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**The Legal and Moral Status of Service
Dogs in England and Wales**

J L Horton

PhD

2021

The Legal and Moral Status of Service
Dogs in England and Wales

Jessica Louise Horton

A thesis submitted in partial fulfilment of
the requirements of the University of
Northumbria at Newcastle for the degree
of Doctor of Philosophy

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Business and Law

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Abstract

Service dogs sit within a liminal space in our society, contributing to the public good but without the legal recognition and protection of a worker and, therefore, none of the corresponding duties that are entailed with being recognised as such. There has been an increase in interest concerning service animals gradually over the last decade, with significant public interest occurring in the last five years. The high-profile attack on police dog, Finn in 2016 raised public awareness and resulted in the ensuing campaign for Finn's law, otherwise known as the Animal Welfare (Service Animals) Act which was enacted in June 2019, and Finn's law part two, the Animal Welfare (Sentencing) Act, which was enacted in June 2021.

This thesis draws on the work of Donaldson and Kymlicka, in addition to a survey and interviews that were conducted with service dog handlers, to consider the implications of considering service dogs as our co-citizens rather than as property. This thesis has explored citizenship theory in relation to service dogs, through using empirical research which has not been done before. Secondly, the empirical aspects of this research have addressed a gap in our current understanding and explored how it may be possible to use the joint experiences of service dog and handler to create positive legal and policy changes for service dogs.

Through an exploration of the literature and the empirical findings, a number of areas have been identified as potential areas of improvement to the current legal and social position of service dogs. These areas appeared to resonate with the handlers who took part in the empirical research and would also connect with the wider citizenship approach. Although these developments could be achieved through legislation, this would not be the only method to achieve their implementation.

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List of abbreviations

- AAI** – Animal Assisted Intervention
- AAT** – Animal Assisted Therapy
- ART** – Animal Rights Theory
- ASPA** – Animals (Scientific Procedures) Act 1986
- AWA** – Animal Welfare Act 2006
- CA** – Children Act 1989
- CPC** – Code of Practice
- DEFRA** – Department for Environment, Food, and Rural Affairs
- EFRA** – Environment, Food and Rural Affairs Committee
- EU** – European Union
- IPCC** – Independent Police Complaints Commission
- OBE** – Order of the British Empire
- PD** – Police Dog
- PDSA** – Peoples Dispensary for Sick Animals
- RAVC** – Royal Army Veterinary Corp
- RVCS** – Royal College of Veterinary Surgeons
- RSPCA** – Royal Society for the Prevention of Cruelty to Animals
- NHRP** – Nonhuman Rights Project
- NHS** – National Health Service
- UN** – United Nations
- UNCRC** – United Nations Convention on the Rights of the Child
- UDHR** – Universal Declaration of Human Rights
- UK** – United Kingdom

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¹ Including Therapy Dogs Nationwide

Declaration

I declare that the work contained in this thesis has not been submitted for any other award and that it is all my own work. I also confirm that this work fully acknowledges opinions, ideas and contributions from the work of others.

Any ethical clearance for the research presented in this thesis has been approved. Approval has been sought and granted by the The Faculty of Business and Law Research Ethics Committee at Northumbria University which was granted on the 29th of July 2019.

I declare that the Word Count of this Thesis is 75,212 words

Name: Jessica Louise Horton

Signature: *jhorton*

Date: December 2021

Chapter One: Introduction

1.1 Introduction

I have always been in awe of dogs; in awe of their capabilities, and the enduring relationships that they have established with humans over the last 15,000 years or so.² Society's relationship with dogs has changed considerably over the last century; notably, as Franklin suggests, "pets" changed to "companion animals" around 50 years ago.³ Now in 2021, the United Kingdom (UK) is very much a self-proclaimed nation of companion animal lovers, with an estimated population of 9.6 million companion dogs.⁴ Dogs have helped shape both humans and society, sharing a collective history. Although companion dogs feature throughout this thesis, the main focus is on dogs that contribute and provide a benefit to society through work. I refer to these dogs as service dogs, the definition of which will be explained in further detail in this chapter.

1.2 Background

"Never underestimate the value of these dogs and their capabilities."⁵

Dogs and humans have a long history of working alongside one another. During the 15th century, parish constables would be accompanied by their companion dogs on night patrols,⁶ with the earliest recording of 'official' police dogs being requested in 1888, in the search for Whitechapel's Jack the Ripper. The dogs that were brought in at the time were never deployed, but "the proposed use of bloodhounds against the Ripper constituted an important historical moment, demonstrating the value of dog breeding and the utilization of dogs to follow scents for the primary purpose of urban policing and forensic investigation."⁷ In 1907, upon hearing about the successful use of police dogs in Belgium, England developed its own police dog

² UK Wolf Conservation Trust, 'Domestication: The Evolution of the Dog', 1
< <https://ukwct.org.uk/files/domestication.pdf> > accessed 15th May 2019

³ Adrian Franklin, "Be[a]ware of the Dog": A Post-Humanist Approach to Housing', (2006) 23(3), *Housing, Theory and Society*
<<https://www.tandfonline.com/doi/full/10.1080/14036090600813760?scroll=top&needAccess=true&instanceName=Northumbria+University>> accessed 16th May 2019

⁴ PDSA The Paw Report 2021, 'Pet populations across the UK,' [UK pet populations of dogs, cats and rabbits - PDSA](#) accessed 26th October 2021

⁵ Leicestershire Police: Dog Section referring to PD Kylo who helped track a vulnerable missing individual, saving their life. (1) [Leicestershire Police: Dogs section – Posts | Facebook](#) posted on and accessed on the 26th October 2021

⁶ British Transport Police, 'The Dog Section',
< http://www.btp.police.uk/about_us/our_history/the_dog_section.aspx > accessed 21st May 2019

⁷ Neil Pemberton, 'Bloodhounds as Detectives' *Dogs, Slum Stench and Late-Victorian Murder Investigation*, (2013) 10(1) *The Journal of the Social History Society*, 70
< <https://doi.org/10.2752/147800413X13515292098197> > accessed 7th March 2019

training scheme.⁸ In addition, dogs played vital roles in World War I and World War II, their sacrifice and bravery being commended through their own version of the Victoria Cross, the PDSA Dickin Medal for Gallantry which continues today.⁹ The PDSA Dickin Medal was originally established in 1943 by the founder of the PDSA, Maria Dickin CBE.

“The PDSA Dickin Medal is the highest award any animal can receive whilst serving in military conflict. It is recognised worldwide as the animals’ Victoria Cross... it acknowledges outstanding acts of bravery or devotion to duty displayed by animals serving with the Armed Forces or Civil Defence units in any theatre of war throughout the world.”¹⁰

On the 23rd of April 2021, the 73rd PDSA Dickin Medal was awarded posthumously, to Leuk. Leuk was a Belgian Malinois Commando dog serving on the behalf of the French Navy, both trained to attack and to search for explosives. In May 2019, he was killed during the course of what ended up being his last ever mission,¹¹ “when Leuk was repatriated, his body was covered with the French flag. His human comrades formed a guard of honour – a tradition usually reserved for fallen soldiers – as a symbol of their respect and gratitude for his exceptional contribution on the battlefield.”¹² The medal, as demonstrated by Leuk, is not limited to animals who have served on the behalf of the British Armed Forces, and it is not limited to recognising the bravery and devotion shown by service dogs. The award has been received by 36 dogs, 32 pigeons, 4 horses and 1 cat.¹³ These service animals have received an award that is the equivalent of the highest honour in the British system that human service personnel can receive for their service. This provides a strong example that as a nation we are happy to recognise a military service animal’s contribution as capable of being on par with their handlers and other service men and women.

Equally, there are awards designed to recognise the devotion, bravery and duty of non-military service animals. The PDSA Gold Award is described as the “non-military counterpart of the PDSA Dickin Medal.”¹⁴ This award, like the Victoria Cross, is the highest honour that can be awarded for civilian acts of gallantry, known as the George Cross. This award has been available since 2002 and has been awarded 30 times so far to both dogs and Magawa.¹⁵ Magawa is an African Giant Pouched Rat, who has spent his life detecting landmines in

⁸ British Transport Police, ‘The Dog Section’, < http://www.btp.police.uk/about_us/our_history/the_dog_section.aspx > accessed 21st May 2019

⁹ PDSA, ‘Dickin Medal for Gallantry’, [PDSA Dickin Medal - PDSA](#) accessed 21st May 2019

¹⁰ Ibid

¹¹ PDSA, ‘Leuk - posthumous PDSA Dickin Medal’, [Leuk – Posthumous Dickin Medal - PDSA](#) accessed 2nd October 2021

¹² Ibid

¹³ PDSA, ‘Dickin Medal for Gallantry’, [PDSA Dickin Medal - PDSA](#) accessed 2nd October 2021

¹⁴ PDSA, ‘PDSA Gold Medal for animal gallantry or devotion to duty’, [PDSA Gold Medal - PDSA](#) accessed 2nd October 2021

¹⁵ Ibid

Cambodia, it was announced in June 2021 that he was retiring from service.¹⁶ In 2014, the equivalent of an OBE for animals was created, known as the Order of Merit. The PDSA highlights that “by creating the PDSA Order of Merit, we can ensure that all extraordinary animal contributions to society can now be formally recognised and honoured, however and wherever they occur.”¹⁷ To date, 32 animals have been awarded the Order of Merit, comprised of 12 horses and 20 dogs.¹⁸ This award is not limited to service animals who work in public services but also animals who work for charities, for example, Max, a springer spaniel who received the award in February 2021 “for providing comfort and support to thousands of people worldwide.”¹⁹ Finally, there is the PDSA Commendation that has been awarded to not only dogs, horses and cats but also for recognising the companionship and enrichment provided by Spud, a Hamster, and Roary, a rabbit.²⁰ The Commendation “aims to celebrate the unparalleled devotion and enrichment that animals bring to our lives.”²¹ From the historical starting points outlined above there are now thousands of dogs²² across the country who are niche specialists, providing skills that are often beyond the capabilities of their human counterparts. There is no better example of this than the ongoing global pandemic.

2020 was an unprecedented year, with the global outbreak of Covid-19 bringing normal life to an abrupt halt. March 2020 saw the first of what would be three UK lockdowns, and by May of 2020, it was announced that a new government funded research trial had been launched to establish whether bio detection dogs could help in the fightback against Covid-19. Fast forward a year to May 2021 and the first phase of the study has been completed, with results showing that the six bio detection dogs are more accurate than a lateral flow test,²³ “giving a sensitivity of up to 94.3% and specificity of up to 92%, meaning they can reliably identify when people do and don’t have the disease.”²⁴ The study is now moving into its second phase,

¹⁶ Siem Reap, ‘PDSA Gold Medalist Magawa Retiring’, (*Apopo News*, 3rd June 2021)

¹⁷ PDSA, ‘PDSA Order of Merit for outstanding devotion’, [PDSA Order of Merit - PDSA](#) accessed 2nd October 2021

¹⁸ Ibid

¹⁹ PDSA, ‘Max - PDSA Order of Merit’, [Max - PDSA Order of Merit - PDSA](#) accessed 2nd October 2021

²⁰ PDSA, ‘PDSA Commendation for devotion’, [PDSA Commendation - PDSA](#) accessed 2nd October 2021

²¹ Ibid

²² There are no central statistics available for the number of dogs providing services in the UK

²³ Lateral flow tests have been shown to have a sensitivity of between 58-77%. See for example the results from, Dinnes J, Deeks JJ, Berhane S, Taylor M, Adriano A, Davenport C, Dittrich S, Emperador D, Takwoingi Y, Cunningham J, Beese S, Domen J, Dretzke J, Ferrante di Ruffano L, Harris IM, Price MJ, Taylor-Phillips S, Hooft L, Leeflang MMG, McInnes MDF, Spijker R, Van den Bruel A, ‘Rapid, point-of-care antigen and molecular-based tests for diagnosis of SARS-CoV-2 infection’, (2021) 3, *Cochrane Database of Systematic Reviews*
DOI: 10.1002/14651858.CD013705.pub2 accessed 26th May 2021

²⁴ Medical Detection Dogs, ‘Covid-19 – the nose knows,’
< https://www.medicaldetectiondogs.org.uk/covid-19-detection-dogs/?fbclid=IwAR20xTLSY_AziiG_7c1rCTFuVPwh5rxNN6385-fIHjzm7WH54bTvidJxjCU >
accessed 25th May 2021

training these dogs to work in public spaces, and one medical detection dog would be capable of screening up to 250 individuals in one hour²⁵ which is significantly quicker and less invasive than the current methods of testing that are in use. Many people reading the news headlines of “Faster than a PCR test: dogs detect Covid in under a second”²⁶ and “Super-sniffer dogs detect Covid with 94 per cent accuracy, UK study suggests”²⁷ will perhaps be surprised by, or think about, how wonderful these dogs are and whether this means that the person may be able to go on holiday or attend that festival sooner. There will be less people thinking about the day-to-day lives of Asher, Kyp, Lexi, Marlow, Millie and Tala, where they were born, how they were trained, or what happens at the end of their career. These incredible dogs will potentially save many lives, save time, and save money. Yet these dogs have the legal status of a pencil, though they have some legal protection, but no social or employment rights. These dogs are being fleetingly placed onto a pedestal and then, as normality is slowly restored, they will fade into the background of the airport or public spaces that they attend. Like many service dogs, their significant ongoing contribution will never truly be recognised or appreciated in a tangible way.

On the one hand, people marvel at the brilliance of service dogs, their ability to save and change the lives of humans for the better; they are temporarily deemed “heroes”, and as discussed, some are awarded medals for their service.²⁸ On the other hand, there is a deeply uncomfortable expectation that humans have placed upon them; the fact that they are “property” and “equipment,” in addition to a lack of legal protection and recognition. Service dogs contribute to our society through work for the benefit of the public and receive little in return. It was in 2002 that Melson noted that “the study of human-animal relationships historically has been ignored and continues to resist attention.”²⁹ Nearly 20 years on and this has changed significantly; in relation to companion animals this sentiment is no longer true, as there is a growing body of literature examining these types of human-animal relationships. However, in relation to service animals, this view persists, which is reflected in the lack of academic literature available. In 2010, Huss wrote that “the discussion of the ethical issues

²⁵ Ibid.

²⁶ Linda Geddes, ‘Faster than a PCR test: dogs detect Covid in under a second,’ (*The Guardian*, 24th May 2021)

²⁷ Telegraph Reporters, ‘Super-sniffer dogs detect Covid with 94 per cent accuracy, UK study suggests,’ (*The Telegraph*, 24th May 2021)

²⁸ For a recent example of both of these see, Harrison Jones, ‘Hero Manchester Arena police dog Mojo dies after ‘happy retirement,’ (*Metro News*, 20th May 2021)

²⁹ Gail F. Melson, ‘Psychology and the Study of Human-Animal Relationships’, (2002) 10(4) *Society and Animals*, 347

< <https://www.psychologytoday.com/sites/default/files/attachments/115726/psychology-and-human-animal-relationships.pdf> > accessed 23rd July 2019

relating to the use of service animals is in its incipient stage,”³⁰ and Coulter in 2015, who is one of the key scholars working within animal labour, observed that “...the diverse and complex realities of human-animal work relations remain relatively underexamined and are not well theorized.”³¹ Over the last decade, this has slowly started to change with more academics from different disciplines beginning to take an interest in the work and contributions of animals engaged in some form of labour. This is now starting to emerge as an area in its own right and this will be considered in more detail throughout the rest of this thesis.

1.3 Why this thesis?

Like the majority of PhD candidates, I began with a rather ambitious vision for my thesis, largely unfocused, and intent on changing the world of animals for the better. As my thesis progressed, its scope narrowed, and I managed to decide which specific area of animal law to focus on. Widely attributed to Jane Goodall is the following quotation, “what you do makes a difference, and you have to decide what kind of difference you want to make.”³² I have chosen to include this quote here as it reflects the primary reason why I chose to undertake a PhD in the first place. I always knew that I wanted a job working with or for animals, with the intention of creating a positive difference to their lives. My contribution to knowledge through this thesis may be small, but through exploring the gap in knowledge outlined in this thesis, I have been able to identify areas for future research and created a small additional building block for future knowledge. I hope that the contribution to knowledge through this thesis will make a small difference, but most importantly that, through the skills and knowledge that I have gained through this process, it will enable me to go on to create positive change for the lives of animals in the future.

I began my undergraduate law degree in 2014 with the intention of working within animal law when I graduated. This was not an easy aspiration given the lack of animal law modules at UK universities (including the one that I was attending) and the scarcity of careers working specifically within animal law at the time. It wasn't until March 2019 that the UK's first animal protection law firm was established by Advocates for Animals.³³ Undeterred, I did my own research and joined the UK Centre for Animal Law, and I decided to incorporate animals into other modules of my course where I could. I decided to undertake a PhD and strive to carve a

³⁰ Rebecca J. Huss, ‘Why Context Matters: Defining Service Animals Under Federal Law’, (2010) 37 Pepp. L. Rev < <https://www.animallaw.info/article/why-context-matters-defining-service-animals-under-federal-law> > accessed 23rd July 2019

³¹ Kendra Coulter, *Animals, Work, and the Promise of Interspecies Solidarity*, (Palgrave Macmillan; 1st ed. 2015 edition) 1

³² This quotation is widely attributed to Jane Goodall

³³ Advocates for Animals, ‘About Us’, < <https://advocates-for-animals.com/about> > accessed 24th March 2021

career out of helping animals in some way. It was by chance that I came across the studentship that was being advertised at Northumbria and I chose this thesis partly to align with the requirements of the studentship. At the time, the studentship was aimed at exploring how the interests or the rights of animals could be considered in legal proceedings that affect them. This was an area that I had interest in already, although my thesis has pushed the boundaries of this original aim.

1.4 Research question

The main rationale behind undertaking this research was to consider the legal and moral status of service dogs in England and Wales, exploring whether, and how, greater protection and a more just relationship with service dogs could potentially be achieved. Current legislation adopts a welfare-based approach to animals, and the inadequacies of this approach have led to the development of a number of theories over the years, where the overriding aim is to move us away from this dominant paradigm. This is however, no mean feat; it is attempting to challenge the status quo and move towards a new way of relating to animals. It is difficult to get away from welfarism when there is no reference point to when animals were treated differently; it requires rewriting a deeply entrenched way of thinking, which will be explored in more detail in chapter three. The majority of the main literature on this area emerges from Western countries, with the United States, Canada and Australia being particularly prominent. The literature, therefore, reflects many Western-held beliefs and norms, such as the keeping of dogs as companions, allowing them to live inside the house rather than in an outdoor kennel or on the street. The underpinning welfarist paradigm informs the UK and Western societies and has influenced the literature. A key focus of the literature relating to animals is their legal status as property, which reflects a deep division between theorists. There have been a number of theories and attempts to shift the legal status of animals to a new form of legal recognition.³⁴ There is a significant amount of literature in relation to this area and it is often quite expansive because this area lends itself to being multidisciplinary. As a result, the literature can focus on ethics, philosophy, law and more recently it has emerged in political theory. It is usual to find a combination of the above, or in many cases to touch on all of them. As this thesis progresses through the chapters, it will become apparent that I have overlapped with and touched on many areas including but not limited to law, politics, ethics, and philosophy. The two most common approaches when considering animals tend to fall into either a welfare approach or a rights approach whether that is moral or legal rights.³⁵ There have been a number of alternative approaches within the animal rights literature, some of which will be discussed and considered

³⁴ For just a few examples, see the work of Gary Francione, Steven M. Wise, and David Favre

³⁵ For example, Tom Regan focuses on moral rights whereas Steven Wise focuses on legal rights

in chapter three. How well-received and successful these approaches have been is varied, but most have had little impact outside of academic circles; perhaps because many of these theories occupy a utopian space, or an unreachable ideal. Through this thesis, I adopt a pragmatic approach, exploring citizenship theory which on the face of it appears utopian, but in combination with empirical research (that will be used to explore the theory), I hope to create practical recommendations in relation to service dogs. As discussed above, the property status of animals, particularly companion and service animals, has been seen as increasingly archaic, indeed, even the UK government has acknowledged this.³⁶ Certain countries have also recognised this shift in their public perceptions, and have explicitly declared that animals are not property, such as Germany³⁷ and Switzerland.³⁸ Other countries have recognised that animals are sentient beings, such as New Zealand³⁹ and Canada.⁴⁰ There has been very little empirical research into what kind of alternative legal status or legal protection might resonate with the wider population and to do this would require a large-scale study, such as a public consultation.

In the absence of direct contact with the service dogs themselves, the handler appears to be the person who is best positioned as primary carer to provide an insight into their service dog's life, and their interests beyond their work. As reflected on by Matthews, "to engage with the unknowable subjectivities of animals, and to experience their response to us, is perhaps the principal bridge to communication with the unknowable subjectivity of the wider world."⁴¹ The handlers, on a daily basis in their professional and personal capacity, will need to listen and advocate for their dogs on their behalf, in a similar way that a parent is expected to for a child. The majority of service dog handlers will spend a considerable amount of time with their service dogs, and there have been some studies that have explored the attachment that can develop between companion dogs and humans. Konok, Marx, and Faragó note that companion dogs "...have evolved a capacity for attachment to their owner that is functionally analogous to human infants' attachment towards their mother."⁴² In relation to assistance dogs specifically, White, Mills and Hall, concluded that;

³⁶ The government response to the petition "Give status to Police Dogs and Horses as 'Police Officers'" in 2016 stated, "it is unpalatable to think of police animals as 'equipment' as is inferred by the charges of criminal damage. This does not seem to convey the respect and gratitude police and public feel for the animals involved and their contribution to law enforcement and public safety." The Animal Welfare (Sentience) Bill 2021 proposes to recognise some animals as sentient beings under law

³⁷ 90a German Civil Code

³⁸ Article 641a Swiss Civil Code

³⁹ S.4 Animal Welfare Amendment Act (No2) 2015

⁴⁰ 898.1 Civil Code of Quebec

⁴¹ Freya Mathews, 'Living with Animals', (1997) I(I) Animal Issues, 18

< <https://ro.uow.edu.au/ai/vol1/iss1/2/> > accessed 10th October 2021

⁴² V. Kook, A. Marx, T. Faragó, 'Attachment styles in dogs and their relationship with separation-related disorder – A questionnaire based clustering', (2019) 213, Applied Animal Behaviour Science,

“...anxious attachment to an assistance dog, unlike a pet dog, is associated with greater perceived quality of life. This is probably due to different phenomenological features underlying the cause of anxious attachment in the two contexts, and we hypothesise that, within an assistance dog partnership the anxiety may be incidental and perhaps the inevitable cost associated with the service provided by the dog within the context of a reciprocally caring partnership. Thus, the relationship between attachment insecurity and quality of life appears to be highly dependent on the context and on the individual.”⁴³

Speaking with the handlers of the service dogs offered an insight into their unique partnership and provided the added benefit of being able to explore how the handlers’ view and experience their relationship with their dog. This is important because service dogs occupy an unusual space; are they simply a tool that the handler is provided with to effectively carry out their work, or is there a crossover in the relationship that is more akin to the relations that are established with companion dogs, such as relating to them as family member or friend? The opportunity to speak with the handlers provided the chance to explore and discuss how well protected their service dogs are from the perspective of someone who works with, and shares firsthand experiences of day-to-day life, and a clear understanding of what their service dog may encounter in their role. Finally, the handler also represents to some extent, the organisation that they work for; if it is found that the handlers’ perceptions are out of step with current policies and practices then that provides an opportunity to identify potential areas for change or improvement. This is important because there is no point in changing something that is working; if those who work closely with service dogs feel that there is nothing wrong with their current level of protection and recognition, then any changes proposed are likely to be viewed as unnecessary, or encounter resistance. Without their support, it would make it harder to put forward a convincing case, especially when these suggested changes may be slightly more unorthodox. As previously mentioned, more recently there has been the emergence of animal labour, and even the suggestion of labour rights for animal workers, but there is a lack of empirical exploration, and detail.⁴⁴ Therefore, this research will also help to contribute to this developing area.

<https://doi.org/10.1016/j.applanim.2019.02.014> accessed 4th September 2021. Citing,

M.D.S. Ainsworth, ‘Object relations, dependency, and attachment: a theoretical review of the infant-mother relationship’, (1969) 40, *Child Dev*, 969

E. Prato Previde, D.M. Custance, C. Spiezio, F. Sabatini, ‘Is the dog-human relationship an attachment bond? An observational study using Ainsworth’s strange situation’, (2003) 140, *Behaviour*, 225-254

J. Topál, Á. Miklósi, V. Csányi, A. Dóka, ‘Attachment behavior in dogs (*Canis familiaris*): a new application of Ainsworth’s (1969) strange situation test’, (1998) 112 *J. Comp. Psychol*, 219-229

⁴³ Naomi White, Daniel Mills and Sophie Hall, ‘Attachment Style is Related to Quality of Life for Assistance Dog Owners’, (2017) 14, *International Journal of Environmental Research and Public Health*, 658 < 10.3390/ijerph14060658 > accessed 4th September 2021

⁴⁴ Charlotte E. Blattner, Kendra Coulter, and Will Kymlicka, *Animal Labour: A New Frontier of Interspecies Justice?* (Oxford University Press, 2020)

The research questions explored through this thesis are:

- What is the relationship between service dogs and their handlers?
- Is the legal protection that service dogs currently receive when performing the duties required by their role adequate?
- Can service dogs meet the criteria of citizenship, and what are the implications of this?
- If service dogs were treated as co-citizens, what additional rights would they be entitled to, considering the public benefit that service dogs provide?
- Does citizenship offer a potential improvement to the current status of service dogs?

1.5 Terminology

Police, assistance, medical, fire, guide, protection, service, military, working, search, support, rescue, cadaver, detection, patrol, therapy, general purpose, and alert are just some of the many terms and roles associated with service dogs in the UK. In ‘a revised taxonomy of assistance animals’ Parenti et al propose a revised taxonomy for classifying different types of assistance animals, to help address “the uncoordinated expansion of labels used to distinguish these animals.”⁴⁵ There are multiple terms, sometimes used interchangeably to describe the role of a dog, and these terms can vary depending on country as well. Therefore, it is necessary to define what is meant by the term “service dog” when referred to in this thesis. Although this is not a comparative piece of work, it is helpful to note that there are various definitions used to define a “service animal” across the world.⁴⁶ Coulter considers three different types of categories to define the work that animals are engaged in, and

“the third category is the work mandated by humans. This involves formal work given to animals and includes a broad cross section of tasks, assignments, and occupations. Animals are able to exercise differing degrees of voluntary, self-initiated and/or self-controlled activity within these occupations, but the occupations overall are chosen by people.”⁴⁷

⁴⁵ Lindsay Parenti, Anne Foreman, B. Meade and Oliver Wirth, ‘A Revised Taxonomy of Assistance Animals,’ (2013) 50(6) *Journal of rehabilitation research and development*, 745

< <https://www.rehab.research.va.gov/jour/2013/506/parenti506.html> > accessed 23rd July 2019

⁴⁶ See for example, S.3 (4) Justice for Animals in Service Act 2015 (Quanto’s Law)

⁴⁷ Kendra Coulter, *Animals, Work, and the Promise of Interspecies Solidarity*, (1st ed, Palgrave Macmillan, 2016) 60-61

It is this category of animals that she argues “can most clearly be considered workers,”⁴⁸ to further limit the scope I have chosen to adopt an expanded interpretation that was put forward in the Service Animal (Offences) Bill 2017-19, in addition to including support and therapy dogs. The Bill did not complete the necessary stages of parliament before the end of the parliamentary session and progressed no further. However, the Bill set out a clear definition of the service animals that would have been in scope. Section 3 covers the proposed interpretation of the bill, which reads as follows;

“service animal” means —

(a) a police dog or horse while it is aiding a police constable in execution of that officer’s duty;

(b) a fire and rescue service dog while it is aiding a fire-fighter in accordance with his or her duty;

(c) a military animal while aiding a member of Her Majesty’s armed forces in accordance with his or her duty;

(d) such other animal working in public service as may be prescribed by the Secretary of State in regulations made by statutory instrument;

(e) such assistance animal as may be prescribed by the Secretary of State in regulations made by statutory instrument,

“police dog or horse” means a dog or horse trained to aid a police constable in execution of his or her duty,

“fire and rescue service dog” means a dog trained to aid a firefighter in his or her work,

“fire-fighter” means a fire-fighter employed by a fire and rescue authority,

“military animal” means an animal trained to aid a member of Her Majesty’s armed forces,

“assistance animal” means—

(a) an animal which has been trained to guide a blind person;

(b) an animal which has been trained to assist a deaf person;

(c) an animal which has been trained by a prescribed charity to assist a disabled person who has a disability that consists of epilepsy or otherwise affects the person’s mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects;

(d) an animal of a prescribed category which has been trained to assist a disabled person who has a disability (other than one falling within paragraph (c)) of a prescribed kind.”⁴⁹

⁴⁸ Ibid

⁴⁹ Service Animals (Offences) Bill (HC) 2017-19. A PDF of the Bill is available on the UK Parliament Website. 1st Reading 5th December 2017

An expanded version of this definition has been chosen because it provides a comprehensive interpretation and helps to limit the scope of this thesis. In addition, the definition provided by the Bill covers the work of animals that would clearly fall into Coulter's third category of work, which is work selected by humans on the animals' behalf, and arguably are the animals most entitled to be considered as workers, particularly as the animal's role in the definition makes explicit reference to their handler's role and the organisation.

For the purpose of this thesis, service dogs are defined as dogs involved in tracking, searching, protection, detection, general purpose, assistance, therapy, or similar activity in the context of an organisation in the public, private or charitable sector. Although I have chosen to exclude other dogs who also work such as sheepdogs for example, for the purposes of this thesis, recognition of their work and the dogs as individuals is no less important. It is hoped that any recommendations made in this thesis or considered in the future could be expanded to include other forms of work and other animals engaged in work beyond dogs.

1.6 Contribution to knowledge

This thesis has been undertaken at a time of significant change and development within animal law in England and Wales, increasing the impact and relevance of this research. Since the start of this thesis in 2018, the Animal Welfare (Service Animals) Act 2019 has been enacted. Furthermore, the UK left the European Union (EU) on the 31st of January 2020, departing from the legislation, policies, and regulations that the EU provided to protect many categories of animal in the UK. The year 2021 has seen a number of announcements so far, including the RSPCA's 2030 strategy focused on creating better lives for animals, the establishment of an animal protection commission and a UN declaration for animals.⁵⁰ In May of 2021, the Animal Welfare (Sentencing) Act 2021⁵¹ was passed and came into effect from the 29th of June. In addition, there was the announcement of the Government Action Plan for Animal Welfare,⁵² which will see the long-awaited Animal Welfare (Sentience) Bill begin the Parliamentary process. This will recognise certain animals as sentient beings in law and establish an animal sentience committee.⁵³ This thesis will provide an original contribution to knowledge in two main ways. Firstly, this thesis will help to explore citizenship theory in relation to service dogs,

⁵⁰ RSPCA 2021 - 2030 Strategy: together for animal welfare

⁵¹ Animal Welfare (Sentencing) Act 2021

⁵² Department for Environment, Food and Rural Affairs, 'Action Plan for Animal Welfare', [Action Plan for Animal Welfare \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/94842/action-plan-for-animal-welfare.pdf) accessed 14th May 2021

⁵³ Animal Welfare (Sentience) Bill (HL) 2021-22

through using empirical research, which has not been done before. Secondly, the empirical aspect of this research provides its own contribution to knowledge through adding to a gap in our current understanding of the relationship between service dogs and their handlers. In addition, the research from this thesis will help contribute towards the developing academic area of animal labour.

1.7 Thesis structure

This thesis is broken down into eight chapters, including the introduction and the conclusion.

Chapter two sets out the background to this thesis. The contribution of service dogs and the role that they play in society and individual lives are considered first. The latter half of the chapter is spent outlining the most relevant legislation to service dogs specifically and draws attention to their current lack of specific protection or recognition of their contribution.

Chapter three is a review of the literature; this chapter is separated into different sections. Initially, the focus is on welfarism which is interlaced with the development of animal protection in England and Wales, including the Animal Welfare Act 2006. The focus then turns to the main alternative to the welfarist position in the form of the animal rights approach. A number of different theorists are explored before finishing the chapter with consideration of a guardianship model for animals, which is the approach that is most closely related to citizenship theory which is the sole focus of chapter four.

Chapter four begins by considering the “animal turn” that has taken place and the development of animal labour which has started to become an area of increased interest by academics from a variety of disciplines. Following on from this, there is an exploration of the extended version of citizenship as outlined by Donaldson and Kymlicka in *Zoopolis*. There will be a general overview of their framework, before moving on to the more nuanced areas of their approach and a specific focus on how this framework might work for service dogs through considering their section of the book which explores some of the specific issues of using the labour of animals.

Chapter five justifies my chosen methodology. I adopted a mixed methods approach for this research, incorporating the use of a survey and semi-structured interviews. This method of data collection provided the opportunity to expand upon and explore in more depth the results of the survey with the participants themselves, gaining a rich and detailed insight into the lives of the service dogs and their partnership.

Chapter six presents the findings of my data collection; this chapter is separated into the four main themes that were identified during analysis. The quantitative data is presented first, with the qualitative responses building upon the quantitative responses.

Chapter seven provides the analysis of the findings that were presented in chapter six. These findings are explored in light of the framework set out in *Zoopolis*.

Chapter eight is the final chapter, taking the form of my conclusion. The main conclusions from this thesis are discussed, along with individual summaries of each previous chapter. In addition, my original contribution to knowledge is restated and the identification of areas for further research through a future research agenda.

1.8 Conclusion

The aim of this chapter has been to provide the reasoning and detail the focus of this thesis. Furthermore, this chapter has set out the expected original contribution to knowledge that this research will make. Finally, the structure of the remaining thesis has been outlined. Chapter two will provide the background to this thesis, and further justify why service dogs have been chosen as the focus of this thesis.

