prisoners do not. It will not be possible for all patients to arrange for family or friends to bring them meals in hospital and to suggest that they should do so would also be discriminatory (discussed below), as non-vegans are

⁹⁰ *Vartic v Romania* App no 14150/08 (ECtHR 17 March 2014).

provided with food in our hospitals. A similar argument could be made in relation to schools.

In assessing whether or not there was a breach of the right of freedom of thought, conscience and belief, the court would likely put significant weight on the denial of suitable food, such that there would be a high burden on the state to show that on balance they shouldn't have to provide it because of the associated disruption or increase in cost, especially if they are providing other alternatives. A court could take into account the fact that: many UK hospitals and schools provide excellent vegan options on their daily menus;⁹¹ most vegan food is inclusive in that it can be eaten by anyone, vegan or non-vegan; vegan options are often cheaper to prepare, and the respected dietetics associations of the UN, US and UK all recognise a fully plant-based diet as nutritionally adequate, with a growing body of evidence indicating that not eating any animal protein is better for our health. Plant-based food also fits well with national and local government objectives on sustainability and the environment.

In considering the positive obligation to secure the right to freedom of thought, conscience and belief, it is important to remember the Article 14 duty to ensure the rights and freedoms contained in the ECHR without distinction based on a protected characteristic. Vegan convictions are on a par with religious beliefs. That is not to say that veganism is like a religion, it is not. It is simply to say that both have equal protection. If the state is making provision for certain religious requirements, they ought to be making that same level of provision for requirements based on protected convictions. There is a general lack of awareness of this in our State entities. Vegetarian meals appear to be provided for in our state entities as standard, and this will ensure provision for many religiously motivated dietary requirements as well as catering for vegetarians. Given that provision is made for religious dietary needs, equivalent provision should be made for vegans.

⁹¹ See good examples in the Facebook group 'Vegan Hospital Food Hits and Misses' and on the 'Vegan Hospital Food Network' page (accessed June 2018).

Therefore, on the basis of their right to freedom of thought, conscience and belief, vegans should be requesting food that is suitable for them in all of our State institutions: schools, hospitals, care homes, prisons and local authorities. The Vegan Society currently has a campaign pressing governments and local authorities to ensure that good vegan options are available as standard.⁹² In order to ensure that they are not in breach of our rights, our governments and local authorities should be ensuring that every State entity offers good vegan options on a day to day basis. Some local authorities are beginning to recognise the importance of supporting plant-based eating in terms of health, sustainability and the environment.⁹³

2.8.2 Non-Food Examples

As discussed above, vegans wish to avoid participating in the commodification, exploitation and killing of nonhuman animals in any way, and not only in relation to food. The approach outlined above can also be applied to non-food related matters. If requests for accommodation from vegans are refused then a State entity must justify the failure to enable vegans to live according to their belief by demonstrating that doing so would cause too much disruption and/or be too heavy a burden, financially or otherwise, such that it would be detrimental to overall interests. If it is possible to meet a legitimate objective while accommodating the request of vegans, and meeting such requests presents no overriding problems, then the state is unlikely to be able to justify refusing to meet the needs of vegans.

For example, a vegan school pupil may request exemption from a requirement to dissect the dead bodies of animals. If a request is refused the school would need to justify that refusal on the basis that it would be unduly disruptive or burdensome to provide an alternative. In considering whether or not the state had carried out the balancing exercise appropriately, the court could take into

⁹² The Vegan Society, 'Catering for everyone', <https://www.vegansociety.com/take-action/campaigns/catering-everyone> (accessed June 2018).

⁹³ For example, West Lothian College in Scotland: The Vegan Society, 'Success Stories', <https://www.vegansociety.com/take-action/campaigns/catering-everyone/success-stories> (accessed June 2018), and a company that caters to over 100 NHS hospitals, Anglia Crown, is supplying plant-based meals. Our focus is on the rights of non-human animals but we recognise the intersectional benefits of plant-based eating and the need to reference these other benefits in pushing for societal and State reform.

account: the necessity of the procedure to achieve an educational objective, the availability of alternatives and the fact that other schools/local authorities have been able to provide alternatives.

The same exercise could be carried out for other non-food matters. For example, vegans in State employment, such as the police service or fire service may request alternatives to standard issue uniform items that are made from animal skin. If an employee requests a non-animal version of a standard issue item and it is reasonably straightforward to obtain that for them, without causing a lot of disruption or disproportionate additional cost, it would be difficult for the state employer to justify refusing that request. A court could take account of the fact that other employers manage to provide vegan alternatives; for example, we understand that the Royal Mail offers leather-free boots to its employees.

Personal protective equipment such as safety boots for the UK fire service will need to be certified to meet the appropriate safety standards. If, following research, it appears that there are no suitable animal-free boots available then the state would have a good justification for failing to accommodate the request, as it must comply with safety requirements. However, non-animal products are becoming more readily available and therefore it is becoming more difficult for employers to refuse to accommodate vegan requirements. For example, we are advised that vegan fire personal in the UK can be accommodated with appropriate footwear and that the vegan alternative is outperforming standard issue boots.

The prison print-room case referred to previously demonstrates that our rights do have limits and there will be scenarios in which a court would find that in refusing a request the state had struck the correct balance between the rights of a vegan and the interests of the wider community. It should be noted, however, that the disadvantage caused to a vegan from having to use inks that may have been tested on animals (it could not be established definitively one way or another) might be seen as of less significance than, for example, having to dissect an animal's body knowing the animal was killed for that

purpose or having to wear an animal's skin day on day, knowing an animal was killed because of demand for that product. The greater the detrimental impact on the vegan the more of a burden on the state to justify its failure.

Therefore, on the basis of their right to freedom of thought, conscience and belief, vegans should request that they be given animal-free alternatives to non-food products.

Medication

The position in relation to medicines is more complex. Vegans do not support testing human medication on non-human animals because to do so is to use living-beings as resources unnecessarily. Testing on animals does not produce reliable data in terms of how human beings will respond to particular medication, and there are very good alternatives that do not involve testing on animals.⁹⁴ The pain, suffering and death inflicted on non-human animals for medical testing conflicts with the fundamental moral convictions of vegans. This creates a dilemma for vegans living in the UK, because currently all medicines must be tested on animals.⁹⁵ This means it is not possible for vegans to access suitable alternatives for medications which they are prescribed for health conditions, nor for remedies available in pharmacies.

Vegans should of course take medication that they need because there is currently no other alternative and we are still doing all we can possibly and practicably do to avoid participating in animal exploitation. However, this does not change the fact that every time we obtain a prescription or buy a medicine we do so in the knowledge that the product will have been tested on non-human animals, needlessly, unjustly and against our fundamental convictions. The authors of this book support the use of legal principles to challenge current practices that result in these situations. For example, it could be argued that the current law requiring that all medicines be tested on non-human animals is in practice a restriction on our right to live according to our

⁹⁴ See, for example, the work of Animal Free Research UK: <https://www.animalfreeresearchuk.org/> (accessed June 2018).

⁹⁵ This is in terms of the European Directive 2003/63/EC, Annex 1 Part 1 Module 5.

fundamental beliefs, as we are not given the option of medicines that are suitable for vegans. It could also be argued that the government is failing to fulfil its duty to secure to us our right to freedom of thought, conscience and belief, including by taking such steps/passing such laws as are necessary to secure to us our right to live according to our convictions and beliefs.

The government would argue that any interference with our right to live according to our vegan convictions is lawful because the requirement is prescribed in law, necessary to protect public safety and health and proportionate. They would argue that experimenting on animals produces useful data in terms of how a medicine may affect humans. This could be countered with expert evidence showing that testing on non-human animals does not produce reliable data regarding humans and in terms of the available alternatives. The availability of non-animal based alternatives would also be relevant in terms of proportionality, as the government would have to show that the interference was proportionate and this could be challenged on the basis that there are alternatives which would not prevent vegans from manifesting their beliefs. The government would no doubt argue that it would be unduly disruptive or burdensome to modify the law so as to permit medications to be approved for human use without having been tested on animals, and evidence could also be brought to counter that.

As work in the area of animal free alternatives grows and becomes more visible it should become increasingly difficult for the government to justify the blanket policy. Charities such as Animal Free Research UK, formerly the Dr Hadwen Trust, and the National Anti-Vivisection Society are working hard in this area.⁹⁶ As the requirement to test on animals comes from EU law, the UK's exit from the EU may mean the government will have more scope to revisit this requirement post-Brexit, depending on the outcome of the Brexit negotiations.

⁹⁶ See, Animal Free Research UK, <https://www.animalfreeresearchuk.org/> and the National Anti-vivisection Society, <http://www.navs.org.uk/home/> (accessed June 2018).

In addition to the fact that all medicines are currently tested on animals in the UK, many contain ingredients that were taken from animals, such as gelatine or milk/lactose. Where alternatives exist that do not contain these animal derived ingredients, vegans can request those alternatives. The same test as set out previously would apply: where there is an animal-free alternative and it is not beyond the bounds of what is reasonable in terms of disruption or cost for the state to secure that alternative for the vegan patient, they should provide it. Vegans can ask for alternatives and refer to their rights in doing so.

Our rights are not absolute and whether or not a refusal to provide an alternative could be justified would depend on the specifics, such as how readily available was the alternative and the additional expense involved. For many medications there are no readily available alternatives that do not contain gelatine or lactose. Again, it could be argued that the government is failing in its obligation to secure to us our right to live in accordance with our fundamental beliefs by failing to take steps / pass such laws as are necessary to secure the availability of animal free medications.⁹⁷ Clearly it is not necessary that any medication contain animal-derived ingredients and our government should be pressed to encourage the production of animal-free versions.⁹⁸

2.9 Right of parents to ensure education in conformity with philosophical convictions

Separately, vegan parents have the right to respect for their convictions in relation to state provision of education. Article 18(4) of the International Convention on Civil and Political Rights (“ICCPR”) provides that “[t]he States Parties to the present Covenant undertake to have respect for the liberty of

⁹⁷ The same argument could be made in relation to promoting the availability of baby formula that is suitable for vegans.

⁹⁸ Go Vegan Scotland have pressed the Scottish Government to take appropriate steps in relation to these and other matters with reference to the results of their recent survey: See, Go Vegan Scotland, 'Results of Survey on Vegan Provision in Scotland Show Lack of Awareness Leading to Serious Failings', (1 March, 2018) <https://www.loveveganscotland.com/single-post/2018/03/01/Results-of-Survey-on-Vegan-Provision-in-Scotland-Show-Lack-of-Awareness-Leading-to-Serious-Failings> (accessed June 2018). At the time of writing they were still awaiting a substantive response.

parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.”

Similarly, Article 2(2) of Protocol 1 of the ECHR (which the UK has ratified) provides:

“In the exercise of any functions which it assumes in relation to education and to teaching, the state shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions.”

The UK government has an obligation to respect and ensure this right, including by taking such steps / passing such laws as are necessary to give effect to it. In terms of the HRA: (1) UK legislation must be read in conformity with this right and can be held to be incompatible with the ECHR if that is not possible, and (2) State entities and individuals can be challenged if they breach this right.

This parental right was relied upon in a seminal case which led to the abolition of corporal punishment in the UK. In the case of *Campbell and Cosans v The UK*⁹⁹, the ECtHR found that the requirement that parents who held the conviction that it was morally wrong to inflict violence on children submit their children to the right of a school to administer corporal punishment as a disciplinary measure, constituted a breach of this Protocol 1 right. The Government had contested that the applicants’ views on corporal punishment amounted to “philosophical convictions.” The court noted that:

“In its ordinary meaning the word “convictions”, taken on its own, is not synonymous with the words “opinions” and “ideas”, such as are utilised in Article 10 of the Conventions, which guarantees freedom of expression; it

⁹⁹ *Campbell and Cosans v UK* (1982) Series A no 48.

is more akin to the term “beliefs” (in the French text: “convictions”) appearing in Article 9, which guarantees freedom of thought, conscience and religion – and denotes views that attain a certain level of cogency, seriousness, cohesion and importance”

“the expression “philosophical convictions” in the present context denotes, in the Court’s opinion, such convictions as are worthy of respect in a “democratic society” ...and are not incompatible with human dignity”...

“The applicants’ views relate to a weighty and substantial aspect of human life and behaviour, namely the integrity of the person, the propriety or otherwise of the infliction of corporal punishment and the exclusion of the distress which the risk of such punishment entails. They are views which satisfy each of the various criteria listed above; it is this that distinguishes them from opinions that might be held on other methods of discipline or on discipline in general.”¹⁰⁰

The protections in section 2(2) of Protocol 1 extend to the entirety of the education process. The court noted that:

“the education of children is the whole process whereby, in any society, adults endeavour to transmit their beliefs, culture and other values to the young.....Moreoverthe second sentence of Article 2 (Protocol 1) is binding upon the Contracting States in the exercise of ‘each and every’ function that they undertake in the sphere of education and teaching, so that the fact that a

¹⁰⁰ *Ibid* at 36 For the decision on the objection to the ban on corporate punishment in private schools (where teachers claimed that the ban was in breach of their right to freedom of religion and belief), see *R (Williamson) v Secretary of State for Education and Employment* [2005] 2 AC 246.

given function may be considered to be ancillary is of no moment in this context'.¹⁰¹

The UK argued that even if the convictions were protected, it had respected them by introducing a policy of gradual elimination of corporal punishment, which it said would strike the right balance between the opinions of supporters and opponents.

The court found that the policy of gradually phasing out corporal punishment was not sufficient to give respect to the parental rights, as required by Protocol 1. "Respect" required more than taking into account or having regard to protected beliefs, it set up a positive obligation on the state which was not discharged by striking a balance between competing views.¹⁰² The court found that the move towards eliminating corporal punishment:

"does not amount to 'respect' for their convictions. As is confirmed by the fact that, in the course of the drafting of Article 2, the words 'have regard to' were replaced by the word 'respect', the latter word means more than 'acknowledge' or 'take into account'; in addition to a primarily negative undertaking, it implies some positive obligation on the part of the state. –This being so, the duty to respect parental convictions in this sphere cannot be overridden by the alleged necessity of striking a balance between the conflicting views involved, nor is the Government's policy to move gradually towards the

¹⁰¹ Full quote: "The Court would point out that the education of children is the whole process whereby, in any society, adults endeavour to transmit their beliefs, culture and other values to the young, whereas teaching or instruction refers in particular to the transmission of knowledge and to intellectual development. It appears to the Court somewhat artificial to attempt to separate off matters relating to internal administration as if all such matters fell outside the scope of Article 2. The use of corporal punishment may, in a sense, be said to belong to the internal administration of a school, but at the same time it is, when used, an integral part of the process whereby a school seeks to achieve the object for which it was established, including the development and moulding of the character and mental powers of its pupils. Moreover, as the Court pointed out in *Kjeldsen, Busk Madsen and Pedersen*, the second sentence of Article 2 is binding upon the contracting States in the exercise of 'each and every' function that they undertake in the sphere of education and teaching, so that the fact that a given function may be considered to be ancillary is of no moment in this context." *Campbell and Cosans v UK* (1982) Series A no 48 para 33.