Chapter Two: Background

“[T]he next time you cross paths with a service dog, your perspective should be turned upside-down. Don’t glance from above: “Wow, look at that beautiful, well-trained dog!” But instead, question from below: “Hey! does that dog ever get a fuckin’ day off?”⁵⁴

2.1 Introduction

Perhaps one of the most obvious questions to consider first is should the labour of service dogs be acceptable to use at all? And, if it is, why should we focus on further protection of service dogs within the legal system? Zamir in the Moral Basis of Animal-Assisted Therapy identifies six main areas of concern from a liberationist perspective that arise from animal assisted therapy (a specific form of Animal Assisted Intervention or AAI.) The problems raised by Zamir within the context of AAI are similar to those faced by many service dogs in England and Wales, including limitations of freedom, a reduction in life determination, methods used in training, social disconnection, injury and instrumentalisation.⁵⁵ It is important to acknowledge early on in this thesis the ethical issues that arise from the use of service dogs and their labour, to understand why their contribution should be explicitly recognised and their current position improved upon.

2.2 Service dogs

The work of service dogs is diverse and has far-reaching effects. They have penetrated realms of our society that are unparalleled and inaccessible to that of any other animal. Serpell captures the quasi-human status of dogs in the following passage, that “the domestic dog exists precariously in the no-man's-land between the human and non-human worlds. It is an interstitial creature - neither person nor beast - forever oscillating uncomfortably between the roles of high-status animal and low-status human.”⁵⁶ In the UK and across the globe, dogs are performing vital roles on the behalf of our societies and individuals. The unusual position and novel roles of certain service dogs means that many provide assistance to countless humans⁵⁷

⁵⁴ Jason Hribal, ‘Jesse, a Working Dog,’ (*Counterpunch*, 11th November 2006)

⁵⁵ Tzachi Zamir, ‘The Moral Basis of Animal-Assisted Therapy’, (2006) 14(2) *Society and Animals* 181-183 < <https://www.animalsandsociety.org/wp-content/uploads/2016/04/zamir.pdf> > accessed 25th May 2020

⁵⁶ Edited by James Serpell, *The domestic dog: its evolution, behavior and interactions with people* (2nd edition, Cambridge University Press, 2016) 312

⁵⁷ See for example, Oliver Browning, ‘Miami building collapse: Dogs help with search effort after deadly incident,’ (*The Independent*, 25th June 2021)

but also other animals who find themselves in need of help.⁵⁸ Each day, there are service dogs that face situations that the majority of humans hope that they never experience, and face risks that even their handlers may not be able to foresee, such as an individual with a weapon on our streets or in our homes,⁵⁹ or a hostile military assault.⁶⁰ There are dogs that face potential risks from the individuals that they seek, but also from the environment that they operate under, from brambles and broken glass to working at height in a burnt down building or scaling a six-foot fence. Service dogs also face risks that are closer to home; like all animals they are dependent on their handler to provide for their welfare, they can face dangers in their training,⁶¹ the prospect of no suitable home at the end of their career, high medical costs and even the possibility of euthanasia, as it is not compulsory for the organisations who have significantly benefited from their skills and abilities to provide for them once their working lives come to an end. Many service dogs will work full time, potentially being relied upon 24 hours a day, other dogs may work part time or occasionally when required. Service dogs in the public sector will usually work under the umbrella of the Home Office or the Ministry of Defence, who provide for the police, military, and border force security, for example. Service dogs who find themselves in the private sector are likely to work on behalf of private companies, such as firms who are contracted for security purposes. In this sector, there are some service dogs whose role is seldom seen nor talked about, such as Snipe, a Cocker Spaniel working on behalf of United Utilities to detect underground water leaks, helping to save humans both time and money.⁶² In addition, there is the charitable sector which is largely made up of two predominant groups: assistance/therapy dogs and those who assist in specialist search and rescue operations. It is not uncommon for private companies and the charitable sector to assist in filling gaps that can occur within the public sector. For example, a specialist search and rescue dog team may be called in by the police to help assist in the search for a vulnerable missing individual. There are no central statistics for the number of service dogs in England and Wales, as service dogs work in different sectors and organisations. The following figures have been published by various individual organisations or used in parliamentary debates or written questions; these are all approximations because the number of service dogs working at

⁵⁸ See for example, 'Australia Fires: Rescue dog Bear saves scores of koalas' (*BBC News Online*, 14th May 2020)

⁵⁹ West Midlands Police, 'Police dog Gunner chases down machete subject', (*West Midlands Police News*, 11th September 2021)

⁶⁰ Ministry of Defence and The RT Hon Ben Wallace MP, 'UK military dog to receive PDSA Dickin Medal after tackling Al Qaeda insurgents', (*GOV.UK Defence and Armed Forces News Story*, 29th August 2020)

⁶¹ Unknown, 'UK Police guilty of dog cruelty', (*BBC News Online*, 5th November 1998)

The death of PD Acer lead to the establishment of the Animal Welfare Independent Visitors Scheme.

⁶² Unknown, 'Water company recruits sniffer dog in war on leaks', (*United Utilities News*, 12th February 2018)

any one time will naturally fluctuate depending on the number of dogs who join and retire week-to-week and month-to-month. For an example of the number of service dogs working within a particular organisation, see the table below.

Year	Organisation	Number of Dogs
2021	Guide Dogs	8000
2021	Hearing Dogs	1000
2021	Medical Detection Dogs (number of alert dogs)	80
2021	Lowland Rescue	35
2018	Ministry of Defence	884
2016	All UK Police Forces	1,900

Table 1: The number of service dogs within an individual organisation⁶³

The majority of service dogs will work within the public, private and charitable sector, with each organisation having their own number of dogs. In terms of how these dogs end up performing the role that they do, there is no linear path; there are a number of different ways a dog may end up working and performing services on the behalf of society. In some cases, a dog or puppy may be bred, trained, or sourced by a private company on the request of a particular client or organisation.⁶⁴ In other cases, a dog or puppy may be bought, gifted, or donated by a member of the public who feel their dog may be suited to a particular role or type of work.⁶⁵ In the case of police dog, Cooper, he was adopted from the RSPCA West Hatch Animal Centre and joined Staffordshire Police Force in 2018 as the first Staffordshire Bull Terrier to become a detection dog.⁶⁶ It can be that service dogs are chosen from or put forward by a rescue or rehoming centre. A lesser-known group of dogs are companions first and foremost, volunteering alongside their human counterparts for various charities across the

⁶³ Guide Dogs, ‘Guide Dogs advocates for new dog theft law’, [Guide Dogs advocates for new dog theft law](#) accessed 31st August 2021

Hearing Dogs for Deaf People, ‘we train hearing dogs who transform deaf people’s lives’, [About us \(hearingdogs.org.uk\)](#) accessed 31st August 2021

Medical Detection Dogs, ‘About Medical Detection Dogs’, [Frequently asked questions about Medical Alert Assistance Dogs - Medical Detection Dogs](#) accessed 31st August 2021

Lowland Rescue, ‘About Search Dogs’, [About Search Dogs \(lowlandrescue.org\)](#) accessed 29th August 2021

UK Parliament, Question for the Ministry of Defence, Ministry of Defence: Dogs, UIN HL12107, tabled on 6 December 2018, and answered on the 13 December 2018

UK Parliament, Hansard, Police Dogs and Horses, (HC) volume 617, column 5WH, debated on Monday 14 November 2016

⁶⁴ See for example WDK Trained Dogs, [WKD – Dogs \(wkd-uk.com\)](#) accessed 31st August 2021

⁶⁵ See for example Northumbria Police, ‘Could your dog be a police dog?’, [Police dog re-homing : Northumbria Police](#) accessed 31st August 2021

⁶⁶ Matt Jackson, ‘Tails wagging as PD Cooper graduates from police academy’, (*Stoke on Trent Live*, 26th April 2018)

UK.⁶⁷ Larger organisations such as the military, police, or guide dogs sometimes have their own national breeding centres, where future service dogs are conceived, born, and trained.⁶⁸ In terms of scale and methods of production,⁶⁹ these centres are perhaps more akin to intensive farming in some cases, with the Guide Dog’s National Breeding Centre having the capacity to breed up to 1500 puppies per year.⁷⁰ West Midlands Police Force, by comparison, also has a puppy development and breeding programme, which is capable of breeding over 100 puppies per year. There are a number of different breeds that the centre has access to, such as the German Shepherd, Malinois and the Dutch Herder. These breeds are frequently used as general-purpose and tracking dogs within the police force. There are also Springer Spaniels, Cocker Spaniels and Labradors who are commonly utilised as search and detection dogs. The West Midlands centre has the additional ability to acquire different breeds of dog to meet a client’s specific needs, with the majority of the puppies bred by the centre either entering their puppy development programme or being sold on; the price list for some of their dogs is found below:

“Young dog suitable for work (under three years old)- £3,500 + VAT

Part trained dog (under three years old)- £5,000 + VAT

Dog trained to order - £10,000 up + VAT”⁷¹

In terms of breeding specifically, both female and male dogs, referred to as “breeding stock”⁷² in some cases, are purposefully selected for their desired characteristics. A dog might be chosen because they excel at their job, chosen for their desirable temperament, good health or physical characteristics, which an organisation may be looking for in particular, as it will make a dog particularly suitable for their future role. The Guide Dogs Centre, like West Midlands Police, have a number of different dog breeds. In some cases, they will cross a pedigree dog breed, such as a Golden Retriever, to produce puppy crosses that they hope will create more effective guide dogs and offer additional choice and benefits to future guide dog users.⁷³ For example, incorporating Poodle into a dog breed may mean that the resulting puppies lose less

⁶⁷ See for example the National Search and Rescue Dog Association, and Therapy Dogs Nationwide

⁶⁸ Guide Dogs, ‘What the National Centre does’, [Behind The Scenes At The National Centre | Guide Dogs](#) accessed 31st August 2021

⁶⁹ The use of artificial insemination can be used to impregnate a female dog for example rather than natural mating

⁷⁰ Guide Dogs, ‘Guide Dogs’ centres’, [Guide Dogs’ Centres | Guide Dogs](#) accessed 31st August 2021

⁷¹ West Midlands Police, ‘Dogs for Sale’, [Dogs For Sale | West Midlands Police \(west-midlands.police.uk\)](#) accessed 31st August 2021

⁷² Guide Dogs, ‘Selection and monitoring of breeding stock’, < <https://www.guidedogs.org.uk/about-us/guide-dogs-centres/what-the-national-centre-does/selection-and-monitoring-of-breeding-stock/> > accessed 31st August 2021

⁷³ Guide Dogs, ‘Our breeds’, < <https://www.guidedogs.org.uk/about-us/guide-dogs-centres/what-the-national-centre-does/our-breeds/> > accessed 31st August 2021

hair and may be more suitable for those with allergies.⁷⁴ In many cases, service dogs are the result of meticulous and considered breeding programmes, their lineage capable of being traced to multiple generations of service dogs before them. Many of these service dogs are the product of very specific and intentional human actions and decisions, designed to create the ultimate service dog. This may mean breeding for or looking for traits that otherwise may not be desirable, such as possessing a particularly high drive or aggressiveness.⁷⁵

A puppy will be shaped during their early development for the role that humans have chosen for them. In general, the majority of puppies will remain with their mother at the breeding centre or with their foster carer until they are between six and eight weeks old.⁷⁶ During this period of time, depending on their future role, they will be exposed to various sights and sounds and regularly assessed. One of the most well-known assessments is the Volhard Puppy Aptitude Test which is intended to understand what a puppy may be like as an adult, which is optimally carried out at around 49 days old,⁷⁷ and each organisation is likely to have their own methods of assessing puppies for suitability.⁷⁸ Once the puppies reach this milestone, they will usually leave their mother and litter mates soon after to join a volunteer puppy foster family, where the puppy will usually remain until they reach between 12 and 18 months old.⁷⁹ In general, the role of a puppy fosterer is to help develop a well-rounded, confident individual who has basic training and obedience, who has been fully socialised and exposed to a variety of experiences before then commencing their future training programme, which will teach them the specific skills required for their role. For the fosterer, there is usually no financial cost of fostering a puppy as all of their tangible requirements, such as food, veterinary care, bedding, etc. are covered by the organisation that has legal ownership of the puppy.⁸⁰ Once the puppies leave their foster homes, they will enter a training programme designed to teach them the skills that they will need for their role. The period of time it takes for a dog to become qualified will depend on their role, training programme and organisation. A vast majority of the work undertaken and engaged with by service dogs on a daily basis will go unseen by the general population. The main areas that service dogs in the England and Wales will be involved in are tracking, patrolling, protection, tactical support, searching, detection, assistance and therapy. These roles may be proactive, reactive or both in nature, such as

⁷⁴ Ibid

⁷⁵ Simon Garfield, *Dog's best friend* (Weidenfeld & Nicolson, 2020)

⁷⁶ West Midlands Police, 'Puppy Fostering', [Puppy Fostering | West Midlands Police \(west-midlands.police.uk\)](https://www.west-midlands.police.uk) accessed 3rd September 2021

⁷⁷ Dave Wardell and Lynne Barrett-lee, *Fabulous Finn: The Brave Police Dog Who Came Back from the Brink*, (Quercus, 2019) 64

⁷⁸ For example, Hearing Dogs for Deaf People use what they call the 'Puppy Star Awards' to assess the progress of their puppies, [FAQs \(hearingdogs.org.uk\)](https://www.hearingdogs.org.uk) accessed 3rd September 2021

⁷⁹ See for example, West Midlands Police, 'Puppy Fostering', [Puppy Fostering | West Midlands Police \(west-midlands.police.uk\)](https://www.west-midlands.police.uk) accessed 3rd September 2021

⁸⁰ Ibid

searching a venue prior to an event as a preventative measure. Other roles may be reactive, such as receiving a call to search for a vulnerable missing individual. These dogs are highly trained individuals and, as such, there is a large financial investment made by each organisation. For example, it will cost £25,000 to train a hearing dog from being a puppy to assisting someone.⁸¹ It will cost “£34,600 to breed and train a single guide dog, and £54,800 to support a guide dog from their birth through to their retirement.”⁸² Similarly, on average for a police dog, their training will cost £20,000, with a lifetime cost of approximately £50,000.⁸³ As noted by Holly Lynch MP, “that is a significant investment on the part of a police force, but it makes that investment because police dogs are a highly trained asset and incredibly effective at what they do.”⁸⁴ The working lifespan of a service dog is determined by a number of factors. In some cases, a dog may be forced to retire early due to injury or illness, in other cases the age of retirement for the service dog in question is considered on an individual basis.⁸⁵ Dogs that have demanding physical roles are likely to retire earlier than a dog that does not. For example, in the case of police dogs, the average age of retirement is approximately 7-10 years old,⁸⁶ and in comparison, a hearing dog will retire on average at the age of 11 years old.⁸⁷ The decision of retiring a service dog will impact directly on both the dog and the handler. There are very few provisions made for service dogs who retire, and they will be dependent upon either the organisation or, in some cases, reliant on charitable assistance.⁸⁸ In many cases, a service dog will most likely retire with the handler whom they have spent the majority of their lives with. In other cases, for a variety of reasons, this may not always be possible. Sometimes, this means that the dog will have to be rehomed, or in some cases where a suitable home cannot be found, a service dog may be euthanised.

In 2020, 19 military working dogs were euthanised; five of those dogs were euthanised for public safety concerns. Jeremy Quin MP said that “decisions are taken by the Military Working Animal rehoming board following an extensive assessment of the animals and any potential new home. Sadly, there are some occasions where it is not possible to rehome an

⁸¹ Hearing Dogs for Deaf People, ‘How much does it cost to train a hearing dog?’, [FAQs \(hearingdogs.org.uk\)](https://hearingdogs.org.uk) accessed 3rd September 2021

⁸² Guide dogs, ‘How your money is helping’, [How Guide Dogs Donations Are Spent | Guide Dogs](#) accessed 3rd September 2021

⁸³ UK Parliament, Hansard, Police Dogs and Horses, (HC) volume 617, column 6WH, debated on Monday 14 November 2016

⁸⁴ Ibid

⁸⁵ Medical Detection Dogs, ‘Retirement’, [Eligibility criteria - Medical Detection Dogs](#) accessed 3rd September 2021

⁸⁶ Retired WM Police Dog Benevolent Fund, ‘Home’, [Home - Retired West Midlands Police Dogs \(retiredwmpd.org.uk\)](#) accessed 3rd September 2021

⁸⁷ Hearing Dogs for Deaf People, ‘A hearing dog’s retirement’, [We offer ongoing support to all our hearing dog partnerships \(hearingdogs.org.uk\)](#) accessed 3rd September 2021

⁸⁸ See for example Collars, [Collars – Cleveland Retired Police Dogs Fund](#) and Railway Dogs Benevolent Fund, [Rail Dogs Fund](#) accessed 3rd September 2021

animal safely.”⁸⁹ Unfortunately, the military working dogs that are euthanised due to posing an “unacceptable risk to public safety” are in this situation because of intentional human choices, both past and present, from conception and selection, to training and the environments and conditions that they are required to operate under. Perhaps the most ironic aspect of this decision is that these dogs help to protect national security and public safety on a daily basis while in service. Hero Paws is a charity set up by three previous military dog handlers who are attempting to change this outcome for military working dogs. The charity offers not only financial support but helps to retrain and rehabilitate retired military dogs so that they can then be safely and successfully rehomed.⁹⁰ Over the last few years, a number of individual charities have appeared, attempting to fill the supportive and financial gap that is left by organisations after a service dog retires. As already mentioned, animals in England and Wales are the legal property of their owner; for a service dog that is not a companion first, this legal ownership will usually be held by the organisation that they work for.⁹¹ Upon their retirement, the legal ownership of the service dog will usually either remain with the organisation or be transferred to the new owner.⁹² In general, the individual whom the service dog will spend their retirement with takes over sole responsibility for the dog, including all associated care and costs.⁹³ This can also be a factor when considering whether a service dog should be euthanised, if the cost of ongoing medical care proves to be a prohibitive factor. Medical care costs can be a particularly important consideration when it comes to dogs that have had demanding physical roles, such as police or military working dogs. These dogs can suffer injuries and illness that are beyond the usual ageing process, due to the physical demands of their roles. A study published in the Journal of the American Veterinary Medical Association examined the data from 1,350 veterinary visits of military working dogs in Iraq, during an 18-month period from 2009 to 2010. The study looked for common injuries and illnesses that were not linked to combat. The results showed that “the most common noncombat-related disease processes or injuries identified were related to the dermatologic system (i.e., primary [inflammatory] dermatologic disease; 338/1,350 [25.0%]), soft tissue trauma (284 [21.0%]), alimentary

⁸⁹ UK Parliament, Ministry of Defence: Dogs, UIN 24113, tabled on 29 June 2021 and answered on 6 July 2021

⁹⁰ Hero Paws, ‘About Us’, [About Us \(heropawsuk.co.uk\)](http://heropawsuk.co.uk), accessed 29th August 2021

⁹¹ See for example, Essex Police, ‘I0213 Procedure - Police Dogs Transport, Retirement, Exercise and Kennelling’, 3.1 Police Dogs. “*All police dogs will remain the property of the Chief Constable until such time as they are retired from service, transferred to another force or sold.*” [I0213 Procedure - Police Dogs Transport, Retirement, Exercise and Kennelling | Essex Police](#) accessed 13th September 2021

⁹² See for example, Medical Detection Dogs, ‘Dog Ownership’, [Eligibility criteria - Medical Detection Dogs](#) accessed 13th September 2021

⁹³ West Yorkshire Police, ‘Police Dogs’ Policy Procedure < https://www.westyorkshire.police.uk/sites/default/files/2020-06/police_dogs.pdf > accessed 27th November 2021

system (231 [17.1%]), or musculoskeletal system (193 [14.3%]).⁹⁴ Service dogs are usually unable to be insured due to temperament, or because the risk of injury and illness is deemed to be higher than a companion dog,⁹⁵ and ongoing medical care can quickly amount to significant sums of money. The decisions which need to be made in light of this can be emotionally difficult for the handlers:

...the emotional side of the decision is hard to ignore, they have spent a lot of their lives together with their dog – often spending more time with their dog than their human family – however in a lot of cases the financial considerations could take precedent. It's absolutely heart breaking for handlers to have to make this decision – especially if it purely comes down to the financial implications. It's a heart wrenching decision and very often handlers will do everything they can to fund the cost of keeping their faithful partner. This can lead to spiralling debts and financial hardship for families.⁹⁶

In 2013, Nottinghamshire Police Force introduced the first police dog pension scheme in the UK, aimed at trying to provide some financial assistance to police dogs in their retirement.⁹⁷ Service dogs provide a significant contribution to our society and to the lives of individuals but there is currently no compulsory financial provision that has to be made for a service dog's medical care once retired by the organisations who have significantly benefited from their skills and abilities, once their working lives come to an end. A clear theme of this section is that there is no effective framework in place either in the public or private sector to help support service dogs or their new carers in their retirement. The financial implications of retirement for a service dog can be prohibitive and is currently an important factor to be considered by those considering taking on a retired service dog, and the gap that is being left by organisations is being picked up through charities such as Hero Paws and Retired WM Police Dogs Benevolent Fund.

2.3 Legislation

It is highlighted by Shaw that “while animals who work contribute to the economic output of society, they are and always have been provided with demonstrably variable and limited protection under animal welfare laws.”⁹⁸ Until relatively recently, legal protection for service

⁹⁴ Matt S. Takara, DVM; Karyn Harrell, DVM, ‘Noncombat-related injuries or illnesses incurred by military working dogs in a combat zone’, (2014) 245(10) *Journal of the American Veterinary Medical Association*, < <https://doi.org/10.2460/javma.245.10.1124> > accessed 13th September 2021

⁹⁵ Digby Bodenham, ‘Working Dog Insurance’, (*Bought By Many*, 5th July 2017) [Working Dog Insurance - Bought By Many](#) accessed 13th September 2021

⁹⁶ Retired WM Police Dog Benevolent Fund, ‘Retired Police Dogs’, [Retired Police Dogs - Retired West Midlands Police Dogs \(retiredwmpd.org.uk\)](#) accessed 13th September 2021

⁹⁷ Unknown, ‘Nottinghamshire's police dogs to receive 'pensions', (*BBC News Online*, 4th November 2013)

⁹⁸ Rosemary Shaw, ‘A Case for Recognizing the Rights of Animals as Workers’, (2018) 8(2) *Journal of Animal Ethics*, 195 < <https://www.jstor.org/stable/10.5406/janimaethics.8.2.0182> > accessed 8th September 2020

dogs that were intentionally harmed was very simple, as if an offence was committed then there were only two options for consideration in relation to a prosecution. Depending on the offence, a charge could be brought under either the AWA 2006 or, because service dogs are classed as property that is capable of being destroyed or damaged, the Criminal Damage Act 1971 could also be applied. Neither of these Acts were usually appropriate to deal with the nature of such an offence.⁹⁹

The last decade has seen a considerable rise in public interest in the use of service animals, which has in turn put pressure on the public services which rely on the labour of service animals to be seen to be creating positive change.¹⁰⁰ In recent years, service animals have started to be considered separately and have acquired some additional legislative protection. Some of this protection is aimed at protecting the service animal themselves, whereas others also protect the users' interest in using the service dog. One such piece of legislation is the Equality Act 2010, under which the user of an assistance dog has the right to access premises and services. It was reported by the BBC in April 2021 that a taxi driver had their license revoked and was ordered to pay £300 in legal costs after saying that there would be an additional cleaning fee for transporting a passenger's guide dog and claimed that they had allergies to dogs but then failed to provide the appropriate exemption certificate. Eventually, the driver refused to allow the passenger to travel with their guide dog and left them where they were.¹⁰¹ Part 12 of the Act makes it explicit that assistance dogs and their users have a right to access taxis and private hire vehicles unless there is a valid exemption certificate held by the driver of the vehicle. Further, in 2014, Part 7 of the Anti-Social Behaviour, Crime and Policing Act 2014 amended the Dangerous Dogs Act 1991. This amendment was campaigned for by the Guide Dogs charity under their "Dog Attacks" campaign after a data review in relation to the number of dog attacks on guide dogs found that there were on average 11.2 attacks per month.¹⁰² As part of the amendment, an attack by a dog which is dangerously out of control on an assistance dog was reclassified as an aggravated offence under s 3(1)(b). This offence now incurs a maximum penalty of up to three years imprisonment for the owner.

⁹⁹ House of Lords, Animal Welfare (Service Animals) Bill (HL) 159 of 2017–19, Library Briefing, [Animal Welfare \(Service Animals\) Bill: Briefing for Lords Stages \(parliament.uk\)](https://www.parliament.uk/library/briefings/briefing-content/2021/09/animal-welfare-service-animals-bill-briefing-for-lords-stages) accessed 13th September 2021

¹⁰⁰ See for example -

Claire Carter, 'Pensions for police dogs' (*The Telegraph*, 4th November 2013)

Section 106 Part 7 of the Anti-social Behavior, Crime and Policing Act 2014, and s. 106(2)(a)(ii) & s. 106 (2)(e)(c) Part 7 Anti-social Behavior, Crime and Policing Act 2014

The Animal Welfare (Service Animals) Act 2019

¹⁰¹ Unknown, 'Wolverhampton taxi driver loses licence for refusing guide dog', (*BBC News Online*, 26th April 2021)

¹⁰² R. Moxon, H. Whiteside, G.C.W. England, 'Incidence and impact of dog attacks on guide dogs in the UK: an update', (2016) 178(15) *Vet Rec* < <https://doi.org/10.1136/vr.103433> > accessed 8th September 2020

In 2019, the most prominent legislative development for service animals occurred. Like many of the laws that protect animals, this was achieved through public pressure placed on the government, indeed as Lovvorn explains “it is important to remember that the law does not change society, society changes the law.”¹⁰³ Affectionately known as “Finn’s Law”, the Animal Welfare (Service Animals) Act 2019 received Royal Assent on the 8th of April 2019. Coming into effect from June 2019, this amendment was aimed at fixing a loophole which was identified under s. 4(3)(c)(ii) of the AWA that was previously open to abuse by defendants who could claim that they were acting in self-defence if they caused unnecessary suffering to a service animal that was acting in the course of their duties.

The AWA fails to provide the necessary protection that it should and has the potential to on paper.¹⁰⁴ The Environment, Food and Rural Affairs Committee (EFRA) in 2016 “found that there are many flaws in the legislation, from licensing through enforcement and to sale, which lead to inadequate protection of animals.”¹⁰⁵ In addition to this, part of the issue is that any form of offence related to the AWA is classed as a criminal offence; this has the effect of placing the emphasis on the defendant’s conduct rather than considering the impact on the animal themselves.¹⁰⁶ Another part of the problem before the introduction of the Animal Welfare (Sentencing) Act 2021 was the sentences available under the AWA because all offences were triable summarily within the magistrate’s court, and the maximum sentence available for the most serious crimes such as a s. 4 offence (unnecessary suffering) was an unlimited fine, and/or six months imprisonment.¹⁰⁷ The problem with this was that it would often be more effective to prosecute under the Criminal Damage Act 1971 as this would command a higher penalty, but also had a higher threshold, making it less likely to secure a conviction. In a service dog specific context, the inadequacies of the AWA and its failure to provide sufficient legal protection led to the introduction of Finn’s Law. This is going to be the focus of the following section as it is a relatively recent development, and it highlights part of the issue with adopting a welfare-based approach when it comes to service dogs specifically. It is not intended that a discussion will be entered into surrounding the relationship between sentences and offending, which is a subject of much debate and beyond the scope of this thesis, though the principle of it is important to citizenship theory, as discussed in chapter four. To

¹⁰³ Jonathan R. Lovvorn, ‘Animal Law in Action: The Law, Public Perception, and the Limits of Animal Rights Theory as a Basis for Legal Reform’ (2005) 12 *Animal L.* 149
< <https://www.animallaw.info/article/animal-law-action-law-public-perception-and-limits-animal-rights-theory-basis-legal-reform> > accessed 8th September 2020

¹⁰⁴ House of Commons Environment, Food and Rural Affairs Committee, ‘Animal welfare in England: domestic pets’, Third Report of Session 2016-17

¹⁰⁵ *Id.* at 3

¹⁰⁶ See the Animal Welfare Act 2006 and CPS Legal Guidance, ‘Offences Involving Domestic and Captive Animals’, 2018 < <https://www.cps.gov.uk/legal-guidance/offences-involving-domestic-and-captive-animals> > accessed 8th September 2020

¹⁰⁷ Sentencing Council, ‘Animal Cruelty’ (Revised 2017)

fully understand why the AWA was amended, it is important to recognise the circumstances that acted as the catalyst. On the 5th of October 2016, in the early hours of the morning, seven-year-old Finn, a German shepherd police dog (PD), with his handler PC Wardell, attempted to apprehend a suspect. While carrying out his duties, Finn was subject to a violent attack with a hunting knife described in the extract below, suffering life threatening injuries:

“The male had come up off his elbows, almost as if trying to do a sit-up, and that’s where the true nightmare began. I could see his hand moving back again and a glint from something in it, and as I watched a massive piece of dark metal appeared, which he appeared to be pulling from Finn’s chest. It looked like nothing I’d prepared for – this was no police baton. It was covered in blood, dark and gleaming, so long and so wide. It was a knife... then he lunged forward again, not towards Finn now, but towards me. I had no time to react, but Finn, angry now, did. He tugged harder on the male’s leg, lifting it up and shaking it violently. This diffused the energy of the thrust, and disturbed its forward motion, and all the suspect managed to do was slice open Finn’s head, and as my hand was close by, he sliced that open too... he held on to the knife, so we had to try again. And this time, with Finn still dragging him, and blood seemingly everywhere, we at last succeeded in forcing him to drop it. Noises then, behind us. We’d been found by my fellow officers. I told Finn to let go, and they immediately took control. My nightmare was over. But Finn’s was about to begin.”¹⁰⁸

Finn was blue lighted by police vehicle to the nearest veterinary centre and, despite the gravity of his injuries, managed to survive. The soft tissue surgeon who carried out PD Finn’s operation said, “it is a testament to Finn's incredible bravery, tenacity and loyalty to his handler, to know he continued to stand firm in the line of duty with no regard to the extent and severity of the injuries he suffered.”¹⁰⁹ Finn subsequently retired from service in 2017 and has received multiple awards in recognition of his bravery and for saving his handler’s life.¹¹⁰ The story of Finn and a well-known image of him that showed the extent of his injuries sparked national media coverage and outrage among members of the public. There had already been a previous attempt at pushing for greater protection and recognition for service animals two years prior to the attack on Finn. In 2014, a petition to ‘create a new offence to protect police dogs from criminal acts and violence’¹¹¹ was signed by 11,393 people. This was enough to trigger a government response as it just surpassed the 10,000-signatory threshold, but it was

¹⁰⁸ Dave Wardell and Lynne Barrett-lee, *Fabulous Finn: The Brave Police Dog Who Came Back from the Brink*, (Quercus, 2019) 14-16

¹⁰⁹ Unknown, ‘Vets save stabbed police dog that 'stood firm in the line of duty'', (*VetRecord News Section*, 2016)

¹¹⁰ See for example –

Unknown, ‘Animal Hero Awards: Retired PD Finn honoured for outstanding courage’, (*BBC News Online*, 9th September 2017)

Unknown, ‘Finn receives PDSA Gold Medal at PDSA's first ever music festival’, (*PDSA*, 6th May 2018)

Unknown, ‘Crufts 2019: Stabbed police dog Finn and handler scoop prize’, (*BBC News Online*, 11th March 2019)

¹¹¹ UK Government and Parliament Petitions, ‘Create a new offence to protect Police Dogs from criminal acts & violence’, 2014 < <https://petition.parliament.uk/archived/petitions/57585> > accessed 19th November 2018.

dismissed, and the government deemed the need for extra protection ‘unnecessary.’¹¹² Indeed, despite the severity of the attack on Finn, the court held that his injuries were of “insufficient seriousness” to command an additional penalty.¹¹³ The unprecedented media coverage of the event endured by Finn led to the petition, ‘give status to Police Dogs and Horses as ‘Police Officers’, which received 127,729 signatures.¹¹⁴ During a Parliamentary debate on police dogs and horses arising from this incident, Holly Lynch MP stated that the Finn’s Law campaign conducted a survey of 71 serving dog handlers who found that;

1. “75.7% said their dog had been either kicked or punched in the line of duty.
2. 8% saw charges brought, with 82% of assaults on police dogs going uncharged.
3. 10% of those surveyed said that they had experienced their dogs being stabbed or seriously injured.”¹¹⁵

One issue prior to the enactment of Finn’s Law was that the AWA was not drafted specifically with service dogs in mind, leaving – as mentioned – the Criminal Damage Act 1971 as the only alternative option in many cases where service animals were caused harm during their duties. In addition, s. 4(3)(c)(ii) AWA allowed a person to justify causing unnecessary suffering to an animal, if the suffering caused was for a legitimate purpose, i.e. they were protecting a person, property or another animal. This effectively meant that a defendant who had attacked a police dog, or other service animal, could use a loophole in the law, as the defendant would be able to claim that they were acting in self-defence under s. 4(3)(c)(ii), effectively rendering the suffering of the animal as necessary.

The second legal issue was that under the previous position, injuries sustained by a service animal, including police dogs, would alternatively be treated as criminal damage. This is a direct result of service dogs being legally classified as property under the laws of England and Wales. Pallotta puts forward that the “dual status” of being both property and family member means that companion animals find themselves in a “liminal space in society.”¹¹⁶ I would argue that this is even more so in the case of service dogs, some of whom are seen as companion first and service dog second,¹¹⁷ and others who are full-time workers contributing a great deal to society.

¹¹² The government responded to the petition on the 7th June 2014

¹¹³ As with many magistrates’ cases it was unreported, therefore, this information is from the Finn’s Law website, under ‘Finn Facts’ point 12. (*Finn’s Law*, unknown) <<https://www.finnslaw.com/finn-facts/>> accessed 7th September 2020

¹¹⁴ UK Government and Parliament Petitions, ‘Give status to Police Dogs and Horses as ‘Police Officers’, 2016 <<https://petition.parliament.uk/archived/petitions/168678>> accessed 20th November 2018

¹¹⁵ (HC) Deb, 14 November 2016, vol 617 col 6WH

¹¹⁶ Nicole R. Pallotta, ‘Chattel or Child: The Liminal Status of Companion Animals in Society and Law’ (2019) 8(5) Soc. Sci, 158 <<https://doi.org/10.3390/socsci8050158>> accessed 31st August 2020

¹¹⁷ For example, where someone is a volunteer for a charity with their companion dog

Francione has previously argued that “animals are regarded merely as a means to a human end, which means that the law embodies the instrumentalist view of animals.”¹¹⁸ When reading the Association of Chief Police Officers of England, Wales, Scotland and Northern Ireland Police Dogs Manual of Guidance, this argument is one that appears to be a valid claim. Under section 14.30.1 of the manual, “all police dogs should remain the property of the Chief Police Officer until such time as they are retired from service for whatever reason.”¹¹⁹ The use of the term ‘property’ objectifies police dogs. This suggestion is further supported by the wording of the Thames Valley Police, ‘Police Dogs – Use of Force, Operational Use and Deployment’ Statement of Policy where, “a police dog used to apprehend is best understood as an instrument of force, like a baton.”¹²⁰ Although this statement in its wider context is concerned with the police use of force, as they are legally responsible and it is their reasonableness that has to be assessed, the wording of the policy in relation to the police dog is telling. The second statement appears to say that a police dog is akin to an object and is equipment that is to be utilised. Treating police dogs under the Criminal Damage Act 1971 appears to be consistent with police policies. However, the threshold set out by the Sentencing Council guidelines for the Criminal Damage Act 1971 is often difficult to meet and uses the value of the item damaged or destroyed to determine the appropriate sentence or fine,¹²¹ which may be difficult to quantify. This idea that police dogs are objectified as equipment, however, appears to be at odds with their wider public perception, as shown by the support for the petition on this issue. This did not go unnoticed during the Parliamentary debates held. As an example, during the Parliamentary debate on police dogs and horses (a result of the previously mentioned petition), David Mackintosh said that:

“...as the petition demonstrates, there is a feeling among the wider public that police animals deserve greater legal protection than they currently enjoy, in recognition of the risks they face in the service of our society. In this respect, the law is definitely at odds with public opinion and that of the police, who care for their animals with exceptional compassion and humanity.”¹²²

¹¹⁸ Gary L. Francione, *Rain without thunder: The Ideology of the Animal Rights Movement* (Philadelphia Temple University Press, 1996) 25

¹¹⁹ ACPO Police Dogs Manual of Guidance 2011, Version 1.1, 14.30.1
< <https://cinotecniamilitar.files.wordpress.com/2015/02/201103uopdogsmog1-1.pdf> > accessed 3rd July 2019

¹²⁰ Thames Valley Police, 33400 Policy – Jou Police Dogs – Use of Force, Operational Use and Deployment Statement of Policy, 3.1. Last Updated 19/01/18
<<https://www.thamesvalley.police.uk/SysSiteAssets/foi-media/thames-valley-police/policies/policy---dogs.pdf>> accessed 4th July 2019

¹²¹ Sentencing Council, ‘Criminal damage (other than by fire) / racially or religiously aggravated criminal damage’ (effective from the 4th August 2008)

¹²² (HC) Deb, 14 November 2016, vol 617 col 2WH

Herzog refers to this state of disparity between viewing animals as “objects” and “equipment,” and by the same token considering them sentient individuals, as the constant paradox.¹²³ Consider the following example. On Sunday the 27th of October 2019, President Donald Trump of the United States made an announcement that one of the world’s most wanted men had been killed in a US-led operation. In the days following, more details emerged of the operation. On the 29th of October 2019, an online BBC News article headline read; “Baghdadi death: The 'wonderful' canine who chased the leader of Islamic State.”¹²⁴ This article illustrates Herzog’s constant paradox; the military dog whose photo has been declassified but has not been named, is praised in the article for their “heroism” and performing a “tremendous service”, yet by the same token, the author has used the word “it” to describe the dog that was injured during the operation. The word “it” is usually associated with referring to an object, or property. Usually, you would expect the word him, her, she or he to be used; of course the name of the dog in question has remained classified along with their gender. However, a gender-neutral term such as “they” could have been employed as opposed to using a word associated with an object. Thus, the language used in relation to service dogs can affirm their position within the law: they are property. This sentiment is reflected in a letter that was sent to the Associated Press on the 22nd of March 2021, signed by over 80 individuals including Dr. Jane Goodall, and Steven Wise.¹²⁵ The letter calls for the Associated Press Style book be updated to include animals as a “who, not a what.”¹²⁶ It is argued that this is not “a niche topic or a trend in language,”¹²⁷ suggesting that the use of pronouns be extended to include animals. For example, the use of she/her/hers, or where gender is unknown then the use of the non-binary term “they” should be employed.¹²⁸ The signatories of the letter suggest that “this change would be a simple, yet monumental, step towards promoting accuracy in communication and ending the objectification of nonhuman animals we live amongst.”¹²⁹ Our use of language helps shape our perception of the world we reside in,¹³⁰ and can influence our

¹²³ Harold Herzog, ‘Human Morality and Animal Research: Confessions and Quandaries’ (1993) 62(3) *The American Scholar* < <https://www.jstor.org/stable/41212145> > accessed 6th July 2019

¹²⁴ Unknown, ‘Baghdadi death: The 'wonderful' canine who chased the leader of Islamic State’ (*BBC News Online*, 29th October 2019)

¹²⁵ Joint open letter to the Associated Press Calling for a Change in Animal Pronouns – Animals Are a Who, Not a What < <https://idausa.lattecdn.com/assets/files/assets/uploads/openletterapstylebook.pdf> > accessed 4th April 2020

¹²⁶ *Ibid*

¹²⁷ *Ibid*

¹²⁸ For more on this see the, ‘Associated Press Stylebook Amendments & Recommendations’ (1st August 2020) < [Associated Press Stylebook Amendments & Recommendations - Animals & Media \(animalsandmedia.org\)](https://www.associatedpress.org/associated-press-stylebook-amendments-recommendations-animals-media) > accessed 4th April 2021

¹²⁹ *Ibid*

¹³⁰ Nola Klemfuss, William Prinzmetal and Richard B. Ivry, ‘How does language change perception: a cautionary note’, (2012) *Front. Psychol* < <https://www.frontiersin.org/articles/10.3389/fpsyg.2012.00078/full> > accessed 4th April 2021

relationships with others. Language is a powerful tool which currently aids in the perpetuation of the position that animals are not individuals with their own identity but at the arbitrary whim of human desire.¹³¹

What Finn's Law has done to improve this legal position is to amend s. 4(3) so a defendant can no longer claim that they were acting in self-defence under s. 3(c)(ii) which justifies the use of force against a service animal. The new Act creates a separate recognisable offence, rather than treating attacks on service dogs as criminal damage. Already, the legislation is doing the job it was designed for: 22 days after the law came into force, an attack on PD Audi while carrying out his duties was the first charge to be brought under the new law.¹³² It also, arguably, shifts service dogs even further away from the idea of their being property. As the law is progressing, it is no longer necessary for some service dogs to be considered under the law of criminal damage when taking action in these cases. There is an argument to be made however, that perhaps the legislature should have used this opportunity to go further. Rather than simply a symbolic shift, moving service dogs away from being viewed as property under the law, they should have been legally recognised as having a status akin to their handler. This could have levelled up their legal protection and offered retirement provisions similar to that of their handler, which is what this thesis explores. The suggestion of this is not entirely fanciful; although the overall legal position of police and service dogs remains unchanged through Finn's Law, the wider social shift has been far greater. Chief Constable Nick Adderley has said that Finn's Law for police dogs, "means rightly identifying them as our colleagues and protectors, who are as valued as our officers and staff, and to protect them throughout their working career with the Force."¹³³ The Animal Welfare (Service Animals) Act 2019 does not identify service animals as colleagues or protectors, nor does it show that these animals are as valued as the officer and the staff whom these animals work alongside. In contrast, in 2008 the Supreme Court in Norway explicitly recognised police dogs through expanding the definition of public servant to incorporate them, meaning that an attack on a police dog is to be given the same legal weight as an attack on a human officer.¹³⁴ Furthermore, the Animal Welfare (Service) Animals Act 2019 is very limited in its scope, applying only to service animals that fall within the police or prison services. Perhaps what can be inferred from the above quotation, however, is the beginning of a symbolic shift. Following on from this, a

¹³¹ Zipporah Weisberg, 'Animal Assisted Intervention and Citizenship Theory' in Christine Overall *Pets and People: The Ethics of Our Relationships with Companion Animals* (Oxford University Press 2017) 225

¹³² Unknown, 'Man Who Stabbed Police Dog in Stoke-on-Trent Jailed Under New Law', (*BBC News*, 5th August 2019)

¹³³ Unknown, 'Northamptonshire Police marks Finn's Law with Police dog presentation', (*Northamptonshire Police News*, 10th June 2019)

¹³⁴ Unknown, 'Attack on Police Dog in Norway Now Equal To Assaulting Police Officer', (*Fox News*, 5th June 2008)

“colleague,” “a protector,” and “as valued as our officers and staff,” are not words synonymous with property, so it will be interesting to see whether there is a wider appetite for legal change within the service dog sector when it comes to the legal recognition of service dogs, or whether having a service dog enshrined in law as your “colleague” will actually prove too much of a legal shift for now. This is something that this thesis will examine closely in chapters six and seven, which will be spent examining and discussing the findings of the data collected in relation to this question.

On the 12th August 2020, a defendant received 100 hours of unpaid work and was ordered to pay £123 in compensation after being convicted of causing unnecessary suffering to a protected animal at Southampton Magistrates Court, after the defendant failed to attend a previous hearing.¹³⁵ PD Ernie suffered injuries to his foot that were caused by the defendant trapping his foot in a door and proceeding to slam the door on his foot repeatedly, which caused his injuries to be considered at the time as “career ending.”¹³⁶ Then, as mentioned, the maximum sentence for a s. 4 offence committed under the AWA was six months imprisonment and/or an unlimited fine.¹³⁷ On the 29th of April 2021, a long-awaited announcement was finally made. The Animal Welfare (Sentencing) Act 2021, also known as Finn’s Law Part 2,¹³⁸ would come into effect from the 29th of June 2021. The Act brings England and Wales in line with both Northern Ireland¹³⁹ and Scotland,¹⁴⁰ where the maximum custodial sentence available is also five years. In addition, the Act aims to signify to the wider public that animal interests and their welfare do matter.¹⁴¹ This is another attempt at trying to improve the current level of legal protection that animals receive, as England and Wales have been significantly lagging behind their European counterparts, with the current European average being 2.04 years¹⁴² imprisonment for an animal welfare offence. The Act complements and helps to further strengthen the enforcement of the AWA and the Animal Welfare (Service Animals) Act 2019. The Act amends s. 32 AWA, altering the mode of trial to triable either way. Summary offences will have a maximum imprisonment time of up to 12 months. For indictable offences, as previously stated, the maximum imprisonment time will increase to five years.¹⁴³

¹³⁵ Tom Orde, ‘Ernest Piotr Kujawski appears at Southampton Magistrates’ Court’, (*Southern Daily Echo*, 12th August 2020)

¹³⁶ Unknown, ‘Police Dog and Handler Receive Chief’s Award’, (*Hampshire Constabulary News*, 12th August 2020)

¹³⁷ See the Animal Welfare Act 2006, s. 32, and the Sentencing Council ‘Animal Cruelty’ (Revised 2017)

¹³⁸ Fabulous Finn, ‘#FinnsLawPart2’, < <https://www.finnslawpart2.info/> > accessed 20th April 2021

¹³⁹ Welfare of Animals Act (Northern Ireland) 2011

¹⁴⁰ Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020

¹⁴¹ Department for Environment, Food and Rural Affairs, ‘Maximum prison sentence for animal cruelty raised to five years’, (*Gov.uk*, 29th April 2021)

¹⁴² Animal Welfare (Sentencing) Bill Explanatory Notes, ‘Policy Background’, 4

¹⁴³ Animal Welfare (Sentencing) Act 2021

It is worth noting that for welfare offences under s. 9 of the AWA, the maximum custodial sentence will remain six months. The question surrounding the correlation and effectiveness of longer prison sentences and offender behaviour, along with the likely application of increasing the sentencing guidelines, is beyond the scope of this thesis. Both the Animal Welfare (Service Animals) Act 2019 and the Animal Welfare (Sentencing) Act 2021 help to demonstrate that our current welfarist paradigm, explored in the next chapter, can be improved and built upon. It also demonstrates the need to go further and consider measures that do not maintain the status quo, such as incorporating animal interests within the legal process itself. The subject of animal labour and labour rights for animals has emerged as a result of a wider “animal turn”¹⁴⁴ within various disciplines. Animal labour in its own right has previously lacked the attention of academics but it has gained more interest quite quickly since this thesis began in 2018. In 2020, *Animal Labour: A New Frontier of Interspecies Justice* was released, which aimed to explore and develop some of the many issues and questions that arise from animal labour, outlining:

“We are still at the very early stages of the debate, and much work remains to be done, at multiple levels, in terms of identifying relevant social practices of animal labour, clarifying the appropriate moral standards for evaluating these practices, improving our understanding of animals’ experiences of work, and formulating legal and institutional structures that would both be effective in soliciting animals’ preferences while also providing secure and reliable rights protections. The chapters in this volume open up important new perspectives, but in the process, they often lead to even more complicated questions, many of which are still not answered in the case of human labour.”¹⁴⁵

The exploration of citizenship theory in chapter four and its application to service dogs, in addition to the empirical research findings, will help to contribute to this area. For example, some of the questions posed by the authors are around whether animals are our co-workers, how this should be recognised, and whether these animals should be provided with protection using labour laws.¹⁴⁶

2.4 Conclusion

As highlighted by this chapter, there are many reasons that can be considered to justify increasing the protection of service dogs and improving their legal status. Service dogs provide demonstrable and tangible benefits to individuals and to society as a whole on a daily basis. These are highly trained individuals who have had considerable financial investment into their initial and continued training and development. A high number of service dogs work to protect

¹⁴⁴ Charlotte E. Blattner, Kendra Coulter, and Will Kymlicka, *Animal Labour: A New Frontier of Interspecies Justice?* (Oxford University Press, 2020)

¹⁴⁵ Ibid

¹⁴⁶ Ibid

and enable us to continue our way of life, in some cases paying the ultimate sacrifice, having been placed in that position by intentional human actions. The benefits that society receives as a result are worth protecting but at the moment, service dogs are in receipt of limited protection and no employment rights. Their contribution is not recognised, with their legal status being that of property. Citizenship theory and labour rights for animals offer a potential avenue of exploration to improve the current situation of service dogs. Chapter three provides a review of the literature in relation to this thesis.

Chapter Three: Literature Review

3.1 Introduction

The concept of an area of law specifically centred around animals is one that is still relatively new but is an area that is continually growing and evolving.¹⁴⁷ Peter Singer in 1975 wrote *Animal Liberation: A New Ethics for Our Treatment of Animals*¹⁴⁸ which is seen by many as acting as the starting point for the animal rights movement that is established today, despite the fact that Singer never explicitly advocated for animal rights.¹⁴⁹ As a result, the debate concerning the rights of animals has now been prevalent within academic circles for nearly fifty years. This chapter will explore and discuss the literature in this area and begin by providing a brief history of the legislative and other significant developments for animal law, primarily within England and Wales, before moving on to outline the current prevailing paradigm of welfarism and its historical development. Finally, this chapter will outline the approaches of a number of important theorists that have attempted to move us away from the welfarist paradigm and contributed to the debate surrounding the legal status of animals. This chapter will have a specific focus on service dogs and will consider a variety of literature in light of the distinctive societal space that service dogs occupy.

3.2 Animal welfarism: the prevailing paradigm

“Think about this:

Joe the Bully is hitting a little child with a big stick. He then picks up a slightly smaller stick, which causes the child a bit less pain, and proceeds to continue to hit the child.

Is it better that he uses the smaller stick? Yes.

It’s always better to do “less bad” rather than “more bad.” But “less bad” and “more bad” are both still *bad*.

Should we have campaigns to urge that bullies like Joe use smaller sticks when brutalizing innocent children? No, of course not.

¹⁴⁷ Megan A. Senatori and Pamela D. Frasch, ‘The Future of Animal Law: Moving beyond Preaching to the Choir’, (2010) 60(2) J Legal Educ < <https://www.jstor.org/stable/42894171> > accessed 20th November 2018

¹⁴⁸ Peter Singer, *Animal Liberation: A New Ethics for Our Treatment of Animals* (Harper Collins, 1975)

¹⁴⁹ Gary L. Francione, ‘Animal Rights Theory and Utilitarianism: Relative Normative Guidance’, (1997) 3(75) Animal L < <https://www.animallaw.info/article/animal-rights-theory-and-utilitarianism-relative-normative-guidance> > accessed 20th November 2018

But that is *exactly* what animal groups are doing with their welfare reform campaigns promoting “cage-free” eggs, “crate-free” pork, etc.”¹⁵⁰

Welfarism is the enduring paradigm when considering animals and their legal protection,¹⁵¹ informing the law, historical, and existing welfare standards, ethics, and morality. Operating silently in the background, it predetermines the answer to any animal-related question before it has even been asked. Standing the test of time, it is no surprise that welfarism is the current paradigm in England and Wales, in addition to being one of the most common approaches worldwide in relation to the treatment, protection and attitudes towards animals. Welfarism is the belief that animals are entitled to moral consideration in some form, and that the use of animals for human benefit is permissible. In addition, welfarists accept the historical premise that animals are property; being objects of the law rather than subjects,¹⁵² “the classification of a living being as a thing or as property has been used throughout history as a way of perpetuating the subordination of that being”¹⁵³ and this is no different in the case of animals. Elizabeth DeCoux argues that in law, there is an assumption of human superiority over animals.¹⁵⁴

Classical welfarism, as it is known today, began to emerge around the 18th century, with it starting to have an influence by the mid-18th century. These early signs can be seen in the approaches of prominent philosophers, Immanuel Kant, and Jeremy Bentham, even though each has entirely different philosophical beliefs. For example, Kant’s concept of the categorical imperative does not apply to animals, therefore direct duties are not owed. Instead, animals can be used as a “means to an end” i.e., an animal can be used for human purposes and is deemed to have no intrinsic worth.¹⁵⁵ However, Kant was concerned that animals must not be intentionally harmed, as gratuitous cruelty may lead to cruelty being inflicted on fellow humans. This concern is also shared and reflected today, with many studies now confirming a

¹⁵⁰ Gary L. Francione, ‘Understanding the Welfarist Position’ (*Animal Rights: The Abolitionist Approach*, 5th September 2013) < <https://www.abolitionistapproach.com/understanding-welfarist-position/> > accessed 24th August 2020

¹⁵¹ Gary L. Francione, ‘Animal Welfare and the Moral Value of Nonhuman Animals’ (2010) 6(1) *Law, Culture and the Humanities* < <https://doi.org/10.1177/1743872109348989> > accessed 2nd September 2020

¹⁵² Richard A. Epstein, ‘Animals as Objects, or Subjects, of Rights’ in Cass R. Sunstein and Martha C. Nussbaum *Animal Rights: Current Debates and New Directions*, (Oxford University Press, 2005)

¹⁵³ Seymour G. ‘Animals and the Law: Towards a Guardianship Model’, (2004) 29(4) *Alternative Law Journal*, 183 < [10.1177/1037969X0402900404](https://doi.org/10.1177/1037969X0402900404) > accessed 18th February 2020

¹⁵⁴ Elizabeth DeCoux, ‘Pretenders to the Throne: a First-Amendment Analysis of the Property Status of Animals’ (2007) 18(185) *Fordham Environmental Law Journal* < <https://ssrn.com/abstract=1677243> > accessed 9th August 2019

¹⁵⁵ *Doctrine of Virtue* section 16 (6:444 in *Colelected Works*.) This is in direct contrast to the human position, who must always be viewed and treated as an end in themselves, as they are inherently valuable.

link between harm to animals and harm to humans.¹⁵⁶ In contrast to Kant, the utilitarian philosopher, Bentham felt that animals should be considered, particularly within the in the cost-benefit calculation (which will be discussed in more detail later in the chapter), as he believed that animals were capable of experiencing suffering and, therefore, pleasure as well. In other words, Bentham believed that animals were sentient, and therefore they should be given consideration. Rather than focusing on particular cognitive abilities, sentience for Bentham is the essential requirement for an individual to have their interests considered in the cost-benefit calculation, famously declaring that “the questions is not ‘can they reason?’ Nor, ‘can they talk?’ But rather, it is ‘Can they suffer?’”¹⁵⁷ As will become clear throughout this chapter, the utilitarian approach advocated by Bentham in the 18th century is commonplace in the 21st century and embedded within the welfarist approach.

The utilitarian approach to animals was revived and developed during the 1970’s by Singer, building upon Bentham’s approach.¹⁵⁸ Singer proposed the principle of equal consideration of interests¹⁵⁹ for animals, asserting that that this consideration is capable of being extended to animals because “the principle of equality of human beings is not a description of an alleged actual equality among humans: it is a prescription of how we should treat humans.”¹⁶⁰ The concept of moral equality is what Bentham touches upon in the previous quotation. Here, Singer is referring to comparable interests, therefore, this does not mean that animals will have identical rights or interests as humans because they have differing needs, but that they are entitled to have those rights and interests considered and given equal weight in the same way that a human is entitled to.¹⁶¹ In addition, Singer adopts the same essential requirement as Bentham does, preferring sentience over any other particular requirement.¹⁶² Posner criticises the utilitarian approach when applied to animals, preferring to adopt a humancentric approach.¹⁶³ This approach centres around human welfare, and has concerns in relation to the potential impact that having to consider animals might have on humans.¹⁶⁴ Posner advocates that humans should have “sufficient empathy” in relation to the pain and suffering that is caused to animals,¹⁶⁵ and that these concerns are able to be addressed through legislative means

¹⁵⁶ See for example the edited collection, edited by Andrew Linzey, *The Link Between Animal Abuse and Human Violence*, (Sussex Academic Press, 2009)

¹⁵⁷ Jeremy Bentham, *The Principles of Morals and Legislation* chap. XVII, section IV [–1781] (Amherst, NY: Prometheus, 1988) 310–311

¹⁵⁸ Peter Singer, *Animal Liberation: Towards an End to Man’s Inhumanity to Animals* (Paladin, 1977)

¹⁵⁹ *Id.* at 22

¹⁶⁰ *Id.* at 24

¹⁶¹ *Id.* at 22

¹⁶² *Id.* at 27–28

¹⁶³ Richard Posner ‘Animal Rights: Legal, philosophical and pragmatic perspectives’ in Cass Sunstein and Martha Nussbaum (eds) *Animal Rights: Current debates and new directions*, (Oxford University Press, 2005) 66

¹⁶⁴ *Ibid*

¹⁶⁵ *Ibid*

which will have less impact and cost on the current way of life that humans have become accustomed to.¹⁶⁶ Posner's approach aligns with the current way in which the law operates, and he argues that "if enough people come to feel the sufferings of these animals as their own, public opinion and consumer preference will induce business firms and other organisations that inflict such suffering to change their methods."¹⁶⁷ Relying on public opinion to drive change is the most common approach that is adopted in England and Wales to achieve higher animal welfare standards or to ban certain practices completely. For example, "over 80% of UK consumers have expressed a preference for methods of production to be labelled clearly on animal products."¹⁶⁸ Animal welfare labelling formed part of the government's Action Plan for Animal Welfare, which was released in May 2021, where the government said that they would "...consult on how labelling can be reformed to make it easier for consumers to purchase food that aligns with their welfare values."¹⁶⁹ On the 13th of September 2021, a call for evidence on animal welfare labelling was launched. One of the aims of animal welfare labels is to provide transparency to the consumer regarding the method of how the animal has been raised, for example, through intensive farming. Clear labelling would enable the consumer to easily identify and choose higher welfare products if they prefer. One effect of this is that it provides an economic incentive to farmers and businesses to improve farm animal health and welfare because their methods of production are visible. This helps reward farmers who already have high animal welfare standards and encourages farmers with lower standards to improve.¹⁷⁰ Animal ethicists have occupied a pivotal role in progressing both animal welfare law and policy, and it is important to recognise the influence that these historical ethical approaches still have to this day. Wise notes that,

"as "[l]aw is a scavenger... [that] grows by feeding on ideas from outside, not by inventing new ones of its own,"¹⁷¹ its history and evolution intimately weave among the histories and evolutions of other disciplines. The understandings and misunderstandings of science, philosophy, and theology therefore frequently underpin important legal principles."¹⁷²

¹⁶⁶ Ibid

¹⁶⁷ Ibid

¹⁶⁸ A. Shann, 'Mandatory Labelling', Conservative Animal Welfare Foundation Research Report, November 2020, < <https://www.conservativeanimalwelfarefoundation.org/wp-content/uploads/2021/01/CAWF-Mandatory-Labelling-Report-2020.pdf> > accessed 10th April 2021

¹⁶⁹ Department for Environment, Food and Rural Affairs, 'Action Plan for Animal Welfare', [Action Plan for Animal Welfare \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97822/action-plan-for-animal-welfare.pdf) accessed 14th May 2021

¹⁷⁰ A. Shann, 'Mandatory Labelling', Conservative Animal Welfare Foundation Research Report, November 2020, 8-9 < <https://www.conservativeanimalwelfarefoundation.org/wp-content/uploads/2021/01/CAWF-Mandatory-Labelling-Report-2020.pdf> > accessed 10th April 2021

¹⁷¹ E. Donald Elliott, 'The Evolutionary Tradition in Jurisprudence', (1985) 85 Colum. L. Rev. 38 < https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=6082&context=fss_papers > accessed 13th March 2020

¹⁷² Steven M. Wise, 'How Nonhuman Animals Were Trapped in a Nonexistent Universe', (1995) 1 Animal L. 15-16

Both Posner's preferred humancentric approach and the core principle of utilitarianism are reflected through animal protection legislation in England and Wales, which will become more apparent as this chapter progresses. Before moving on to consider this, there is an alternative form of welfarism that has emerged throughout the last 30 years or so, which needs to be briefly touched upon - this is known as new welfarism.

New welfarism has been termed a "hybrid approach," as it utilises the existing welfarist framework to ensure the limitation of animal suffering in so far as possible, in combination with steps towards animal rights and liberation.¹⁷³ The central divergence between these approaches is that welfare reform campaigns are intended to act as a means to an end, the end being the eventual liberation and rights for animals. Single-issue campaigns have always formed an important tool for welfarists to demand change. Two well-known examples would be the campaigns to end the use of gestation crates (otherwise known as farrowing crates) or battery cages for hens.¹⁷⁴ Francione, a well-known abolitionist, criticises this approach, suggesting that "it appears as though the new welfarists believe that some causal connection exists between cleaner cages today and empty cages tomorrow, or between more 'humane' slaughter practices today and no slaughtering tomorrow"¹⁷⁵ While Francione's view is understandable, taking a pragmatic approach, for any truly significant change to come about for animals will require the support of the public; it requires challenging and unpicking centuries of deeply-embedded beliefs and assumptions. This appears to be a form of compromise, providing that the end sight of animal liberation and rights is never lost, even if it perhaps does not conform to what our individual philosophies and visions for animals would ideally look like. Slavery is frequently drawn upon by animal theorists to provide a comparison with the current position of animals.¹⁷⁶ Slavery in England began in the 16th century, and it took until the 19th century for the purchase and/or owning of slaves to become illegal in Britain and parts of the British Empire, through the enactment of the Abolition of Slavery Act 1834. This highlights the length of time that it could take for significant changes to arise for animals. Nevertheless, attitudes and views are beginning to alter, according to a recent YouGov poll taken on the 27th of August 2021 when asked "do you think that human lives are worth more, less, or the same as animal lives?"¹⁷⁷ 40% of those surveyed agreed that human lives are worth

<https://www.animallaw.info/sites/default/files/Nonhuman%20Animals_Nonexistent%20Universe.pdf> accessed 13th March 2020

¹⁷³ Nicola Taylor, 'Whither rights? Animal rights and the rise of new welfarism', (1999) 3(1) *Animal Issues* < <https://ro.uow.edu.au/ai/vol3/iss1/2> > accessed 18th February 2020

¹⁷⁴ See for example, the campaign by Compassion in World Farming to 'End the Cage Age', < <https://www.ciwf.org.uk/our-campaigns/end-the-cage-age/> > accessed 13th May 2020

¹⁷⁵ Gary L. Francione, 'Animal Rights and Animal Welfare', (1996) 48 *Rutgers L. Rev.* 399 < <https://heinonline.org/HOL/P?h=hein.journals/rutlr48&i=407> > accessed 13th May 2020

¹⁷⁶ See for example Steven M. Wise, 'Animal Rights, One Step at a Time', in Cass Sunstein and Martha Nussbaum (eds) *Animal Rights: Current debates and new directions*, (Oxford University Press, 2005)

¹⁷⁷ YouGov, 'Do you think that human lives are worth more, less, or the same as animal lives?'

the same as animal lives.¹⁷⁸ Although this appears promising, this is just the beginning and there remains a long and uncertain road ahead.