¹⁰² *Ibid* at 37.

abolition of corporal punishment in itself sufficient to comply with this duty."¹⁰³

The court referred to the prior decision in *Kjeldsen, Busk Madsen and Pedersen v Denmark*, in which it had been noted that the "second sentence of Article 2 aims in short at safeguarding the possibility of pluralism in education, which possibility is essential for the preservation of the 'democratic society' as conceived by the Convention. In view of the power of the modern State, it is above all through State teaching that this aim must be realised."¹⁰⁴

The Danish government had argued in that case that the right in section 2(2) only implied a "right for parents to have their children exempted from classes offering 'religious instruction of a denominational character.'"¹⁰⁵ The court disagreed, finding that it did not "permit a distinction to be drawn between religious instruction and other subjects. It enjoins the state to respect parents' convictions, be they religious or philosophical, throughout the entire State education programme."¹⁰⁶

The court noted that States set the curriculum and the court would not rule on content, noting in particular that:

"the second sentence of Article 2 of the Protocol does not prevent States from imparting through teaching or education information or knowledge of a directly or indirectly religious or philosophical kind. It does not even permit parents to object to the integration of such teaching or education in the school curriculum, for

¹⁰³ Ibid at 36. This distinction between respect and having due regard does not appear to have been acknowledged by our EHRC, whose guidance suggests that an education provider need do no more than "properly consider" parental convictions, which seems closer to a due regard requirement than a respect requirement. See, Equality and Human Rights Commission, 'Article 2 of the First Protocol: Right to education', <https://www.equalityhumanrights.com/en/human-rights-act/article-2-first-protocol-right-education>.

¹⁰⁴ *Kjeldsen, Busk Madsen and Pedersen*, (1982) Series A no 23.

¹⁰⁵ Ibid at 51.

¹⁰⁶ Ibid at 51.

otherwise all institutionalised teaching would run the risk of proving impracticable.¹⁰⁷

However:

"The second sentence of Article 2 implies on the other hand that the state, in fulfilling the functions assumed by it in regard to education and teaching, must take care that information or knowledge included in the curriculum is conveyed in an objective, critical and pluralistic manner. The state is forbidden to pursue an aim of indoctrination that might be considered as not respecting parents' religious and philosophical convictions. That is the limit that must not be exceeded."¹⁰⁸

The UK Equalities and Human Rights Commission interprets the above decisions as follows:

"Parents also have a right to ensure that their religious and philosophical beliefs are respected during their children's education.....Although parents have a right to ensure their religious or philosophical beliefs are respected during their children's education, this is not an absolute right. As long as these beliefs are properly considered, an education authority can depart from them provided there are good reasons and it is done objectively, critically and caters for a diversity of beliefs and world views."¹⁰⁹

The ECtHR guide to Protocol 1 Article 2 states that:

¹⁰⁷ Ibid at 53.

¹⁰⁸ Ibid at 53.

¹⁰⁹ Equality and Human Rights Commission, 'Article 2 of the First Protocol: Right to education', <https://www.equalityhumanrights.com/en/human-rights-act/article-2-first-protocol-right-education> (accessed June 2018).

“Although individual interests must on occasion be subordinated to those of a group, a balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of a dominant position (*Valsamis v. Greece*, § 27).”¹¹⁰

The UK has made a reservation to Protocol 1, accepting the second sentence of Article 2 of Protocol 1 only in so far as compatible with the provision of efficient instruction and training, and the avoidance of unreasonable public expenditure. This was referred to by the UK in *Campbell and Cosans* and the court accepted that the proposal of having a separate stream of education that would be free of corporal punishment would be incompatible with the avoidance of unreasonable public expenditure, but held that the option of granting certain pupils an exemption, in accordance with their parents’ convictions, would not be.¹¹¹

Just as a belief or conviction that it is wrong to physically punish children is a protected philosophical conviction in terms of the parental right to ensure children are educated in accordance with their convictions, the conviction that it is wrong to exploit and kill non-human-animals unnecessarily should also be recognised as a protected philosophical conviction in relation to this right.

This could be very important for vegan parents in terms of challenging education that fails to respect their conviction that other animals have rights, by ensuring that consideration of animal issues is carried out in an objective, critical and pluralistic manner.

For example, when a school becomes a participant in an activity that involves the actual use of animals as commodities, such as through hatchery programmes, dissecting their bodies, or by bringing animals onto school grounds to “rear them for slaughter”, it could be argued that the school is not

¹¹⁰ Council of Europe, ‘Guide on Article 2 of Protocol No. 1 to the European Convention on Human Rights: Right to Education’, https://www.echr.coe.int/Documents/Guide_Art_2_Protocol_1_ENG.pdf at 16, (accessed June 2018).

¹¹¹ *Campbell and Cosans v UK* (1982) Series A no 48 at 37.

teaching in an objective, critical, pluralistic manner as they are themselves participating directly in the use and killing of animals, entirely unnecessarily, as part of the curriculum. This could also be argued where schools invite people in who are involved in the animal use industries, to talk about their use of animals and promote the products of animal exploitation. Arguably this is rarely, if ever, done in an objective or pluralistic manner. Arguably, a critical assessment would require, at a minimum, equal time and space for the vegan perspective, and care taken to challenge misinformation and baseless undermining of plant-based nutrition. Recent survey results indicate that this is not done. It may not be possible to avoid biased perspectives while inviting business people into schools, as they are, after all, business people with products to sell. It is the duty of our schools/education authorities to consider if they can include these activities while meeting their obligation to provide education in an objective, critical and pluralistic manner.

School trips to places where animals are used and/or killed may also be open to challenge. At the very least vegan children/children of vegan parents should be provided with an alternative activity.¹¹² It is notable that the Human Rights Committee of the ICCPR has stated that:

"The liberty of parents or legal guardians to ensure that their children receive a religious and moral education in conformity with their own convictions, set forth in article 18(4), is related to the guarantees of the freedom to teach a religion or belief stated in article 18(1). The Committee notes that public education that includes instruction in a particular religion or belief is inconsistent with article 18(4) unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians."¹¹³

¹¹² The authors are aware that some vegan parents have been allowed to take their children on an alternative educational excursion when the school has taken the pupils to the zoo. The question remains whether or not that is an equivalent alternative given that the other students are taken by the school.

¹¹³ In General Comment 22: The right to freedom of thought, conscience and religion (Art 18): 30.07.1993 CCPR/C/21/Rev.1/Add.4, General Comment adopted by the Human Rights Committee

Separately, there is a requirement not to discriminate in the context of the provision of education, which is discussed later and which may require more than the provision of a suitable alternative.

We are not aware of many claims by vegan parents based on their right to have their children educated in conformity with their philosophical convictions, but the corporal punishment case demonstrates just how impactful a successful claim can be, leading to a wholesale change in the law and the broader social mind-set in a very short period of time.

Vegan parents can refer to their parental rights in challenging and/or seeking provision of alternatives for their children, for example:

- classroom / school use of animals,
- talks by external speakers that promote the use of animals,
- school trips to places where animals are used / killed,
- speciesist texts, and
- failure to provide vegan food options.

2.10 Contracting Out

To the extent that the government contracts out its responsibilities to private third parties, it must ensure that those parties comply with our rights. For example, if a local authority care home is full and an elderly vegan person is placed by Social Services in a private care home, the management of that care home will be required to take on the human rights responsibilities of the local authority and ensure that the way they treat their vegan client does not contravene human rights obligations.

under article 40, paragraph 4, of the International Covenant on Civil and Political Rights, Addendum, General Comment No. 22 (48) (art. 18).

2.11 Private Entities

The positive obligation on the government to ensure that vegans are able to avoid participating in animal exploitation extends beyond state run entities, as the UK government is required to “secure to everyone within their jurisdiction” the right to freedom of thought, conscience and belief,¹¹⁴ and to adopt such laws or other measures as are necessary to give effect to that right.¹¹⁵ If vegans are not able to live practically as vegans as a result of action or inaction by private (non-government) entities, the government has an obligation to take action to secure to vegans their ability to live according to their convictions. This is particularly relevant in relation to private employers, but also applies to private service providers. The duty to secure to vegans their right to live according to their convictions means the government should pass laws applicable to private bodies to ensure that they respect those rights.

2.12 Without distinction

The government is obliged to ensure that the right to freedom of thought, conscience and belief is made available without distinction on the basis of any protected characteristic. This means that to the extent that the government ensures that people in the UK have freedom of religious beliefs, they must extend that same level of protection equally to qualifying non-religious beliefs. If people with religious beliefs are catered for in a particular way by our government or in terms of a particular law, those who hold vegan convictions must be catered for to at least the same extent. For example, if vegetarian food was provided in order to cater for religious dietary requirements, vegan food should also be provided if requested by vegans.

¹¹⁴ ECHR Art 1 obligation to secure to everyone within their jurisdiction the rights and freedoms set out in the ECHR.

¹¹⁵ ICCPR Article 2(2); also required in terms of ECHR Art 1 if necessary to secure the right.

2.13 Claims

Very few human rights-based claims have been taken by vegans, either domestically to the UK courts or to the ECtHR. It would be very useful to have one or more claims made to the courts in order that we draw attention to these rights, and the vegan convictions that give rise to the rights.

A claim to the UK courts based on human rights law is with reference to the Human Rights Act 1998, in terms of which we can either challenge legislation as being incompatible with our ECHR rights, or challenge an act or omission by a public authority as incompatible with rights contained in the ECHR. In considering the claim, the UK courts must take into account prior decisions of the ECtHR, and once the claim has been appealed all the way through the UK courts it can be taken to the ECtHR in Strasbourg.

B. Equality Law

2.14 EU Equality Law

In addition to the human rights provisions set out above, the EU has specific regulations on equality, which afford additional protections to vegans in the UK. These protections expand upon the human right to freedom from discrimination.

There are a number of EU anti-discrimination directives which put in place specific obligations in relation to particular protected characteristics in particular contexts.¹¹⁶ In terms of protection from discrimination on account of fundamental beliefs or convictions, Council Directive 2000/78/EC laid down “a

¹¹⁶ For example: Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation; Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services; European Parliament and Council Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). Implemented by legislation such as: The Equal Pay Act 1970; The Sex Discrimination Act 1975; The Race Relations Act 1976; The Disability Discrimination Act 1995; The Employment Equality (Religion or Belief) Regulations 2003; The Employment Equality (Sexual Orientation) Regulations 2003; The Employment Equality (Age) Regulations 2006; The Equality Act 2006; The Equality Act (Sexual Orientation) Regulations 2007.

general framework for combating discrimination" in the sphere of employment on grounds including religion or belief.¹¹⁷ This is known as the Equality Framework Directive ("the Directive").¹¹⁸ The rights flowing from the Directive apply to all employers, including private employers, and providers of vocational training.¹¹⁹ The separate EU equality directives related to race and sex extend the anti-discrimination protections beyond employment, to cover education, social care, health, housing and goods and services. A proposal has been made for a further directive that would similarly extend protection from discrimination on account of religion and belief, as well as for disability, age and sexual orientation, to cover services, education, health, housing, etc, but this has not yet been agreed.¹²⁰

2.15 UK Equality Act 2010

EU Directives have to be transposed into UK law in order to be relied upon by individuals. The UK has given effect to the Directive and other European equality laws by putting in place the Equality Act 2010 ("the Equality Act").¹²¹ The Equality Act also consolidated the UK's prior equality legislation and extended the UK's equality laws beyond what is required under EU law.¹²² The Equality Act Applies to Scotland and England & Wales, but not to Northern Ireland.¹²³

¹¹⁷ It covers religion and belief, age, disability and sexual orientation.

¹¹⁸ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

¹¹⁹ It covers: access to employment and occupation, vocational training, promotion, employment conditions and membership of certain bodies.

¹²⁰ Commission of the European Communities, 'Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation', [2008/0140 (CNS)] <http://eur-lex.europa.eu/legal-content/EN/TEXT/PDF/?uri=CELEX:52008PC0426&from=en>, European Parliament, 'Legislative train schedule, area of justice and fundamental rights: Anti-discrimination Directive, <http://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-anti-discrimination-directive> (accessed June 2018).

¹²¹ Previous equality legislation includes: The Equal Pay Act 1970; The Sex Discrimination Act 1975; The Race Relations Act 1976; The Disability Discrimination Act 1995; The Employment Equality (Religion or Belief) Regulations 2003; The Employment Equality (Sexual Orientation) Regulations 2003; The Employment Equality (Age) Regulations 2006; The Equality Act 2006; The Equality Act (Sexual Orientation) Regulations 2007.

¹²² The Equality Act consolidated and expanded upon a number of pre-existing statutes which had contained specific equality duties related to race, disability and gender.

¹²³ Northern Ireland has devolved powers to develop and administer its own equality laws. The writers are not experts in Northern Irish law and so cannot comment in detail on the legal position there. We

As we discuss later, in implementing the Directive, the UK has gone further than EU law requires, applying the prohibition against discrimination on the basis of protected beliefs beyond employment, to cover education, health, social care and goods and services.

2.16 Veganism as a Philosophical Belief

The Directive refers to “belief” as a protected characteristic, however in implementing the Directive through the Equality Act the UK has defined it as: “*philosophical belief.*” We have seen reference to “philosophical” before, in relation to the parental rights to education that does not conflict with their “philosophical convictions”. Although the wording of the Equality Act differs from the Directive with the addition of the word “philosophical”, in practice the interpretation of “belief” and “philosophical belief” appears to be very similar.

From April 2007 the definition in the Equality Act was changed to remove a requirement that a philosophical belief be “similar to religious beliefs” in order to secure protection. It was thought to be unnecessary, as the test would sufficiently well distinguish between those that would secure protection and those that would not without those words. As narrated in the decision in *Grainger v Nicholson*¹²⁴ during the discussions at the time of the amendment one of the comments made was that: “*an example of a belief that might meet this description is humanism, and examples of something that might not ...*”

note that while NI is not covered by the Equality Act and has not put in place a consolidating Equalities Act as has the UK, it has a number of pieces of legislation in relation to equalities. In particular the Fair Employment and Treatment (Amendment) Regulations (NI) 2003 (FETO) outlaw discrimination in employment and in the provision of goods, facilities and services and in the provision of further and higher education, and public bodies are under a general equality duty in terms of Section 75 of the Northern Ireland Act. The NI Equalities Commission has confirmed that veganism is a protected characteristic, as it is a protected philosophical belief. See, Equality Commission for Northern Ireland, ‘Religious or similar philosophical belief or political opinion’, <http://www.equalityni.org/Individuals/I-have-a-work-related-problem/Religious-belief-Political-opinion> (accessed June 2018). For more information please contact the Equality Commission for Northern Ireland: <http://www.equalityni.org/Home>. The position in the Republic of Ireland may be distinct. There the Employment Equality Act and Equal Status Acts of 1998 – 2015 refer to “religion” as a protected characteristics but not to other beliefs. This has been commented on by the European Equality Law Network, which noted that “the provisions do not adequately prohibit discrimination on the grounds of religion or belief”. However, they also noted that recent decisions from Irish courts have indicated that in practice philosophical beliefs may be given protection, see page 29, European Commission, ‘European Network of legal experts in gender equality and non-discrimination: Country Report, Ireland 2017’, <https://www.equalitylaw.eu/downloads/4450-ireland-country-report-non-discrimination-2017-pdf-1-85-mb> (accessed June 2018). For more information contact the Irish Human Rights and Equality Commission www.ihrec.ie

¹²⁴ *Grainger plc v Nicholson* [2010] IRLR 4 (EAT).

would be support of a political party or a belief in the supreme nature of the Jedi Knights.”¹²⁵

Since 2007 beliefs which have been found to be protected under the Equality Act include: a belief in the higher purpose of public-service broadcasting,¹²⁶ a belief in environmentalism and climate change,¹²⁷ and a belief in the sanctity of life.¹²⁸

On the other hand, loyalty to flag or country,¹²⁹ BNP membership,¹³⁰ opposition to same-sex couples,¹³¹ and Marxist / Trotskyist beliefs¹³² were all found not to be protected, at least in the circumstances involved in those cases. Cases in which protection has been denied appear to have involved either: (1) beliefs which promote violence, racism, bigotry or discrimination, or (2) “beliefs” which the court or tribunal finds are actually opinions based on available information, which are not protected.¹³³

In a decision that attracted a lot of attention, “philosophical belief” was interpreted by the Employment Appeal Tribunal (EAT) in the case of *Grainger plc v Nicholson* 2009.¹³⁴ Mr Nicholson claimed to have been discriminated against on account of his philosophical belief in relation to climate change and the environment. In interpreting what was meant by “philosophical belief” and considering whether or not Mr Nicholson's beliefs regarding the environment would qualify, the EAT referred to the ECtHR decisions in *Campbell and Cosans v The UK* (corporal punishment) and *Arrowsmith v UK* (pacifism)

¹²⁵ *Ibid* at 10.