< <https://yougov.co.uk/topics/philosophy/survey-results/daily/2021/08/27/efc5e/1> > accessed 19th
October 2021
¹⁷⁸ Ibid

3.3 Significant animal protection developments: A timeline

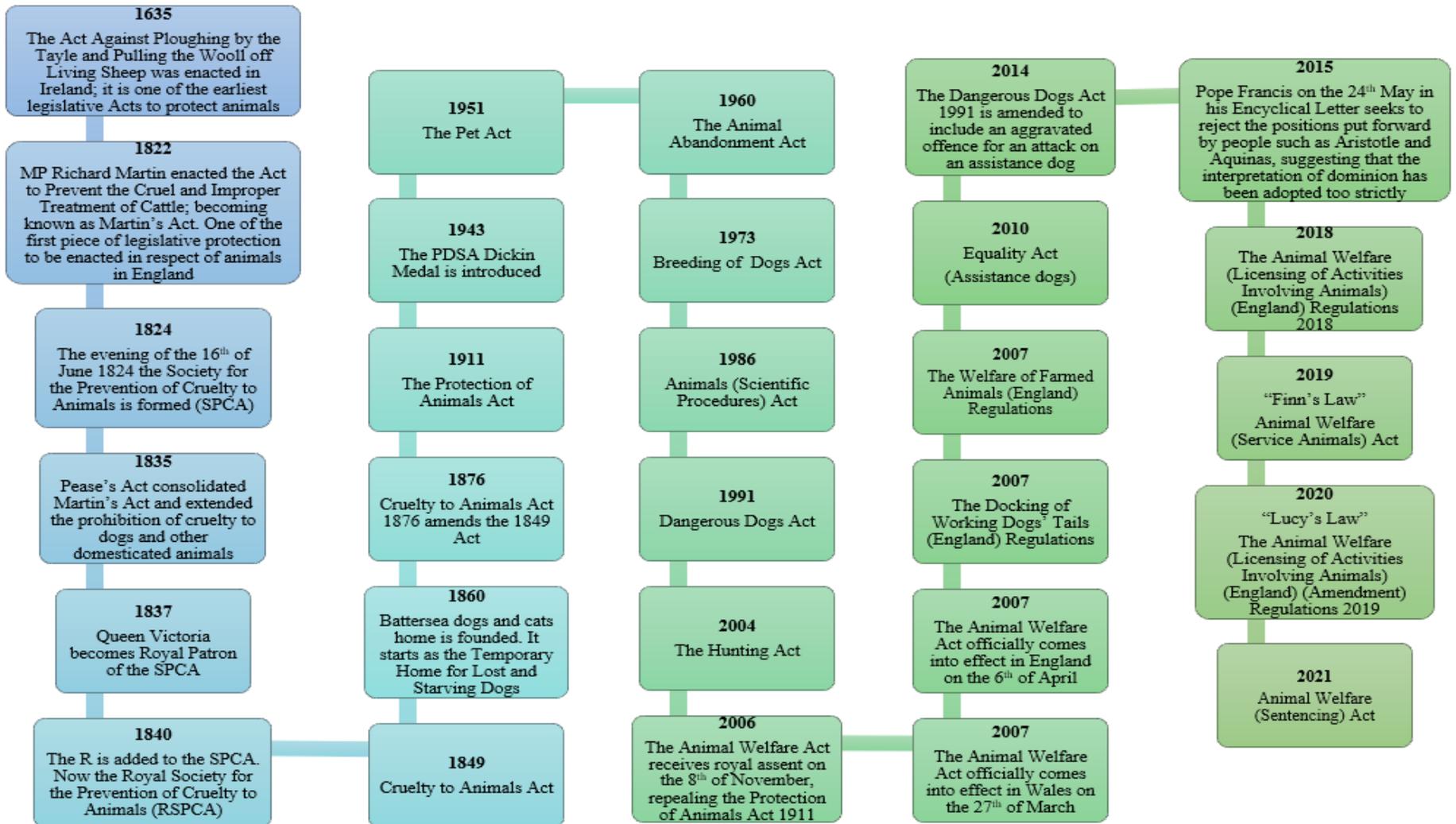


Figure 3.1: A Timeline of legislative and significant developments for Animal Law primarily within England and Wales

As society moved into the 19th century, there was a rise in legislation and movements focused on opposing cruelty towards animals. The historical focus of animal protection legislation initially centred around animals that were deemed to be “useful”, as noted in the below quotation by Childs:

“The common law regards and gives the greatest protection to those animals designated as useful, and the least protection to those *ferae naturae*. Useful animals [e.g., cattle and sheep] are regarded as having intrinsic value, and are given the same protection as is given to goods; but, at common law, animals of a base nature are not regarded as property to the extent of being subjects of larceny, nor could a criminal action be brought for maliciously killing an animal of a base nature.”¹⁷⁹

A “useful” animal such as a service dog, would be one that provided a benefit to humans, possessing a purpose, for example animals used for activities such as guarding, transportation, entertainment, or to produce foods and goods. The beginning of animal protection legislation for England and Wales initially starts in 1635, as shown in figure 3.1 above, when the Act Against Ploughing by the Tayle and Pulling the Wooll off Living Sheep was enacted in Ireland. Nearly 200 years later, England enacts the first of its animal protection legislation in the form of the Act to Prevent the Cruel and Improper Treatment of Cattle 1822.¹⁸⁰ The Act made it an offence for anyone to “wantonly and cruelly beat, abuse, or ill-treat any horse, mare, gelding, mule, ass, ox, cow, heifer, steer, sheep, or other cattle.”¹⁸¹ These early pieces of legislation centre themselves around the protection of animals used for farming. Initially, when the Society for the Prevention of Cruelty to Animals was established in 1824, their attention was also focused on working animals.¹⁸²

In 1835 however, this focus began to change when Pease’s Act consolidated Martin’s Act, extending the prohibition of cruelty to include dogs and other domesticated animals.¹⁸³ What is interesting about this shift is that it suggests that the human obligation towards animals needed to be extended, and this may be an interesting aspect for historical researchers to look into. Why this shift occurred is beyond the scope of this thesis, but it would be useful to explore in further research why society provides certain animals with treatment and protection under the law. This position is then further strengthened by the Cruelty to Animals Act 1849 and 1876, along with the establishment of Battersea Dogs and Cats Home in 1860. By 1911, the Protection of Animals Act is enacted, combining existing legislation to form one Act. Brooman and Legge note that the Act “...marks the beginning of contemporary legal attitudes

¹⁷⁹ Frank Hall Childs, *Principles of the Law of Personal Property, Chattels and Choses* (Callaghan, 1914) 35-36

¹⁸⁰ S. Brooman and D. Legge, *Law Relating to Animals* (Cavendish Publishing Limited, 1997) 42

¹⁸¹ The Act to Prevent the Cruel and Improper Treatment of Cattle 1822

¹⁸² RSPCA, ‘Our History’, (RSPCA, Unknown)

< <https://www.rspca.org.uk/whatwedo/whoweare/history> > accessed 13th May 2020

¹⁸³ RSPCA, ‘Our History: The law’, (RSPCA, Unknown)

< <https://www.rspca.org.uk/utilities/aboutus/history> > accessed 2nd July 2019

to animals.”¹⁸⁴ In 2006, one of the most substantial legislative Acts for animals receives royal assent, repealing the Protection of Animals Act 1911. The Animal Welfare Act 2006 (AWA),¹⁸⁵ “was the first review of pet law in 94 years... the Animal Welfare Act combined more than 20 pieces of legislation into one”¹⁸⁶ To this day, the AWA remains our most significant piece of animal protection legislation, as it introduced positive steps for owners to ensure the welfare of an animal in their care, such as s. 9 which imposes a duty on to the individual(s) responsible for an animal to ensure their minimum welfare needs are satisfied.¹⁸⁷ Thus, the Act adopted an approach that would allow a relevant body to intervene *before* an animal has suffered. This is in direct contrast to the reactive approach under the Protection of Animals Act 1911,¹⁸⁸ intervening only once suffering had taken place.¹⁸⁹

3.4 The Animal Welfare Act 2006

“Gratuitous cruelty is usually illegal but otherwise the law strikes a balance between perceived human self-interest and the interests of the animals concerned. Animals are not in a strong bargaining position and not surprisingly their interests are often relegated to those of humankind.”¹⁹⁰

As noted above, the AWA is our most significant piece of animal protection legislation in England and Wales to date, embodying the paradigm of welfarism and ensuring that it is carried out in practice. The scope of the AWA is defined under s. 1(1) in which “animal” means a vertebrate other than man.”¹⁹¹ S. 2 specifies the category of “protected animal” as domesticated animals commonly found on the British Isles, under the control of man either permanently or temporarily, and that are not a wild animal.¹⁹² It is important to note that these three limbs are separate under s. 2, an animal is only required to meet one of the criteria noted above to fall within the definition of a protected animal. For example, a dog will come under the scope of s. 2, whether under the control of man or not, as they are commonly domesticated in the British Isles.¹⁹³ The fact that the Act exists demonstrates that society recognises that there is a need for a certain level of protection and consideration for animals. However, it does

¹⁸⁴ S. Brooman and D. Legge, *Law Relating to Animals* (Cavendish Publishing Limited, 1997) 50

¹⁸⁵ Animal Welfare Act 2006

¹⁸⁶ BBC, ‘Animal Welfare Act Ethics Guide’, (BBC, Unknown)

< <http://www.bbc.co.uk/ethics/animals/overview/latest.shtml> > accessed 2nd July 2019

¹⁸⁷ Animal Welfare Act 2006, s 9

¹⁸⁸ RSPCA, ‘Animal Welfare Act’, (RSPCA, Unknown)

< <https://www.rspca.org.uk/whatwedo/endcruelty/changingthelaw/whatwechanged/animalwelfareact> > accessed 2nd July 2019

¹⁸⁹ Protection of Animals Act 1911, s 1

¹⁹⁰ David Thomas, ‘Animal Protection and the Law’, ALAW Launch Seminar 27th June 2005

< <http://alaw.org.uk/articles/whatisanimalprotectionlawjune05.pdf> > accessed 4th October 2016

¹⁹¹ Animal Welfare Act 2006, s 1(1)

¹⁹² Animal Welfare Act 2006, s 2

¹⁹³ Animal Welfare Act 2006, Explanatory Notes s, 2(14)

not challenge their property status, and access to protection can be qualified. Some animals, such as those who are commonly kept as companions, receive greater protection and more favourable treatment than other animals, such as those used for scientific experimentation, with an exemption to the AWA being awarded in specific circumstances.¹⁹⁴ Thus, there is selective protection for animals, with some being awarded greater overall protection than others. S. 58 of the AWA is an exemption, as nothing in the AWA applies to anything that is done lawfully under the Animals (Scientific Procedures) Act 1986 (ASPA). This includes s. 4 of the AWA which prevents the unnecessary suffering of a protected animal.

This can also be seen in other legislation concerning animals. For example, section 5B (3)(d) ASPA contains the harm-benefit analysis, which is described by the Animals in Science Committee in their review of the harm-benefit analysis as, “a form of decision making that uses moral reasoning based on utilitarianism; i.e. aiming for the maximum balance of benefits over harms for all affected.”¹⁹⁵ This harm-benefit approach is also adopted within key animal-related policy and guidelines; the following passage is taken from the ACPO Police Dog Manual of Guidance:

“Whilst it is recognised that the operational deployment of police dogs may place them at risk of harm this must be measured against the potential risk to human life if the dog were not to be so deployed. However, the welfare of police dogs is of paramount importance when considering all other aspects of their husbandry.”¹⁹⁶

The first sentence is reflective of the core utilitarian principle previously touched upon, acknowledging that there is a potential risk of harm to a police dog, and that it is necessary to balance this risk with the possible risk to human life. The second sentence then acts as a justification for the first. It shifts the emphasis away from the use of the police dog to the importance of the care that the police dog receives. This balancing act between harm and benefit is what Francione refers to as the “humane treatment principle,”¹⁹⁷ “the property status of animals renders meaningless any balancing that is supposedly required under the humane treatment principle or animal welfare laws, because what we really balance are the interests of property owners against the interests of their animal property.”¹⁹⁸

¹⁹⁴ See Animal Welfare Act 2006, s 58

¹⁹⁵ The Animals in Science Committee, ‘Review of harm-benefit analysis in the use of animals in research’, Report of the Animals in Science Committee Harm-Benefit Analysis Sub-Group chaired by Professor Gail Davies (2017)

<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/675002/Review_of_harm_benefit_analysis_in_use_of_animals_18Jan18.pdf> accessed 2nd July 2019

¹⁹⁶ ACPO Police Dogs Manual of Guidance, (2011), Version 1.1, s 7.1

<<https://cinotecniamilitar.files.wordpress.com/2015/02/201103uopdogsmog1-1.pdf>> 3rd July 2019

¹⁹⁷ Gary L. Francione, *Animals-Property or Persons?* in Cass R. Sunstein and Martha C. Nussbaum *Animal Rights: Current Debates and New Directions* (Oxford University Press, 2005)

¹⁹⁸ *Ibid*

Under s. 5C (4) ASPA, dogs, along with endangered animals, primates, cats, and equidae are awarded higher levels of protection than other animals. In 2019, “3.40 million procedures were carried out in Great Britain involving living animals,”¹⁹⁹ including 4,055 procedures on beagles and 172 on dogs of other breeds, that are covered under 5C (4) ASPA, unlike mice and rats that, in comparison, were subject to 2,507,549 procedures 171,069, respectively.²⁰⁰ This suggests that legislative protection is awarded to animals that are either commonly kept as companions, i.e. dogs, cats and equidae; that are similar to us, i.e. primates; or that are valued for their rarity, i.e. endangered animals. It has been suggested for example, that pigs “possess complex ethological traits similar, but not identical, to dogs and chimpanzees”²⁰¹ but they do not come under the greater protection of the ASPA. Anecdotally, there has been an attempt to include pigs on the list of protected animals under s. 5C (4) ASPA, but it was never achieved. In September 2021, in the UK “pigmeat production was 83,000 tonnes, 4.3% higher than in August 2020.”²⁰² In direct contrast to this, there was a Dog Meat (Consumption) (Offences) Bill introduced 2017-2019, despite there being no evidence of dog meat being consumed in the UK. During a debate on the issue, David Rutley said that “to us, [the UK] wanting to eat man’s best friend is morally repugnant,”²⁰³ yet the slaughter and consumption of billions of other domesticated animals each year fails to be mentioned. Society’s position on the moral status of animals is deeply ambivalent, or what Francione would describe as morally schizophrenic.²⁰⁴ It appears that it is easier for legal protection to be awarded to dogs (such as the ‘special’ protection awarded under the ASPA) because society already holds them in morally higher regard than other animals. There are many reasons as to why this may be the case but to go into this in any depth is straying beyond the scope of this thesis. For service dogs at least, the fact that they provide a contribution to society, have close relationships with humans, and are held morally higher than other animals in the UK, means that attempting to garner public support in relation to suggested changes affecting service dogs is likely to be an easier task.

¹⁹⁹ Home Office, ‘Annual Statistics of Scientific Procedures on Living Animals Great Britain 2019’, (Published 16th July 2020) (HC) 512, 2

²⁰⁰ Home Office, ‘Annual Statistics of Scientific Procedures on Living Animals Great Britain 2019’ (Published 16th July 2020) (HC) 512 Annex A Table 1.2, 23

²⁰¹ Lori Marino and Christina M. Colvin ‘Thinking pigs: A Comparative Review of Cognition, Emotion, and Personality in *Sus domesticus*’, (2015) *International Journal of Comparative Psychology*, 28 <<https://animalstudiesrepository.org>> accessed 31st October 2019

²⁰² Department for Environment Food and Rural Affairs, ‘National statistics - Monthly UK statistics on cattle, sheep and pig slaughter and meat production: August 2021’, < <https://www.gov.uk/government/statistics/historical-statistics-notice-on-the-number-of-cattle-sheep-and-pigs-slaughtered-in-the-uk-2021/monthly-uk-statistics-on-cattle-sheep-and-pig-slaughter-and-meat-production-august-2021-published-on-09-september-2021> > accessed 28th November 2021

²⁰³ (HC) Deb 21 February 2019, vol 654, col 662WH

²⁰⁴ Gary L. Francione, ‘Animals- Property or Persons?’ in Cass R. Sunstein and Martha C. Nussbaum *Animal Rights: Current Debates and New Directions* (Oxford University Press, 2005)

Next, turning to s. 9 of the AWA, this section provides an example of the type of moral consideration that must be given to an animal under the welfarist approach in England and Wales. This section is arguably one of the most important sections of the whole Act because it imposes a duty on the owner of an animal to ensure that their welfare needs are satisfied. This section of the Act incorporates what has become known as the “five freedoms,” identified in 1965 by the Report of the Technical Committee to Enquire into the Welfare of Animals kept under Intensive Livestock Husbandry Systems, otherwise known as the Brambell Report.²⁰⁵ As part of the report, it specified that farm animals should have the freedom, “to stand up, lie down, turn around, groom themselves and stretch their limbs.”²⁰⁶ These original recommendations have since been expanded upon and are found under S. 9(2) AWA;

“For the purposes of this Act, an animal's needs shall be taken to include— (a) its need for a suitable environment, (b) its need for a suitable diet, (c) its need to be able to exhibit normal behaviour patterns, (d) any need it has to be housed with, or apart from, other animals, and (e) its need to be protected from pain, suffering, injury and disease.”²⁰⁷

These freedoms or needs illustrate the type of moral consideration an animal should be provided with. Rogers and Kaplan note that many of the freedoms that relate to animals are negative or preventative in nature, failing to question the assumption that animals are ours to exploit.²⁰⁸ According to the RSPCA’s 2019 Annual Prosecution report, there were 1,351 convictions under the AWA.²⁰⁹ The two sections with the highest rates of prosecutions were s. 4 (causing unnecessary suffering) and s. 9 (duty to ensure welfare.) The conviction rates for these sections were 757 and 531, respectively.²¹⁰ In the 2016 version of the PDSA Animal Wellbeing (PAW) report, it was shown that two thirds of pet owners were unaware of the legal welfare needs of their pets, with a national average of 35% awareness.²¹¹ In a response to this, the Veterinary Animal Welfare Coalition created a campaign in an attempt to raise awareness of those welfare needs,²¹² as set out in s. 9 of the AWA. Four years on and in the 2020 PAW

²⁰⁵ Farm Animal Welfare Council, ‘Five Freedoms’ (*The National Archives*, archived on 10th October 2012)

<<https://webarchive.nationalarchives.gov.uk/20121010012427/http://www.fawc.org.uk/freedoms.htm>> accessed 2nd July 2019

²⁰⁶ Ibid

²⁰⁷ Animal Welfare Act 2006, s 9(2)

²⁰⁸ Lesley J. Rogers and Gisela Kaplan, ‘All Animals Are Not Equal The Interface between Scientific Knowledge and Legislation for Animal Rights’, in Cass R. Sunstein and Martha C. Nussbaum *Animal Rights: Current Debates and New Directions* (Oxford University Press, 2005)

²⁰⁹ RSPCA Prosecutions Annual Report 2019, Table 3, 31

²¹⁰ RSPCA Prosecutions Annual Report 2019, Table 4, 31

²¹¹ The AWA here refers to Animal Welfare Act 2006 covering England and Wales, the Animal Health and Welfare (Scotland) Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011 The PDSA Animal Wellbeing (PAW) Report 2016 <pdsa.org.uk/pawreport> accessed 19th August 2020

²¹² BMJ Journals Vet Record ‘Coalition aims to raise awareness of pets' legal welfare needs’, (2016) 179(18), Veterinary Record, 448 <<https://doi.org/10.1136/vr.i5873>> accessed 19th August 2020

report, owner awareness of the AWA has increased to 76%.²¹³ However, this number dropped to 42% in relation to owners feeling that they understood how the Act relates to their responsibilities of caring for their companion, and their overall familiarity with the Act.²¹⁴ In the specific case of dogs, there is a code of practice set out by the Department for Environment, Food & Rural Affairs (DEFRA) for the welfare of dogs, which provides practical guidance on how to satisfy the criteria set out in s. 9 AWA.²¹⁵ The code is not legislation but guidance, therefore, failure to comply with one or all the provisions does not itself constitute an offence. However, if prosecuted for an offence under s. 9, the provisions within the guidelines will be considered by the court when deciding whether an offence has been committed. For police dogs today, both s. 9 and the DEFRA guidelines form part of the Animal Welfare Independent Visitors Scheme. The scheme was set up in response to the death of Essex based PD Acer²¹⁶ during a training exercise, as the result of the actions of police officers who were training him in 1997, “the lessons learned highlighted the need for a transparent and accountable scheme to provide public confidence in the way police animals are trained and cared for.”²¹⁷ However, it is not compulsory for forces take part in the scheme itself.

As an overall concept, welfarism is not entirely flawed, if applied and enforced sufficiently. Indeed, one of the benefits of welfarism is that it utilises the existing legal framework and, in general, does not present too great a challenge to the status quo. After all, it is the principal consideration for the judiciary when dealing with the case of a child. Under the Children Act 1989 (CA) s. 1(1), “the child’s welfare shall be the court’s paramount consideration.”²¹⁸ To aid in that consideration, there is a welfare checklist which is found under s. 1(3) of the CA. This section consists of a list of seven comprehensive criteria and incorporates a wide range of factors including, “(c) the likely effect on him of any change in his circumstances; (e) any harm which he has suffered or is at risk of suffering; (f) how capable each of his parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting his needs.”²¹⁹ The key distinguishing feature between the welfare of a child and the welfare of an animal is that a child has the corresponding rights to support and enforce their welfare or for someone to do so on their behalf. The United Nations Convention on the Rights of the Child (UNCRC) was ratified by the UK in 1991, and it consists of 54 articles which aim

²¹³ AWA here refers to Animal Welfare Act 2006 covering England and Wales, the Animal Health and Welfare (Scotland) Act 2006 and the Welfare of Animals Act (Northern Ireland) 2011
The PDSA Animal Wellbeing (PAW) Report 2020, 16 < pdsa.org.uk/pawreport > accessed 30th October 2020

²¹⁴ Ibid

²¹⁵ Department for Environment Food & Rural Affairs, Code of Practice for the Welfare of Dogs (2017)

²¹⁶ Unknown, ‘UK Police Guilty of Dog Cruelty’, (*BBC News Online*, 5th November 1998)

²¹⁷ PCC Police and Crime Commissioner for Essex, Independent Dog Welfare Lay Visitors Scheme, 1

²¹⁸ Children Act 1989, s 1(1)

²¹⁹ Children Act, s 1(3)(c) (e) and (f)

to outline and protect the rights of children.²²⁰ Child welfare is focused on the promotion of individual flourishing of each and every child, along with safeguarding to protect from potential or future harm. In contrast to the welfare approach adopted in relation to children, the welfare approach to animals is largely aimed at enabling a continuation of the exploitation of animals for human use. As noted by Kymlicka, the “law is central to the oppression of animals – it is the legal system which authorizes humans to harm and exploit animals – and legal reform is therefore essential to the ending of their oppression.”²²¹ Article 9 of the UNCRC is concerned with the separation of a child from their parents against their will; it is explicit that a child should remain with their parents unless it is deemed to be in their best interests to be separated. This is subject to a number of criteria and provisions being satisfied, which are outlined within Article 9. I want to contrast this with a dairy cow, where it is considered standard practice in most of the industry to remove a calf from their mother within hours of their birth, with male calves surplus to the industry being shot or reared for veal.²²² This is in order to maximise the potential milk yield for human consumption and is the sad reality of the current framework that must be worked with until there is a viable alternative that commands the support of the majority. This example highlights one of the key issues with welfarism in that it does not prevent individuals and society from utilising animals for their gain. It provides for “regulation” but continues to allow the use of animals for human benefit, providing it is done in a “humane” way. This issue is also the main reason that welfarism is the prevailing paradigm; as it allows for maintenance of the status quo, society continues to use animals as they wish without any adaptation on their part.²²³ As part of their 2030 strategy, the RSPCA are working towards a UN Declaration on Animal Welfare, but currently there is little information about what the declaration might look like and whether it would attempt to include rights for animals. A footnote within the strategy document does say that “this would be a significant advancement because if adopted by the UN the principles would acknowledge globally the sentience of animals and human responsibilities towards them.”²²⁴ Which animals

²²⁰ The United Nations Convention on the Rights of the Child (adopted 20 November 1989 entry in to force 2 September 1990 in accordance with article 49) part 1

²²¹ Will Kymlicka, ‘Social Membership: Animal Law Beyond the Property/Personhood Impasse’ (2017) 40(1), Dal LJ

< <https://digitalcommons.schulichlaw.dal.ca/cgi/viewcontent.cgi?article=2087&context=dlj> > accessed 21st December 2018

²²² For more information visit Compassion in World Farming, ‘Farm Animals Dairy Cows’, < <https://www.ciwf.org.uk/farm-animals/cows/dairy-cows/> > accessed 21st December 2018

²²³ Animal Ethics, ‘Opposing changes for irrational reasons: the status quo bias’, < <https://www.animal-ethics.org/opposing-changes-for-irrational-reasons-the-status-quo-bias/> > accessed 30th October 2021

²²⁴ RSPCA 2021 - 2030 Strategy: together for animal welfare, 13 footnote 4

the declaration may cover and whether there could be a specific focus within the declaration on animal labour remains to be seen.

3.5 Moving away from welfarism

As discussed earlier in this chapter, the animal rights movement itself emerged in the mid 1970's and attempted to challenge the welfarist position; animal rights in some form remains to this day the main potential alternative to welfarism. The movement has primarily focused on the moral aspects of animal rights seen through Singer's *Animal Liberation* in 1975, which was followed by Tom Regan in 1983 with his book *The Case for Animal Rights*, both of which continue to be seen as influential in animal rights theory.

Regan rejects the utilitarian approach advocated by Singer, adopting instead a rights-based approach. Regan uses the analogy of a cup to explain why he is critical of Singer's approach, arguing that Singer's utilitarianism treats individuals as a "mere receptacle,"²²⁵ it is the pleasure/pain, i.e. the experiences of those individuals which are of value and therefore are considered in the cost-benefit assessment. Regan argues that individuals themselves are of value, i.e. the cup itself is of value, "given the postulate of inherent value, no harm done to *any* moral agent can possibly be justified merely on the grounds of its producing the best consequences for all affected by the outcome."²²⁶ He argues that individuals possess "inherent value" which means that the interests of the individual should come before the interests of the collective because the individual is valuable in themselves.²²⁷ To help with this, Regan created the "subject-of-a-life" criterion which an individual must satisfy to qualify for inherent value, as simply being alive is not sufficient.²²⁸ Subject-of-a-life is defined as having:

"beliefs and desires; perception, memory, and a sense of the future, including their own future; an emotional life together with feelings of pleasure and pain; preference and welfare interests; the ability to initiate action in pursuit of their desires and goals; a psychological identity over time; and an individual welfare in the sense that their experiential life fares well or ill for them, logically independently of their utility for others and logically independently of their being the object of anyone else's interests. Those who satisfy the subject of a life criterion themselves have distinctive kind of value – inherent value – and are not to be viewed or treated as mere receptacles."²²⁹

An individual who meets the requirements of the subject-of-a-life criterion then falls under the "respect principle"²³⁰ which requires others to respect an individual's inherent value.

²²⁵ Tom Regan, *The Case for Animal Rights*, (first published 1983, University of California Press, 2004) 205

²²⁶ *Id.* at 239

²²⁷ *Id.* at 242-243

²²⁸ *Ibid*

²²⁹ *Id.* at 243

²³⁰ *Id.* at 248

Cohen criticises Regan's approach, preferring the current welfarist position, arguing that animals cannot possess rights, suggesting that "animals cannot be the bearers of rights because the concept of rights is essentially human; it is rooted in, and has force within, a human moral world."²³¹ In relation to inherent value in particular, Cohen argues that there are two types of inherent value that Regan uses but fails to distinguish between. Inherent value in the first sense, Cohen argues, is applicable to humans only, being narrow in scope, and it is what entitles humans to rights.²³² Inherent value in the second sense is wider in scope and does include animals because Cohen argues that every life has some value. Each life is unique, and another living being cannot take that individual's place; they are irreplaceable.²³³ Cohen argues that humans possess both types of inherent value, but animals only have the second type of inherent value, and this is deemed to be insufficient for the granting of rights to animals. Whether an animal can, and which animals would qualify for rights is one of the biggest and most contentious questions within animal rights theory. There have been numerous approaches put forward to determine which animals qualify for rights and what those rights should look like. The remainder of this chapter will consider some of the theories that have been put forward in relation to this.

3.6 Other approaches to animal rights

3.6.1 Abolitionism

A strong animal rights position assumes that all animal use or interaction holds the potential to be detrimental or harmful to the animal. "In the classical model of ART [Animal Rights Theory] there is only one acceptable relationship to animals: treating animals ethically means leaving them alone, not interfering with their negative rights to life and liberty."²³⁴ The abolitionist approach to animal rights is perhaps one of the most controversial of all the approaches that attempts to grapple with the legal status of animals as property and their use by humans for humans. The overarching objective of the abolitionist approach is to abolish the exploitation of animals in its entirety, rejecting the regulation of animal exploitation.²³⁵ This approach adopts the view that sentient beings have the right not to be treated as the property of others.²³⁶ Francione chooses to adopt sentience as the basis for entitling animals

²³¹ Carl Cohen, 'Do Animals Have Rights?', (1997) 7(2) *Ethics & Behaviour*, 91
< https://doi.org/10.1207/s15327019eb0702_1 > accessed 8th January 2019

²³² *Id.* at 100

²³³ *Ibid*

²³⁴ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 9

²³⁵ Gary L. Francione, 'Animals-Property or Persons?' in Cass R. Sunstein and Martha C. Nussbaum *Animal Rights: Current Debates and New Directions* (Oxford University Press, 2005)

²³⁶ *Ibid*

to a basic set of inviolable rights.²³⁷ Straightaway, there is a clear issue in relation to “use” when attempting to consider service dogs in light of the abolitionist position, as our current relationships with service dogs would be deemed exploitative. In addition, any attempts at suggesting improvements to the legal protection or working conditions of service dogs for example, would be unsuccessful on the basis that these would be seen as an attempt to regulate the exploitation of service dogs. Interestingly, David Favre adopts a position that is in direct contrast to the abolitionist approach, which would maintain the legal status of animals as property and would create a new fourth category of legal property – living property. The category of living property refers to “vertebrate animals who are property and shall be identified by either specific name or by group reference.”²³⁸ Favre defines the scope of living property by reworking the basic principles of property law to incorporate three basic categories.²³⁹ Firstly, the rights of the owner will have to be limited to allow for the interests of living property. Secondly, humans who do not own animals will have duties owed to living property. Lastly, living property will have the capacity to hold certain legal rights.²⁴⁰ Favre sets out the rights of human owners under living property which include the original title to the animal and the ability to transfer this title to another human and the use of an animal.²⁴¹ In terms of use, Favre explains that it will be “a political decision that balances any number of factors during the legislative process. As a result, prohibitions will arrive sporadically, by species, by fact situation.”²⁴² One of the key premises of Favre’s argument is that it is acceptable for animals to be owned and used by humans, and that it is not morally necessary to remove an animal’s status as property.²⁴³ On this basis alone, it would allow our relationship with service dogs to continue. Favre, in fact, goes as far to say that “positive human communities can include animals that are owned and used by humans,”²⁴⁴ rejecting the position that is adopted by other prominent theorists such as Francione. Through retaining an animal’s legal status as property there are clear benefits, one of the simplest being that it increases the chance of societal appeal. Favre throughout his article is content to continue with the term “ownership” to describe the human-animal relationship, preferring it over the term “guardian”, believing that it can be beneficial and is seeking to use the term in a “more limited

²³⁷ Gary L. Francione, *Introduction to Animal Rights: Your Child or the Dog?* (Temple University Press, 2000)

²³⁸ David Favre, ‘Living Property: A New Status for Animal Within the Legal System’, (2010) 93 *Marq. L. Rev.* 1046 <<https://www.animallaw.info/article/living-property-new-status-animals-within-legal-system>> accessed 17th July 2019

²³⁹ *Id.* at 1053

²⁴⁰ *Ibid*

²⁴¹ *Id.* at 1054

²⁴² *Id.* at 1057

²⁴³ *Id.* at 1022

²⁴⁴ *Id.* at 1023

and neutral connotation.”²⁴⁵ This is likely to appeal to organisations that currently own and utilise service dogs, at least in so far that the service dogs would remain a form of property and the terminology of “owner” would also remain. However, one of the key arguments from the abolitionists’ approach relates specifically to domesticated animals, such as dogs, in that domestication is seen as an inherent wrong. In a similar way that it was wrong for us to enslave other humans, it is wrong for us to enslave animals.²⁴⁶ Francione argues that,

“unlike human children, who, except in unusual cases, will become independent and functioning members of human society, domestic animals are neither part of the nonhuman world nor fully part of our world. They remain forever in a netherworld of vulnerability, dependent on us for everything that is of relevance to them... We may make them happy in one sense, but the relationship can never be “natural” or “normal.” They do not belong stuck in our world irrespective of how well we treat them.”²⁴⁷

According to Francione, the dependency of animals on humans renders them vulnerable, being reliant on humans to meet their every need. For Francione, this means that our relationship with domesticated animals can never be acceptable. This view advocates that the method to “right” this wrong is for domesticated animals that currently exist be cared for, and routinely spayed or neutered to prevent any further domesticated animals from coming into existence. The aim of this approach is that domesticated animals will eventually become extinct. This creates another barrier when considered in light of our relationships with service dogs, as our relationships with them from an abolitionist’s perspective are deeply unacceptable, based solely on them being a domesticated animal, without even considering the “use” aspect that this relationship entails.

The abolitionist view has been heavily criticised by Donaldson and Kymlicka on a number of different grounds, some of which will be explored here. One of their criticisms is that this approach fails to take into account the complexity of the world that we live in and our interactions with animals.²⁴⁸ Donaldson and Kymlicka note that “people who love animals are key allies in this movement, and most of these people seek not to sever all relationships between humans and animals (if that were even possible), but to reconstruct those relationships in ways that are respectful, compassionate, and non-exploitative.”²⁴⁹ Rejecting the abolitionist view, and the position that all relationships with domesticated animals are harmful and therefore should be abolished,²⁵⁰ they “believe that this picture of a world without sustained

²⁴⁵ *Id.* at 1042

²⁴⁶ Gary L. Francione, ‘Animal Rights and Domesticated Nonhumans’, (*Animal Rights: The Abolitionist Approach*, 10th January 2007)

²⁴⁷ *Ibid*

²⁴⁸ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 63

²⁴⁹ *Id.* at 10

²⁵⁰ *Id.* at 62

human-animal interaction and interdependency is fatally flawed, descriptively and normatively.”²⁵¹ In addition, they argue that the focus of animal rights theory solely on negative rights for animals has meant that little-to-no thought has been given to exploring what our relationship with animals could look like through positive rights and obligations.²⁵² Negative rights do not require anything of an individual, for example Article 3 of the Universal Declaration of Human Rights (UDHR) says that “everyone has the right to life, liberty and security of person,” Article 4 that “no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms,” and Article 5 “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” In contrast, positive rights require some form of action to be fulfilled, such as Article 26, “everyone has the right to education.” Interestingly, under the approach of living property, an owner would owe enforceable positive and negative legal obligations to their animal.²⁵³ Favre suggests that “inherent in acknowledging the interests of animals, which justify the creation of the new category, will be the creation of legal rights to assure that these interests are given some measure of weight in the decision making of the legal process.”²⁵⁴ Therefore, animals falling under this new category would result in the creation of legal rights for those animals and the ability to have their interests considered in legal proceedings. Favre provides some examples of the potential positive and negative rights animals could have under this theory, such as the right to be cared for, the right not to be harmed, the right to own property, and the right to enter into contracts.²⁵⁵ In relation to the latter, Favre considers two main types of contracts that would involve animals, firstly the transfer of an animal’s care to another individual, the second concerns service provided by the animal;²⁵⁶

“In the second type of contract, while an animal does not have the capacity to enter into a contract independent of the owner of the animal, any animal who is the subject of a contract has an equitable interest in the contract, taking something like the role of a third-party beneficiary or an equitable interest holder in the contract. The presumption is that the owner will have the interests of the animal in balance any time the owner enters into a contract for the transfer or services of the animal. If a contract, on its face, violates any of the legal rights of the animal who is the subject of the contract, the contract is void on its face as contrary to public policy. Additionally, a void contract constitutes prima facie evidence of the unfitness of the owners who entered into the contract.”²⁵⁷

²⁵¹ *Ibid*

²⁵² Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 5-6

²⁵³ *Id.* at 1058

²⁵⁴ *Id.* at 1021

²⁵⁵ *Id.* at 1061

²⁵⁶ *Id.* at 1068

²⁵⁷ *Ibid*

This form of contract is concerned primarily with animals such as racehorses or greyhounds and has a limited applicability to the majority of service dogs that are owned by, and work for, a particular organisation. However, there could be instances such as where a service dog works for a private company that this could be applicable. Favre notes that it is envisaged that these rights in general would have a much wider application than the traditional welfarist approach of the five freedoms and are designed to be a starting point to ignite further discussion.²⁵⁸ There are two consequences that may occur if an animal is deemed capable of holding legal rights. Firstly, any animal that finds themselves in a legal conflict will need to have weight given to their interests.²⁵⁹ Secondly, if it is found that there has been a breach of an animal's rights then it is argued that any form of remedy would need to aid the animal directly.²⁶⁰ Two examples of suggested potential remedies are: injunctive relief (i.e. a court order) for certain living conditions, and financial awards which may be appropriate in some cases.²⁶¹ The approach put forward by Favre offers many benefits when compared with the current welfarist paradigm, in addition to arguably being more palatable to wider society, as it does not require a change in terminology nor does it remove their property status.

3.6.2 Legal personhood

One theorist who advocates for legal rights to be extended to certain animals that have the required capacities to be considered legal persons is Steven Wise. The American Legal Scholar and founder of the Nonhuman Rights Project (NHRP) is best-known for attempting to practically achieve legal personhood for animals, writing extensively on the subject. Legal personhood can be defined as the capacity to hold rights and duties in return for responsibilities, therefore, persons in law are designated rights holders.²⁶² There are exceptions to these basic rules, for example a child will be classified as a legal person capable of holding legal rights and duties in return for responsibilities, but those responsibilities will be omitted until the child is deemed capable of performing them. Until that point is reached, the child's legal guardian will be able to make decisions on behalf of the child; the child is, therefore, both an object of legal rights as well as a rights holder. Further examples include vulnerable adults or a proxy such as a corporation. Since animals are legally regarded as property, they are therefore the object of legal rights. The problem with this, as Wise notes, is that "legally,

²⁵⁸ *Id.* at 1021

²⁵⁹ *Ibid*

²⁶⁰ *Id.* at 1059

²⁶¹ *Ibid*

²⁶² Jiahong Chen and Paul Burgess, 'The boundaries of legal personhood: how spontaneous intelligence can problematise differences between humans, artificial intelligence, companies and animals', (2019) 27 *Artif Intell Law*, 73 < <https://doi.org/10.1007/s10506-018-9229-x> > accessed 8th January 2019

persons count; things don't."²⁶³ However, as has been shown, animals are not treated as property in its purest sense, as humans legally owe animals a duty of care in England and Wales,²⁶⁴ regardless of whether individuals feel that there is also a moral duty to care for animals.