¹²⁶ *Maistry v BBC* [2011]] ET1213142/2010 (14 February 2011).

¹²⁷ *Grainger plc v Nicholson* [2010] IRLR 4 (EAT).

¹²⁸ *Hashman v Milton Park* (Dorset) Ltd [2011] ET 3105555/2009 (31 January 2011).

¹²⁹ *Williams v South Central Limited* [2004] ET 2306989/2003 (16 June 2004).

¹³⁰ *Baggs v Fudge* [2005] ET 1400114/2005 (23 March 2005), and *Finnon v Asda Stores Ltd* ET/2402142/05 [2005].

¹³¹ *McClintock v Department of Constitutional Affairs* [2008] IRLR 29 (EAT).

¹³² *Kelly & ors v Unison* [2009] ET 2203854/08 (22 December 2009).

¹³³ For example, in one case it was argued that English Nationalism was a protected belief (*Mr S T Uncles v NHS Commissioning Board and others* [2017] ET 1800958/2016 [13 October 2017]). Whilst noting that it was not the case that nationalism could never be found to be protected, as these cases all turn on their own facts, the tribunal concluded that in the particular circumstances of the case it was not. The Tribunal concluded that anti-Islamic views were part of the Claimant's nationalism, while part of the evidence regarding his beliefs included writings in which he referred to the desirability of using a machine gun to kill illegal immigrants. His beliefs were clearly not compatible with the rights of others, and so were not protected. In another case an objection to same-sex couples adopting children was found to be a mere opinion, based on available information, rather than a philosophical belief, and therefore not protected. *McClintock v Department of Constitutional Affairs* [2008] IRLR 29 (EAT).

¹³⁴ *Grainger plc v Nicholson* [2010] IRLR 4 (EAT).

referred to earlier, and noted that the test for a philosophical conviction or belief was that:

- (i) the belief must be genuinely held,
- (ii) it must be a belief and not an opinion or viewpoint based on the present state of information available,
- (iii) it must be a belief as to a weighty and substantial aspect of human life and behaviour,
- (iv) it must attain a certain level of cogency, seriousness, cohesion and importance, and
- (v) it must be worthy of respect in a democratic society, be not incompatible with human dignity and not conflict with the fundamental rights of others."

Mr Nicholson gave the following evidence in relation to his beliefs:

"I have a strongly held philosophical belief about climate change and the environment. I believe we must urgently cut carbon emissions to avoid catastrophic climate change....

It is not merely an opinion but a philosophical belief which affects how I live my life including my choice of home, how I travel, what I buy, what I eat and drink, what I do with my waste and my hopes and my fears.

For example, I no longer travel by airplane, I have eco-renovated my home, I try to buy local produce, I have reduced my consumption of meat, I compost my food waste, I encourage others to reduce their carbon emissions and I fear very much for the future of the human race, given the failure to reduce carbon emissions on a global scale."

Mr Nicholson's counsel described the belief as:

"The philosophical belief is that mankind is heading towards catastrophic climate change and therefore we are all under a moral duty to lead our lives in a manner which mitigates or avoids

this catastrophe for the benefit of future generations, and to persuade others to do the same."¹³⁵

In considering whether or not his views amounted to a protected philosophical belief, the EAT also referred to the European Commission decision in the case of *W v UK* (prisoner printer case referred to previously), in which veganism had been recognised as a protected conviction or belief. Although the EAT noted that it was not bound to follow the decision in *W v UK*, as the UK had conceded that "veganism was capable of concerning belief within the meaning of Article 9 of the Convention"¹³⁶ rather than that having been determined by the court, it is not clear that this is correct. As noted in Part 1 of this book, the reported decision in *W v UK* states:

"The Commission recalls that the applicant refused to work in the print shop because, as a vegan, he wished to avoid contact with animal products or products which had been tested on animals. The Commission notes that the Government does not contest that veganism is capable of concerning "conscience" or "belief" within the meaning of Article 9 of the Convention. The Commission's case law establishes that this provision protects the sphere of private, personal beliefs and the acts which are intimately linked to these attitudes. The Commission finds that the vegan convictions with regard to animal products fall within the scope of Article 9(1) of the Convention ..."¹³⁷

In any event, the EAT appears to have considered it relevant that veganism had been viewed as a protected conviction or belief in that case.

¹³⁵ *Ibid* at 165.

¹³⁶ *Ibid* at 20.

¹³⁷ *W, v UK* App. No. 18187/91 Before the European Commission of Human Rights (1993) 16 E.H.R.R. CD44.

Discussing the fact that the requirement of similarity to a religious belief had been removed from the Equality Act, the EAT found that nevertheless the test meant that it was necessary that the belief "have a similar status or cogency to a religious belief." However, they also found that "the philosophical belief in question does not need to constitute or "allude to a fully-fledged system of thought", provided that it otherwise satisfies the limitations *philosophical belief* does not need to amount to an '-ism'."

Having found that the belief referred to could be considered a philosophical belief, the question of whether or not Mr Grainger did genuinely hold the philosophical belief was a matter that was to be considered at a subsequent hearing. There are no further reported decisions on this matter and it may be that the case was settled out of court following the EAT decision that the belief in question could qualify for protection. An example of the evidence that would be required to be brought before a court in order to satisfy them that the claimant genuinely held a protected philosophical belief was seen in the case of *Hashman v Milton Park (Dorset) Limited*.¹³⁸

This case concerned a vegan claimant who claimed to have been dismissed for his anti-fox-hunting views. The Employment Tribunal held that a belief in the sanctity of life and the moral duty to avoid unnecessary suffering to animals constituted a protected philosophical belief in Mr Hashman's case.

Mr Hashman claimed that he had been directly discriminated against as he had been dismissed from his position as a gardener by his hunting supporter employers because of his anti-fox-hunting beliefs. His former employer claimed he had been dismissed for other reasons. Following a preliminary hearing, the Tribunal rejected the employer's argument that Mr Hashman's views about fox hunting did not amount to a philosophical belief. The employer had argued that views on fox hunting ought to be viewed as opinions based on available information, and so not subject to protection.

¹³⁸ [2011] ET 3105555/2009 (31 January 2011).

The Employment Tribunal rejected that argument and held that the belief did constitute a philosophical belief for the purpose of equality protection. Mr Hashman's vegan convictions and animal rights activism were cited by the judge as relevant in finding that Mr Hashman held a protected philosophical conviction.¹³⁹ The judge took care to note that the decision did not mean that everyone opposed to fox hunting could be said to hold a protected philosophical conviction, as each case would turn on its own facts.

The Equalities and Human Rights Commission is the regulatory body responsible for enforcing the Equalities Directive in the UK, and has recognised the fact that veganism is a protected philosophical belief.¹⁴⁰

In light of the above, it seems beyond doubt that veganism is a protected philosophical belief under the Equality Act as well as a protected belief under the Human Rights provisions.

2.17 What is Prohibited?

The Directive requires the UK (and other EU states) to prohibit the following in relation to vegans (and others):

a) Direct discrimination

Direct discrimination occurs where someone who is vegan is treated less favourably than another person who is not vegan, *because they are vegan*. For example, if someone places a job advertisement in which vegans are excluded from applying, or if a vegan is told they cannot attend a work

¹³⁹ See Murray Wardrop, 'Foxhunting views placed on par with religion after landmark legal ruling' The Telegraph, (9 March, 2011) <http://www.telegraph.co.uk/news/uknews/law-and-order/8368934/Foxhunting-views-placed-on-par-with-religion-after-landmark-legal-ruling.html> (accessed June 2018).

¹⁴⁰ See for example, Equality and Human Rights Commission, 'Article 9: Freedom of thought, belief and religion', <https://www.equalityhumanrights.com/en/human-rights-act/article-9-freedom-thought-belief-and-religion> (accessed June 2018).

function because they are vegan and it wouldn't go down well with clients, they are examples of direct discrimination.¹⁴¹

There is an exception for direct discrimination: it is permissible to allow a difference of treatment based on a protected characteristic, such as a protected belief, where:

- by reason of the nature of the particular occupational activities concerned, or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement,
- provided that the objective is legitimate and the requirement is proportionate.

Examples of situations that could constitute direct discrimination

- An interviewer rules out your job application on the basis that you are vegan. You are clearly the best candidate but he does not want to employ vegans.
- You are told you cannot attend a work function because you are vegan and it wouldn't go down well. None of your colleagues have been excluded. They are all non-vegan.

b) Indirect discrimination

Indirect discrimination occurs where an apparently neutral policy or practice puts someone who is vegan at a disadvantage compared with non-vegans,

¹⁴¹ Other general examples are provided in the ACAS guide to Religion or Belief in the Workplace for employers and employees (2014): http://www.acas.org.uk/media/pdf/d/n/Religion-or-Belief-and-the_workplace-guide.pdf (Accessed June 2018). At the time of writing in May 2018, ACAS report that it has published an updated guide details of which can be found at: <http://www.acas.org.uk/index.aspx?articleid=6539>

due to their vegan convictions. An example would be an employer providing free lunch to staff but failing to provide anything suitable for vegan staff.

Indirect discrimination is permissible only if the policy or practice is objectively justified, which means the employer can show that the practice is a proportionate means of achieving a legitimate aim. Identifying a legitimate aim, or business need, will generally be straightforward and the Equalities and Human Rights Commission refers to examples such as health and safety and having sufficient staff to meet client demands. The EHRC notes that whether or not the measure is a proportionate means of achieving the legitimate aim depends on the circumstances in any individual case but “In practice, a central question is often whether there is an alternative way of achieving the aim of the rule or policy which doesn’t have the discriminatory impact, or which lessens it.”¹⁴² In determining if the measure adopted is proportionate, the employer can consider the impact on its business of any less discriminatory alternative, the impact on its other staff and the cost and other related implications. “The more serious the consequences for the employee, the greater the onus on the employer to find a way of granting a request.”¹⁴³

In the example of an employer providing a free lunch but failing to provide anything suitable for vegans, the employer would have to show that providing food which did not include food suitable for vegan staff was a proportionate means of achieving their aim. That would require them to show that there would be a negative impact on their business and/or the other staff if they did include food suitable for vegans. The decision in *Jakóbski v Poland* referred to above gave an illustration of how a court might assess this, although that was a decision related to the human right to freedom of conviction and belief rather than the Equality provisions.¹⁴⁴

¹⁴² Equality and Human Rights Commission, ‘Religion or belief: a guide to the law’, <https://www.equalityhumanrights.com/en/publication-download/religion-or-belief-guide-law> at 9 (accessed June 2018).

¹⁴³ *Ibid.*

¹⁴⁴ Other general examples are provided in the ACAS guide to Religion or Belief in the Workplace for employers and employees: http://www.acas.org.uk/media/pdf/d/n/Religion-or-Belief-and-the_workplace-guide.pdf (accessed June 2018 but see also details about new guidance available at: <http://www.acas.org.uk/index.aspx?articleid=6539>).

Examples which may constitute indirect discrimination

- A restaurant has a practice on Sundays of offering a “buy one get one free” drink when customers order the Sunday “roast”, which is not vegan. Because you are vegan, and select a vegan meal option, you are disadvantaged.
- Your line manager creates what she thinks is a fair rule for a rota for buying cow’s milk for the kitchen. This applies equally to everyone but disadvantages vegans as purchasing milk that has been taken from cows is against their convictions.

If you make a claim under the Equality Act, you will need to prove that you were discriminated against. If it is not clear and obvious that the disadvantage has been caused by your veganism, you will need to show that other vegans in the same situation would also be disadvantaged; the disadvantage must be as a result of your veganism and not some other personal characteristic.

If you are discriminated against in the course of your employment your employer is usually deemed responsible and will need to prove that they took all reasonable steps to prevent the discrimination.

c) Harassment

Harassment is unwanted conduct related to a person’s vegan beliefs which has the purpose or effect of violating the dignity of that person or of creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Harassment can involve teasing, name calling, abusive comments, sketches or images, offensive gestures, jokes or facial expressions, and can cover written comments including by email or on social

media. One example would be where colleagues of a vegan put animal products into their lunch box.¹⁴⁵

Importantly, harassment does not have to be intentional; it can be caused when someone presents unwanted behaviour that has the effect of making the person feel intimidated or distressed, even if that was not the intention. You are a victim of harassment where behaviour directed at you leaves you feeling distressed, intimidated, degraded, humiliated or offended, or when you are subjected to an offensive, degrading or humiliating environment, although the behaviour may not be directed at you in particular.

Examples which may constitute harassment

- You are out with colleagues in a restaurant and some of them start making offensive jokes about your food. This escalates after a few drinks, when they start to make animal sounds every time you pass by.
- You are eating lunch at your desk when your colleagues come back into the office. They immediately start making offensive comments about what your food looks like and enthusing with each other about what the animal products they have just eaten.
- You are at a team building event. At the end of the day the final task is that you each write an anonymous, supportive and memorable observation for a named colleague about the usefulness of the day. The anonymous comments are sealed and passed to the named recipients. When you open yours, you are horrified and shocked to find no words written but an offensive drawing relating to veganism.

¹⁴⁵ Other general examples are provided in the ACAS guide to Religion or Belief in the Workplace for employers and employees: http://www.acas.org.uk/media/pdf/d/n/Religion-or-Belief-and-the_workplace-guide.pdf (accessed June 2018 but see also details about new guidance available at: <http://www.acas.org.uk/index.aspx?articleid=6539>).

d) Victimisation

Victimisation is where someone is treated adversely as a result of having made a complaint in relation to discrimination or harassment. You are victimised if, when you have raised a complaint about the way you have been unfairly treated, you are made to feel as if you are a 'trouble maker' or you are singled out in some other way, such as being left out or denied certain privileges from which others benefit.

Example which may constitute victimisation

You feel that your dignity was violated because you were the subject of offensive and humiliating jokes over a sustained period of time. During this time, you started to feel anxious about going to work and had feelings of dread in the office. Although you had quietly endured these conditions, you felt that things had reached unacceptable levels on one occasion and a boundary of respect had been breached. You went to see your line manager about it but were not taken seriously. In fact, as a result of raising the complaint under the Equality Act, you subsequently felt ignored, overlooked and ostracised. You were also left out of important meetings which you had previously attended.

2.18 Who is Covered

The Equality Act prohibits: *direct discrimination*, *indirect discrimination*, *harassment* and *victimisation*, as described above, in relation to employment and vocational training, whether public or private, as set out in the Directive. However, the Equality Act also extends the prohibition against discrimination, direct and indirect, to:

- (1) all providers of goods, facilities and services to the public, whether the provider is public or private and whether the service is for payment or not;
- (2) the exercise of public functions; and
- (3) the provision of education.

These are very important extensions of the equality protections for vegans (and others), beyond what is currently required under European law.

2.18.1 Service Providers and Public Functions

The Equality Act provisions apply to the provision of services to the public, including goods or facilities, whether by a public or private entity.¹⁴⁶ The Act also applies to persons carrying out functions of a public nature which are not otherwise caught by the provisions on service provision or education.¹⁴⁷

It may not always be clear if an entity is providing a service to the public or exercising a public function, or a mixture of both. Whether the activity would be characterized as a service or a public function, the requirements in terms of equality law are essentially the same.

The EHRC provides very useful guidance on all aspects of equality law as well as a Statutory Code on Services, Public Functions and Associations (“the Code”), which can be used in evidence in legal proceedings brought under the Act and must be taken into account where relevant.¹⁴⁸ Following the Code can assist providers of services and those exercising public functions to avoid breaching their obligations and exposing themselves to claims.

The Code notes as examples of “public functions”:

- determining frameworks for entitlement to benefits or services;
- law enforcement;

¹⁴⁶ Equality Act Section 31.

¹⁴⁷ *Ibid.*

¹⁴⁸ Equality and Human Rights Commission, ‘Equality Act 2010 Code of Practice: Services, public functions and associations Statutory Code of Practice (2011); https://www.equalityhumanrights.com/sites/default/files/servicescode_0.pdf (accessed June 2018).

- receiving someone into a prison or immigration detention facility;
- planning control;
- licensing;
- enforcement of parking controls, trading standards, environmental health;
- exercise of statutory powers under mental health and children legislation;
- regulatory functions; and
- investigation of complaints.”¹⁴⁹

The explanatory notes to the Act also list examples of public functions which involve the provision of a service, such as the provision of medical treatment on the NHS.

A person in the exercise of a public function must not do anything that constitutes discrimination.¹⁵⁰ In discussing the prohibition against discrimination in the exercise of a public function, the Code notes that: “The provision is a broad one and would cover, for example, refusing to allow someone to benefit from the exercise of a function, or treating someone in a worse manner in the exercise of a function.”¹⁵¹

In terms of services, the Code lists examples of providers of services to the public including: toilet facilities; government departments and their agencies; some charities; voluntary organisations; hotels; restaurants; pubs; post offices; banks; building societies; solicitors; accountants; telecommunications organisations; public utilities (such as gas, electricity and water suppliers); services provided by bus and train operators, railway stations, airports; public parks; sports stadia; leisure centres; advice agencies; theatres; cinemas; hairdressers; shops; market stalls; petrol stations; telesales businesses; hospitals, and clinics.¹⁵²

The Code notes that: “Services are covered regardless of whether they are provided by a private, voluntary or public body. Thus, for example, the provision of nursery and day care or the running of residential homes and

¹⁴⁹ *Ibid* at 11.16.

¹⁵⁰ Equality Act Section 29(6).

¹⁵¹ The Code, at 11.26.

¹⁵² The Code at 11.3.

leisure centre facilities will be subject to these provisions whether provided by a private body or local authority.”¹⁵³

In the Code the ECHR notes that “It does not matter if services are provided free of charge, such as access to a shopping mall, or in return for payment, for example, a meal in a restaurant.”

It is clear that the Act covers a very broad range of services and public functions and the key areas with which we are concerned in relation to vegan rights, education, health, benefits, prisons, care homes, transport etc, are all covered, as are private venues such as restaurants, bars, cinemas, sports facilities etc.

Providers of services to the public must not discriminate against a person requiring the service:

- by not providing the service;
- as to the terms on which they provide the service;
- by terminating the provision of the service;
- by subjecting the person to any other detriment.¹⁵⁴

Importantly, the Code notes that the prohibition against “not providing a service includes... the service provider not providing the person with the service of the quality that is usually provided to the public...or in the manner or on the terms which are usually provided to the public”¹⁵⁵ and that “Discrimination in the terms of service could include charging more for goods or services, or imposing extra conditions for using a facility or service”,¹⁵⁶ while “‘Detriment’ is not defined by the Act and is a very broad term, taking many forms.”¹⁵⁷

¹⁵³ The Code at 11.5.

¹⁵⁴ Equality Act Section 29(2).

¹⁵⁵ The Code at 11.18.

¹⁵⁶ The Code at 11.21.

¹⁵⁷ The Code at 11.22.

Service providers and performers of public functions will be legally responsible for discrimination by an employee unless they can show that they took all reasonable steps to prevent the discrimination.¹⁵⁸

2.18.2 Education

The protections against discrimination in relation to religion or belief also apply to education. Part 6 of the Equality Act applies to education, with separate provisions for (1) schools and (2) further and higher education. The governing and responsible bodies and proprietors of schools and institutions of further and higher education are prohibited from discrimination under the Act. The Equalities and Human Rights Commission guidance makes it clear that the provisions apply to “all schools in England, Wales and Scotland, irrespective of how they are funded or managed.”¹⁵⁹ The majority of schools will be under the control of local authorities in England and Wales and education authorities in Scotland.

They are prohibited from discrimination in relation to:

- (a) the arrangements for deciding who is offered admission as a pupil/student;
- (b) the terms on which they offer to admit the person as a pupil/ student;
- (c) not admitting the person as a pupil/student;
- (d) the way they provide education for the pupil/ student;
- (e) the way they afford pupils/ students access to a benefit, facility or service;
- (f) not providing education for the pupil/ student;
- (g) not affording the pupil/ student access to a benefit, facility or service;
- (h) excluding the pupil/ student from the school;
- (i) subjecting the pupil/ student to any other detriment.¹⁶⁰

¹⁵⁸ Equality and Human Rights Commission, Equality Act 2010: ‘Summary Guidance on Services, Public Functions and Associations’, <https://www.equalityhumanrights.com/en/publication-download/equality-act-2010-summary-guidance-services-public-functions-and-associations> (accessed June 2018).

¹⁵⁹ Equality and Human Rights Commission, ‘Guidance: What equality law means for you as an education provider: schools’ (2014), https://www.equalityhumanrights.com/sites/default/files/what_equality_law_means_for_you_as_an_education_provider_schools.pdf at 1.3 (accessed June 2018).

¹⁶⁰ Equality Act Sections 85(1) and (2).

The EHRC guidance for schools advises them that:

“Your duty to pupils covers everything that you provide for pupils and goes beyond just the formal education you provide. It covers all school activities such as extra-curricular and leisure activities, afterschool and homework clubs, sports activities and school trips, as well as school facilities such as libraries and IT facilities.”¹⁶¹

In relation to further and higher education, the EHRC advises responsible bodies that:

“Your legal obligations to your students cover all your services, facilities and benefits, both educational and non-educational, from teaching and learning to the physical environment, and any leisure and accommodation facilities. In addition, you must not discriminate against a student by excluding them. Any behaviour or exclusion procedures, practices or decisions which discriminate may be unlawful. Discriminating against students by subjecting them to any other detriment is also unlawful. ‘Detriment’ is not defined in the Act but implies a disadvantage of some kind and can be interpreted broadly.”¹⁶²

In considering examples of indirect discrimination in education the EHRC gives the example of a school with Muslim pupils which does not provide Halal food in its canteen, resulting in Muslim pupils being unable to have school lunches. They note that “this is likely to be unlawful indirect religion or belief

¹⁶¹Equality and human Rights Commission, ‘Guidance: What equality law means for you as an education provider – further and higher education (2014), https://www.equalityhumanrights.com/sites/default/files/what_equality_law_means_for_you_as_an_education_provider_further_and_higher_education.pdf

¹⁶²ibid at 4.3.

discrimination as the school is unlikely to be able to justify this action.”¹⁶³ Similarly, schools will be unlikely to be able to justify failing to provide vegan food where they have vegan pupils.

In terms of school trips, the EHRC specifically notes:

“School trips, including field trips and residential trips are often an important part of school life for pupils. You should seek to ensure that any trips that you arrange do not discriminate against any of your pupils. However, in some limited cases it may be impossible to make a school trip accessible for all pupils and the learning needs of other pupils should be part of the decision- making process. Cancelling the trip because a disabled pupil can’t attend where it puts other pupils at a disadvantage may not be the best or only decision. *Forward planning will assist you in arranging trips which all pupils are able to participate in.* Offering a range of different trips and activities may also help to ensure no pupils are excluded from taking part.”¹⁶⁴ (emphasis added)

On this basis schools can be encouraged to plan school trips that are inclusive and suitable for all, including vegan children.

The EHRC notes that:

“It is important that you ensure that your school uniform policies do not discriminate against pupils with a protected characteristic. You should be reviewing your uniform policies and dress codes both to ensure they do not have the effect of unlawfully discriminating against

¹⁶³Equality and Human Rights Commission, ‘Guidance: What equality law means for you as an education provider: schools’ (2014), http://www.equalityhumanrights.com/sites/default/files/what_equality_law_means_for_you_as_an_education_provider_schools.pdf at 37 (accessed June 2018).

¹⁶⁴Ibid at 40.

pupils with a protected characteristic and to comply with your equality duties. You should consider making exceptions to your standard policies for certain pupils but also ensure that you are not setting different rules for different categories of pupils that might be discriminatory – for example requiring girls to wear clothing that is much more expensive than that for boys.”¹⁶⁵

This may well have been written with religion and sex discrimination in mind, but as veganism is a protected characteristic in the same way it ought to apply equally to vegan students who do not wish to wear wool, leather or silk, because to do so would conflict with their fundamental convictions.

The EHRC also notes that:

“As a school you have legal duties to your pupils in relation to bullying and you must ensure that you treat all bullying on the grounds of a protected characteristic with the same emphasis as any other form of bullying.”

Vegans ought to be protected from bullying, whether by pupils, students, teachers or parties invited into the school to give presentations, to the same extent as they ought to be protected from bullying based on religion or any other protected characteristic.

As with employer responsibility for the conduct of staff in the course of their employment, entities responsible for schools and educational institutions are liable for the actions of employees and agents unless they can show that they took ‘all reasonable steps’ to prevent discrimination.

Equality and human Rights Commission, ‘Guidance: What equality law means for you as an education provider: schools’ (2014).

¹⁶⁵http://www.equalityhumanrights.com/sites/default/files/what_equality_law_means_for_you_as_an_education_provider_schools.pdf at 41.

Curriculum

There are particular rules in relation to the content of education, designed in part to protect the UK's particular approach to religious education and instruction,¹⁶⁶ but also to prevent rights-based challenges against content.

The prohibition against discrimination in education does not prevent educational establishments from including in the curriculum content pertaining to religious or philosophical beliefs. Schools and institutions of higher and further education are not "restricted in the range of issues, ideas and materials [they can] use in [their] syllabus and [they] can expose pupils to thoughts and ideas of all kinds, however controversial. Even if the content of the curriculum causes offence to pupils with certain protected characteristics, this will not make it unlawful unless it is delivered in a way whichsubjects pupils to discrimination or other detriment."¹⁶⁷

However:

"The way in which the curriculum is delivered is covered by the Act so [they] must ensure issues are taught in a way that does not subject pupils to discrimination. In addition, what is taught in the curriculum is crucial to tackling key inequalities for pupils including gender stereotyping, preventing bullying and raising attainment for certain groups. Teaching staff should be encouraged to think about the way they deliver their teaching to ensure that they do not inadvertently discriminate against pupils."¹⁶⁸

This may well apply to some of the situations faced by vegans in education.

¹⁶⁶ On the latter point see, for example, Richey Thompson, 'Religion, Belief, Education and Discrimination', (The Equal Rights Review, vol 14, 2015), <http://www.equalrightstrust.org/ertdocumentbank/Thompson.pdf> (Accessed June 2018).

¹⁶⁷ Equality and Human Rights Commission, 'Guidance: What equality law means for you as an education provider: schools' (2014), http://www.equalityhumanrights.com/sites/default/files/what_equality_law_means_for_you_as_an_education_provider_schools.pdf at 37. Reference to harassment removed as not applicable to religion or belief.

¹⁶⁸ *ibid* at 39.

For example, if a school uses living animals for an educational purpose, to experiment upon, to monitor or study, or for any other purpose, this may be delivering the curriculum in a way which indirectly discriminates against vegan children, depending on the circumstances. If there was indirect discrimination the school would have to show that the practice or policy was objectively justified by demonstrating that it was a proportionate means of achieving a legitimate purpose. Where there is a less discriminatory approach which could be taken to meet the legitimate aim, the school would have to justify their practice by reference to the impact adopting the alternative would have on the overall delivery of education and on the other pupils. Costs and related impact could also be taken into account. The greater the detriment to the vegan of the indirectly discriminatory practice or policy, the greater the onus on the school to alter their approach.

There will be situations in which schools will be able to discharge their obligations by offering a vegan pupil an exception or alternative to the non-vegan activity. There may be other situations in which the detriment to the vegan could not be adequately addressed in this way. In such cases it may be possible to argue that the non-vegan practice should be replaced with one suitable for vegans, for all students, where there would not be an overall detrimental impact of doing so. This is an area that requires further consideration and that is beyond the scope of this book.

There is obvious crossover between the equality provisions with respect to the curriculum and the parental human right to have children educated in a way that is not inconsistent with fundamental convictions. As discussed earlier, ECtHR case law established that the parental right to education in conformity with their fundamental convictions does not enable them to object to curriculum content that they find objectionable, but it does give them the right to have content delivered in an objective, critical and pluralistic manner. There is some correlation between this and the Equality law provisions in terms of which the prohibition against discrimination does not preclude inclusion of teaching particular religious or philosophical matters but does require care to

be taken in terms of the way in which the curriculum is delivered. Where the child is vegan the equality provisions can be relied upon in addition to, or as an alternative to the human rights provisions.

The EHRC encourages schools to review the subjects it covers (in Personal Social and Health Education for England and Wales and Moral and Religious Education for Scotland) to ensure they *"include equality and diversity including gender equality and non-violent, respectful relationships between boys and girls, women and men."* Given the protected status of veganism, schools should also be encouraged to include veganism in their curriculum, with full and proper space given to consideration of the moral conviction at the heart of veganism. The anti-discrimination provisions in education also support the inclusion of veganism in the curriculum, to ensure that the vegan moral conviction is understood (by teachers and by pupils) and to prevent bullying.

In relation to claims concerning education it is worth noting the specific support offered by the EHRC in this area.¹⁶⁹

2.18.3 Victimisation and Harassment Beyond Employment

The prohibition of harassment and victimisation does not extend beyond employment in relation to the protected characteristic of religion or belief (or for sexual orientation or gender reassignment),¹⁷⁰ however, conduct that would otherwise have fallen within the definition of harassment or victimisation may amount to direct discrimination.¹⁷¹

¹⁶⁹ See Equality and Human Rights Commission, <https://www.equalityhumanrights.com/en/our-work/news/education-discrimination-tackled-new-legal-scheme>; <https://www.equalityhumanrights.com/en/legal-casework/legal-support-project/legal-support-project-discrimination-education>; <https://www.equalityhumanrights.com/en/legal-casework/legal-support-project/legal-support-project-scotland-education-services-and-housing> (accessed June 2018).

¹⁷⁰ Equality Act Section 29(8).

¹⁷¹ Equality Act Section 212(5): "Where this Act disapplies a prohibition on harassment in relation to a specified protected characteristic, the disapplication does not prevent conduct relating to that characteristic from amounting to a detriment for the purposes of discrimination within section 13 because of that characteristic." Commenting on the fact that the prohibition on harassment in the provision of a service or in the exercise of a public function does not extend to sexual orientation or to religion or belief, the Code notes that "unwanted conduct because of either of these protected characteristics, which causes someone a detriment amounting to less favourable treatment, could constitute direct discrimination." at 11.35 The Code specifically notes that "rude or offensive behaviour towards a customer or potential customer will constitute a lower standard of service or a detriment. A lower

2.19 The Public Sector Equality Duty

The Equality Act also created a Public Sector Equality Duty (PSED). In addition to complying with the requirements referred to above, public sector bodies are required to take account of equality and discrimination in carrying out their functions. This means they are obliged to have due regard to the need to:

- *Eliminate* unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act,
- *Advance* equality of opportunity between people who share a protected characteristic and those who do not, and
- *Foster good relations* between people who share a protected characteristic and those who do not.

The Act explains that "having due regard" for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

Public sector bodies include local authorities, schools, health bodies, police, fire and transport authorities, government departments, and private or voluntary organisations carrying out public functions.