There are increasing numbers of cases where legal personhood has been granted to non-humans. Earlier this year, the Muteshekau-shipu river (also known as the Magpie River) in Quebec, Canada was granted legal personhood. In part, this recognition was granted due to the cultural significance of the river to the Innu of Ekuanitshit.²⁶⁵ In addition, the case for legal personhood for animals has also enjoyed some limited success so far. One of the most well-known cases took place in 2016 in relation to Cecilia. Cecilia was a chimpanzee, captive at Mendoza Zoo in Argentina. Judge María Alejandra Maurico ruled that Cecilia is a “non-human legal person” with “inherent rights.”²⁶⁶ In the majority of cases where legal personhood for animals has been sought, the animals possess complex cognitive abilities, comparative to many but not all humans. It can be more persuasive to choose animals that share these cognitive capacities as it is can be more appealing to wider society, making it easier to argue for additional rights or protection, and in turn shifting their legal status.²⁶⁷ For example, the current clients of the NHRP are individual chimpanzees or elephants who are currently held in captivity.²⁶⁸

In order to consider what the most basic rights for animals should be, Wise turns to Hohfeld who outlines four different types of legal rights. These rights include liberty, claim, power and immunity.²⁶⁹ Immunity is perhaps one of the most well-known dignity rights, as this includes the right to “bodily integrity” and “bodily liberty,” and these are the two main rights that the NHRP attempt at gaining recognition of through the court process.²⁷⁰ Wise has argued that

²⁶³ Steven M Wise, ‘Animal Rights, One Step at a Time’, in Cass R. Sunstein and Martha C. Nussbaum (eds) *Animal Rights: Current Debates and New Directions* (Oxford University Press, 2005)

²⁶⁴ Animal Welfare Act 2006, s 9

²⁶⁵ Connie Vitello, ‘Quebec River Declared Personhood with Rights, A First for Canada’, (*Environment Journal*, 1st March 2021)

²⁶⁶ For the full Judgment in English please see -

< https://www.nonhumanrights.org/content/uploads/2016/12/Chimpanzee-Cecilia_translation-FINAL-for-website.pdf > from the Nonhuman Rights Project website by Lauren Choplin, ‘Chimpanzee Recognized as Legal Person’, (*Nonhuman Rights Project News*, 5th December 2016)

²⁶⁷ Richard L. Cupp, Jr, ‘Human Responsibility, Not Legal Personhood, For Nonhuman Animals’, (2015) 16(2) *Federalist Society*, 32 < <https://fedsoc-cms-public.s3.amazonaws.com/update/pdf/Q56W58nAzC2YQztLadahtXKjf5XpUDFUffP8YCfg.pdf> > accessed 20th January 2020

²⁶⁸ Nonhuman Rights Project, ‘Our Clients’, < <https://www.nonhumanrights.org/litigation/> > accessed 20th January 2020.

²⁶⁹ Steven M. Wise, *Drawing The Line: Science And The Case for Animal Rights* (Merloyd Lawrence Book, Perseus Publishing, 2003) 25-26

²⁷⁰ Nonhuman Rights Project, ‘What specific rights are you seeking for them?’, < <https://www.nonhumanrights.org/frequently-asked-questions/> > accessed 20th January 2020

there is a minimum level of autonomy, or “practical autonomy,”²⁷¹ that is required to qualify for legal personhood. He argues that because judges are concerned with legal rights rather than matters of a moral nature, sentience alone is insufficient, whereas practical autonomy is a concept that the courts are willing to consider.²⁷² Modifying and developing upon the work of Griffin, Wise created a scale of practical autonomy assigning a range of autonomy values to a number of different individuals, from honeybees to his own son, Christopher. There are three elements to Wise’s practical autonomy. A being will be seen as possessing practical autonomy if they,

1. “can desire;
2. can intentionally try to fulfil her desire; and
3. possesses a sense of self-sufficiency to allow her to understand, even dimly, that it is she who wants something and it is she who is trying to get it.”²⁷³

A being who possesses all three of these elements will be entitled to recognition as a legal person and the basic rights identified above. Wise explains that “consciousness, not necessarily self-consciousness, and sentience are implicit in practical autonomy.”²⁷⁴ Wise’s scale is split into four different categories ranging from 0.0 to 1.0. He assigns humans a value of 1.0 which places them into category one. Animals that possess the most complex cognitive abilities, such as the ability to solve complex problems or understand symbols, also fall in category one (0.90-1.0) and this means that, like humans, they should be entitled to basic liberty rights as defined by Wise.²⁷⁵ One of the animals that Wise considers is Marbury, his dog. Wise assigns Marbury an autonomy value of 0.68 which places him into the middle area of category two. This means that more evidence is needed before he is entitled to basic liberty rights; he explains that “early data are encouraging and point towards practical autonomy, but more work needs to be done.”²⁷⁶ Wise notes that the increasing perception of dogs as family members and children may mean that it would be less challenging for judges to increase their rights as there is less likely to be a push back.²⁷⁷ Indeed, one of the reasons I chose to focus on service dogs is the unusual space that they occupy in society, which means that the public are more likely to support greater or alternative legal protection for them. As previously mentioned, public support is perhaps one of the single most important factors when attempting to create change.

²⁷¹ Steven M. Wise, *Drawing The Line: Science And The Case for Animal Rights* (Merloyd Lawrence Book, Perseus Publishing, 2003) 38

²⁷² *Id.* at 34

²⁷³ *Id.* at 32

²⁷⁴ *Id.* at 32

²⁷⁵ *Id.* at 36

²⁷⁶ *Id.* at 129

²⁷⁷ *Id.* at 130

This is because public attitudes and opinions are key factors that can influence and exert pressure on the government's priorities and decisions.²⁷⁸

Below is the Animal Rights Pyramid designed by Wise which aims to explain the different levels that an animal is required to achieve in order to have their legal rights and interests considered in the legal process, otherwise known as legal standing.



Figure 1: Animal Rights Pyramid

Image 1: Steven Wise, Animal Rights Pyramid²⁷⁹

Wise explains that “legal personhood is the capacity to possess at least one legal right; accordingly, one who possesses at least one legal right is a legal person.”²⁸⁰ The main point to take from this quote is that legal personhood is a capacity, it is a foundational concept hence it forms the base of the pyramid. If an animal is capable of reaching level one, then it is acknowledged that an animal has the capacity to hold legal rights.²⁸¹ Once an animal has achieved level one then it is possible to consider the other legal questions that arise as you progress up the pyramid towards legal standing. Lovvorn raises the concern that the current state of society, combined with the inhumane way that we currently treat other humans, means

²⁷⁸ See for example the media coverage of the evacuation of dogs and cats from Afghanistan in August 2021. Ben Quinn, ‘Ex-Marine Pen Farthing arrives in UK with dogs and cats onboard flight’, (*The Guardian*, 29th August 2021)

²⁷⁹ Steven M. Wise, ‘Legal Personhood and the Nonhuman Rights Project’, (2010) 17(2), *Animal L. 2* < https://www.animallaw.info/sites/default/files/lralvol17_1_1.pdf > accessed 3rd January 2020

²⁸⁰ *Id.* at 1. See also, Steven M. Wise, ‘Hardly a Revolution—The Eligibility of Nonhuman Animals for Dignity-Rights in a Liberal Democracy’ (1998) 22 *Vt. L. Rev.* 795

< <https://heinonline.org/HOL/P?h=hein.journals/vlr22&i=809> > accessed 3rd January 2020

²⁸¹ *Id.* at 5

that “animal personhood is for all intents and purposes an impractical and unattainable goal.”²⁸² Nevertheless, it can be seen from the discussion in this section that the benefit of Wise’s approach is that it is pragmatic in nature and lends itself to being incremental; should personhood be granted for one individual animal then this opens the possibility of eventually extending this to other individuals and groups of animals in the future. For example, it may be that elephants and chimpanzees are initially granted legal personhood which would then allow the argument to be put forward for dogs such as Marbury. Wise recognises that, “an advocate for legal rights for nonhuman animals must proceed one step at a time, as progress is impeded by physical, economic, political, religious, historical, legal, and psychological obstacles.”²⁸³ Further to this, Seymour explains that a shift to personhood for animals “would have significant ramifications for human economies and lifestyles, which have to a large extent become reliant on the exploitation of animals as resources.”²⁸⁴ This is because the one universal basic right that personhood would afford animals is their right to life.²⁸⁵ Therefore, legal personhood does also have its issues when it comes to implementation. A more fundamental criticism comes from Cupp who argues that due to their lack of humanity and ability to take part in the social contract, animals cannot be provided with legal rights.²⁸⁶ He instead advocates for a “human responsibility paradigm”²⁸⁷ which reverts back to the welfarist approach, as a preferable alternative in relation to our duties towards animals. However, as noted by Wise and Seymour in the quotations above, should the interests of humans come into conflict with our duties to animals within the “human responsibility paradigm,” this leaves the door wide open to the human-interest taking precedent because humans possess rights which animals do not, therefore, there would remain a significant power asymmetry.

3.6.3 Guardianship

An alternative approach that aims at rebalancing our relationships with animals is that of a guardianship model. Before considering this approach to our relationship with animals, it is

²⁸² Jonathan R. Lovvorn, ‘Animal Law in Action: The Law, Public Perception, and the Limits of Animal Rights Theory as a Basis for Legal Reform’, (2005) 12 *Animal L.*, 142
< <https://www.animallaw.info/article/animal-law-action-law-public-perception-and-limits-animal-rights-theory-basis-legal-reform> > accessed 8th September 2020

²⁸³ Steven M. Wise, ‘Animal Rights, One Step at a Time’, in Cass R. Sunstein and Martha C. Nussbaum *Animal Rights: Current Debates and New Directions* (Oxford University Press, 2005)

²⁸⁴ Seymour G. ‘Animals and the Law: Towards a Guardianship Model’, (2004) 29(4), *Alternative Law Journal*, 183 < [10.1177/1037969X0402900404](https://doi.org/10.1177/1037969X0402900404) > accessed 17th August 2020

²⁸⁵ *Ibid*

²⁸⁶ Richard L. Cupp Jr., ‘Children, Chimps, and Rights: Arguments from Marginal Cases’, (2013) 45(1) *ARIZ. St. L.J.*, 51 < <https://heinonline.org/HOL/P?h=hein:journals/arzjl45&i=11> > accessed 17th August 2020

²⁸⁷ *Id.* at 48

important to note that, although similar and sometimes used interchangeably, guardianship and wardship have distinct applications within the context of the UK legal system.

“The distinguishing characteristics of wardship are that –
(a) custody of a child who is a ward is vested in the court; and
(b) although day-to-day care and control of the ward is given to an individual or to a local authority, no important step can be taken in the child's life without the court's consent.”²⁸⁸

In contrast, guardianship is an existing legal framework that at its most basic level creates a fiduciary relationship from the guardian to the ward and imposes a legal duty on the guardian to act in the ward's best interests. In England and Wales, an application must be made to the court and the court must be satisfied that certain criterion have been met before a guardian can be appointed. Applications are usually made on behalf of an individual who is deemed to be suffering from a “mental disorder”²⁸⁹ or on the behalf of a child. There are two acts under which a guardianship application is most commonly made in these circumstances, these are the Mental Health Act 1983 and the Children Act 1981. The very nature of guardianship, that is making decisions on behalf of another individual in their best interests, means that it lends itself to being paternalistic and protective in nature.²⁹⁰

For animals, a move to a guardianship model would have the benefit of utilising an existing legal framework, where “the basic principles are already well defined.”²⁹¹ In addition, this model would allow an animal's interests to be considered within legal proceedings, creating rights and duties between humans and animals, and it would protect an animal's right to physical security.²⁹² In 1977, Joyce Tischler put forward the first attempt at applying the principles of guardianship to animals in her article *Rights for Nonhuman Animals: A Guardianship Model for Dogs and Cats*. This model of guardianship only considered application to companion animals, chiefly dogs and cats.²⁹³ Tischler argues that both dogs and cats have the necessary abilities to be granted legal rights, therefore allowing their interests to

²⁸⁸ Practice direction 12D – Inherent Jurisdiction (including wardship) Proceedings, this Practice Direction supplements FPR Part 12, Chapter 5. The nature of inherent jurisdiction proceedings 1.3

²⁸⁹ Mental Health Act 1983, s 37(2)(a)

²⁹⁰ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 102

²⁹¹ Joyce S. Tischler, ‘Rights for Nonhuman Animals: A Guardianship Model for Dogs and Cats’, (1977) 14(2), San Diego L. Rev, 502 < <https://digital.sandiego.edu/sdlr/vol14/iss2/8> > accessed 17th July 2019

²⁹² Seymour G. ‘Animals and the Law: Towards a Guardianship Model’, (2004) 29(4), Alternative Law Journal, 183 < [10.1177/1037969X0402900404](https://doi.org/10.1177/1037969X0402900404) > 17th July 2019

²⁹³ Joyce S. Tischler, ‘Rights for Nonhuman Animals: A Guardianship Model for Dogs and Cats’, (1977) 14(2), San Diego L. Rev < <https://digital.sandiego.edu/sdlr/vol14/iss2/8> > accessed 17th July 2019

be considered within legal proceedings; these include by virtue of their sentience and that both dogs and cats are able to “reason and desire.”²⁹⁴ Tischler explains that

“The essence of guardianship is “care and compassion” and an acceptance of responsibility for both the physical and mental wellbeing of the ward. The guardian is the protector of the ward, who by reason of “weakness, incompetence, youthfulness, or other legally recognised disability,” needs an intermediary to put her on more equal footing with the rest of society.”²⁹⁵

Guardianship as described above gives rise to particular duties, such as the duty of care and also extends some legal rights.²⁹⁶ For example, the interests of a dog or cat would be able to be considered by the court because through guardianship they would be entitled to legal standing.²⁹⁷ Tischler concludes that the guardianship model provides an alternative to the current system which would allow for the rights and interests of dogs and cats to be considered within society and effectively protected through the legal system.²⁹⁸ Seymour appears to support this conclusion more generally, putting forward that guardianship has the potential to be a useful tool to achieve the recognition of animal interests within the legal system, in particular to achieve legal standing and in relation to an animal’s criminal liability.²⁹⁹ Pollard goes on to develop a practical model of guardianship for animals utilising the court system in Australia that is used for children.³⁰⁰ The law would potentially impose “duties, responsibilities and services required of humans to act in the ‘best interests’ of animals.”³⁰¹ She goes on to explain that this would simplify current legislation “incorporating the concepts of guardianship and best interests”³⁰² pertaining to animals dealt with by a court within that community.³⁰³ The authors of *Zoopolis* note that, “wardship is one possible framework for articulating a distinctive type of morally significant relationship, with its own rights and duties, beyond the respect for universal rights owed to all sentient animals.”³⁰⁴ The guardianship model is not exclusive in coming to these conclusions; indeed the authors of *Zoopolis* provide the example of duty of medical care which may apply to companion and domesticated animals

²⁹⁴ *Id.* at 500

²⁹⁵ *Id.* at 502

²⁹⁶ *Id.* at 504-505

²⁹⁷ *Id.* at 504-505

²⁹⁸ *Id.* at 506

²⁹⁹ Seymour G. ‘Animals and the Law: Towards a Guardianship Model’, (2004) 29(4), *Alternative Law Journal*, 183 < [10.1177/1037969X0402900404](https://doi.org/10.1177/1037969X0402900404) > accessed 17th August 2020

³⁰⁰ Ruth Pollard, ‘Animals, Guardianship and the Local Courts: Towards a Practical Model for Advocacy’, (2007) 91(48), *Reform*
< <http://www5.austlii.edu.au/au/journals/ALRCRefJl/2007/13.html> > accessed 17th August 2020

³⁰¹ *Ibid*

³⁰² *Ibid*

³⁰³ *Ibid*

³⁰⁴ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights*, (Oxford University Press, 2011) 102

under guardianship but not necessarily wild or liminal animals,³⁰⁵ as wild animals are non-domesticated, and liminal animals are semi-domesticated. This is because “both wardship and citizenship entail the idea of relational rights, and hence go beyond many existing AR theories”³⁰⁶ Nevertheless, Donaldson and Kymlicka criticise the wardship model for its failure to recognise the capacity for domesticated animals to act as active co-authors within a pre-existing interspecies community.³⁰⁷ Instead, the wardship framework “treats domesticated animals as wholly passive and dependant on humans.”³⁰⁸ The wardship model imposes a list of positive and negative rights, which are not shaped by the domesticated animals themselves,³⁰⁹ “the difference is that whereas citizens are active co-authors of the community’s laws and institutions, wards are the passive recipients of our duty to protect the vulnerable.”³¹⁰ This shaping cannot be done without accepting that domesticated animals possess the capacity for agency, participation and subjective good which wardship fails to incorporate.³¹¹ These concepts will be explored in further detail in the next chapter .

Favre provides an interesting take on the guardianship framework, going one step further than its previous conception, suggesting the concept of equitable self-ownership for animals. It is based in property law and uses the trustee beneficiary relationship as its basis.

“It is possible to imagine and articulate a legal paradigm in which a nonhuman animal has equitable self-ownership and, thus, status within the legal system, while a human retains legal title to the animal in question.”³¹²

As mentioned above, Favre argues that it is “unwise and unnecessary”³¹³ to seek the abolition of the property status of animals. This is because firstly, he believes animals can achieve legal respect through redefining and altering ownership into guardianship,³¹⁴ and secondly, that the legal interest of animals can be incorporated even if the animal is legally classed as property.³¹⁵ Equitable self-ownership aims to create a legal paradigm where the legal and equitable titles to an animal are separate. The legal title remains with the legal owner and the equitable title is transferred to the animal, thereby becoming an “equitably self-owned animal.” It is argued by Favre that this would then allow an animal to have a status within the legal system. An owner’s

³⁰⁵ Ibid

³⁰⁶ Ibid

³⁰⁷ Ibid

³⁰⁸ Ibid

³⁰⁹ *Id.* at 103

³¹⁰ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 102

³¹¹ Ibid

³¹² David Favre, ‘Equitable Self-Ownership for Animals’, (2000) 50, *Duke Law Jour*, 476

<<https://www.animallaw.info/article/equitable-self-ownership-animals>> accessed 17th July 2019

³¹³ David Favre, ‘Integrating Animal Interests into Our Legal System’, (2004) 10, *Animal L* 90

< https://www.animallaw.info/sites/default/files/vol10_p87.pdf > accessed 18th July 2019

³¹⁴ *Id.* at 91

³¹⁵ Ibid

new role would be better described as one of a trustee or guardian,³¹⁶ and the new relationship “should be judged more in the context of a parent to a child than a bank to its customer.”³¹⁷ The effect of this is that it creates legal duties from the holder of the legal title to act in the best interests of the animal,³¹⁸ and provides the animal with legal standing, allowing an animal access to the legal system to assert his or her interests and for protection.³¹⁹

3.7 Conclusion

The aim of this chapter was to explore and discuss the literature on this area of research. This chapter has hopefully painted a general picture of the current situation faced by animals in England and Wales, in addition to intertwining a discussion of service dogs and how this affects them. This chapter began by providing an overview of significant legislative and historical developments for animals within England and Wales, before outlining the current welfare-based approach that has helped to sustain the inferiority of animals, primarily through their property status. Finally, the main alternative approaches to welfarism were explored; these are predominantly varying forms of animal rights-based theories.

In the next chapter, chapter four, I will move on to detail the approach set out in *Zoopolis: A Political Theory of Animal Rights*. In this chapter, I will explore why the extended version of citizenship theory, using group differentiated rights created by Donaldson and Kymlicka, may provide a more preferable way forward for service dogs than the approaches that have been explored in this chapter.

³¹⁶ David Favre, ‘Equitable Self-Ownership for Animals’, (2000) 50, *Duke Law Jour*, 473-502
< <https://www.animallaw.info/article/equitable-self-ownership-animals> > accessed 17th July 2019

³¹⁷ *Id.* at 496

³¹⁸ *Id.* at 496-97

³¹⁹ *Id.* at 473-502

Chapter Four: The introduction of an alternative framework, Zoopolis: A Political Theory of Animal Rights

4.1 Introduction

“... Animals stand apart from, and outside of, political life: they are not part of our power structures; they do not shape our political institutions; and they do not drive our policy agendas. But this segregation of animals and politics is as flawed as it is futile. For the simple fact is our societies are made up of creatures of multiple species.”³²⁰

The discussion of animal rights and animal ethics in the context of political theory is relatively new,³²¹ with some of the most prominent literature arising during the 2010's, of which Donaldson and Kymlicka's *Zoopolis* is one. *Zoopolis* is a term borrowed by the authors from Jennifer Wolch,³²² that refers to the integration of animal and human life, from the Greek, zoo (*animal life*) and polis (*city*). This has become known as the “political turn” in animal rights³²³ and animal ethics.³²⁴ Donaldson and Kymlicka's contribution has been pivotal in aiding this political turn. Tony Milligan, for example, “take[s] Zoopolis to be one of the standing exemplars of a political turn text, albeit one that may strike us as significantly different from the other exemplary texts.”³²⁵ Nevertheless, their theory has been subject to some criticisms although this has predominantly centred around their approach to wild animals.³²⁶ The focus of this chapter is on the extended version of citizenship theory put forward by the authors, specifically their argument for domesticated animal co-citizens because this thesis is

³²⁰ Alasdair Cochrane, *Should Animals Have Political Rights?* (Polity Press 2020) 3

³²¹ Svenja Ahlhaus and Peter Niesen, ‘What Is Animal Politics? Outline of a New Research Agenda’, (2015) 40(4) *Historical Social Research* <www.jstor.org/stable/24583242> accessed 22nd May 2020

³²² *Animal Geographies Place, Politics and Identity in the Nature-Culture Borderlands*, edited by Jennifer Wolch and Jody Emel (Verso 1998) 124

³²³ Tony Milligan, ‘The Political Turn in Animal Rights’, (2015) 1(1) *Politics and Animals* <<https://journals.lub.lu.se/index.php/pa/article/view/13512>> accessed 22nd May 2020

³²⁴ Robert Garner and Siobhan O’Sullivan (eds), *The Political Turn in Animal Ethics* (Rowman and Littlefield International 2016)

³²⁵ Tony Milligan, ‘The Political Turn in Animal Rights’, (2015) 1(1) *Politics and Animals* 8 <<https://journals.lub.lu.se/index.php/pa/article/view/13512>> accessed 22nd May 2020

³²⁶ Erica von Essen, Michael P. Allen, ‘A Rabble in the Zoopolis? Considering Responsibilities for Wildlife Hybrids’, (2016) 47(2) *Journal of Social Philosophy* <<https://doi.org/10.1111/josp.12150>> Ladwig B. ‘Against Wild Animal Sovereignty: An Interest-based Critique of Zoopolis’, *Journal of Political Philosophy* (2015) 23 <<https://doi.org/10.1111/JOPP.12068>>

Oscar Horta, ‘Zoopolis, Intervention, and the State of Nature*’, (2013) 1, *LEAP* <<http://www.stafforini.com/docs/Horta%20-%20Zoopolis.%20intervention.%20and%20the%20state%20of%20nature.pdf>> accessed 21st September 2021

concerned with service dogs. Although this thesis touches upon many disciplines including the emerging area of animal labour studies, it is to be noted that the issues and debates that potentially arise from these subjects (of which there are many) are not the focus of this thesis. The niche area of focus is on citizenship theory and its application to service dogs, in addition to the empirical research which it is hoped will be able to expand on this theory.

The framework put forward in *Zoopolis* is an intriguing and unconventional alternative using an expanded version of citizenship theory integrated with the theory of animal rights.³²⁷ Within the first few pages, the authors manage to draw attention to the multitude of problems faced by the animal rights movement.³²⁸ It is clear that the intention of the book is to move the animal rights movement forwards using the creation of a new normative political framework to do this.³²⁹ The authors explain that they “hope to shift the debate about animals from an issue in applied ethics to a question of political theory.”³³⁰ Although Donaldson and Kymlicka are critical of animal rights, they do in fact adopt the foundational principles of animal rights theory (ART), accepting that animals are entitled to basic inviolable rights, and that the exploitation and instrumentalisation of animals for human gain must end,³³¹ and not simply be regulated or modified. In the latter half of their book, the authors discuss an array of human-animal interactions and how their innovative framework could potentially apply to these relationships individually.³³² The concept of group-differentiation is used to extend political rights to animals³³³ which are separated into three distinct political groups based on their proximity and levels of human interaction.³³⁴ These three identified groups are based on concepts of citizenship,³³⁵ which are; domesticated animal citizens, liminal animal denizens, and sovereign wild animals.³³⁶ The latter two groups are beyond the scope of this thesis as they consider semi or non-domesticated animals and are therefore not considered. The aim of this chapter, therefore, is to provide an overview of the framework put forward by Donaldson and Kymlicka in relation to domesticated animals.

³²⁷ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press 2011) 14

³²⁸ The full extent of the issues faced by the animal rights movement are discussed from pages 1-16

³²⁹ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press 2011) 16

³³⁰ *Id.* at 12

³³¹ *Id.* at 4. Chapter 2 is also spent justifying the adoption of this position.

³³² *Id.* at 15

³³³ *Id.* at 14

³³⁴ *Ibid.*

³³⁵ *Id.* at 50

³³⁶ *Id.* at 14

4.2 Inviolable rights

As discussed in the previous chapter, sentience is frequently adopted as the foundational requirement for an animal to have their interests considered or to be viewed as “deserving” of greater protection.³³⁷ It is not within the scope of this thesis to enter into the debate around whether this should be the prerequisite for consideration or to propose an alternative. Therefore, in this thesis, the foundational position adopted is that “... animals have inviolable rights in virtue of their sentience or selfhood, the fact that they have a subjective experience of the world,”³³⁸ which is the starting point adopted by the authors in *Zoopolis*. In the book, the authors are clear that they use the term selfhood and personhood synonymously refusing to differentiate between the two terms.³³⁹ There are a number of different arguments and reasons given for their decision,³⁴⁰ including that they do not believe in the requirement of additional complex cognitive capacities to be provided with inviolable rights, arguing that they “are not a prize awarded to whichever individual or species scores highest on some scale of cognitive capacities...”³⁴¹ which is the approach adopted by some theorists, such as Steven Wise. Donaldson and Kymlicka argue that “the first question is simply whether there is a ‘subject’ there, whether there is ‘someone home.’”³⁴² It is necessary to recognise that inviolable rights are not fixed without exception.³⁴³ These rights generally cannot be violated and prevent anyone else from infringing those rights or attempting to sacrifice someone else for the “greater good of others.”³⁴⁴ Inviolable rights take the form of universal basic rights.³⁴⁵ As previously mentioned in chapter 3 the Universal Declaration of Human Rights provides a useful example of inviolable rights. Article 4 prevents all forms of slavery, while Article 5 prevents torture, alongside cruel, inhuman, or degrading treatment or punishment. The authors of *Zoopolis* argue that one of the failings of the animal rights movement has been the over-reliance on a small number of negative rights.³⁴⁶ *Zoopolis* differentiates itself from other animal rights-based theories by maintaining these basic rights but also introducing the concept

³³⁷ See the Animal Welfare (Sentience) Bill 2021 which would recognise animals who are vertebrates *only* as sentient beings in law.

³³⁸ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press 2011) 31

³³⁹ *Id.*, at 31

³⁴⁰ See pages 24-32 for the full argument on animal selves

³⁴¹ *Id.*, at 28

³⁴² *Id.*, at 30

³⁴³ In *Zoopolis* the authors consider self-defence and necessity for example, 41

³⁴⁴ *Id.* at 19-20

³⁴⁵ *Id.* at 20

³⁴⁶ *Id.* at 6

of relational rights, and aims to refocus the discussion to consider what positive relational rights may be owed to animals by humans.³⁴⁷

4.3 What is an extended version of citizenship theory?

The framework put forward in *Zoopolis* for domesticated animals is underpinned by two beliefs; firstly, that by virtue of their domestication, their lack of choice in an alternative form of existence and the nature of our relationship with them, there is a duty to incorporate and consider the interests of domesticated animals within both the social and political context,³⁴⁸ secondly, that citizenship provides the most suitable “conceptual framework” for this task.³⁴⁹ The author’s aim is to extend citizenship to incorporate domesticated animals as members of our society. Cochrane has criticised the extended approach adopted by the authors, arguing that,

“...we cannot neatly group animals into discrete categories —domesticated, wild and liminal— each with their own distinctive entitlements. The rights of any particular animal are better determined via a cosmopolitan perspective that attaches rights to individuals primarily according to their capacities and interests, as opposed to their membership in different groups.”³⁵⁰

Nevertheless, the approach chosen by Donaldson and Kymlicka to use existing categories of citizenship to extend this concept to domesticated animals does offer practical advantages. The authors consider the “three different functions in political theory,”³⁵¹ taking each in turn. The first is nationality, which is a legal relationship that is between the state and the individual, and in law it is illegal for a state to make someone stateless.³⁵² At a basic level, it is an individual’s right to reside in, and return to, a particular state.³⁵³ The second function is popular sovereignty, which originated out of the French Revolution which began in 1789 and ended in 1799. It is a political doctrine that means that power is vested in the people, therefore, a government is supposed to act on the will of the people.³⁵⁴ Lastly, is democratic political agency, also known as political freedom. Individuals can, or at least have the choice to, engage as active participants in the democratic process. For example, the right to vote in elections and

³⁴⁷ *Id.* at 5-6

³⁴⁸ *Id.* at 101

³⁴⁹ *Ibid*

³⁵⁰ Alasdair, Cochrane, ‘Cosmozoopolis: the Case Against Group-Differentiated Animal Rights’, (2013) 1 *Law, Ethics and Philosophy*, 139

< <https://raco.cat/index.php/LEAP/article/view/294785/383318> > accessed 29th April 2020

³⁵¹ *Id.* at 55

³⁵² See for example the media storm surrounding the case of Shamima Begum. Lizzie Dearden, ‘Shamima Begum: Government ‘makes Isis bride stateless’ by stripping her of British Citizenship’ (*Independent*, Tuesday 19th February 2019)

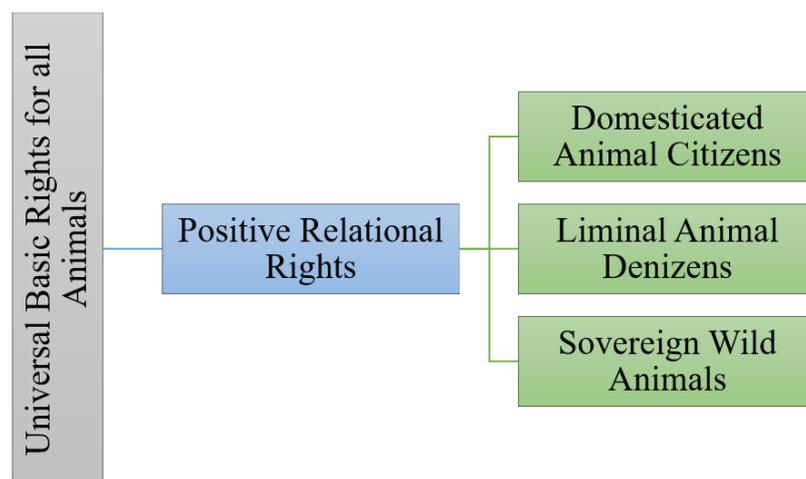
³⁵³ Sue Donaldson and Will Kymlicka *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 55

³⁵⁴ *Ibid*

“co-author laws is part of participation.”³⁵⁵ The authors argue that domesticated animals are capable of nationality and popular sovereignty, in addition to having some democratic political agency. This last function is the most contentious, with the authors rejecting the idea that animals lack the ability to become co-citizens based on their inability to politically participate.³⁵⁶ Animals will not have the right to vote for example, but Donaldson and Kymlicka argue that this conclusion is “too quick.”³⁵⁷ They feel that too much emphasis is placed on cognitive capabilities, and that this focus has detrimental implications not only for animals but also for humans.³⁵⁸ The authors utilise literature from the disability movement,³⁵⁹ essentially arguing that political agency in the case of domesticated animals can be exercised through “trust based ‘dependant agency’.”³⁶⁰ This form of agency and co-citizenship can be argued for domesticated animals because,

“domestication only works for animals that are sociable, able to communicate, and to adapt to and trust humans, and domestication over time has worked to strengthen these capacities. As a result, domesticated animals are capable of forming relations with humans that allow them to manifest a subjective good, to cooperate, and to participate- in short, to be citizens.”³⁶¹

Therefore, under this extended version of citizenship theory, domesticated animals would become our co-citizens, included as full members of our shared society. To help demonstrate and explain what an extended version of citizenship would look like based on group differentiation, I have created the figure below based on *Zoopolis*.



³⁵⁵ *Id.* at 56

³⁵⁶ *Id.* at 57

³⁵⁷ *Id.* at 55

³⁵⁸ *Id.* at 57

³⁵⁹ *Id.* at 59

³⁶⁰ *Id.* at 104

³⁶¹ *Id.* at 104-105. Domestication is also discussed in more detail at 74-75

Figure 4.1 The relationship between universal and positive relational rights based on group differentiation of different animals

Here it can be seen that basic rights for all animals is the foundational position which all other rights will stem from. From here, positive relational rights can be introduced which, unlike the basic rights, are not applicable to all animals, instead they are connected to a particular group, going beyond the basic rights that all animals are entitled to. As “all animals have the inviolable right not to be harmed or killed for our benefit, but beyond this universal entitlement, we have distinct obligations to different groups of animals, depending on the kinds of membership they have in different human or animal communities.”³⁶² As previously touched upon, dogs and therefore service dogs, because they are domesticated animals and possess the “capacities to have an express a subjective good, to participate, and to cooperate,”³⁶³ would be classified as our co-citizens in *Zoopolis*, entitled to distinct positive relational rights.³⁶⁴ Wild and liminal animals will also have their own unique positive rights.³⁶⁵ The separation of animals into these categories is a unique feature of *Zoopolis*’ approach, allowing the authors to consider the specific levels of human-animal interaction and the nature of our relationship with each group, to consider what obligations should be owed to them.³⁶⁶ Therefore; “in sum, we believe that a more expansive account of ART – one that integrates universal negative rights owed to all animals with differentiated positive rights depending on the nature of the human-animal relationship – provides the most promising avenue for progress in the field.”³⁶⁷ By adopting this approach, the rights that human citizens already possess would be extended where appropriate to dogs and, therefore, service dogs.