It could be argued that the duty to take steps to eliminate discrimination could extend to ensuring that good vegan food and drink options are available in all public institutions, as standard, that vegan children are not required to

standard of service might constitute not providing the service in the manner and the terms on which the service is normally provided." At 11.20. Equality Act Sections 85(10). It also appears that the legislative exclusion of protection from harassment based on religion or belief in education does not apply in higher and further education, so that harassment is specifically prohibited on the grounds of religion and belief in further and higher education.

participate in experiments on animals, that good alternatives are made available to children where a school participates in activities involving animal use / support for animal use industries, that schools stop participating in such projects where vegan children cannot be effectively protected or provided with an alternative, that steps are taken to promote the availability of vegan suitable medication, including removing the requirement that all medicines be tested on animals and that the government takes steps to encourage the availability of infant formula that is suitable for vegans.

2.20 Equality Surveys

The duty to monitor equality could be an important tool for vegans in terms of advocating for better provision in public institutions including schools, hospitals and care homes.¹⁷²

Sometimes the way organisations monitor how they meet different needs is by asking people to fill in questionnaires.¹⁷³ You may have seen questionnaires that ask you to declare specific details about yourself, including if you have a religion. By collecting this information organisations and employers can assess how their policies and practices meet the needs of a diverse society. To date there is no evidence of veganism being incorporated into these questionnaires. It is common to see a list of traditional religions, without any provision for non-religious beliefs other than atheism and so if vegans participate they often have to add their moral conviction to a section called “other”. Although we recognise that many people feel uncomfortable disclosing personal information, we do recommend that vegans participate in this way because it raises awareness and will help encourage positive change as well as producing helpful data. It would be useful if an explanation could also be noted, such as: “the vegan conviction that it is wrong to use and kill

¹⁷² On the duty of public bodies to publish equality objectives and publish information to demonstrate compliance with their equality duties see for example: Equality and human Rights Commission, <https://www.equalityhumanrights.com/en/advice-and-guidance/monitoring-and-enforcement> Accessed June 2018).

¹⁷³ On the monitoring requirements on companies see, for example, Equality and human Rights Commission, <https://www.equalityhumanrights.com/en/advice-and-guidance/reporting-requirements-uk> (accessed June 2018).

non-human animals unnecessarily is a protected conviction under the Equality Act,” so that we do not inadvertently perpetuate the misconception that veganism is a form of religion.

2.21 Claims

We know that vegans living in the UK experience direct and indirect discrimination, harassment and victimisation, because we frequently receive correspondence from vegans who find themselves in these circumstances. Nevertheless, we are not aware of many vegan claims made under the Equality Act having reached the stage of a formal published decision. This may be because of the expense of taking a formal claim to an employment tribunal or court, the stress of the process, and/or because many claims settle informally. When we have been contacted by vegans experiencing these issues we have been able to assist by providing information and guidance. In some cases public apologies have been forthcoming for conduct that breaches current law.¹⁷⁴

It would be very useful to see one or more test cases concerning vegan equality rights come before the UK tribunals or courts, in order to bring the rights of vegans to the attention of all employers, service providers and education providers, and in order that we have more guidance as to how the Equality Act will be interpreted in relation to discrimination against vegans.

C. Leaving the EU / Brexit

2.22 Human Rights

The fact that the UK is in the process of leaving the European Union (EU) does not necessarily mean that we will withdraw from the ECHR. The ECHR

¹⁷⁴ For example, an NHS Trust recently apologised to vegans for conduct that would likely have been held to be direct discrimination under the Equality Act (2010). See, the International Vegan Rights Alliance, ‘NHS job vacancy excludes vegans (job ref 333-G-ED-0042: indeed.co.uk) <http://theivra.com/NHS.html> (accessed June 2018).

is a standalone international agreement drafted in the 1940's by the Council of Europe; it is not a document of the Council of the European Union, which was established after World War Two to integrate the industries and economic activity of member countries. The ECHR was drafted shortly after the UDHR to ensure a regional commitment to the principles it contained. The UK Government was heavily involved in the creation of the ECHR and has been a party to it since its inception, while it did not join the EU until some years later.

Withdrawal from the ECHR does not therefore flow automatically from Brexit. The UK would need to make a separate decision to withdraw from the ECHR. The current Prime Minister, Theresa May, had at one stage expressed an intention to withdraw from the Convention, but since the Brexit vote the position has changed and current indications are that the UK may remain party to the ECHR and subject to the ECtHR. This is a moving situation and the position may have changed by the time of publication. The Equalities and Human Rights Committee will provide updates.¹⁷⁵

If we remain a signatory to the ECHR and the HRA remains in place the discussion in this book about the rights contained in those instruments will continue to apply. If we withdraw from the ECHR it is likely that the UK will replace the HRA with another rights instrument, such as a Bill of Rights. This could change the way the UK incorporates and interprets its rights obligations, but the rights contained in the International Bill of Rights, and specifically the ICCPR,¹⁷⁶ would continue to apply and the discussion in this book regarding those rights would remain applicable.

2.23 Equality Act

European Equality Directives are EU law and therefore the UK will not necessarily be bound by them after we leave the EU, depending on the terms of our exit. However, the Equality Act will remain part of UK law unless and

¹⁷⁵ Equality and human Rights Commission, <https://www.equalityhumanrights.com/en/our-human-rights-work/what-does-brexit-mean-equality-and-human-rights-uk>

¹⁷⁶ Article 18 of the ICCPR deals with the right to freedom of conscience.

until it is repealed or amended. The EU (Withdrawal) Bill indicates that the equality protections will remain part of UK law post-Brexit and that current European Court of Justice caselaw interpreting those provisions will continue to be applied. This is a developing situation and there is much ongoing discussion about how the Government's plans would work in practice. Things may change by the time of publication.

D. Conclusion to Part 2

Vegans have the right to act in accordance with their fundamental conviction that it is wrong to use and kill non-human animals unnecessarily. The Government must not interfere with that right beyond such proportionate restrictions as are prescribed by law and necessary in a democratic society. The Government also has a positive obligation to secure to us our right to live in accordance with our convictions, by ensuring that we are able to do so in relation to public bodies and public services, and by taking such steps and passing such laws as are necessary to secure to us our right in the private sphere. In addition, vegan parents have the right to have their children educated in a way that is not inconsistent with their fundamental convictions.

Separately, and in addition, veganism is a protected philosophical belief under the Equality Act and therefore vegans are protected from: (1) discrimination, direct and indirect, victimisation and harassment, in employment, both public and private, and (2) discrimination, direct and indirect, in education, the exercise of state functions (such as the allocation of benefits), and the provision of services, whether public or private, including the NHS. In addition, state entities are under a Public Service Equality Duty which requires them to take positive steps to eliminate inequality and promote equality.

These are the key points to keep in mind as we move on to Part 3, where we look at some of the common scenarios faced by vegans living in the UK and at the rights which may apply.



Part 3

Rights in Practice

3.1 What Part 3 Covers

In the table that follows we have set out a number of the common scenarios faced by vegans in the UK and the rights that may apply. Whether or not there has been discrimination or harassment will depend on the particular circumstances of any case and ultimately this is something that would have to be determined by a court or tribunal. We have very little in the way of decided cases involving veganism as a protected characteristic and until we have those decided cases it is not possible to say for sure what decision a court would come to. What we can do is highlight the rights that may be engaged in particular scenarios and the arguments that could be made in seeking to address the situation.

The scenarios we have used are mainly those that have been raised with us during seminars, conferences and in correspondence or in response to a survey. We have arranged the scenarios in categories, as follows:

- A. Employment
- B. Hospital / NHS
- C. Education
- D. Other State service providers / public functions
- E. Private service providers

When reading through the examples please bear in mind the following important points:

- As is suggested by The Vegan Society and others (see Appendix 1, 'Further information, help and advice'), many situations may be resolved informally, through discussion and education. Many of the scenarios we refer to will be opportunities to educate and promote

veganism. While it may be difficult, for example, for the first worker in a particular factory to enquire about vegan safety boots, if they succeed in securing vegan boots from their employers they will have paved the way for future vegans coming through that factory. Every request is worthwhile. You may wish to make reference to your rights as a way of encouraging your employer (or a service provider) to take your position seriously. In Part 4 we provide sample letters to assist in communications with employers, service providers and others to encourage dialogue and change.

- Other situations will be more serious and/or intractable. If you are not able to resolve matters yourself, you may wish to take legal advice. Potential sources of support are referenced in Appendix 1.
- We are setting out our views as to how a court might approach these situations, using the very limited guidance we have available to us at this time. This does not mean that we necessarily agree with the approach we think the court may take.

3.2 EXAMPLES OF POSSIBLE DISCRIMINATION AND HARASSMENT CONCERNING VEGANS	
Please note that any recommendations are not intended as legal advice, but only as a general guide based on available information.	
SITUATION	RIGHTS THAT MAY APPLY
A. Employment	
1. You're prevented from applying for a job because vegans are not permitted to apply, or the employer rules	<p>This is direct discrimination. It is treating someone with a protected characteristic less favorably than others on account of that characteristic.</p> <p>However, it may be permissible if it is necessary for the employee to be non-vegan in order to do the job. In more detail, the exception is that:</p>

<p>you out once they learn that you're vegan.</p>	<ul style="list-style-type: none"> - the requirement that the employee be non-vegan is a genuine occupational requirement so that the difference in treatment, on account of the protected characteristic, is due to the nature of the work, and - the objective is legitimate and the requirement is proportionate. <p>There cannot be many jobs that would qualify under this exception. There are some jobs that come to mind, such as a slaughterhouse worker or a butcher which not many vegans would wish to apply for. However, that is different from saying that it is an occupational requirement that the applicant be non-vegan. For jobs such as farm workers and jobs involving handling / serving things taken from animals, it would be up to the individual to decide if they were willing and able to perform that role, taking into account their own personal circumstances.</p> <p>Vegans want jobs that do not involve animal use or contact with things taken from animals at all, but while we live in a non-vegan world and we all have bills to pay, many vegans will not have any option but to take a job that does involve contact with animal products. The fact that vegans would rather not have to work with animal products does not make it a genuine occupational requirement that the applicant be non-vegan justifying an employer excluding all vegans.</p> <p>The employer may be entitled to reasonably assess the likelihood of the applicant's vegan convictions adversely affecting their ability to perform their role during the interview process.</p> <p>There was a recent instance of an employer in the UK specifying in their job listing that vegans need not apply, which was successfully challenged.</p>
<p>2. You're told you will not be considered for promotion because you're vegan.</p>	<p>This is direct discrimination. It is treating someone with a protected characteristic less favourably than others, on account of that characteristic.</p> <p>As above, this would only be permissible if the employer could show that the difference in treatment on account of the protected characteristic was due to the nature of the work involved in the position that promotion would lead to. The requirement that the employee be non-vegan must be a genuine occupational requirement, the objective legitimate and the requirement proportionate.</p> <p>As above, there can't be many roles that would qualify.</p>

<p>3. You're told you can't attend a work function because you're vegan.</p>	<p>This is direct discrimination. It is treating someone with a protected characteristic less favourably than others, on account of that characteristic.</p> <p>As above, this would only be permissible if the nature of the event meant that being non-vegan was a genuine requirement, the objective was legitimate and the requirement proportionate.</p> <p>It is difficult to think of many work functions that would fulfil these criteria. If the event involved animal use that wouldn't be a basis for a blanket exclusion of vegans, in the same way as it wouldn't justify a blanket exclusion of vegans from a job. It would be up to the individual if they wished/felt able to attend and perform their role at the event. The employer may be entitled to reasonably assess the likelihood of the employee's vegan convictions adversely affecting their ability to perform their role during the event, which would depend on the particular circumstances.</p> <p>On the other hand, if an employer required a vegan employee to attend an event that was against their convictions, that could raise issues in terms of discrimination, as discussed at number 13 below.</p>
<p>4. You are required to wear safety clothing (boots, gloves, etc.) at work, however, the company brought safety clothing made of animal skin</p>	<p>The policy can be regarded as neutral, because everyone is equally subject to it. However, there is a detrimental impact on the vegan because of their vegan beliefs; they are being made to wear animal skin, which is against their protected convictions.</p> <p>Whether or not the employer would be required to provide a non-animal based alternative would depend on whether or not they could show that the practice was objectively justified by a legitimate aim (they are likely to satisfy that as it is necessary to have a safety dress policy that complies with health and safety regulations), and that the means of achieving that aim are proportionate.</p> <p>A court would consider whether or not they could achieve their aim of providing suitable safety clothing while making allowances for fundamental convictions, and if it would cause disruption / have a negative impact on other employees / the business to provide a suitable equivalent for vegans.</p> <p>If we think back to the prison food case and the print-room case, discussed in Part 2, a court is likely to give less weight to the disadvantage a vegan worker in this situation will experience compared to where access to food or benefits is at issue. Nevertheless it may be prepared to recognise that it is a significant issue for the vegan if they give a credible and persuasive explanation in evidence regarding the impact on them of having to wear the skin of an animal day in and day out.</p>

	<p>Whether or not a court would find that it would cause disruption to provide the alternative, justifying refusal, would depend on the facts. Is there a non-animal-based alternative? Is it as effective in terms of the safety objective? How readily available is it? How expensive is it? Is there any restriction on the employer preventing them from purchasing from another supplier in discrete rights based cases? (for example, procurement laws).</p> <p>If the employer is a State body they may be required to go further given the Public Sector Equality Duty, which requires them to have due regard for the need to eliminate unlawful discrimination, advance equal opportunity and foster good relations, including by taking steps to meet the needs of people from protected groups.</p> <p>As these situations are so fact dependent, we highly recommend that they are used as opportunities to instigate dialogue with the employer. We provide some sample wording in Part 4 that may be useful in initiating those discussions. If the issue is explained to the employer, with reference to the true meaning of veganism as the way in which we recognise the rights of non-human animals, and if research is done into alternatives and you discuss with the employers any concerns they have, you may well be able to find a workable solution. The more of us who ask for vegan alternatives, the more employers becomes aware of this issue and the more we will effect change.</p> <p>Remember that victimisation is also prohibited and so the employer should not make you feel bad for raising the issue. Always do so in as clear and constructive a manner as possible.</p> <p>Similar issues can arise in relation to uniforms in general, as opposed to specifically safety equipment / clothing. Many uniforms include items made from things taken from animals, typically leather and wool. What is said above would apply to those situations, but it may be more difficult for the employer to show that it would be unduly disruptive to provide an alternative, as animal-free alternatives are likely to be more widely available. Some large employers, such as the Royal Mail, are known to provide non-animal-based alternatives, such as leather free boots.</p>
<p>5. The company you work for provided you with an iPad and a cover, but it is made of animal skin.</p>	<p>If the iPad cover is deemed to be an essential item, which it probably is because it protects the screen, then this will probably be assessed in a similar way to a uniform, as discussed above. In this case we know there are plenty of alternatives which are easily obtained and are most likely cheaper than an animal skin version, so the employer is unlikely to have a strong argument that providing an alternative would be unduly burdensome. A vegan in that</p>

	<p>situation could ask the employer to provide a suitable alternative, failing which an equivalent budget to allow them to purchase the equivalent directly. We provide some sample wording in Part 4 that may be useful in initiating those discussions</p>
<p>6. Your work has a rota for buying cows' milk for the kitchen. You are required to take a turn buying and bringing in cows' milk, using either your own money or money provided by your employer.</p>	<p>This may be indirect discrimination, as it may qualify as putting arrangements in place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage. It is against our convictions to spend our money buying milk that has been taken from a cow.</p> <p>If the rota involves using the employer's money rather than the employee's own money, the vegan is not put in the position of having to spend their own money supporting exploitation and violence, but they are being asked to facilitate someone else doing that. A vegan may be very troubled by this.</p> <p>If participating in the milk rota is not an official aspect of the job, but rather an unofficial task people are asked to take part in, a vegan should be able to politely request that an exception be made to the rota so that they do not have to participate. This seems fair, given that they will not be participating in the consumption of it and in all likelihood will be purchasing their own plant milk.</p> <p>A reasonable employer should agree to this request, if vegan convictions are explained to them. If they do not agree to allow you to be excluded from the rota that may amount to unlawful harassment, as "unwanted behaviour linked to a protected characteristic that violates someone's dignity or creates an offensive environment for them."</p> <p>If it is an official part of the job, for example where the employee is the office facilities manager, that should have been clear on applying for the role and this will fall into the same category as many job roles that involve handling things taken from animals. Vegans would prefer not to do so, but while we live in a predominantly non-vegan world and we have to make a living, some of us will have little option for the time-being.</p> <p>Related to this is the question of the employer's provision of milk to staff. If an employer is providing cow's milk to all employees but fails to provide plant milk for vegan employees this may amount to discrimination.</p>
<p>7. Your colleagues make fun of your veganism in the office / at restaurants when you're out for work meals. For</p>	<p>This could amount to harassment if it is "unwanted behaviour linked to a protected characteristic" that "violates someone's dignity or creates an offensive environment for them." What matters is the impact on the person being harassed and not the intention of the person making fun of veganism.</p>

<p>example, this could involve constantly challenging your beliefs, making fun of your food, making repeated jokes about animals being killed.</p>	<p>(It is not only vegans who can be harassed in relation to veganism, a non-vegan could be harassed by anti-vegan bullying or derision if, for example, they have a vegan family member).</p> <p>An employer is generally responsible for what happens in a workplace/in the course of someone's employment. If a social event is sufficiently connected to work the employer can be responsible for what happens at that event, such as a work lunch. The employer does not need to be aware of the harassment to be responsible for it, they will be responsible if they cannot demonstrate that they took all reasonable steps to ensure that harassment did not occur/took appropriate steps to address it once reported to them.</p> <p>A vegan raising a concern about harassment should not be victimised as a consequence.</p> <p>Depending on the situation you may wish to try to explain to people directly why their behaviour is upsetting, or you may prefer to speak with your line-manager or HR. We provide some sample wording in Part 4 that may be useful in those discussions.</p>
<p>8. Your company provides kitchen facilities to all employees. However, they only provide one microwave and one fridge, which are facilities used by non-vegans. Am I entitled to separate fridge/microwave and utensils, as this would make sure that my food was not contaminated with non-vegan products? Is my employer obliged by law to provide this?</p>	<p>It could be argued that this amounts to indirect discrimination, as the company has practices or policies that are apparently neutral but that have a detrimental impact on vegans.</p> <p>However, whether or not the employer could be said to be in breach of the vegans rights would come down to what is proportionate and reasonable in the circumstances. A court may question the degree of impact on the vegan in this situation, wondering if, for example, the microwave/fridge is kept clean, is there really a significant detrimental impact on a vegan? The court may take the view that while it may not be pleasant to have to look in at animal products, so long as they are not actually contaminating the vegan products, this is an aspect of living in our currently non-vegan world. Similarly, they may take the view that if cutlery is properly cleaned there should not be a significant detrimental impact. If a vegan did not trust that the cutlery was clean but could bring in their own the court may conclude that on balance the employer does not need to do more. The test is one of reasonableness rather than an absolute right and we should keep that in mind.</p> <p>It is perhaps worth noting that the Equality and Human Rights Commission commented on these circumstances in one of their Draft Codes of Practice for employers. It gave an example of how to resolve such a problem, stating that the employer could provide vegans with separate kitchen facilities and equipment if the costs were not prohibitive or, if they were a small company, allocate designated facilities</p>

	<p>space and items for vegans. Following consultation, the examples were removed in the final version of the Code because the EHRC felt that it could use examples that better represented the principles in existing case law.</p> <p>In a very large office, in which the employer has provided a number of fridges and microwaves, it may be reasonable, and not unduly disruptive, to ask the employer to designate a fridge (or a shelf within a fridge), a microwave, and a set of cutlery for plant-based foods only. On the other hand, in a very small office with one fridge and one microwave for all staff, the employer may well be successful in arguing that it would be unduly burdensome to provide separate equipment for animal-free products.</p>
<p>9. Your company organised a Christmas party and they arranged for food to be provided to staff. Are they obliged to provide vegan food for you?</p>	<p>In short, yes. Many companies organise events as a thank you and a gesture of good will to their employees. As such, we can assume that this qualifies as a practice for the purposes of equality law. If they apply a policy of providing food but without including food suitable for vegans, that is indirectly discriminatory against you due to your vegan convictions. As with the examples above, in order for this to be lawful, they would have to show that it was proportionate not to provide food suitable for vegans because to do so would be disruptive. That is likely to be very difficult in most cases, as almost every venue and catering company caters for vegans now. Even those who have not done so yet should be able to do so, given notice. Obviously the employer would have to have been put on clear notice of the vegan employee's requirements in good time for them to make the necessary arrangements. We have found that it assists to leave no doubt about what those requirements are by specifying: "I am vegan, I do not eat anything taken from an animal (no meat, fish, eggs, dairy or honey)." If you are not also gluten intolerant it can be worth adding "I do eat everything else including gluten" as many venues still think a vegan diet excludes gluten and some seem to think it excludes anything decadent (particularly when it comes to dessert!).</p> <p>The food you are provided with should be of an equivalent standard and quantity as that provided to other employees. For example, if the food is a sit down served meal and there are 3 courses, there should also be 3 courses for you. If it is a buffet then there should be sufficient items for you to select from the buffet/a plate made up for you.</p>
<p>10. A colleague brought in cakes for her birthday. However, none of the cakes were suitable for vegans. Is that discrimination?</p>	<p>This is not an official activity by the employers. However employers are responsible for discrimination and harassment in the workplace. Whether or not this would amount to discrimination or harassment would depend on the circumstances and the impact on the vegan employee. For example, if the colleague brought cakes, including separate cakes for a gluten intolerant colleague, a diabetic colleague and another allergic to dairy, but didn't bring a</p>

	<p>cake suitable for vegans, then this may be within the scope of discrimination. If it was a common occurrence and the colleague did not take on board the fact that their vegan colleague did not consume cakes containing dairy or eggs, and if the practice made the vegan employee feel excluded / humiliated then it may amount to harassment. However, many of these situations arise due to lack of awareness and/or cost considerations.</p> <p>It is important to understand that not everyone knows about veganism or where to obtain suitable food for vegans. They may also not understand very much about the ingredients to look out for. These situations are great for informing people about veganism. The best way to address these types of situations will be through education and discussion. Hopefully as colleagues learn more about veganism they will become more mindful of the need to cater for them. The employer ought to assist in disseminating this information, to ensure that their employees understand and to encourage fairness.</p>
<p>11. A colleague brought in cakes for his birthday. For me though, because I am vegan, he brought a carrot/lettuce bird seeds ball. Does that constitute harassment?</p>	<p>Yes, it possibly does, if the behaviour was unwelcome and unwanted and you personally feel that your dignity has been violated and you felt humiliated by the joke.</p> <p>Depending on the situation you may wish to try to explain to people directly why their behaviour is upsetting, or you may prefer to speak with your line-manager or HR.</p>
<p>12. At a conference, drinks and food will be provided. Should the conference organizers provide appropriate food and drinks for vegans? Are they obliged to do so?</p>	<p>If the conference is organised by your employers, then they are under a duty to ensure that the service providers do not discriminate against you by failing to provide for your needs. In circumstances such as this, service providers need a period of notice in order to provide the service required. Service providers are not under a legal duty to be able to provide for vegans without notice, they are under a duty not to discriminate. We have found that it assists to leave no doubt about what those requirements are, by specifying "I am vegan, I do not eat anything taken from an animal (no meat, fish, eggs, dairy or honey)." If you are not also gluten intolerant it can be worth adding "I do eat everything else including gluten" as many venues still think a vegan diet excludes gluten and some seem to think it excludes anything decadent (particularly when it comes to dessert!).</p>
<p>13. You are required to attend a work event</p>	<p>This may be indirect discrimination, as it may qualify as putting arrangements in place that apply to everyone, but that put someone with a protected characteristic at an</p>

<p>which involves animal use, such as a horse racing event. You ask for an exception to be made as horse racing is against your fundamental convictions but your employer insists that you attend.</p>	<p>unfair disadvantage. Whether or not the employer would be required to agree to relieve the vegan employee from having to attend the event would depend on whether or not they could show that the requirement to attend was objectively justified by a legitimate aim, and that the means of achieving that aim were proportionate. They would need to show that to make an exception would cause disruption or a negative impact on other staff / the business such that it was reasonable to refuse.</p>
<p>B. Hospital / Medical</p>	
<p>14. You're in hospital and are not being provided with vegan food despite having requested this.</p>	<p>This is indirect discrimination as you are disadvantaged by their failure to provide you with vegan suitable food.</p> <p>It is not likely that they would be able to get themselves within the exception, as many NHS hospitals do provide good vegan options, and most if not all provide food that caters for other dietary and religious needs.</p>
<p>15. You're not being provided with a vegan version of your medicine.</p>	<p>All medicines are tested on animals in the UK by law and so none are in fact suitable for vegans. However, many medicines can be obtained in a form that does not also involve consuming gelatine capsules or lactose (milk).</p> <p>If there is an alternative that can be obtained at a not excessive additional cost, then your GP/medical expert should obtain that for you. To refuse to look into this for you may be discrimination, depending on the circumstances.</p>
<p>C. Education</p>	
<p>16. Your child has been made fun of at school for their veganism, including by teachers.</p>	<p>This would constitute bullying and should be addressed by the school in accordance with their anti-bullying policy. The school can be asked to take all necessary steps to remedy the situation. If they fail to take steps whereas they would do if the bullying was based on another protected characteristic that may amount to discrimination.</p>
<p>17. You're going abroad on a school trip and in response to your request</p>	<p>This is not direct discrimination. They are not treating you differently on account of your veganism. Is it indirect discrimination? Are they putting arrangements in place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage? If they have selected a hotel that has less vegan options than other comparable hotels then arguably</p>

<p>for vegan food to be provided have been advised that vegan offerings at the hotel are limited.</p>	<p>they have.</p> <p>In order for the indirect discrimination to be permissible they will have to show that the practice is objectively justified by a legitimate aim and that the means of achieving that aim are appropriate and necessary.</p> <p>Arranging a school trip for educational purposes is a legitimate aim, and if it is more difficult to obtain vegan options in the country being visited they may be able to show that the means of achieving that aim (booking this particular hotel rather than finding one that has better vegan options) is appropriate and necessary, particularly as they will presumably have to keep costs down for the trip.</p> <p>In a case like this it would be best to try to speak with those organising the trip, ask them for details of the hotel and speak to the hotel directly to ensure they understand what a vegan diet is, what you do and do not eat (for example, make sure they are not ruling out foods containing gluten on the mistaken understanding that vegans don't eat gluten), ask to see what menu they have and speak to them about the possibility of "veganising" certain dishes. Most venues will have a vegetarian option and, given advance notice, they ought to be able to veganise that some vegetarian dishes.</p> <p>If the hotel is simply not going to provide you with vegan food, another option would be to look at food venues nearby (the Happy Cow app is a good option for doing this: https://www.happycow.net/) and if there are vegan options nearby, discuss with the person organising the trip the possibility of you eating there instead of at the hotel.</p> <p>It would also be a good idea to take a stash of vegan snack bars with you to make sure you have something for between meals and, if necessary, to supplement meals, in case it is not easy to find those options in shops in the country you are visiting.</p>
<p>18. Your child's class has been told they will be taking part in a "chick hatching" experiment over Easter. They will watch eggs hatch and look after chicks for a period of time before they will be sent</p>	<p>This may amount to indirect discrimination as your vegan child is disadvantaged by the general arrangements involving animal use in class. For this to be permissible, the school would have to show that the activity was objectively justified by a legitimate aim, and that the means of achieving that aim is proportionate. The educational purpose of these classroom activities can be challenged, as can an argument that it is proportionate as there are alternative ways in which children could be taught about animals that do not involve breeding them into existence and using them as if they were things. We have made these arguments in our sample letter on this topic in Part 4.</p> <p>We have also referred to the parental right to have children educated in conformity with their convictions. As discussed in Part 2 this is not an absolute right, but parents can refer to the requirement that schools teach in an objective, critical and pluralistic manner and argue that it is not possible for them to do</p>

<p>back to the company and most likely killed.</p>	<p>so while they are directly participating in animal use in class in this way. It could further be argued that it would not be possible to remove the vegan child from the activity in an effective way that would not further discriminate against them, as the activity is an ongoing classroom activity over a period of weeks. We provide some sample wording in Part 4 that may be useful in those discussions.</p>
<p>19. Your child comes home from school and tells you that their class had a talk by a dairy farmer, during which your child was told that they should be drinking cow's milk and that they will not get the nutrients they need from the soya milk they drink.</p>	<p>This may amount to direct discrimination if your child was singled out for being vegan.</p> <p>It may also be indirect discrimination as a vegan child is disadvantaged by the general approach of hosting someone involved in an animal-use industry and promoting the consumption of animals to the children. For this to be permissible the school would have to show that the activity was objectively justified by a legitimate aim, and that the means of achieving the aim was proportionate. The educational purpose and proportionality could be challenged. Whatever the educational objective is of these sessions there will be other means of achieving the aim that would not discriminate and which would be lend itself to teaching in a pluralistic manner, as the rights of vegan parents requires.</p> <p>As discussed in Part 2 the right of vegan parents to have their children educated in a way that is in conformity with their fundamental convictions is not an absolute right, but parents can refer to the requirement that schools teach in an objective, critical and pluralistic manner and argue that they are clearly not doing so when they invite people from the animal-use industries into schools to promote the products of animal use. This is a situation where it would be possible for the vegan child to be excluded from the activity, however that could make a vegan child feel isolated and excluded. It would be best to discuss these things with the school to agree what the approach ought to be if the school is inviting people from animal use industries into classrooms.</p>
<p>D. Other State Service Providers / Public Functions</p>	
<p>20. A prisoner in the UK may be required to work in the kitchen where a range of non-vegan food is prepared. The vegan may want to raise a complaint</p>	<p>This is somewhat similar to the prison print room case, however the detriment to the vegan may be more severe in this case and whether or not it would be unduly burdensome on the prison to allow an exception will depend on the specific facts and circumstances. If an exception was made on the basis of religion for another prisoner then there would be a stronger argument that it was unlawfully discriminatory to refuse an exception to the vegan.</p> <p>The prison authority may use the Prison Rules to justify interference. The rules may stipulate that prisoners are required to do equal work in different departments on a rota in the interests of prison order and as such, the interference may be</p>