The innovative way of thinking put forward by Donaldson and Kymlicka would allow full consideration to be given to a service dog as an individual, offering the scope to reimagine what our relationship with them should look like. Therefore, service dogs would be entitled to basic rights based solely on their sentience or selfhood, and relational citizenship rights based on being domesticated.³⁶⁸ This means that a service dog’s own subjective good is advocated for under this framework and it would protect their “preferences, desires and interests.”³⁶⁹ Therefore, a service dog is entitled to be given the option of whether or not they would like to

³⁶² Sue Donaldson and Will Kymlicka, ‘A Defense of animal citizens and sovereigns’, (2013) 1 Law, Ethics and Philosophy, 144 < <https://www.raco.cat/index.php/LEAP/article/view/294786> > accessed 25th May 2020

³⁶³ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 122

³⁶⁴ *Id.* at 14

³⁶⁵ *Ibid*

³⁶⁶ *Id.* at 11

³⁶⁷ *Ibid*

³⁶⁸ *Ibid*

³⁶⁹ *Id.* at 108

participate in contributing to society through a form of work, and a personal identity outside of their specific role.³⁷⁰ This means that a dog's identity would not be defined by their work, which is an important feature for service dogs as they would have to be given the opportunity of not working all together.

Under citizenship theory, domesticated animals would no longer be classed as property or as an object but seen as an individual with their own life to live. Cunningham-Smith and Emery note that “dogs may have been shaped by humans to fit the roles required of them, but they have not been passive participants in the human-canine relationship. Dogs themselves are non-human social actors with lives of their own.”³⁷¹ It would need to be established which service dog roles would be compatible with citizenship. Therefore, due to the nature of the service dog's role, if their labour was permitted under citizenship theory and the dog chose to participate in that work, there would likely be additional rights and protections that they would be entitled to that would go beyond the basic and positive rights owed to a dog who does not provide a form of labour.³⁷² It is arguable that these additional rights and protections specific to animal workers would take the form of labour rights.

Within chapter five of *Zoopolis*, Donaldson and Kymlicka outline nine potential areas and consider how the citizenship framework could be applied in practice to those particular ethical issues. These are: basic socialisation, mobility and the sharing of public space, duties of protection, use of animal products, medical care, use of animal labour, sex and reproduction, predation/diet and political representation.³⁷³ I will predominantly focus on three of these areas, duties of protection, medical care and animal labour as they are most pertinent in relation to service dogs and there is simply not enough space to outline and consider all nine areas.

The authors are cautious in their approach as in their view, it is too early to formulate a “fixed-list of citizenship rights and responsibilities.”³⁷⁴ It is argued that this could only be obtained through “enabling agency and participation.”³⁷⁵ Therefore, any theorising of what rights and responsibilities may arise from co-citizenship is currently fluid and open to change.³⁷⁶ The findings from the empirical research that is undertaken as part of this thesis will hopefully help to add to this discussion.

³⁷⁰ *Id.* at 140

³⁷¹ Cunningham-Smith, Petra, and Emery, Kitty, ‘Dogs and People: Exploring the Human-Dog Connection’, (2020) 40(4) *Journal of Ethnobiology*, 409 < <https://doi.org/10.2993/0278-0771-40.4.409> > accessed 27th November 2021

³⁷² These will be explored in more detail in later sections

³⁷³ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 123

³⁷⁴ *Id.* at 122

³⁷⁵ *Ibid*

³⁷⁶ *Id.* at 123

4.4 Citizenship for Service Dogs?

4.4.1 Duties of protection

Duties of protection will be considered first before moving on to look at medical care in the next section. I have decided to consider these two areas before specifically looking at animal labour and service dogs because they are individual dogs first. I wanted to make it clear that these two considerations would apply to all domesticated animal co-citizens, they are *not* predicated or based on the contribution of animal labour. However, some duties of protection could be specifically tailored to service dogs which will be explained further down.

“Citizens are entitled to the full benefit and protection of the law, and this means that the duty of humans not to harm animals is not simply a moral or ethical responsibility, but ought to be a legal one.”³⁷⁷

Humans would have a number of obligations to animal co-citizens, which would include to provide protection against “harm from human beings, harm from other animals, and more generally harm from accidents or natural disasters.”³⁷⁸ This incorporates supporting their positive relational rights and protecting animal co-citizens from both deliberate and negligent harms.³⁷⁹ For example, by being recognised as a co-citizen, domesticated animals would be entitled to be rescued and protected from “predators, disease, accidents, floods or fires.”³⁸⁰ It can be envisaged that the emergency services would have to be trained on how to come to the aid of a range of domesticated animals.³⁸¹ Instances of this do already happen in the UK.³⁸² However, this is not at the level that would be required if domesticated animals were co-citizens. Currently, if there was for example a human and a dog who both needed rescuing, the human would take priority, whereas if animals were full members of society, then they should both be treated equally.³⁸³

Furthermore, were domesticated animals to be recognised as co-citizens, then the authors argue that the law must be “effective in its protection,”³⁸⁴ “harms to animals, like harms to

³⁷⁷ *Id.* at 132

³⁷⁸ *Ibid*

³⁷⁹ *Ibid*

³⁸⁰ *Id.* at 133

³⁸¹ *Id.* at 134

³⁸² See for example, Ben Jones, ‘RSPCA and fire service help to rescue foal from drowning in river near Peterborough,’ *Peterborough Telegraph* (24th June 2021)

³⁸³ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 133-134

³⁸⁴ *Id.* at 132

humans, should be criminalized”³⁸⁵ and carry with them legal significance. This is in part concerned with enforcing and supporting the status of domesticated animals as co-citizens.³⁸⁶ If effective, these laws should eventually become second nature to those in society, to encapsulate this; “a good law, in the end, becomes an educational device, which, if it works properly, eventually vitiates the need for its own existence by creating a new culture in the regulated population.”³⁸⁷ This would be the ultimate aim, to create a new culture where domesticated animals are accepted as full members of our shared society, and the human members are capable of self-regulation. Although arguably weak at the moment, as mentioned, there is animal protection legislation in England and Wales – the AWA, or the Animal Welfare (Service Animals) Act 2019. Focusing specifically on service dogs here, the latter is supposed to provide protection from deliberate human harm to particular dogs, for example by amending s. 4(3) of the AWA so a defendant can no longer claim that they were acting in self-defence under s. 3(c)(ii) AWA, which justifies the use of force against a service animal.

In relation to the duty to protect domesticated animals from harm caused by other animals, there is an example for assistance dogs in part 7 of the Anti-Social Behaviour, Crime and Policing Act 2014 which amended the Dangerous Dogs Act 1991. As part of those amendments, an attack by a dog which is dangerously out of control on an assistance dog was reclassified as an aggravated offence under s. 3(1)(b) which can now incur a maximum penalty of up to three years imprisonment. From the examples used in this section, it is highlighted that already society feels that they owe dogs and service dogs a certain level of protection and duties towards them. Although these are positive signs, citizenship would allow these examples to be taken further and developed more fully. Duties of protection would be owed to all domesticated animals because citizens are entitled to be protected. In addition, any animal that is providing a form of labour and therefore contributing to the public good would be entitled to other forms of legal protection, such as those currently benefiting human workers. For example, humans who are retired do not require ongoing employment rights such as risk assessments for example, but someone who is retired may benefit from work-based pension. Therefore, because service dogs would be contributing to society through their labour, other protection would be available to them while working and afterwards, which as mentioned would most likely take the form of labour rights which will be explored in greater detail later in the chapter.

³⁸⁵ *Ibid*

³⁸⁶ *Id.* at 133

³⁸⁷ Rollin B.E and Rollin M.D.H, ‘Dogmaticisms and Catechisms: Ethics and Companion Animals’, in Susan J Armstrong and Richard G Botzeler, *The Animal Ethics Reader* (Routledge, 2nd Edition, 2008)

4.4.2 Medical care

Medical care is the sixth area that the authors consider in *Zoopolis*, explaining that “recognizing domesticated animals as members of the community includes accepting their equal right to communal resources and the social bases of wellbeing, such as medical care.”³⁸⁸ In a separate article, the authors defend their argument for domesticated animals to be included within medical care, arguing that they “can be incorporated into a public medicare plan precisely because they are domesticated, and hence able to flourish within a mixed human-animal society.”³⁸⁹ Considering this within the context of England and Wales, current UK citizens have the benefit of a publicly funded National Health Service (NHS). This is funded through general taxation and national insurance contributions. For domesticated animal co-citizens in England and Wales, it can be proposed that an equivalent NHS should be established for their benefit. As an alternative for countries without an NHS, Donaldson and Kymlicka suggest that providing medical care could be fulfilled through the use of insurance³⁹⁰ instead. Pet insurance is currently available in England and Wales although not compulsory. One of the problems with the existing pet insurance framework is that many pet insurance companies exclude pre-existing conditions, raise premiums to unsustainable levels, do not cover animals above a certain age limit and some will not provide insurance for animals such as service dogs. Medical care, as already stated above, is a membership right. However, I want to consider what access to medical care in this way could mean for service dogs specifically, based on the fact that it is the public who benefit from the direct contributions of service dogs to society. In addition, insurance for current or retired service dogs is particularly difficult to obtain. Charities such as the Thin Blue Paw Foundation for retired police dogs are trying to fill the current gap in medical care for retired service dogs:

“Many people are unaware that retired police dogs do not receive financial support in their retirement from the force they served with, meaning the responsibility for their care and vet bills fall solely to their ex-handler or new owner. Unable to get pet insurance due to their working life, many are left with ongoing vet bills which can amount to thousands. The foundation provides much needed financial support to these unsung canine heroes and their owners to enable them to have a long and happy retirement.”³⁹¹

³⁸⁸ *Id.* at 142

³⁸⁹ Sue Donaldson and Will Kymlicka, ‘A Defense of animal citizens and sovereigns’, (2013) 1 *Law, Ethics and Philosophy*, 149 < <https://www.raco.cat/index.php/LEAP/article/view/294786> > accessed 25th May 2020

³⁹⁰ *Id.* at 143

³⁹¹ Thin Blue Paw Foundation, ‘About Us’, < <https://thinbluepaw.org.uk/about> > accessed 30th August 2020

If an insurance framework were to be implemented then it would need to be the employer's responsibility to provide *lifetime* insurance on the behalf of their service dogs; this would then also work in a country where there is no equivalent of the NHS. Cochrane considers five labour rights for animals which will be expanded on later, but one of these is the right to "just and favourable remuneration."³⁹² He suggests that this could include medical care and that it would be best if this is managed by an animal labour union, "as such, just and favourable remuneration for animal workers would seem to imply 'in kind payments'; that is, the direct provision of the necessary goods and service themselves."³⁹³ This could be another method for service dogs to receive medical care for their lifetime. One of the primary benefits of a scheme of medical care for domesticated animals, which is particularly important for service dogs, is that the economic element is removed from the consideration; they would simply be entitled to the treatment that they need. Extending beyond simply the financial provisions of medical care could be the creation and deployment of emergency medical care for injured service dogs, through an ambulance response scheme. This would equally tie in with the duty of protection discussed in the previous section. There are already some examples of service dogs receiving such emergency care which could be built upon. For example, retired military dog, Kuno "returned home aboard an RAF plane, receiving in-flight care from a Royal Army Veterinary Corps (RAVC) team. Back in the UK he was transferred to the Defence Animal Training Regiment in Melton Mowbray where he underwent extensive reconstructive surgery."³⁹⁴ Below is an extract from the story of Kuno and how he came to be evacuated on the RAF flight back to the UK.

"In May 2019, Kuno was deployed on another operation which would change his life. Kuno and his handler were among the first off the helicopter. They raced across open ground, met by a wave of machine gun fire. Miraculously, no one was injured and they made it safely to the compound with the rest of the assault team. Kuno was put to work straight away, being released to incapacitate an insurgent. He led the team safely through the compound, alerting them of a variety of hidden weapons and explosives they would otherwise have been unaware of. Once through safely, Kuno returned to his handler and the team continued their mission towards another set of buildings in the compound. All of a sudden, grenades started detonating near the team and they faced more machine gun fire. An enemy insurgent had concealed himself from the team and was pinning them back with heavy fire. They knew they couldn't advance without sustaining heavy casualties but couldn't stop the enemy firing at them from their position. Confident in his abilities, Kuno's handler released him to incapacitate the enemy. Without hesitation, Kuno ran towards their attacker, taking him by surprise in the dark. The attacker fired blindly at Kuno and sadly a number of bullets found their mark, hitting the dog's hind legs. But Kuno didn't stop. He

³⁹² Alistair Cochrane, 'Labour Rights for Animals' in Robert Garner and Siobhan O'Sullivan (eds), *The Political Turn in Animal Ethics* (Rowman and Littlefield International, 2016) 16

³⁹³ *Ibid.*

³⁹⁴ Ministry of Defence and The Rt Hon Ben Wallace MP, 'UK military dog to receive PDSA Dickin Medal after tackling Al Qaeda insurgents', (*Gov.uk News Story*, 29th August 2020)

continued to plough through the rain of bullets, bravely launching himself at the attacker without breaking stride. He quickly incapacitated him and continued on the mission despite his wounds. Because of Kuno, the assault force were able to enter the courtyard and neutralise the enemy forces. Only then did Kuno relent, but his battle was far from over. Kuno's injuries were severe. He was given immediate first aid and evacuated with the assault force, but the full extent of his injuries still weren't clear and his team were worried he wouldn't make it. It was a race against time to get him the veterinary care he needed to survive. He required several urgent operations to stabilise him before he could return to the UK. Thankfully, Kuno pulled through, but his injuries were life-changing. Sadly his rear paw couldn't be saved and he would need a prosthetic paw and months of rehabilitation to help him walk again."³⁹⁵

Kuno is the first military dog within the UK to be fitted with "pioneering custom-made prosthesis to replace his missing paw, alongside an orthotic brace to support his injured limb."³⁹⁶ The environment that Kuno operated in, and the extent of his injuries means that this is a more extreme example of the situations and type of medical care that some service dogs face. Nevertheless, access to emergency medical care if required is an important consideration for service dogs and one that co-citizenship addresses.

One final note on medical care relates to euthanasia; this is currently an easily accessible intervention for animals and commonly used. The Royal College of Veterinary Surgeons (RCVS) Code of Professional Conduct (CPC) Euthanasia of Animals, refers to how veterinary surgeons "have the privilege of being able to relieve an animal's suffering in this way in appropriate cases"³⁹⁷ Part 8 of the CPC covers euthanasia of an animal, where the suggested definition is "painless killing to relieve suffering."³⁹⁸ This is an act that, legally, can be carried out by anyone, not just a veterinary surgeon, providing that it is done humanely, as is referenced by s. 4 and s. 9 in the AWA. It is important to note that "no veterinary surgeon is obliged to kill a healthy animal unless required to do so under statutory powers as part of their conditions of employment."³⁹⁹ However, the use of euthanasia is currently open to abuse, with many animals euthanised for reasons that are not medically linked, in 2016, the Voice of the Veterinary Profession survey highlighted that 98% of vets had been asked to euthanise a healthy pet due to their behaviour, with other reasons including 48% for the poor health of the owner, 39% for moving to accommodation unsuitable for a pet and 32% due to legal enforcement reasons.⁴⁰⁰ Between the 6th of March 2017 and the 31st of December 2017, a total of 38 military dogs were euthanised. Of those 38 dogs, six were recorded as being euthanised for "failing to maintain standards" and another six were recorded as having a "dangerous

³⁹⁵ PDSA, 'Kuno's story', < <https://www.pdsa.org.uk/what-we-do/animal-awards-programme/pdsa-dickin-medal/kuno> > accessed 3rd August 2021

³⁹⁶ Ibid.

³⁹⁷ Code of Professional Conduct for Veterinary Surgeons, Euthanasia of animals 8.2

³⁹⁸ Code of Professional Conduct for Veterinary Surgeons, Euthanasia of animals 8.1

³⁹⁹ Code of Professional Conduct for Veterinary Surgeons, Euthanasia of animals 8.2

⁴⁰⁰ Holly Kernot, '98% of vets asked to euthanise healthy pets for behaviour', (*vet times*, 16th September 2016)

temperament.”⁴⁰¹ In 2017, the Secretary of State for Defence, the Rt Hon Gavin Williamson MP responded to a written question, clarifying that “the expression ‘failing to maintain standards’ can include a combination of welfare and behavioural issues.”⁴⁰² In response to a named day question, which is a written parliamentary question required to be answered on a specified date, in this case on the 8th of March 2017, the following information was included:

“Decisions to euthanise any animal in military service are only taken by a veterinarian officer after all possible treatment avenues have been exhausted and where it is considered to be the most humane option for the animal. The only other scenario where an animal would be euthanised is where it is considered to pose a risk to public safety.”⁴⁰³

Service dogs, such as those used for protection and enforcement, are specifically trained to be aggressive and less trusting of humans than other service dogs, where sociability may be essential to their role. Under the Devon, Cornwall and Dorset Police procedure for the deployment of police dogs, at 3.1.3 “it is acknowledged that a police dog will self-deploy in two circumstances of perceived danger, to defend itself and to defend its handler.”⁴⁰⁴ In 2014, Cleveland police dog, Dano, caused multiple bite wounds to Irene Collins. Four days after the attack, Mrs Collins died and the dog bites caused by Dano were deemed to be a contributing factor to her death. The Independent Police Complaints Commission’s (IPCC) published report contains some of the prepared account by PC Baines (PD Dano’s handler at the time) where he states that;

“Police dog Dano had secured the female with a bite to the right forearm which he had been trained to do in certain circumstances.”

When asked what the ‘certain circumstances’ were he referred to his written response,

“I cannot say what actions the elderly female may have taken in order for police dog Dano to have physically engaged with her, but although I did not witness the initial engagement, in my experience for Dano to make physical contact he must have registered movement and considered it to be some form of threat, aggression or escape in accordance with his training.”⁴⁰⁵

⁴⁰¹ UK Parliament, ‘Armed Forces: Dogs’ Question for Ministry of Defence, UNI 117720 (5 December 2017) <<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-12-05/117720/>> accessed 14th May 2019

⁴⁰² Ibid.

⁴⁰³ UK Parliament, ‘Armed Forces: Dogs’ Question for Ministry of Defence, UIN 66528 (3 March 2017) <<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-03-03/66528/>> accessed 3rd July 2019

⁴⁰⁴ Strategic Alliance Police Dogs 3.1.3 (Freedom of Information Act) < [SA004open.pdf](#) > accessed 20th May 2021

⁴⁰⁵ Independent Police Complaints Commission. Irene Collins, An investigation into an attack on Mrs Collins by a Cleveland Police dog on 16 July 2014, Independent Investigation Final Report, 15

The IPCC found that there had been gross misconduct on the behalf of PC Baines who received a written warning.⁴⁰⁶ In relation to PD Dano, it was revealed during the inquest into Mrs Collins death that his history with previous forces was unknown to Cleveland Police Force when they bought him from Hampshire and Themes Valley joint dog unit for £500.⁴⁰⁷ As a result of the attack on Mrs Collins, PD Dano was “destroyed.”⁴⁰⁸ As noted above, six dogs were euthanised by the military within a nine-month period of 2017 for possessing a “dangerous temperament.” A dog bred and trained by the police or military for protection and force is the direct result of intentional human actions to produce what is essentially a weapon. It is unfair for a dog to be punished for doing what they have been trained to do as the result of human decisions. Dogs that are trained to attack are praised and adored when biddable and obedient but when a mistake is made on the handler’s behalf or even the dog’s, then the potential cost to the dog can be great, even fatal, because these dogs operate under high stakes and the margin for error in their partnership is minimal. The authors in *Zoopolis* acknowledge the complicated issues surrounding the allowance of euthanasia in both the human and the animal case.⁴⁰⁹ They argue that in a “just society where domesticated animals are recognised as full citizens”⁴¹⁰ euthanasia will not necessarily be incompatible with citizenship but similarly to humans that “it would be morally fraught and contested, and, if legal, tightly regulated.”⁴¹¹

4.4.3 The work of service dogs

Under the citizenship framework as set out by Donaldson and Kymlicka, it is not impermissible for a domesticated animal to contribute to society through work. The authors recognise that “a refusal to ‘use’ others – effectively to prevent them from contributing to the general social good – can itself be a form of denying them full citizenship.”⁴¹² Therefore, to deny a dog the ability to work could in fact be seen as actively stopping a dog from contributing where they may want to, and could be used as a method of perpetuating their subordination. This is because reciprocity forms an important aspect of being a co-citizen,⁴¹³ so the issue is not the contribution of animals through work, but that it usually comes at a cost to the animal themselves that presents an issue.⁴¹⁴ In a similar vein, Coulter notes that “animal labour is not

⁴⁰⁶ *Id.* at 29

⁴⁰⁷ Unknown, ‘Cleveland Police death bite dog “was out of control”,’ (*BBC News Online*, 21st September 2018)

⁴⁰⁸ *Ibid*

⁴⁰⁹ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press 2011) 143

⁴¹⁰ *Ibid*

⁴¹¹ *Id.* at 144

⁴¹² *Id.* at 136

⁴¹³ *Id.* at 116

⁴¹⁴ *Id.* at 142

singular or monolithic, and cannot be universally condemned or condoned,⁴¹⁵ and shares the opinion that;

“...it is not unreasonable for some domesticated animals to be engaged in certain kinds of work, if both the jobs and the labor relationships are characterized by respect and reciprocity, and if animals are afforded protections and positive entitlements underscored by interspecies solidarity, particularly if buttressed by formal political frameworks. Animals can enjoy and even benefit from certain kinds of work and labor relationships as members of multispecies workplaces and societies.”⁴¹⁶

In *Zoopolis*, multiple issues are highlighted when attempting to reimagine our relationship with animal labour, particularly the work of service animals.⁴¹⁷ Weisberg explores a number of aspects of citizenship theory and its potential within the context of Animal Assisted Intervention to become a non-exploitative practice.⁴¹⁸ She writes that, “domesticated animal citizenship provides a useful framework for transforming animal assisted intervention (AAI) into a non-exploitative practice that guarantees the flourishing of its human and nonhuman animal participants.”⁴¹⁹ Crucially, Weisberg notes that “citizenship promises animals the fundamental right to express their subjective good and agency in all matters that affect their lives...”⁴²⁰ First and foremost, a service dog is a dog in their own individual right.

As previously mentioned, through citizenship, a service dog would have access to certain benefits simply by being included as a full member, such as the right to medical care discussed above.⁴²¹ None of a dog’s fundamental rights are predicated on the basis that they contribute to society; it is the dog’s prerogative as a co-citizen to *choose* whether to participate in a form of work. This, as already highlighted, is an important point; currently, the majority of service dogs are not provided with the opportunity to refuse to work and decide that they would like to simply be a companion, for example. The authors stress that “for such use to be non-exploitative, the animal must be in a position to give a clear indication that they enjoy the activity, that they thrive on the stimulation and contact, and that the work is not a price they need to pay to receive love, approval, treats, and care that are their due (and need).”⁴²² Where

⁴¹⁵ Kendra Coulter, ‘Toward Humane Jobs and Work-Lives for Animals’, in Charlotte E. Blattner, Kendra Coulter, and Will Kymlicka, *Animal Labour: A New Frontier of Interspecies Justice?* (Oxford University Press, 2020)

⁴¹⁶ Kendra Coulter, ‘Humane Jobs: A Political Economic Vision for Interspecies Solidarity and Human–Animal Wellbeing’, (2017) 3, *Politics and Animals*, 37
< <https://journals.lub.lu.se/index.php/pa/article/view/16589> > accessed 30th October 2021

⁴¹⁷ *Id.* at 141

⁴¹⁸ Zipporah Weisberg, ‘Animal Assisted Intervention and Citizenship Theory’ in Christine Overall *Pets and People: The Ethics of Our Relationship with Companion Animals* (Oxford University Press, 2017)

⁴¹⁹ *Ibid*

⁴²⁰ *Id.* at 220-221

⁴²¹ Sue Donaldson and Will Kymlicka *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 142

⁴²² *Id.* at 140

a dog does contribute through work, then it is likely that there would be additional rights that arise from their work, which would arguably take the form of labour rights which have been previously touched upon already. This is because the adoption of a citizenship framework not only enables the flourishing of a dog as an individual, but this would be actively encouraged and supported, in addition to robust protection given to their interests.⁴²³ Literature on animal labour including as workers and labour rights has, as mentioned, gathered more pace in the last few years.⁴²⁴ Some academics have started to focus more on what might constitute “humane work”⁴²⁵ or “good work”⁴²⁶ for animals. Cochrane puts forward a “three-fold basis” which he suggests must be met in order to determine if the work that an animal is engaged in is work that is good for the animal. This includes that,

“...it is work which provides pleasure, including through affording opportunities to use and develop skills; which allows for the exercise of animals’ agency; and which provides a context in which animals can be esteemed as valuable workers who are recognized as members of the communities in which they labour. If an animal conducts work of this kind, then we can feel confident that this work is helping that animal lead a flourishing life.”⁴²⁷

He acknowledges that the majority of animals currently engaged in work fail to meet this three-fold basis, and that more emphasis should be placed on getting “societies to recognize, value, and esteem the work which animals undertake.”⁴²⁸ Within *Zoopolis*, there is some indication given to how to protect the interests of animal workers, for example, a limitation placed on the number of hours that they could work, in addition to having a work-life balance which would involve rest, play and time for social interactions with humans and other animals.⁴²⁹ Kymlicka, in an interview on animal co-citizens, suggests that a series of questions would need to be asked such as; “how coercive the training is, whether the animals seem to enjoy the activity, how much it interferes with their ability to socialize with other animals or with humans, or with their time for leisure, for enjoying and exploring the world.”⁴³⁰ These potential questions could be developed into an objective assessment framework. I would suggest that this would need to be a multidisciplinary undertaking, with empirical research playing a vital role. In

⁴²³ *Id.* at 139-140

⁴²⁴ See for example, Coulter (2016), Cochrane (2016), Kymlicka (2017), Boettcher (2018) Blattner, Coulter and Kymlicka (2020)

⁴²⁵ Kendra Coulter, ‘Toward Humane Jobs and Work-Lives for Animals’, in Charlotte E. Blattner, Kendra Coulter, and Will Kymlicka, *Animal Labour: A New Frontier of Interspecies Justice?* (Oxford University Press, 2020)

⁴²⁶ Alasdair Cochrane, ‘Good Work for Animals’, in Charlotte E. Blattner, Kendra Coulter, and Will Kymlicka, *Animal Labour: A New Frontier of Interspecies Justice?* (Oxford University Press, 2020)

⁴²⁷ *Ibid*

⁴²⁸ *Ibid*

⁴²⁹ Sue Donaldson and Will Kymlicka *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 140

⁴³⁰ Will Kymlicka on Animal Co-Citizens – Interview Part 1. (Adriano Mannino, on January 11th 2014)

addition to this, another important aspect would be to try and identify which roles animals, or in this case service dogs, could legitimately be allowed to perform when co-citizens.

Determining these roles will not be easy; after all “most therapy and assistance animals are not trained to develop their own potential and interests but moulded to serve human ends.”⁴³¹ The majority of therapy and assistance animals in England and Wales are dogs, and this presents a complex issue. The authors consider that it may be possible to foresee that “a gregarious dog might enjoy accompanying her human on social work visits to hospitals or homes for the aged. There may be kinds of work in which dogs (or rats) use their superior sniffing skills, without excessive training required, to assist humans in detecting tumours, or incipient seizures, or dangerous substances, or tracking lost individuals.”⁴³² This provides a potential foundation to try to begin to understand which roles that service dogs can provide may be compatible with citizenship. As already considered by Donaldson and Kymlicka, some roles such as tracking, sniffing and possibly some assistance roles are likely to be allowed to continue under a citizenship framework. However, roles where a dog is currently used as a weapon, such as police and military protection dogs, may be difficult to reconcile. This is because risk of harm, along with many other considerations already mentioned, will be an important factor.

A dog cannot give informed consent i.e., they do not have the capacity to understand the possible benefits or consequences of a particular course of action, therefore, they cannot consent to any potential risks that they may face within any given role. So, a service dog cannot consent to, or foresee the risks associated with running towards a human armed with a knife. However, the handler can. After the 2008 ruling in Norway that explicitly recognised police dogs as public servants, the police prosecutor said that “police dogs work on orders from police officers, so violence against a police dog is the same as violence against an officer.”⁴³³ It cannot be ignored that a part of the reason that many service dogs are deployed is because the risk of harm is too great to send a human into that same situation. Perhaps a harm analysis could be created to help decide if a role or particular situation posed too great a risk for a dog to undertake. It is likely that as the risk of harm increases then the level of acceptability in relation to a dog carrying out that role will decrease. Where there is a significant level of foreseeable harm, such as a threat to life or serious injury, it may be necessary to conclude that a dog cannot continue to do that role or be deployed into such a situation. For example, it may be concluded that a service dog cannot chase an armed offender no matter how much joy they

⁴³¹ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 141

⁴³² *Id.* at 140

⁴³³ Unknown, ‘Attack on Police Dog in Norway Now Equal To Assaulting Police Officer,’ (*Fox News*, 5th June 2008)

appear to derive from doing so, opting for alternative human or technological measures instead.

4.4.4 What is in a name?

“The limits of my language means the limits of my world.”

- Ludwig Wittgenstein

As part of treating animals as our co-citizens, the current language that is used would need to be revised. Weisberg discusses the use of terminology when considering citizenship within the context of AAI.⁴³⁴ She recognises that language currently used within AAI would no longer be permissible, as “it would be unacceptable to reduce dogs (and other animals) to their “function.”⁴³⁵ Language is a powerful tool that is capable of shaping people’s perceptions of animals.⁴³⁶ Indeed, one of the reasons there was so much public support for Finn’s law was because of the dichotomy between the language of the law and how police dogs are perceived in reality.⁴³⁷ Weisberg considers “co-therapist” “participants” and even “co-workers” to be language that would be more just and better reflect the role of an animal within the context of AAI and citizenship theory.⁴³⁸ Alternative language that could also reflect the values of citizenship would be colleague or partner; it is likely that suitable terminology for referring to a service dog may be context dependant and the right term will most likely evolve organically once a service dog was recognised as a co-citizen. Weisberg considers the use of the term “handler,”⁴³⁹ which is a term that is commonplace within the context of service dogs and their human. Terminology such as this is problematic because, as Weisberg notes, this “perpetuates the view that animals are objects to be handled, manipulated, and controlled, not unlike machinery.”⁴⁴⁰ For example, the Association of Chief Police Officers’ Police Dog Manual of Guidance refers to the “handling of police dogs.”⁴⁴¹ Alternative language would need to be adopted; an example in the police context may be reference to a police dog officer rather than

⁴³⁴ Zipporah Weisberg, ‘Animal Assisted Intervention and Citizenship Theory’ in Christine Overall *Pets and People: The Ethics of Our Relationship with Companion Animals* (Oxford University Press 2017) 225

⁴³⁵ Ibid

⁴³⁶ Pablo Castello, ‘How Language Influences Perception of Animals and the Law that Follows’, (*Advocates for Animals*, 6th August 2020)

⁴³⁷ See the UK Government and Parliament Petition, ‘Give status to Police Dogs and Horses as ‘Police Officers’, 2016. This petition received 127,729 signatures.

⁴³⁸ Zipporah Weisberg, ‘Animal Assisted Intervention and Citizenship Theory’ in Christine Overall *Pets and People: The Ethics of Our Relationships with Companion Animals* (Oxford University Press 2017) 225

⁴³⁹ Ibid

⁴⁴⁰ Ibid

⁴⁴¹ ACPO Police Dogs Manual of Guidance (2011) Version 1.1

< <https://cinotecniamilitar.files.wordpress.com/2015/02/201103uopdogsmog1-1.pdf> > 3rd July 2019

a police dog handler. A shift in language within both the legal and political context would have important implications. As Weisberg points out “this is not a semantic exercise, but an important conceptual intervention.”⁴⁴² Voluntary changes to language in the workplace and at home would be an easy practical first step in levelling up the relationship between service dog and humans. In addition, I would note that referral to the name of the service dog is equally important, as this forms part of their identity as an individual. For example, PD is used as an abbreviation for police dogs, therefore it could be “this is PD Winston” or alternatively “this is my colleague, Winston.” On this language point relating to service dogs, my empirical data will help to understand how a service dog handler perceives the dog that they work with. “Co-worker” is one of the terms specifically considered and may be identified as a viable alternative to introduce in practice. In addition, the empirical data collected will hopefully provide an indication as to whether a service dog’s current legal status as property and therefore a “tool” or “equipment” is consistent with the service dog handler’s perspective. It is anticipated that this most likely will not be the case; therefore, my data should provide an insight into what may be a suitable alternative.

In 2017, Kymlicka suggests that an alternative means of recognising domesticated animals could be to include them legally, as family members or as co-workers, through what he calls the social recognition strategy.⁴⁴³ Although distinguishable from *Zoopolis*, there are a number of overlaps, with the main premise of the article focused on outlining the social recognition strategy for domesticated animals. Similarly to *Zoopolis*, Kymlicka argues that there is currently a deadlock between animals remaining as property and gaining legal personhood. He succinctly summarises the issue as “...working within the property framework is politically feasible but ineffective, and struggling for legal personhood would generate real change but is politically unfeasible.” As a result, this leads Kymlicka,

“...to advance three claims: (1) that social recognition is an essential, irreducible dimension of justice for domesticated animals, alongside recognition of personhood; (2) that pursuing social recognition is, for the foreseeable future, more politically feasible than pursuing recognition of personhood; and (3) that achieving social recognition may in fact facilitate and expedite the recognition of personhood. The quickest route to the recognition of personhood might involve a detour through social recognition.”⁴⁴⁴

As service dogs are domesticated animals, this would mean that under social recognition they could be legally reclassified as a co-worker. Were service dogs to be recognised in this way,

⁴⁴² Ibid

⁴⁴³ Will Kymlicka, ‘Social Membership: Animal Law beyond the Property/Personhood Impasse’, (2017) 40, *Dalhousie Law Journal*, 125

< <https://digitalcommons.schulichlaw.dal.ca/cgi/viewcontent.cgi?article=2087&context=dlj> > accessed 21st December 2018

⁴⁴⁴ *Id.* at 125-126

then there would be an argument to be made that the membership rights that human members of the workplace enjoy, such as those outlined by Cochrane, should be extended to include service dogs as well.⁴⁴⁵ Kymlicka explains that “recognition of collegiality is precisely a membership relationship, and it carries with it membership claims, rather than claims to “humane use.”⁴⁴⁶ This alternative approach appears to be a compromise on full co-citizenship. Service dogs would no longer be recognised as property, nor would they be entitled to full personhood or to be recognised as full members of a shared society. However, they would be shifted from their property status to a new inclusive recognition as a co-worker. This could be an interesting incremental step towards gaining recognition of service dogs as full co-citizens.

4.4.5 Labour rights for service dogs

Although “labour rights” as a term is not explicitly used within *Zoopolis*, the authors do, as mentioned before, indicate that there would need to perhaps be a limit on the number of hours that an animal would be allowed to work, in addition to having time to socialise, play, undertake other activities and time for relaxation.⁴⁴⁷ It is argued that labour rights for animals would be the most appropriate means of considering how a service dog could be sufficiently protected while working as a co-citizen, and when thinking about how this could be implemented in practice. The Animal Welfare (Service Animals) Act 2019 already provides an example of protection for animal workers, which Hamlett suggests “... essentially functions as a form of labour rights for service animals.”⁴⁴⁸ To develop this, the five labour rights proposed by Cochrane in 2016 will be outlined here. He draws on rights that are already used for some human workers, including two from the Universal Declaration of Human Rights 1948,⁴⁴⁹ suggesting that “when we look at the kinds of rights enshrined in international treaties and domestic legislation, we find a number of rights that translate across the species boundaries straightforwardly.”⁴⁵⁰ Therefore, it is suggested by Cochrane that labour rights for animals would not need to vary greatly from those already enjoyed by humans, and he points out the “indicative” nature of these five rights,⁴⁵¹ which include, “the right to representation by a labour union; the right to a decent standard of remuneration; the right to healthy and safe working conditions; the right to rest and leisure; and the right to a decent retirement.”⁴⁵²

⁴⁴⁵ *Id.* at 147

⁴⁴⁶ *Id.* at 149

⁴⁴⁷ *Id.* at 140

⁴⁴⁸ Claire Hamlett, ‘What is animal labour and should non-humans receive employment rights?’, (*Surge*, 10th May 2021)

⁴⁴⁹ Cochrane draws on Articles 23 and 24 of the Universal Declaration Human Rights 1948

⁴⁵⁰ Alistair Cochrane, ‘Labour Rights for Animals’ in Robert Garner and Siobhan O’Sullivan (eds), *The Political Turn in Animal Ethics* (Rowman and Littlefield International, 2016) 14-15

⁴⁵¹ *Id.* at 14

⁴⁵² Alistair Cochrane, ‘Labour Rights for Animals’ in Robert Garner and Siobhan O’Sullivan (eds), *The Political Turn in Animal Ethics* (Rowman and Littlefield International, 2016)

Cochrane argues that the right for animals to be represented by a labour union is the most important of the five rights proposed, as “it ensures that all other labour rights are properly monitored and protected.”⁴⁵³ The approach by Cochrane to consider the rights already enjoyed by some human workers is supported by Coulter, who suggests that “we can look at what is afforded to human workers and determine if it ought to be extended to animals. This should include safety standards, breaks, days off, vacation, the right to refuse work on specific days or on a permanent basis, and life after work...”⁴⁵⁴ As part of my empirical research, I asked my survey participants about a number of entitlements for service dogs, including union representation, a pension upon retirement, safe working conditions, and a working hours limit. Therefore, it is hoped that this will enable me to identify and explore whether some of these rights are already met in some capacity. Additionally, by gauging participants’ views of certain rights, I will be able to understand which rights may be easier to implement in practice and what these types of labour rights might entail. Overall, empirical research within multiple disciplines is likely to provide a vital role in establishing which rights, responsibilities, entitlements, and interests would be compatible and support a service dog as a co-citizen.

4.5 Conclusion

The purpose of this chapter has been to provide an overview of the framework put forward by Donaldson and Kymlicka in relation to domesticated animals in *Zoopolis*. In addition, this framework has been considered in light of the service dog specific context, which has resulted in a number of questions being raised. This chapter has provided reasoning as to why the framework put forward in *Zoopolis* for domesticated animals offers the most viable and preferable alternative when considering the exceptional moral and legal position of the service dog. In addition, I have briefly outlined Kymlicka’s Social Recognition Strategy, acknowledging the overlaps with citizenship theory but discussing how this is a distinct theory in itself. The approach put forward by Kymlicka offers an interesting take on the “property-personhood impasse”⁴⁵⁵ and offers an equally interesting approach to the service dog question. Considering these two frameworks in the wider context of the literature, from chapter three to chapter four there has been a shift from predominantly ethical and legal based theories into the

⁴⁵³ *Id.* at 15

⁴⁵⁴ Kendra Coulter, *Animals, Work, and the Promise of Interspecies Solidarity*, (Palgrave Macmillan; 1st ed. 2015 edition) 160

⁴⁵⁵ Will Kymlicka, ‘Social Membership: Animal Law beyond the Property/Personhood Impasse’, (2017) 40, *Dalhousie Law Journal*, < <https://digitalcommons.schulichlaw.dal.ca/cgi/viewcontent.cgi?article=2087&context=dlj> > accessed 21st December 2018

realms of political theory. Although closely related and incorporating many aspects of ethical and legal theories, it is important to acknowledge that there is a shift between the two chapters.

The citizenship framework as put forward by Donaldson and Kymlicka takes seriously the interconnectedness of our lives with animals through multispecies communities. Co-citizenship would respect a service dog's agency, right to participation and subjective good. A service dog would be entitled to be fully supported to reach their full potential, while having the option of no work at all, which would fundamentally change the legal and political position of service dogs and, therefore, the expectations placed upon them moving towards a non-exploitative relationship. This would be achieved through the introduction of basic rights and the obligation to support and uphold their relational rights. Such rights are based on the dog as an individual. There would need to be an introduction of additional rights and entitlements to protect service dogs when working, which would arguably take the form of animal labour rights as discussed earlier.

This practical framework incorporates political and societal changes including the use of language, while providing for the levelling up of legal protection. As the approach of this thesis leans towards pragmatism, the practical aspects that citizenship offers, along with the recognition of service dogs as a co-citizen provides an exciting opportunity to create positive change. The next chapter will consider my methodology, including the philosophical underpinnings of this research, the methods used, the sample and how the analysis was undertaken.

Chapter Five: Methodology

“Every thinker puts some portion of an apparently stable world in peril and no one can wholly predict what will emerge in its place.”⁴⁵⁶

5.1 Introduction

The purpose of this chapter is to outline and justify the rationale behind the mixed research methods approach of a survey and semi-structured interviews adopted in relation to my empirical data collection. The data aimed to explore how current and ex-service dog handlers feel about the legal protection their dog(s) currently receive, and their property status. The underpinning research philosophy is pragmatism, as I wanted to create a link between the data and theory focusing on the practical implications of this research. The epistemology which has helped to inform this research is that of constructivism.

This chapter begins by revisiting my research questions, before moving on to a discussion of my underpinning philosophy and epistemology. From here, the discussion moves on to my decision to adopt a mixed methods design to answer my empirical research questions. This is followed by an explanation as to how my data was collected, including gaining ethical approval before this research took place. An outline is provided of the sample of participants used for this research, along with the distribution of the survey and the recruitment process, including any issues encountered during these processes. This section also discusses the process of obtaining informed consent from each of my participants. The proceeding section outlines the process used for the analysis of both my survey results and my semi-structured interviews. The end of this chapter considers the limitations and validity of my research, before concluding and outlining chapter six.

5.2 Research questions

There has been an abundance of research focused on companion dogs and the companion animal relationships with humans,⁴⁵⁷ both recently and over the last decade or so, but service dogs appear to have escaped the attention of empirical researchers. My research fills this gap

⁴⁵⁶ John Dewey, *Experience and Nature* (Dover Publications, 1958) 222

⁴⁵⁷ See for example, the Guide Dogs Great British Dog Survey: The Results 2017. The Petplan Pet Census 2018 < <https://www.petplan.co.uk/pet-information/uk-pet-census-and-stories/> > and More Than Pet Insurance, ‘The Future of Pet Ownership Report’ (RSA, April 2018) < <https://www.rsagroup.com/media/2675/rsa-press-release-more-than-future-of-pet-ownership-report-released-09042018.pdf> > accessed 6th October 2020

in current knowledge and helps to explore this area through focusing specifically on service dogs that are contributing to the societal good, as outlined in previous chapters.

To provide a brief recap, my main research questions are as follows:

- What is the relationship between service dogs and their handlers?
- Is the legal protection that service dogs currently receive when performing the duties required by their role adequate?
- Can service dogs meet the criteria of citizenship, and what are the implications of this?
- If service dogs were treated as co-citizens, what additional rights would they be entitled to, considering the public benefit that service dogs provide?
- Does citizenship offer a potential improvement to the current status of service dogs?

Primarily, my empirical research is concerned with providing a voice to the service dogs through their handlers, and to explore how it may be possible to use the joint experiences of service dog and handler to create positive policy and legal changes for their service dogs. The way that I argue that these positive changes could be created is through the adoption of a citizenship framework, as detailed in chapter four. The citizenship framework in relation to domesticated animals is concerned with considering the voice of the animal, enabling them to become active participants in the shaping of society.

5.3 Philosophy and epistemology

It is clear from previous research that companion dogs are seen by their families and carers as more than merely property, though they retain that status within the current legal system.⁴⁵⁸ However, I also wanted to see if this trend is reflected within the service dog-handler relationship. Due to the dearth of empirical research in this area, my research is primarily exploratory in nature. Exploratory research is usually carried out where there is a lack of existing knowledge within a particular area.⁴⁵⁹ One aspect of my research is concerned with whether the legal status of service dogs as property is consistent with the views of their handlers. The handler appears to be the person who is best positioned as primary carer to provide an insight into their service dog's life, and their interests beyond their work. If it is found that the handlers' perceptions are out-of-step with current policies and practices then that provides an opportunity to identify potential areas for change or improvement. My

⁴⁵⁸ CPS Legal Guidance, *Offences Involving Domestic and Captive Animals* 2018

⁴⁵⁹ Ranjit Kumar, *Research Methodology: A Step-by- Step Guide for Beginners* (first published 1999, fifth edition, Sage Publications, 2019) 15

research also focuses on exploring how the views of the service dog handlers may or may not overlap with the citizenship framework detailed in chapter four, and how this theory may work in practice. Figure 5.1 below provides an overview of my empirical research, from my underpinning philosophy through to my research design.

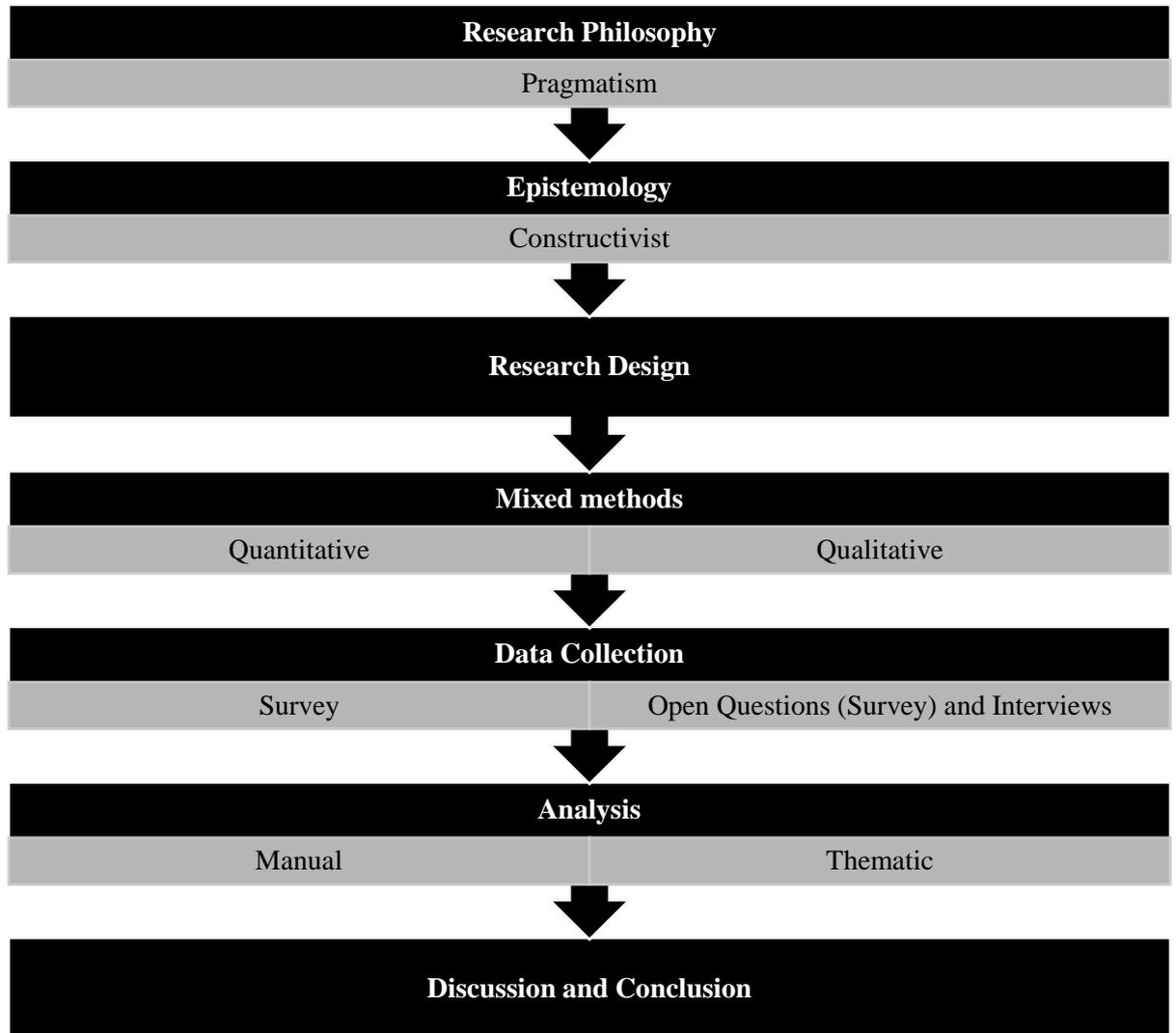


Figure 5.1: Overview of empirical research

Guba and Lincoln state that “questions of method are secondary to questions of paradigm, which we define as the basic belief system or worldview that guides the investigator, not only in choices of method but in ontologically and epistemologically fundamental ways.”⁴⁶⁰ The “worldview” which has guided my research can be seen at the top of this figure and is that of pragmatism. In this paradigm, “a pragmatic perspective draws on employing ‘what works’,

⁴⁶⁰ E. G. Guba and Y. S. Lincoln, ‘Competing paradigms in qualitative research’, in N. K. Denzin and Y. S. Lincoln (Eds.), *Handbook of qualitative research* (Thousand Oaks, CA: Sage Publications, 1994) 105

using diverse approaches, giving primacy to the importance of the research problem and question, and valuing both objective and subjective knowledge.”⁴⁶¹ As a researcher, I valued the freedom to decide which methods or approach was most suitable in answering my particular research questions and this concept of utilising “what works” is reflected through my choice of a mixed methods research design, which is discussed and justified in more detail later in this chapter. As I chose to adopt a mixed method design to my data collection, I was aware that I would move between both inductive and deductive reasoning throughout my research. This is because the quantitative research which I gathered through my survey follows a deductive logic, whereas qualitative research which I collected through my semi-structured interviews and open questions in the survey, follows an inductive logic which is aimed at the exploration of citizenship theory through the data that has been collected. Morgan suggests that “the pragmatic approach is to rely on a version of abductive reasoning that moves back and forth between induction and deduction – first converting observations into theories and then assessing those theories through action.”⁴⁶² This allows the creation of a link between both the data collected and the theory.

This guiding research philosophy is complementary to my constructivist epistemology. Epistemology is concerned with “how we know what we know”⁴⁶³ and is linked to ontology, “the study of being.”⁴⁶⁴ Crotty defines constructionism as:

“the view that all knowledge, and therefore all meaningful reality as such, is contingent upon human practices, being constructed in and out of interaction between human beings and their world, and developed and transmitted within an essentially social context.”⁴⁶⁵

This means that reality, or the physical world around us, acquires its meaning through a reciprocal understanding as people interact with the physical world and each other. Therefore, rather than the interviewee being a “subject” which I observed objectively which would lend itself to a positivist epistemology, my interviewees were “participants” and my view subjective, as myself and the participant “constructed” a shared understanding during our interviews. One thought that arose while thinking about my research was how to obtain knowledge which is focused on exploring concepts relating to a multispecies society. A

⁴⁶¹ Helen I. Meissner and Others, NIH Office of Behavioral and Social Sciences, ‘Best practices for mixed methods research in the health sciences,’ (2018) < [https://obssr.od.nih.gov/wp-content/uploads/2016/02/Best Practices for Mixed Methods Research.pdf](https://obssr.od.nih.gov/wp-content/uploads/2016/02/Best_Practices_for_Mixed_Methods_Research.pdf) > accessed 1st November 2020

⁴⁶² David L. Morgan, ‘Paradigms Lost and Pragmatism Regained: Methodological Implications of Combining Qualitative and Quantitative Methods’, (2007) 1(1) *Journal of Mixed Methods Research*, 71 < <https://doi.org/10.1177/2345678906292462> > accessed 30th October 2020

⁴⁶³ Michael Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process* (Sage Publications, 1998) 8

⁴⁶⁴ *Id.* at 10

⁴⁶⁵ *Id.* at 42

constructivist epistemology does present some issues in relation to this because it does not seem possible for anyone who is not human to come within the constructivist definition. There is much emphasis from Crotty within his definition on “human practices”⁴⁶⁶ and “interactions between human beings and their world.”⁴⁶⁷ I would argue that dogs do not simply occupy part of our world in the same way that a chair occupies our world. Some would argue that there are issues regarding the collecting of constructivist knowledge on the behalf of animals because there is a language barrier; of course animals do not, for example, speak fluent English, but they do not need to.⁴⁶⁸ Animals communicate with us in a multitude of ways and for dogs the development of communication with humans has even formed part of their evolution. Dogs are individuals who have methods and forms of communication not only within their own species but across the species divide. They have evolved and developed a number of different ways of communicating and interacting with humans, specifically.

In 2019, new research was released that compared the anatomy and the behaviour of domesticated dogs with wolves. The results of the study showed that the facial musculature of both dogs and wolves were similar. However, it was found that the dogs had two small additional muscles around the top of their eyes that the wolves did not. These muscles allow dogs to manipulate their eyebrows, with the researchers suggesting that this perhaps results in a “caregiving response” in humans.⁴⁶⁹ These changes have taken place over the period of dog domestication and have allowed dogs to communicate more effectively with humans; “the AU101 movement is potentially of great significance for the dog–human bond: not just because it might elicit a caring response, but also because it might play a role during dog–human communicative interactions.”⁴⁷⁰ In addition, there are clear barriers when it comes to trying to objectively understand the subjective experiences and minds of animals. As highlighted by Donaldson and Kymlicka, “there is something fundamentally unknowable about other minds, and this chasm increases the further we move from forms of consciousness and experience that most resemble our own.”⁴⁷¹ So, when I thought about this, I came to the conclusion that it made sense that one of the best ways to begin gathering data on this area

⁴⁶⁶ Michael Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process* (Sage Publications, 1998) 8

⁴⁶⁷ *Ibid*

⁴⁶⁸ Cunningham-Smith P. and Emery K. ‘Dogs and People: Exploring the Human-Dog Connection’, (2020) 40(4) *Journal of Ethnobiology*, 409 – 413 < <https://doi.org/10.2993/0278-0771-40.4.409> > accessed 27th November 2021

⁴⁶⁹ Juliane Kaminski, Bridget M. Waller, Rui Diogo, Adam Hartstone-Rose, Anne M. Burrows, ‘Evolution of facial muscle anatomy in dogs’, (2019) *Proceedings of the National Academy of Sciences*, < 10.1073/pnas.1820653116 > accessed 30th October 2020

⁴⁷⁰ *Ibid*

⁴⁷¹ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights*, (Oxford University Press, 2011) 31

was to talk to the individual who has the most amount of contact with this unique group of dogs and their experiences with them. The idea behind this was that those individuals should be able to communicate with their service dog(s) effectively and have the best insight into their dog's experiences. These individuals also contribute to and share the same experiences with their service dog on a day-to-day basis. Therefore, I am viewing the service dog's handler as an extension of the service dog themselves as individuals who should be capable of providing a voice for them and to share their lived experiences. This, of course, relies on the service dog handler themselves as an individual, and I am relying on their perceptions of their experiences and asking them whether their service dog communicates with them, and this may not always produce a true representation of the reality of the situation. I will be using the responses of the service dog handlers to understand whether citizenship or aspects of citizenship may be viable, in addition to creating an argument for why service dogs should be viewed as our co-citizens, taking into consideration the contribution that these dogs provide to society and how they work with their handlers. I am aware that the knowledge of the experiences of the dogs is being constructed with the service dog handlers to provide a voice to the service dogs as an individual, and that this has the potential of coming from an anthropocentric point of view. However, this is the best alternative that could be thought of because it is not yet possible for us to do this with the dogs directly, as is supported by the following quotation from a study on animal emotion and mood:

“The core affect concept is rooted in an understanding of the subjective experience of emotion. While this may lie at the heart of our interests in animal emotion, it raises challenges given that direct measurement of subjective states in another human, let alone another species, is not currently possible... Of course, even if we can use measurable components of emotional responses to locate an animal's position in core affect space, we cannot be certain that they experience the conscious component too.”⁴⁷²

Therefore, speaking to the service dog handlers was decided to be the best approach to the data collection. I sought to explore how service dog handlers understood their relationship with their service dogs and whether their understanding and perception was reflected in reality through policy and legislation which would help inform my research. This reasoning also aided in my decision to adopt a mixed methods approach to my research as “it is natural, then, for individuals to employ mixed methods research as a preferred mode for understanding the world.”⁴⁷³ Constructivism works well with a pragmatist philosophy because both are primarily

⁴⁷² Mendl Michael, Burman Oliver H. P. and Paul Elizabeth S. ‘An integrative and functional framework for the study of animal emotion and mood,’ (2010) Proc. R. Soc. B.277
< <https://doi.org/10.1098/rspb.2010.0303> > accessed 27th October 2020

⁴⁷³ John W. Creswell and Vicki L. Plano Clark, *Designing and Conducting Mixed Methods Research*, (Third edition, Sage Publications, 2017) 12

focused on the practical implications of the research, as “one of the major outcomes of involvement in constructivist research is that it should encourage action.”⁴⁷⁴ My empirical research is focused on whether the legal status of service dogs as property is consistent with the views of their handlers, and on exploring *how* the views of the service dog handlers may or may not overlap with the citizenship framework. Therefore, one of the key focuses is on whether citizenship connects with the way that service dog handlers view their service dogs, or not, and *how* this theory may work in practice in the “real world.” As a result of these considerations, I was sure that a mixed methods approach to my data collection was the most suitable choice. This is because the data that I gained through the use of my surveys enabled me to answer many of the *what* questions, such as *what* is the handler’s perception of their relationship with their service dog? The results provided by my survey offered a useful foundation which I could then use to inform my semi-structured interview questions, which in turn enabled me to fill in the *how* and the *why* questions in greater detail. The semi-structured interviews allowed me to add on the missing layers to the foundation created by my survey, to establish a more detailed and vivid overall picture, which would simply not have been possible if only the survey or semi-structured interviews had been utilised.

5.4 Positionality

I will briefly talk about my positionality as the researcher because “a researcher’s background and position will affect what they choose to investigate, the angle of investigation, the methods judged most adequate for this purpose, the findings considered most appropriate, and the framing and communication of conclusions.”⁴⁷⁵ For the most part, I approached my research as an outsider looking in. I am not a service dog handler, nor do I work with, or know, anyone who is. This allowed me to be more objective than if I was an insider or a semi-insider. However, I also form part of the 25% of UK households⁴⁷⁶ who share their life with a dog, or two in my case. Additionally, I am an active member of the Animal Law community and my passion for animals, combined with my desire to create a better world for them has been the driving force behind all of the decisions related to my career so far. In relation to service dogs specifically, I chose to centre my thesis around them as I feel strongly about the beneficial contribution that they provide to society. However, I could see that their contribution is not always recognised as it should be, nor is their protection, in addition to many glaring

⁴⁷⁴ C. Brown Wilson and P. Clissett ‘Involving older people in research: practical considerations when using the authenticity criteria in constructivist inquiry’ (2011) 67(3) *Journal of Advanced Nursing*, 677–686

< <https://doi.org/10.1111/j.1365-2648.2010.05500.x> > accessed 29th October 2020

⁴⁷⁵ Kirsti Malterud, ‘Qualitative research: standards, challenges, and guidelines,’ (2001) 358(9280) *The Lancet*, 483-484, < [https://doi.org/10.1016/S0140-6736\(01\)05627-6](https://doi.org/10.1016/S0140-6736(01)05627-6) > accessed 29th October 2020

⁴⁷⁶ Pet Food Manufacturers’ Association, ‘2020 Annual Report’ (PFMA, date unknown)
< <https://pfma-reports.co.uk/> > accessed 6th October 2020

dichotomies and glorifications that beset national news headlines and continue to persist today.⁴⁷⁷ The last decade has seen a rise in public interest in the use of service animals, which has in turn put pressure on the UK government to create positive change.⁴⁷⁸ It was not a coincidence that I chose to focus my research on service dogs, but a conscious decision because of my interest in their work and legal status, including their protection. My love, passion and desire to create a fairer and more just world for animals, both through my career and in my personal life, is inseparable from who I am as a person, and forms part of my identity. It is, therefore, inevitable that this will spill over into the research that I have conducted for this thesis, and it cannot be prevented from forming part of it, even if I aim to be objective in my approach. So, although for the most part I approached my research as an outsider looking in, there is an aspect of who I am as a person and the deliberate choice to focus my research on service dogs.

5.5 Research design

“The bees plunder the flowers here and there, but afterward they make of them honey, which is all theirs; it is no longer thyme or marjoram. Even so with the pieces borrowed from others; he will transform and blend them to make a work of his own, to wit, his judgment.”⁴⁷⁹

I adopted a mixed methods approach to my research design as I felt that this would provide the best method of collecting the data I required to answer my research questions. My empirical research focused on *how* service dog handlers felt about the legal protection their dog(s) currently receive, and their property status. However, this aimed to feed into my other overriding research question of whether the answers provided by the service dog handlers were compatible with my chosen framework of citizenship. This would help to address my last three research questions which are:

- Can service dogs meet the criteria of citizenship, and what are the implications of this?

⁴⁷⁷ For one example of this see, Unknown, ‘Baghdadi death: The ‘wonderful’ canine who chased the leader of Islamic State’ (*BBC News*, 29th October 2019)

⁴⁷⁸ For just a few examples see, Claire Carter, ‘Pensions for police dogs’ (*The Telegraph*, 4th November 2013)

s. 106 Part 7 Anti-social Behavior, Crime and Policing Act 2014, and s. 106(2)(a)(ii) & s. 106 (2)(e)(c) Part 7 Anti-social Behavior, Crime and Policing Act 2014
The Animal Welfare (Service Animals) Act 2019

⁴⁷⁹ M. De Montaigne, *On the Education of Children*, (1575) 3. Accessed via < <http://media.bloomsbury.com/rep/files/primary-source-77-michel-de-montaigne-on-the-education-ofchildren.pdf> > accessed 30th October 2020

- If service dogs were treated as co-citizens, what additional rights would they be entitled to, considering the public benefit that service dogs provide?
- Does citizenship offer a potential improvement to the current status of service dogs?

There are several advantages to adopting a mixed methods approach to research, which are outlined by Creswell and Plano Clark.⁴⁸⁰ Firstly, the strengths of one method can make up for the weaknesses of another. The authors provide the lack of participants' voices in quantitative research and the failure to consider the broader context as a weakness of this method. In contrast, qualitative research, due to its nature, can lend itself to unreliability or bias which means it can be difficult to generalise findings. This is not an issue that is associated with quantitative research as it is viewed as more objective and the results are often seen as more reliable. Secondly, mixed methods research allows researchers to break free of the traditional confines associated with either quantitative or qualitative methods. The ability to use a variety of research methods allows for a more complete understanding of a research problem. Thirdly, some research problems, such as those identified within this thesis, fall between the quantitative and qualitative divide, requiring both methods to answer these questions. This encourages the development and sharing of knowledge through collaboration between both qualitative and quantitative researchers. Additionally, in line with a pragmatist paradigm, mixed methods is practical, allowing the researcher the freedom to use the methods that they believe will best provide the answers to their question.⁴⁸¹

Within my research design, I opted to utilise two research methods: a survey and semi-structured interviews. I felt that these two research methods combined would provide a more comprehensive overview than either method alone could because I would be utilising “the strengths of both quantitative and qualitative research.”⁴⁸² Both of these methods of data collection have their own individual advantages and disadvantages. Wright identifies three key advantages of utilising online surveys, including accessing unique populations of participants who may otherwise be difficult to contact, time saving and cost effectiveness.⁴⁸³ Through the use of the online survey, I was able to quickly access a large number of participants with relative ease, using a predefined set of questions which was sent to previously identified

⁴⁸⁰ John W. Creswell and Vicki L. Plano Clark, *Designing and Conducting Mixed Methods Research*, (Third edition, Sage Publications, 2017) 11-12

⁴⁸¹ Ibid

⁴⁸² Ranjit Kumar, *Research Methodology: A Step-by- Step Guide for Beginners*, (first published 1999, fifth edition, Sage Publications, 2019) 16

⁴⁸³ Kevin B. Wright, 'Researching Internet-Based Populations: Advantages and Disadvantages of Online Survey Research, Online Questionnaire Authoring Software Packages, and Web Survey Services' (2006) 10 *Journal of Computer-Mediated Communication*
< <https://academic.oup.com/jcmc/article/4614509> > accessed 5th November 2020

organisations.⁴⁸⁴ However, where there are advantages, there are also a number of disadvantages. Some of the issues that can arise when using online surveys for data collection include lack of detail and depth, as many surveys focus on quantitative data collection, with limited opportunity for qualitative responses, and low responses rates from participants.⁴⁸⁵

However, adopting the use of the semi-structured interviews to build upon and help verify some of the participants' answers to the survey, limited some of the disadvantages that can arise from their use. Barbour has described utilisation of semi-structured interviews as "possibly the most commonly-used qualitative method," describing their use as being seen as the "gold standard" for qualitative research.⁴⁸⁶ I adopted semi-structured interviews within my research as they "are likely to be appropriate in many research situations and are recommended for the new researcher because, as their name suggests, they provide some structure and guidance..."⁴⁸⁷ This type of interview allows the researcher some form of guidance through the use of pre-identified areas that they would like the participant to discuss or explore. The semi-structured interviews in my research were used to explore the survey questions in further detail and to validate some of the survey data with the participants as well. For example, question 18.4 of my survey asked participants using a 4-point Likert scale whether they agreed, disagreed, neither agreed nor disagreed, or did not know whether service dogs should remain as property. My analysis of this survey question shows that 92.30% of participants disagreed with that statement. Therefore, to develop this question, one of my interview questions was "my survey responses show so far that other participants don't think that service dogs should legally be classed as property, what do you think about this?"⁴⁸⁸ The aim of this question was to gain more insight into the participants' thoughts or feelings on that particular statement. The interviews allowed for greater depth and the opportunity for probing that little bit deeper.⁴⁸⁹ It should also be noted that the use of semi-structured interviews does have its drawbacks; they can be "time-consuming, labor intensive, and require interviewer sophistication"⁴⁹⁰. However, through using both methods together, "...the limitations of one method can be offset by the strengths of the other, and the combination of quantitative and qualitative data provides a more

⁴⁸⁴ M. Denscombe, 'The good research guide: for small-scale social research projects', (6th edition, London: Open University Press, 2017)

⁴⁸⁵ Kate Kelley, Belinda Clark, Vivienne Brown, John Sitzia, 'Good practice in the conduct and reporting of survey research,' (2003) 15(3) *International Journal for Quality in Health Care*, 262 < <https://doi.org/10.1093/intqhc/mzg031> > accessed 10th November 2020

⁴⁸⁶ Rosaline Barbour, *Introducing Qualitative Research: A Students Guide*, (first published 2008, 2nd edition Sage Publications, 2014) 132

⁴⁸⁷ Jamie Harding, *Qualitative Data Analysis from Start to Finish*, (Sage Publications, 2013) 65

⁴⁸⁸ See appendix 5

⁴⁸⁹ Kathryn E. Newcomer, Harry P. Hatry and Joseph S. Wholey, *Handbook of Practical Program Evaluation* (Fourth edition, Wiley Blackwell, 2015) 492-505

⁴⁹⁰ *Ibid.*

complete understanding of the research problem than either approach by itself.”⁴⁹¹ I do believe that by undertaking both quantitative and qualitative data collection, I have a more complete picture of my participants’ views than if I had undertaken either approach alone. I am confident that a mixed methods approach was the right approach to adopt in relation to my research questions and has helped to add additional context, that would not have been achieved using only one method.