<p>arguing that a requirement to undertake kitchen duties violates the human right to practice as a vegan.</p>	<p>deemed a reasonable and justified means of achieving the legitimate aim.</p> <p>The first step would be to write to the prison to raise the issue and see what justification was provided. For more guidance on vegans in prison, please visit the Vegan Prisoners Support Group http://vpsg.org/</p>
<p>21. You're applying for unemployment benefits and are told you must apply for a job that involves killing animals and if you don't apply you will be penalised.</p>	<p>This is indirect discrimination. The state is applying a blanket policy in a way that has a negative impact on you as a vegan.</p> <p>In order for this to be permissible they would have to show that the practice is objectively justified by a legitimate aim and that the means of achieving that aim are appropriate, necessary and proportionate. A court would likely find that the aim of encouraging people into work was legitimate. It would then consider whether or not the means was appropriate, necessary and proportionate. Is a blanket policy that makes no allowance for fundamental convictions appropriate and necessary? Could they achieve their aim while making allowances for fundamental convictions? Would it be unduly burdensome to make an exception for a vegan claimant?</p> <p>If we think back to the prison food case and the print room case, they help us to foresee how a court may look at this question. A court is likely to place significant weight on the disadvantage to a vegan in this situation, given the real distress a vegan would experience if required to work in a slaughterhouse, and the severe consequences for someone refused benefits as a result of refusing to apply for that position. It is also unlikely to find that it would be unduly burdensome for the state to have to take into account fundamental convictions in implementing its policy, particularly if it takes into account religious beliefs.</p> <p>The government is required to ensure our rights without distinction; if they would make an exception on religious grounds they should do the same for protected convictions such as veganism.</p> <p>It seems unlikely that the Department for Work and Pensions would require someone whose religious beliefs prohibited contact with pigs to apply to work in a slaughterhouse where pigs would be killed. Similarly, they should not require a vegan to apply to work in slaughterhouse.</p> <p>Moreover, the state body is covered by the Public Sector Equality Duty and so is required to have due regard for the need to eliminate unlawful discrimination, advance equal opportunity and foster good relations, including by taking steps to meet the needs of people from protected groups.</p> <p>A vegan in this situation would have a good argument that they were being subjected to unlawful, indirect discrimination.</p>

E. Private Service Providers	
<p>22. You're told that a café doesn't serve vegans. You know that they cater for other dietary needs.</p>	<p>This may be direct or indirect discrimination. If they do not serve vegans at all, because they are vegan, that is direct discrimination. It is more likely that they will serve vegans, but as they don't provide vegan options, they're putting arrangements in place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage.</p> <p>In order for the indirect discrimination to be permissible they will have to show that the practice is objectively justified by a legitimate aim and that the means of achieving that aim are appropriate and necessary.</p> <p>For a café this would likely mean that they would have to show that their business model was such that failing to provide vegan options was justified by their aim of promoting a certain type of food to a certain kind of customer and that failing to provide any vegan options was appropriate and necessary in achieving that aim.</p> <p>Given the impressive vegan menus provided by many venues, including venues that promote the consumption of animals and animal products as a core aspect of their business model, it is difficult to imagine many restaurants, cafés or bars that would be able to get themselves within the exception.</p> <p>On the other hand, it is always best to give advance notice, particularly for restaurants/hotels.</p>
<p>23. "My friends and I want to go to a restaurant for a meal. Should I expect the restaurant to provide vegan meals? Are they obliged by law? Should I give them notice of my requirements? Can they refuse to serve or to accept the booking?"</p>	<p>If they advised that they had nothing suitable for vegans, this would be indirect discrimination. Whether or not that was lawful would depend if they could show that it was unduly disruptive to provide vegan options. Given the rapid increase in vegan options in restaurants and bars across the UK in the past 5 years, and the fact that it is now common for vegans to be well catered including in specialist animal flesh venue and "seafood" restaurants, it is very difficult to see how any venue could now justify this. That is particularly so if they are catering for dietary or religious needs.</p> <p>That said, you should always give notice of a vegan booking as there are still venues in the UK that don't have vegan options on their menu. Given advance notice there is no excuse for a failure to cater</p>
<p>24. The café</p>	<p>This is indirect discrimination. They are putting arrangements in</p>

<p>does have vegan options, but they also have a meal deal option, where customers can choose a main and a drink for a fiver, which doesn't cover their vegan options.</p>	<p>place that apply to everyone, but that put someone with a protected characteristic at an unfair disadvantage as vegans are not able to participate in the offer.</p> <p>In order for the indirect discrimination to be permissible they will have to show that the practice is objectively justified by a legitimate aim and that the means of achieving that aim are proportionate.</p> <p>It is not easy to think of a scenario whereby excluding vegan options from a meal deal could be justified. The business aim is presumably to encourage people to buy three items instead of one, and to entice customers into the store with a deal as they may buy other things while there. To limit the deal to non-vegan products would have to be shown to be proportionate. Would it be possible to achieve the aim and include vegans? Are there suitable vegan products that could be made part of the deal? If there are it should be difficult for the business to justify excluding them. If there are not that raises the question whether they are discriminating by failing to provide vegan options, as discussed in the example above.</p>
<p>25. "I need to hire a car. Does the car hire company have an obligation to provide to me a vehicle with upholstery interior and not animal skin one?"</p>	<p>If the hire company has only cars with animal skin then arguably that is indirectly discriminatory to vegans, as it is against their convictions to use animal skin. However, unlike with the provision of food that is suitable for vegans which is increasingly easy to provide, it may not be as straightforward for a car hire company to ensure that it has vehicles suitable for vegans. The car company may succeed in arguing that its approach was proportionate. However, businesses are increasingly using animal free products, including car companies. It is possible to get tyres that are suitable for vegans easily, and many vehicles are upholstered in animal-free materials. As provision becomes more widespread it will become more difficult for companies to justify a lack of vegan friendly options.</p>
<p>25. "I have set up a vegan café. I ensure that I have options for dietary needs, such as coeliac, however I have been contacted recently from someone who says I am discriminating against them by failing to provide meat.</p>	<p>Non-vegans may have protected characteristics, such as religion, race, sex or sexual orientation, but their non-veganism is not a protected conviction or philosophical belief. It is not impossible that a court could find that an individual held a genuine philosophical belief which encompassed animal use, but they would have to convince the court with the kind of evidence we described above in relation to Mr Hashman, and they would have to persuade the court that the philosophy passed the test for protection. That seems unlikely. Most people who are not vegan do not consume animals because they hold a fundamental belief that it would be wrong not to do so; most people consume animals because they were brought up doing so and most people around them do so. Most people have not considered the matter very deeply at all.</p> <p>Even if non-veganism were protected, there would also be a very strong argument that it was proportionate not to provide anything non-vegan given that the whole purpose of the venue is to avoid any animal products. This could be distinguished from a steak</p>

Should I be concerned about equality law?"	venue, which has the purpose of selling a certain type of animal products. It does not have the purpose of avoiding non-animal products, whereas the vegan venue has the objective of avoiding anything taken from an animal. If the owners of the vegan café were vegan themselves, as opposed to plant-based, their own rights as vegans would also come into consideration.
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PART 4

Self-help: Using your rights to protect yourself and encourage positive change

4.1 Self-help

There are hundreds of thousands of vegans in the UK and very few vegan lawyers who know and understand vegan rights issues. Of necessity, there will have to be a significant element of self-help if we are to use vegan rights to advance animal rights. With that in mind we provide below some example letters to assist you in drafting your own letters and emails to draw attention to your rights, pointing out the true meaning of veganism and what the law requires.

4.2 What the Sample Letters Cover

The situations vegans deal with are quite specific in terms of the issues and the facts. Subsequently, we are unable to provide a template letter that will fit all scenarios. The following are examples covering some of the most common scenarios in which vegans face difficulties. We encourage vegans living in the UK to make use of these examples where possible, adding their own facts and specifics and opening up communication with a view to promoting positive change in reliance on their legal rights.

These sample letters are intended to give examples of opening letters or emails, in which the issue would be brought to the attention of the responsible party, and a request made for the situation to be remedied. The aim would be to open dialogue to see if a workable resolution could be found. How things progress will very much depend on how the responsible party responds. For example, if an employer responded to say that they had taken the vegan requirements into account but concluded that it would cause too much disruption to provide for vegan employees, it would then be a case of considering what they had to say in support of that and, if appropriate, responding to explain why you disagreed that providing for vegans would

cause disruption to such an extent that they were not required to provide for vegans.

4.3 Sample Letters

Employment

Safety Clothing

[This draft letter could also be adapted for use in relation to other standard issue items, for example, leather ipad cover, laptop bag or business card holder]

Dear [employer]

I am writing to ask [name of company/business] to consider my request for an alternative to the [standard issue item, for example, safety boots] provided to staff. The [standard issue item, for example, safety boots] are not suitable for vegans, as they [are made from animal skin / contain animal ingredients].

Veganism is a way of living which seeks to exclude, as far as is possible and practicable, all forms of exploitation and killing of animals for food, clothing or any other purpose. I live my life according to this moral philosophy. It is against my fundamental beliefs to [wear the skin of an animal / wear or use things made from animal ingredients].

I appreciate that the company must comply with safety legislation. On the other hand, my right to live according to my fundamental conviction that it is wrong to use and kill non-human animals is protected under human rights law and equality law. This means that employers have a responsibility under the Equality Act 2010 to avoid any discrimination on the grounds of veganism. The policy of issuing [safety boots] which are not suitable for vegans indirectly discriminates against me.

As such, my employer must consider my reasonable request for an alternative and provide a suitable alternative unless to do so would be unduly disruptive. I do not think it would be unduly disruptive in this case as I have looked into alternatives and have found [refer to alternative located, give link to where it can be purchased / confirmation it is a suitable alternative and satisfies safety requirements].

[If the employer is a state body: Moreover, as a public entity [name of entity] is bound by the Public Sector Equality Duty, which requires them to have due

regard for the need to eliminate unlawful discrimination, advance equal opportunity and foster good relations, including by taking steps to meet the needs of people from protected groups. Given that it is possible to procure [safety boots] which comply with safety standards and which are suitable for everyone, it would be in line with the Public Sector Equality Duty for [name of entity] to look at making the [refer to alternative] its standard issue [safety boots].

I would be very happy to discuss this and provide any more information that you may require.

Yours sincerely,

[your name]

Milk Rota

Dear [employer]

I am writing to ask [name of company/business] to relieve me from participating in the milk rota.

Veganism is a way of living which seeks to exclude, as far as is possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose. I live my life according to this moral philosophy. It is against my fundamental beliefs to purchase milk that was taken from an animal. I not only avoid consuming milk that has been taken from an animal myself, I also avoid participating in the consumption of that milk in any way, including by others, for example by purchasing it. Taking part in the milk rota is therefore inconsistent with my fundamental beliefs.

My right to live according to my fundamental conviction that it is wrong to use and kill non-human animals is protected under human rights law and equality law. This means that employers have a responsibility under the Equality Act 2010 to avoid discrimination on the grounds of veganism. The policy of requiring all employees to purchase milk taken from animals indirectly discriminates against me.

As such, my employer must consider my reasonable request that I be excluded from the rota and agree to it unless it would cause disruption for the business / other employees to such an extent that it would be proportionate to refuse my request. I do not think that would be the case here.

I would be very happy to discuss this and provide any more information that you may require.

I look forward to hearing from you.

Yours sincerely,

[your name]

Provision of vegan food / drink

[written specifically to request plant-milk provision but can be adapted to refer to any work-related food or drink provision, for example, at a conference / meeting / event or in a work canteen]

Dear [employer]

I am writing to ask [name of company/business] to provide me with an alternative to the cow's milk that is provided to staff free of charge, as it is not suitable for me.

Veganism is a way of living which seeks to exclude, as far as is possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose. I live my life according to this moral philosophy. I do not consume milk that has been taken from other animals. I do consume plant-based milk.

My right to live according to my fundamental conviction that it is wrong to use and kill non-human animals is protected under human rights law and equality law. This means that employers have a responsibility under the Equality Act 2010 to avoid any discrimination on the grounds of veganism. The policy of providing all employees with cow's milk indirectly discriminates against me because it is not suitable for me.

[[If the employer is a state body: Moreover, as a public entity [name of entity] is bound by the Public Sector Equality Duty, which requires them to have due regard for the need to eliminate unlawful discrimination, advance equal opportunity and foster good relations, including by taking steps to meet the needs of people from protected groups.]]

An employer must consider my reasonable request for alternative provision and agree to it unless cause disruption for the business / other employees to such an extent that it would be proportionate to refuse my request. I do not think that would be the case here. This could be [insert any specifics regarding frequency of purchasing / amount likely to be used / where it can be purchased from and for how much].

I would be very happy to discuss this and provide any more information that you may require.

I look forward to hearing from you.

Yours sincerely,

[your name]

Harassment

Dear [employer / Human Resources]

I am writing to advise you that I have been harassed on account of my protected beliefs and to ask that you take appropriate steps to address this and ensure it does not happen again.

Veganism is a way of living which seeks to exclude, as far as is possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose. I live my life according to this moral philosophy.

My right to live according to my fundamental conviction that it is wrong to use and kill non-human animals is protected under human rights law and equality law. This means that employers have a responsibility under the Equality Act 2010 to avoid any discrimination or harassment on the grounds of veganism.

[describe what happened / how you were harassed]

This amounts to “unwanted behaviour linked to a protected characteristic” that “violates someone’s dignity or creates an offensive environment for them.” [explain the impact of the behaviour on you].

I believe it would assist if [give suggestions for steps that ought to be taken if possible, for example, it may be helpful if the staff are educated in what veganism is, in particular that it is not a diet or lifestyle but a moral conviction that it is wrong to use and kill other animals, and the protections vegans have. You may want to suggest ways in which the staff could be educated in veganism that fit with the culture of your place of work / their means of communications. Perhaps you could do a post in an update email bulletin or even give a talk.]

[If the employer is a state body: Moreover, as a public entity [name of entity] is bound by the Public Sector Equality Duty, which requires them to have due regard for the need to eliminate unlawful discrimination, advance equal opportunity and foster good relations, including by taking steps to meet the needs of people from protected groups.]]

I would be very happy to discuss this and provide any more information that you may require.

Yours sincerely,

[your name]

Health / Hospital

Food

Dear Catering Manager

I am writing to advise you that during my recent stay at [name of hospital] I was not provided with food that is suitable for vegans, despite having requested it.

[More detail of the position you were put in – were you told they had no suitable food or did they have a vegan menu but none of it was available etc? / what you had to do as a result of the lack of provision]

Veganism is a way of living which seeks to exclude, as far as is possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose. I live my life according to this moral philosophy. This means that I do not consume anything that has been taken from an animal.

My right to live according to my fundamental conviction that it is wrong to use and kill non-human animals is protected under human rights law and equality law. This means that State hospitals must not interfere with my right to freedom of conscience and have a responsibility under the Equality Act 2010 to avoid any discrimination on the grounds of veganism. By failing to provide vegan food [name of hospital] is in breach of these rights.

Moreover, as a public entity [name of entity] is bound by the Public Sector Equality Duty, which requires them to have due regard for the need to eliminate unlawful discrimination, advance equal opportunity and foster good relations, including by taking steps to meet the needs of people from protected groups. It would be in line with this duty to look at adding good, tasty, nutritious plant-based meals on all your standard menus.

I appreciate that the NHS works with a tight budget, and that it must cater to all. It is possible to provide good vegan food within the NHS budget, and many NHS hospitals already provide very good vegan options. Moreover, food that is suitable for vegans is inclusive as it can be enjoyed by everyone. If you

included good vegan options on your standard daily menus you would find that non-vegans would also select these dishes.

There are other benefits to increasing the amount of plant-based options on your menus. Plant-based options have a far lesser negative impact on the environment and on climate change, and plant-based foods can be highly nutritious. All of the leading dietetic associations, including the British Dietetic Association, recognise that totally plant-based diets are suitable for every age and life stage.

The Vegan Society can help your catering team to add good vegan options to your menus. They have an in-house dietitian who can help with balanced meals and answer any questions you may have. You can contact Heather Russell on nutrition@vegansociety.com. They also have resources for caterers here: <https://www.vegansociety.com/cateringforeveryone>.

I hope you will acknowledge that I should have been provided with vegan options during my stay and that you will agree that vegan options ought to be offered to everyone every day.

I look forward to hearing from you.

Yours sincerely

[your name]

Medication

Dear [GP / Sister of ward]

I am writing to ask [name of GP practice / hospital] to consider my request for an alternative to [standard issue medication] as it is not suitable for vegans, as it [contains gelatine / lactose].

Veganism is a way of living which seeks to exclude, as far as is possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose. I live my life according to this moral philosophy. It is against my fundamental beliefs to consume things that contain animal ingredients.

My right to live according to my fundamental conviction that it is wrong to use and kill non-human animals is protected under human rights law and equality law. This means that the NHS has a responsibility under the Equality Act 2010 to avoid any discrimination on the grounds of veganism. The policy of

providing medication which is not suitable for vegans indirectly discriminates against me.

As such, [name of GP / hospital] must consider my reasonable request for an alternative and provide that alternative unless it would be unduly disruptive for them to do so. I do not think it would be unduly disruptive in this case as I have looked into alternatives and have found [refer to alternative if possible – if not sure if there is an alternative ask them to confirm if there is an alternative which does not contain anything taken from an animal].

Moreover, as a public entity [name of GP / hospital] is bound by the Public Sector Equality Duty, which requires them to have due regard for the need to eliminate unlawful discrimination, advance equal opportunity and foster good relations, including by taking steps to meet the needs of people from protected groups.

I would be very happy to discuss this and provide any more information that you may require.

I look forward to hearing from you.

Yours sincerely

[your name]

School

Harassment / bullying

Dear [Head]

I am writing to advise you that my child [has been / is being] bullied on account of [their / my] protected beliefs and to ask that you take appropriate steps to address this and ensure it does not happen again.

Veganism is a way of living which seeks to exclude, as far as is possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose. [They/I/we] live [their/my/our life/lives] according to this moral philosophy.

Our right to live according to our fundamental conviction that it is wrong to use and kill non-human animals is protected under human rights law and equality law. This means that schools have a responsibility under the Equality Act 2010 to avoid any discrimination on the grounds of veganism.

[describe what happened / how they were bullied]

[refer to the school's anti-bullying policy and request that action be taken]

Moreover, as a public entity [name of entity] is bound by the Public Sector Equality Duty, which requires them to have due regard for the need to eliminate unlawful discrimination, advance equal opportunity and foster good relations, including by taking steps to meet the needs of people from protected groups.

I believe it would assist if [give suggestions for steps that ought to be taken if possible, for example it may be helpful if the staff and pupils are educated in what veganism is, in particular that it is not a diet or lifestyle but a moral conviction that it is wrong to use and kill other animals, as well as in the protections vegans have. You may want to suggest ways in which the staff and pupils could be educated in veganism. Perhaps the school could invite someone in to give a talk on veganism, to explain what it means and why people go vegan. You may also want to suggest that the school incorporate this into the curriculum to ensure it is taught to pupils year on year from now on].

As you can imagine, I am very troubled by what [name of child] has been through and I would like to ensure that this is remedied as a matter of urgency.

I would be very happy to discuss this and provide any more information that you may require.

I look forward to hearing from you.

Yours sincerely,

[your name]

Animal Use

[This letter addresses the example of chicken hatching but it can be adapted for any form of animal use]

Dear [Head]

I am writing to ask that you end the practice of using live animals in class.

[Detail of the situation – for example hatching chickens in class]

Veganism is a way of living which seeks to exclude, as far as is possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose. [They/we] live [their/our life/lives] according to

this moral philosophy. This means that [they/we] do not use animals as if they were our resources.

Our right to live according to the fundamental conviction that it is wrong to use and kill non-human animals is protected under human rights law and equality law. This means that state schools must not interfere with our right to freedom of conscience and have a responsibility under the Equality Act 2010 to avoid any discrimination on the grounds of veganism. By using animals in class the school is in breach of these rights in relation to my child.

Moreover, as a public entity [name of school] is bound by the Public Sector Equality Duty, which requires them to have due regard for the need to eliminate unlawful discrimination, advance equal opportunity and foster good relations, including by taking steps to meet the needs of people from protected groups. It would be in line with this duty to stop using animals in class at all.

As a vegan parent, I also have the right to have my child educated in accordance with my fundamental convictions. The use of animals goes against those convictions. It is not possible to effectively remove my child from the activity as it is in the classroom over a period of weeks. They cannot avoid seeing their teachers and fellow students using the animals.

Using animals is not necessary in order to educate children. Whatever particular educational benefit it is thought that children will gain from this experience can be provided using an alternative that avoids animal use. In any event, the main thing that is conveyed to children by using animals in class is that other animals are things that we can buy and sell, obtain to use for our own unnecessary purposes and then dispose of when they are no longer of use or interest to us. That is not what we should be teaching children about animals.

I hope that you will agree that animals should not be used in class and that you will put an end to this practice and incorporate alternatives into the curriculum. For example, the children could learn about animals by visiting an animal sanctuary such as [name local vegan sanctuary] where animals are living out their lives and they can learn that they each have a personality, interests and relationships, just as dogs and cats do. Unlike a zoo, where animals are kept in captivity for our amusement, at a sanctuary they live as much as possible according to their own interests and for no other purpose than their own lives.

I look forward to hearing from you.

Yours sincerely

[your name]

Excursions

Dear [Head]

I am writing to ask that you reconsider the trip that has been arranged for [class – pupils] to the [zoo / wildlife park / sea life centre etc]. My child [name] is in class [--].

Veganism is a way of living which seeks to exclude, as far as is possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose. [Name of child] lives [his/her/their] life according to this moral philosophy. This means that they do not use animals as if they were our resources, including by viewing them in captivity.

Our right to live according to the fundamental conviction that it is wrong to use and kill non-human animals is protected under human rights law and equality law. This means that state schools must not interfere with our right to freedom of conscience. As a vegan parent, I also have the right to have my child educated in accordance with my fundamental convictions. The use of animals for entertainment goes against those convictions.

The school also has a responsibility under the Equality Act 2010 to avoid any discrimination on the grounds of veganism. Organising a trip that necessarily excludes [name of child] is discriminatory. The prohibition against discrimination applies to the entire education process, including trips and excursions. The Equalities and Human Rights Commission provides guidance about this obligation and recommends forward planning to ensure that trips are arranged that are inclusive for all children.

Moreover, as a public entity [name of school] is bound by the Public Sector Equality Duty, which requires them to have due regard for the need to eliminate unlawful discrimination, advance equal opportunity and foster good relations, including by taking steps to meet the needs of people from protected groups. It would be in line with this duty to have a policy against trips that involve animal use and exploitation, to ensure trips are suitable for all.

Viewing animals in captivity is not necessary in order to educate children. Whatever particular educational benefit it is thought that children will gain from this experience can be provided using an alternative that avoids animal use. In any event, the main thing that is conveyed to children by viewing animals in captivity is that other animals are things we use for our own unnecessary purposes. That is not what we should be teaching children about animals.

I hope that you will agree that an alternative activity that is suitable for everyone would be preferable. For example, the children could learn about animals by visiting an animal sanctuary such as [name local vegan sanctuary] where animals are living out their lives and they can learn that they each have

a personality, interests and relationships, just as dogs and cats do. Unlike at a zoo, where animals are kept in captivity for our amusement, at a sanctuary they live as much as possible according to their own interests and for no other purpose than their own lives.

I look forward to hearing from you.

Yours sincerely

[your name]

Food

Dear [Head]

I am writing to ask that you ensure that my child is provided with food that is suitable for vegans.

[Detail of the situation – does the school canteen have no vegan options? Is your child entitled to free school meals but is not able to take them up because there is no suitable food? What has been the consequence for them / you as a result of the lack of provision?]

Veganism is a way of living which seeks to exclude, as far as is possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose. [They/we] live [their/our life/lives] according to this moral philosophy. This means that [they/we] do not consume anything that has been taken from an animal.

Our right to live according to the fundamental conviction that it is wrong to use and kill non-human animals is protected under human rights law and equality law. This means that state schools must not interfere with our right to freedom of conscience and they have a responsibility under the Equality Act 2010 to avoid any discrimination on the grounds of veganism. By failing to provide vegan food [name of school] is in breach of these rights.

Moreover, as a public entity [name of school] is bound by the Public Sector Equality Duty, which requires them to have due regard for the need to eliminate unlawful discrimination, advance equal opportunity and foster good relations, including by taking steps to meet the needs of people from protected groups. It would be in line with this duty to look at developing good, tasty, nutritious plant-based meals on all your standard menus.

I appreciate that schools work with a tight budget and that they must cater to all. It is possible to provide good vegan food within the school budget, and many schools already provide very good vegan options. Moreover, food that is

suitable for vegans is inclusive as it can be enjoyed by everyone. If you included good vegan options on your standard daily menus you would find that non-vegans would also select these dishes.

There are other benefits to increasing the amount of plant-based options on your menus. Plant-based options have a far lesser negative impact on the environment and on climate change, and plant-based foods can be highly nutritious. All of the leading dietetic associations, including the British Dietetic Association, recognise that totally plant-based diets are suitable for every age and life stage.

The Vegan Society can help your catering team to add good vegan options to your menus. They have an in-house dietitian who can help with balanced meals and answer any questions you may have. You can contact Heather Russell on nutrition@vegansociety.com. They also have resources for caterers here: <https://www.vegansociety.com/cateringforeveryone>.

I hope you will acknowledge that my child should be provided with vegan options and that you will agree that vegan options ought to be offered to everyone every day.

I look forward to hearing from you.

Yours sincerely

[your name]

Private Service Provider

Food provision

Dear Sir/Madam,

I am writing to ask you to add vegan options to your menu.

Veganism is a way of living which seeks to exclude, as far as is possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose. I live my life according to this moral philosophy. This means that I do not consume anything that has been taken from an animal.

My right to live according to my fundamental conviction that it is wrong to use and kill non-human animals is protected under human rights law and equality law. This means that service providers have a responsibility under the Equality

Act 2010 to avoid any discrimination on the grounds of veganism. By failing to provide vegan food [name of business] is in breach of these rights.

Most food and drink venues now cater well for vegans, including chain restaurants, fast-food venues and those who specialise in particular animal products. Today it is the exception to find a venue that does not cater, such as your own. Not only does this demonstrate that it is not unduly burdensome to provide options, but most venues are finding that it is essential to provide good vegan options due to the demand and they are more likely to be successful if they do cater.

I would be very happy to discuss this in more detail with you and to provide examples of good vegan options available elsewhere.

I look forward to hearing from you.

Yours sincerely

[your name]

Glossary of acronyms

Equality and Human Rights Commission	UK EHRC
European Convention on Human Rights	ECHR
European Court of Human Rights	ECtHR
European Union	EU
Human Rights Act 1998	HRA
International Convention on Civil and Political Rights	ICCPR
Public Sector Equality Duty	PSED
Universal Declaration of Human Rights	UDHR
Country / nation / territory under one government	State

Appendix 1

Further information help and advice.

For more information and advice see:

1. The Equality Advisory and Support Service

If you feel you are subjected to discrimination in England, Scotland or Wales, the Equality and Human Rights Commission advise that you get help from the Equality Advisory Support Service. The contact details are:

Equality Advisory Support Service (EASS)
FREEPOST
Equality Advisory Support Service
FPN4431
Telephone: 0808 800 0082
Textphone: 0808 800 0084
Monday to Friday, 9am to 8pm
Saturday, 10am to 2pm
Website: www.equalityadvisoryservice.com

1. Equality and Human Rights Commission

<https://www.equalityhumanrights.com/en>
<https://www.equalityhumanrights.com/en/commission-scotland>
<https://www.equalityhumanrights.com/en/commission-wales>

See publications such as:

<https://www.equalityhumanrights.com/en/advice-and-guidance/religion-or-belief-discrimination>
<https://www.equalityhumanrights.com/en/publication-download/your-rights-equality-work-how-you-are-managed>
<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-guidance#h2>

2. The Vegan Society

You can also contact The Vegan Society. Take a look at the Advocacy page at:
<https://www.vegansociety.com/take-actionspeak-out/were-here-help>

3. The Citizens Advice Bureau – www.citizensadvice.org.uk

<https://www.citizensadvice.org.uk/>

<https://www.citizensadvice.org.uk/scotland/>

<https://www.citizensadvice.org.uk/wales/>

<https://www.citizensadvice.org.uk/nireland/>

You can also speak to advisors at the Citizens Advice Bureau. They have an online chat facility too: <https://www.citizensadvice.org.uk/about-us/contact-us/web-chat-service/>

See publications:

<https://www.citizensadvice.org.uk/discrimination/about-discrimination/equality-act-2010-discrimination-and-your-rights>

<https://www.citizensadvice.org.uk/law-and-courts/civil-rights/human-rights/what-rights-are-protected-under-the-human-rights-act/your-right-to-freedom-of-religion-and-belief/>

4. Vegan Prisoners Support Group <http://vpsg.org/>

www.goveganscotland.com discussed in the introduction – campaigns for vegan provision in state institutions and encourages vegan provision in private venues).

5. International Vegan Rights Alliance: <http://www.theivra.com/>

Vegan Society - <https://www.vegansociety.com/>

Appendix 2

Table of cases

Arrowsmith v UK App no 7050/75 [1978] ECHR (12 October 1978)

Baggs v Fudge [2005] ET 1400114/2005 (23 March 2005)

Bayatyan v Armenia (2011) 54 EHRR 467

Campbell and Cosans v UK (1982) Series A no 48

Finnon v Asda Stores Ltd ET/2402142/05

Grainger plc v Nicholson [2010] IRLR 4 (EAT).

Hashman v Milton Park (Dorset) Ltd [2011] ET 3105555/2009 (31 January 2011)

Jakóbski v Poland App no 18429/06 (ECtHR 7 December 2010)

Kelly & ors v Unison [2009] ET 2203854/08 (22 December 2009)

Kjeldsen, Busk Madsen and Pedersen (1982) Series A no 23

Maistry v The BBC [2011] ET1213142/2010 (14 February 2011)

McClintock v Department of Constitutional Affairs [2008] IRLR 29 (EAT)

Mr S T Uncles v NHS Commissioning Board and others [2017] ET 1800958/2016 (13 October 2017)

R (Williamson) v Secretary of State for Education and Employment [2005] 2 AC 246

Vartic v Romania App no 14150/08 (ECtHR 17 March 2014)

W v UK (1993) 16 EHRR (Commission Decision) no 18187/91 ECHR Decision of 10 February 1993

Walker (Appellant) v Innospec Limited and others (Respondents) [2017] UKSC 47

Williams v South Central Limited [2004] ET 2306989/2003 (16 June 2004)

X v UK App no 5947/72 15 ECHR Dec & Rep 8 (1976)

Appendix 3

Further Reading

Animal Rights / Liberation

Regan T, *The Case For Animal Rights* (University of California Press, 1983)

Regan T, *Defending Animal Rights*, 2001

Francione G, *Animals, Property and the Law* (Temple University Press 1995)

— Rain Without Thunder: *The Ideology of the Animal Rights Movement*.
(Temple University Press, 1996)

— *Animals as Persons: Essays on the Abolition of Animal Exploitation*
(Columbia University Press 2008)

The Francione sections of Francione and Garner R, *The Animal Rights Debate* (Columbia University Press 2010)

goveganworld.com/

theresanelephantintheroomblog.wordpress.com/

www.goveganscotland.com/

Vegan Advocacy

Francione, G and Charlton, A, *Eat Like You Care*

— The Abolitionist Approach to Animal Advocacy

— 'Animal Rights: The Abolitionist Approach',

<http://www.abolitionistapproach.com/>

Taft, C, *Motivational Methods for Vegan Advocacy: A Clinical Psychology Perspective*, 2016

About the authors



Dr Jeanette Rowley is a long-standing vegan and animal rights activist. She has a PhD in law that focuses specifically on veganism and human rights. She is the founder of the International Vegan Rights Alliance, a member of The Vegan Society's Academic Advisory and Research Committee and a member of the Equality and Human Rights Commission Religion and Belief Research Network. She is a Master of Laws with Distinction and a Fellow of the Higher Education Academy.



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