5.5.1 Design

As discussed above, my research design consisted of the use of a survey and semi-structured interviews.⁴⁹² The survey took place online⁴⁹³ from the 17th of September 2019 to 31st of August 2020. I decided that I would have two parts to my survey. The first part consisted of 21 questions and concerned the views and relationships of the service dog handlers towards service dogs generally. In contrast, the second part consisted of an optional 20 questions and explored the service dog handlers’ views and relationship, with one individual dog that they had worked with in mind. The reason for this is that I wanted to gain a more general understanding of the views of service dog handlers, such as finding out their views on our current animal welfare legislation or whether service dogs should remain as property. I also wanted to ask more specific questions which was more easily achieved by focusing on a particular individual dog. For example, I asked where that individual dog lived during the day and overnight, whether they interacted with companion animals that may have also been living in the household, and whether they felt that particular dog communicated with them. This second section asked for information about the dog that they would be answering the section about, including questions regarding their dog’s name, age, job role and breed. This section could be completed a maximum of five times to allow the participant to share their views on their relationship with different dogs.

The survey was made up of a range of different questions, including demographic, Likert scale, multiple choice, matrix questions, and open text questions. The open text questions allowed the participants “the freedom to express themselves in their own words,”⁴⁹⁴ creating qualitative data which was analysed separately from the other survey questions using thematic analysis. I used a 3-point, 4-point and 5-point Likert scale within my overall survey. In the first section of my survey, I used a 5-point scale from strongly agree through to strongly disagree, with neutral in the middle. This question could have been answered by current or previous service

⁴⁹¹ John W. Creswell and Vicki L. Plano Clark, *Designing and Conducting Mixed Methods Research*, (Third edition, Sage Publications, 2017) 11

⁴⁹² Please see Appendices 3 and 4

⁴⁹³ Jamie Harding, *Qualitative Data Analysis from Start to Finish*, (Sage Publications, 2013) 48

⁴⁹⁴ *Ibid.*

dog handlers even if they no longer had a service dog, as the questions were more general. In the second half of my survey, the participants' answers were based on a particular individual dog that they had or still worked with. I used a 3-point Likert scale using sometimes, always, or never. I knew that this section was optional and that the participants would be answering based on their relationship with a particular individual dog. I felt that the options of sometimes, always, or never were more appropriate than the 5-point scale used in the first half of the survey. I decided to change the language from co-worker to colleague in the second half of the survey because I wanted to reflect the personal aspect of the relationship.

5.5.2 Ethics

Before I could commence my research, ethical approval needed to be sought. This was done by submitting an ethics form for review, which included my research methods. Permission was obtained from The Faculty of Business and Law Research Ethics Committee at Northumbria University on the 29th of July 2019, before the research was commenced in September 2019. I have ensured that I continue to comply with the ethical approval gained in 2019 and this has also been confirmed as part of my first and second annual progression, in 2019 and 2020, respectively.

The consent used for my research was informed consent. When I emailed my survey link to participants, the accompanying email outlined that they were being invited to take part in a research study. This page also contained general information about the study, such as the reasoning and the aim, and informed participants that taking part was optional and that their information would be kept confidential. There were also my contact details for the participants to contact me with any queries prior to taking part in the survey.⁴⁹⁵ When the participants clicked on the link to my survey, they were presented with a page which reiterated the information outlined in the email that I had sent to them, and at the end of this page there was a question that asked participants to confirm that they wished to complete the survey; they had to click this button before they were allowed to continue. Participants were then asked at the end of the survey whether they would like to be contacted about the opportunity to partake in a semi-structured interview with the researcher. They could select "yes, I agree to be contacted" or "No, I do not wish to be contacted." If the participants selected yes, then they were asked for their name, email address and telephone number.

A participant information sheet⁴⁹⁶ was then sent out to the email address that they had provided. Once the participant had read through the participant information sheet, they then

⁴⁹⁵ Please see appendix 3

⁴⁹⁶ Please see appendix 1

confirmed via email whether or not they would like to partake in a semi-structured interview. If the participant confirmed that they would still like to take part, then a consent form⁴⁹⁷ was sent to their email address before the interview took place. This required the signature of the participant and for them to return the form back to me via email. On the day of the interview, I sought express consent from the participant, which was recorded on either my mobile phone's audio recorder or my laptop's audio recorder. I checked that the participants had read the consent form and established whether they had any questions before proceeding with the interview. This was recorded and written into the transcriptions. I then had the participants confirm that they were happy to continue with the interview.

The names of the participants who selected that they would like to be contacted regarding the opportunity to take part in a semi-structured interview were collected through the online survey. To maintain anonymity on the transcript there are no names, but the participants are identified as 'Participant A' etc. The interviews were anonymous as the interviewees were not asked for their names or asked for information that could help to identify them as an individual. Some provided additional information and descriptions of their roles. Where the information could reveal the identity of the participant, or the participant provided information about another individual, such as a colleague or spouse, then the following will appear in the transcript [name/location not included]. Further to this, I altered the names of all the participant's service dogs within the transcript to "Fido" or another similar name where there was more than one dog. I have not altered the names of their companion dogs if mentioned, or service dogs that do not belong to the participant themselves, if no other information was included. It became apparent that the participant's identity would be quite easily identifiable from the dog's name alone, particularly as many of the dogs had rather distinctive names. If the service dog's name and role were both provided, then a quick Google search would reveal the identity of both dog and handler due to news reports, organisation websites and the prevalence of social media accounts. Therefore, I felt it was reasonable and necessary to alter the name of the service dog to retain anonymity.

5.5.3 Sample

My overall sample size consisted of 26 survey responses and seven interviews; the limitations of this will be discussed in a later section. In relation to the survey, over half of the participants, 61.5%, who completed the survey were men, with 38.5% of participants women. The majority of responses at 38.5% were from the police within England and Wales. The second highest response was from participants who identified as "other" with 30.8%. The participants falling

⁴⁹⁷ Please see appendix 2

under this category were four participants from Lowland Rescue, three from Therapy Dogs Nationwide and one from the Royal Air Force Police. The remaining participants were from the National Search and Rescue Association with 15.4%, the Fire and Rescue Service with 11.5% and Medical Detection Dogs with 3.8%.

In terms of age, there were no participants who fell into the 18-25 years old bracket. Most participants at 34.6% were aged between 36-45 years old, with both 46-54 years old and participants aged 55 and over at 26.9%. Only 11.5% of participants were aged between 26-35 years old. There were slightly more participants who were paid, at 53.8%, than unpaid, at 42.3%, with 3.8% answering other and this participant has one of the medical detection dogs. For the interviews, there were in total seven participants. There were four volunteer search and rescue dog handlers, one fire service fire investigation dog handler, one police dog handler and one previous RAF/military operational dog handler and trainer.

5.5.4 Distribution

My survey was designed and distributed using Jisc surveys and was sent out via email to a range of service dog organisations, both public, private, and charitable within England and Wales. The minimum target set for my survey responses was 40 with ideally ten responses from each identified group. When my survey finished on the 31st of August 2020, there were 383 respondents who had clicked on the survey link. The 26 completed survey responses were included within my analysis. It was estimated that the survey would take approximately 15 minutes to complete. As mentioned, the results are anonymous and confidential. At the end of the survey, there was the option for the respondent to be contacted regarding the opportunity to take part in a semi-structured interview. The minimum target for my interviews was 20 participants, with five participants from each identified group. I had 14 participants indicate that they would like to be contacted regarding the interviews. Of those 14, seven went on to be interviewed, with the others either failing to get back to me or withdrawing. As discussed, the interviews were semi-structured using a set of ten questions as a guide. Three of the interviews took place via Skype or Zoom, with the other four taking place over the telephone. This was due to the preference of the participants and the impact of Covid-19 on conducting face-to-face interviews. All interviewees received a participant information sheet and a consent form prior to taking part. In addition, participants provided consent for their interviews to be recorded in an audio form, which is standard practice when conducting interviews.⁴⁹⁸ Therefore, the latter interviews were recorded using my laptop, with the former being recorded

⁴⁹⁸ Nigel King and Christine Horrocks, *Interviews in Qualitative Research*, (Sage Publications, 2010) 46-47

on my mobile phone.⁴⁹⁹ On reflection, I would purchase a dictaphone for any future interview recordings; this is because the audio recordings on my laptop were of poor quality. I only realised this after I had recorded all four interviews. Therefore, this meant that the transcription of these interviews took considerably longer than anticipated, with one interview being nearly inaudible. I took the decision not to exclude this transcription from my analysis as the responses which were able to be transcribed offered a valuable contribution to this research. The process of transcription and re-listening to the interviews helped in identifying potential themes ready for coding, which will be discussed further in my analysis section below.

5.5.5 Recruitment

My survey was sent out to organisations within England and Wales only, the reasoning behind this decision is set out in my limitations section later in this chapter. Participation in the survey was limited to individuals who worked or had previously worked with service dogs or individuals who volunteered with service dogs, as the aim of the survey was to gain an insight into the service dog – handler relationship. The term service dog was used as an inclusive term for police, military, fire and rescue, assistance and therapy dogs, with the list not being exhaustive. I encouraged participants to pass on the details of my study to create a snowball effect. As the months progressed, I used Twitter to try to gain more participant responses for my survey.

5.6 Analysis

The Jisc survey platform allows you to export the final survey data into excel but also provides basic analysis functions, such as cross tabulation of responses. The total number of responses to each question were provided by the survey platform, along with the equivalent percentages. Therefore, I did not need to manually add up all the responses; I checked the numbers provided by Jisc were correct and began to transfer the percentages into a visual format through the use of graphs and charts.

To analyse my semi-structured interviews, I used a thematic analysis. Thematic analysis is described by Gibson and Brown as “the process of analyzing data according to commonalities, relationships and differences across a data set. The word ‘thematic’ relates to the aim of searching for aggregated themes within data.”⁵⁰⁰ A thematic analysis identifies and collates

⁴⁹⁹ Jamie Harding, *Qualitative Data Analysis from Start to Finish*, (Sage Publications, 2013) 79

⁵⁰⁰ William Gibson and Andrew Brown, *Working with Qualitative Data*, (Sage Publications, 2009)

themes which are “patterns of meaning”⁵⁰¹ within a body of data. Braun and Clarke outline the phases of conducting a thematic analysis as illustrated by the figure below.

Phase	Description of the process
1. Familiarizing yourself with your data:	Transcribing data (if necessary), reading and re-reading the data, noting down initial ideas.
2. Generating initial codes:	Coding interesting features of the data in a systematic fashion across the entire data set, collating data relevant to each code.
3. Searching for themes:	Collating codes into potential themes, gathering all data relevant to each potential theme.
4. Reviewing themes:	Checking if the themes work in relation to the coded extracts (Level 1) and the entire data set (Level 2), generating a thematic ‘map’ of the analysis.
5. Defining and naming themes:	Ongoing analysis to refine the specifics of each theme, and the overall story the analysis tells, generating clear definitions and names for each theme.
6. Producing the report:	The final opportunity for analysis. Selection of vivid, compelling extract examples, final analysis of selected extracts, relating back of the analysis to the research question and literature, producing a scholarly report of the analysis.

Figure 5.2: Braun and Clarke's Phases of Thematic Analysis⁵⁰²

As I conducted and transcribed the interviews myself, I was already familiar with the data when I came to begin my analysis. My transcription method was what is known as “unfocused” which “involves outlining the basic ‘intended meaning’ of a recording of speech or action without attempting to represent its detailed contextual or interactional characteristics.”⁵⁰³ I then actively relistened and reread my transcripts multiple times checking for accuracy which aided in familiarisation with the data. I was then able to generate initial codes, and already had a good indication of what these codes would be due to the process just outlined. For Henn et al, “coding is a process for which there are no rules, merely guidelines,”⁵⁰⁴ as the creation of the codes is subjective, left to the interpretation of the researcher. From these initial codes, I then went on to identify potential themes before reviewing and finalising them; these themes will be outlined later in this chapter.

5.7 Limitations and challenges

There are four main limitations that arise out of my research. The first is the geographical limitations of the study. Secondly, is the small sample size of the survey and semi-structured interviews. A third limitation which links into my final limitation is the recruitment of participants. My final limitation did not arise from my research and was in fact beyond anyone’s control – the impact of the global coronavirus pandemic which has lasted throughout 2020 and is still ongoing at the time of submission. I believe this had an impact on my

⁵⁰¹ Victoria Clarke and Virginia Braun, ‘Thematic analysis, The Journal of Positive Psychology’, (2017) 12(3), 297 < [10.1080/17439760.2016.1262613](https://doi.org/10.1080/17439760.2016.1262613) > accessed 8th November 2020

⁵⁰² *Id.* at 87. Table 1.

⁵⁰³ William Gibson and Andrew Brown, *Working with Qualitative Data*, (Sage Publications, 2009) 116

⁵⁰⁴ Matt Henn, Mark Weinstein and Nick Foard, *A Short Introduction to Social Research*, (Sage Publications, 2006) 202

recruitment and on the uptake of participation in my research. I will discuss the geographical limitations first.

It was decided early in the research that I would limit my empirical research to the area of England and Wales. The main reason underpinning this decision was because the UK has three separate legal systems, England and Wales, Scotland, and Northern Ireland. Each has different animal welfare and protection legislation implemented⁵⁰⁵ and each has different sentencing guidelines.⁵⁰⁶ Therefore, it was decided that it would be better to limit the scope of this study to England and Wales. However, it is acknowledged that this research would need to be replicated on a national scale in future if it is to be representative of the UK as a whole nation.

Secondly, it is acknowledged that my sample size of 26 survey responses and seven interviews is a small sample. Therefore, the findings of my research will not necessarily be representative of all service dog handlers and will require replication on a larger scale to draw generalisable conclusions from it. That being said, a small sample size is not inherently negative; in the case of my research, I used my survey results to inform my interview questions, in order to gain a deeper understanding of the findings of the survey and allow for additional probing on some issues, such as why my participants felt that service dogs should no longer be classed as property, and what suggestions they had as to how they could be alternatively recognised. Boddy argues that in qualitative research a sample of one participant can be of significance for research purposes, as he explains in the following passage.

“Qualitative research often concerns developing a depth of understanding rather than a breadth, particularly when undertaken under a non-positivist paradigm, such as that involving depth psychology or a constructivist approach to research. As such, we must conclude that in these cases a single case study involving a single research participant can be of importance and can generate great insight.”⁵⁰⁷

Therefore, my sample of seven interviews should be sufficient to gain a deeper understanding of how service dog handlers felt about the legal protection their dog(s) currently receives, and their property status. Furthermore, my research is exploratory in nature where the aim is to gain further insight into an under-researched area and identify areas of further research, rather than provide representative or conclusive results. Denscombe explains that there are two main reasons for exploratory research usually consisting of smaller samples. Firstly, as already

⁵⁰⁵ See for example - The Animal Welfare Act 2006, Animal Health and Welfare Scotland (Act) 2006 and the Welfare of Animals Act (Northern Ireland) 2011

⁵⁰⁶ See for example the Animal Welfare Act 2006, s 32 and the Sentencing Council ‘Animal Cruelty’ (Revised 2017), Animals and Wildlife (Penalties, Protections and Powers) (Scotland) Act 2020 and the Welfare of Animals Act (Northern Ireland) 2011

⁵⁰⁷ Clive Roland Boddy, ‘Sample Size for Qualitative Research’, (2016) 19 Qualitative Market Research, 426

stated by Boddy as well, is the level of detail and depth required in exploratory research, which is perhaps not as great within a representative sample. Secondly, is the richness of the sample, or “how informative the sample is.”⁵⁰⁸ It is possible within an exploratory study for one person to “...provide a new, deep and nuanced understanding of previously unexplored phenomena.”⁵⁰⁹ Therefore, I feel that my small sample size is not detrimental to my research but is actually sufficient for my research purposes. Through my seven interviews, I have managed to gain rich data and form a deeper understanding of service dog handlers’ relationships with their service dogs and their legal protection. I have also been able to create a vivid picture from their interviews and see how a citizenship framework may or may not work in practice. I agree with Boddy and believe that each individual’s experiences can offer a valuable insight and should not be discounted. My research has fulfilled the purpose of an exploratory study, aiding in filling a gap in our current understanding in relation to service dogs, and the identification of areas of further research for the future which will be reiterated in my concluding chapter.

Thirdly, in terms of limitations, during the recruitment process I did run into some difficulties. When contacting the organisations, I was relying on the person who received the email, such as the receptionist, to pass on the details of the study to the correct department. I think in some cases the details failed to be passed on or perhaps got lost in peoples’ inboxes. Due to the nature of the service dog handler role and many falling under public bodies such as the police, fire and rescue for example, some organisations responded that due to a lack of resources the handlers were unable to participate in my research; others simply responded that they were unable to participate in my research. Similarly, I struggled to encourage assistance and therapy dog charities to participate; one could not help due to a lack of resources, and other charities had their own review process to decide if the research was worthwhile participating in and whether it would benefit them directly in the long term. In terms of recruiting military personnel, I was limited to those who had previously served and, therefore, it was difficult to recruit this type of participant due to a lack of central contact point or organisation. During the recruitment phase, I sent out reminders to organisations that I had previously contacted to prompt them to respond. I received the majority of my responses between September 2019 and January 2020. I believe that the global outbreak of Covid-19 and its continuing effect altered the priorities of both individuals and organisations significantly. This unfortunately

⁵⁰⁸ M. Denscombe, *The good research guide: for small-scale social research projects*, (6th Edition, London: Open University Press, 2017)

⁵⁰⁹ Clive Roland Boddy, ‘Sample Size for Qualitative Research’, (2016) 19 *Qualitative Market Research*, 426

had a knock-on effect for my interviews as my survey was the primary method of recruitment for my interview participants.

Finally, Covid-19 generally has had significant short and long-term impacts, with the true nature of its effects still indeterminate. In terms of my research, I received many of the responses to my survey between September 2019 and January 2020. I sent out reminders to the organisations that I had previously contacted, and I turned to the use of social media through Twitter in an attempt to gain more participants. However, I believe the priorities of both individuals and organisations were significantly altered because of the pandemic. One unfortunate side effect of this for me was a lack of interview participants, as I was relying on the survey participants to consider being interviewed, and to pass on the details of the study in an attempt to create a snowball effect. The unfortunate timing of my interviews being conducted during the beginning of the pandemic and throughout the first lockdown meant that the seven participants who did not respond or withdrew were perhaps influenced by the challenges we were all facing at the time. As this is a small sample, the views expressed may not be representative of the wider demographic of service dog handlers; however, it provides an insight that has not been ascertained before.

5.8 Validity

Kerlinger explains that “the commonest definition of validity is epitomised by the question: Are we measuring what we think we are measuring?”⁵¹⁰ This definition appears to be supported by Smith who states that “validity is defined as the degree to which the researcher has measured what he has set out to measure.”⁵¹¹ From these two definitions it can be seen that validity acts almost like a separate exploration post data collection, to establish that the findings of the research are what were originally intended to be considered. The concept of validity is important to consider because both quantitative and qualitative research have their own strengths and weaknesses individually, and mixed method research is no different. Onwuegbuzie notes that “mixed research still is plagued by the problems of representation, integration, and legitimation.”⁵¹² There are many different types and ways to explore the validity of a qualitative study. Creswell explains that “qualitative researchers routinely employ member checking, triangulation, thick description, peer reviews, and external audits.”⁵¹³ In

⁵¹⁰ Fred N. Kerlinger, *Foundations of Behavioural Research* (2nd edition, New York, Holt, Rinehart and Winston, 1973) 457

⁵¹¹ W. Herman Smith, *Strategies of Social Research*, (3rd Edition, Orlando FL, Holt, Rinehart, and Winston, 1991) 106

⁵¹² A. J. Onwuegbuzie, (in press), ‘Mixed methods research in sociology and beyond’, in G. Ritzer (Ed.), *Encyclopaedia of sociology*, Cambridge MA, Blackwell Publishers Ltd

⁵¹³ J. Creswell, and D. Miller, ‘Determining Validity in Qualitative Inquiry’, (2000) 39(3) *Theory into Practice*, 124-130 < <http://www.jstor.org/stable/1477543> > accessed 14th November 2020

relation to the research carried out here, the participants were acquired for the semi-structured interviews through the survey that the participants initially undertook. The final response received in relation to my survey was on the 21st February 2020, with the first interview being undertaken on the 28th February 2020. This provided the opportunity for me to check whether I was measuring what I set out to measure, validating some of the data collected through the survey with a sample of the participants to give a holistic overview in both the findings and the discussion, while still allowing the opportunity to provide a voice to the individual participants. For example, I could see from my initial survey results that the majority of the respondents did not agree that the current legislative protection for service dogs is sufficient. Therefore, one of my interview questions asked the participants whether they felt that their service dog(s) was protected sufficiently under the law, to help develop a deeper understanding of the survey response. Through using the survey in combination with the interview in this way, it has helped to add an extra dimension and increase the validity of the results of the research.

5.9 Conclusion

This chapter began by revisiting my research questions, before moving on to a discussion of my underpinning philosophy of pragmatism, and the influencing constructivist epistemology. From here, I justified why the decision to adopt a mixed-methods research design was the correct choice to answer my particular research questions, and how the combination of a survey with semi-structured interviews can offset the disadvantages of either method alone.

The gaining of ethical approval before my research began and continued compliance was also discussed, along with the reasoning behind the chosen sample of participants who took part in this research, in addition to the distribution of the survey and the recruitment process, incorporating a discussion of issues encountered along the way. From here, I outlined the process of obtaining informed consent from each of my participants, followed by how both my surveys and semi-structured interviews were analysed. I have concluded this chapter with the limitations and validity of my research.

Throughout this chapter, I have discussed openly the limitations and struggles I encountered, along with what I found worked and went well. I hope the open and transparent structure and discussion which has taken place within this chapter will aid in the quality of the data by increasing the reliability of the findings and, therefore, the overall reliability of this thesis. Chapter six, which is the proceeding chapter, will outline the findings from my mixed methods data collection. The chapter will begin by outlining the themes identified through my thematic analysis, and incorporate the graphs created from my survey data, as described by the analysis

section of this chapter. Following on from chapter six will be the discussion of my findings from my data collection, which will take place in chapter seven.

Chapter Six: Findings

6.1 Introduction

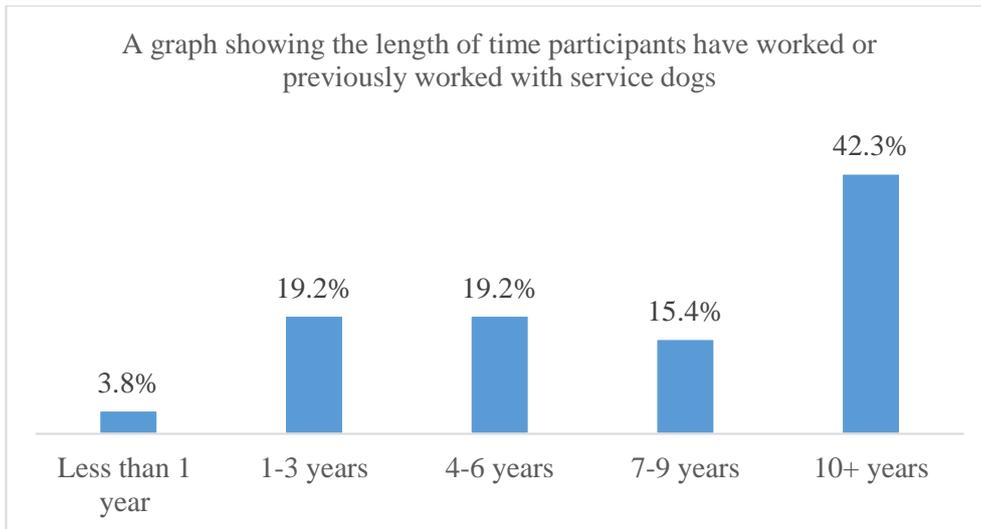
The primary aim of my empirical research is to use the service dog and handlers' joint experiences to help inform positive policy and legal changes for the service dogs. As detailed in chapter four, I believe that a citizenship framework as put forward by Donaldson and Kymlicka offers a promising framework for these changes to be made. As a result, I wanted to explore how handlers view their service dogs and their current legal protection, to understand whether citizenship may resonate with service dog handlers.

As discussed in the previous chapter, my survey was structured so that it consisted of two sections. The first section asked the handlers about their views concerning service dogs in a more general context. The second section asked the handlers to answer the questions with a specific individual service dog in mind, and they were asked to name the dog their answers related to at the start of the section. As already justified in chapter five, my reason for doing this was to understand the handler's general views concerning service dog's legal status and legal protection, and whether they felt differently when answering questions about a specific service dog which they both worked with and cared for. The responses to both section one and section two of my survey will be used throughout this chapter where appropriate, rather than their findings being outlined separately.

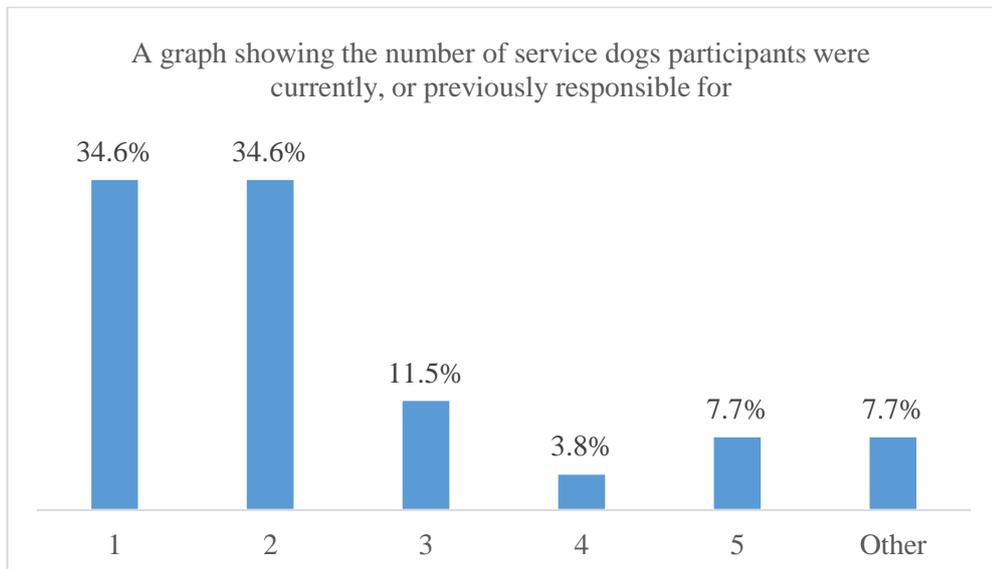
This chapter will begin by addressing who the survey participants were and who the interview participants were; from there on, it will be structured around the four main themes which were identified through my thematic analysis which are, legal status, legal protection, relationship, and public benefit. There is a notable amount of overlap between these themes which are very much intertwined. My quantitative findings will be presented first under each theme, followed by my qualitative findings, to reflect the order in which the data was collected and to expand upon the quantitative data.

6.2 Background to the survey participants and their service dog(s)

Of the 26 participants, the most at 42.3% had worked for over ten years with service dogs, with only 3.8% having worked less than one year. The most common number of service dogs for the handlers to be responsible for was one or two, both at 34.6%; these figures are shown in the graphs below.

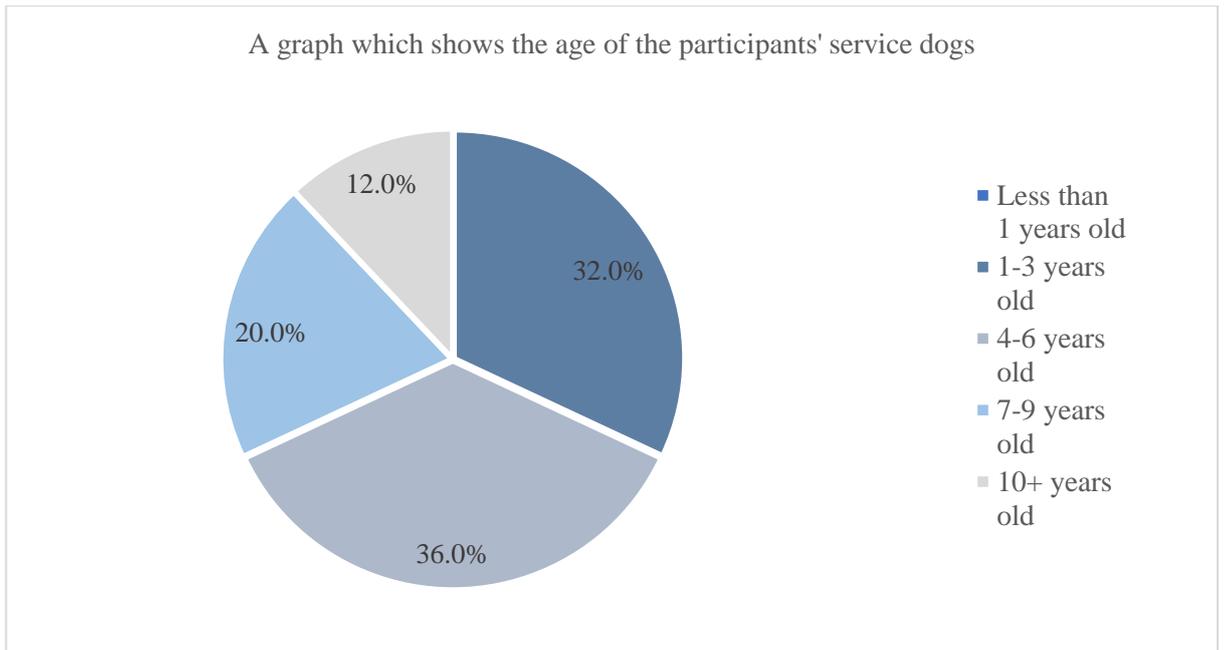


Graph: 1 A graph showing the length of time participants have worked, or previously worked with service dogs



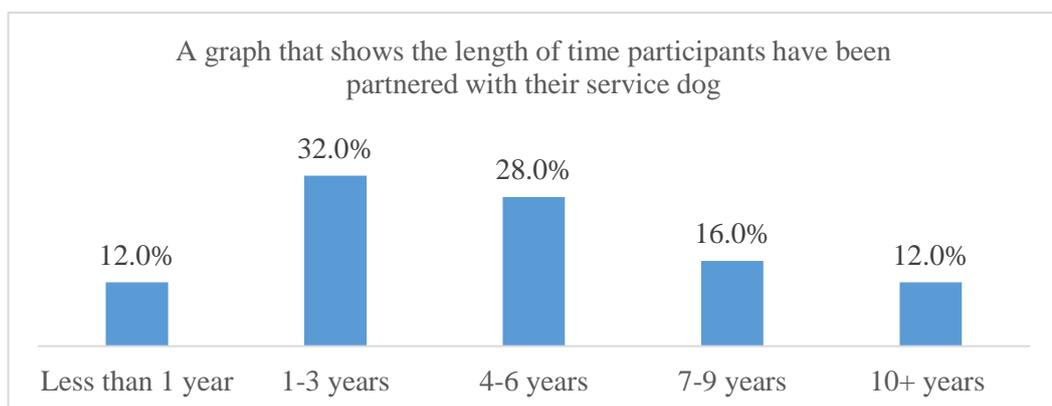
Graph: 2 A graph showing the number of service dogs participants were responsible for

The second part to my survey was optional, with 25 of the 26 participants choosing to complete this section. The questions in this section were answered with a specific dog in mind by the participant; for this reason, the first question asked participants for their dog's name, followed by their age, the results of which are illustrated by the graph below.



Graph: 3 A graph showing the age of participants' service dogs when answering section 2 of the survey

Most of the participants' service dogs in this section were between four to six years old at 36.0%, or one to three years old at 32.0%. Only 12.0% of participants' service dogs were over ten years old, with 20.0% between seven to nine years old. Question 3 asked participants about the breed of their dogs, the three with the highest percentages were Border Collie (20.0%), German Shepherd (16.0%), and Springer Spaniel (16.0%). This was followed by a question asking how long the participants had been in partnership with their dog. The results are outlined in the graph below.



Graph: 4 A graph showing the length of partnership between participants and their service dogs

Most participants had been partnered with their dog for between one to three years (32.0%), with slightly less participants partnered for four to six years (28.0%). Only 16.0% of participants had been working with their dog for seven to nine years, with the lowest percentage coming from less than one year or over ten years at 12.0% each.

6.3 Background to the interview participants and their service dog(s)

My interview participants were also participants of my survey who agreed to be contacted about the opportunity to undertake a semi-structured interview. I have changed the names of their service dogs to Fido, amongst other names if there is more than one dog, for purposes of anonymity. For ease when reading through this chapter, please refer to the table below.

Participant A	Search and Rescue Dog Handler
Participant B	Search and Rescue Dog Handler
Participant C	Search and Rescue Dog Handler
Participant D	Search and Rescue Dog Handler
Participant E	Previous RAF/Military Operational Dog Handler and Trainer
Participant F	Police Dog Handler
Participant G	Fire Service Fire Investigation Dog Handler

Table 2: Outlines the participants' identifying letter and their role

Participants A, B, C and D are the four search and rescue dog handlers who are all volunteers working on the behalf of a charity. They can be called out by any emergency service that requires their assistance, but they mainly support the police as they are a specialised search resource. They cover particular areas but can also be asked to travel anywhere in the UK. The participants explained that within their charity, there are three different levels of search dog. Level 1 is a trainee dog, level 2 was referred to as a root and path dog which meant that a dog could search 25 metres inside of a path, and level 3 was referred to as an area dog. An area dog could be sent to search 50 acres of land. One of my participant's dogs was a level 2, and the other three dogs were level 3. The participants explained that it takes on average two years to qualify. All dogs are qualified through passing a national assessment; the dogs are then reassessed every two years to requalify. These dogs are the volunteer's companions first and foremost and therefore the volunteer is responsible for their dog and their welfare, including costs incurred while their dog is working, such as vets' fees if they are injured. These dogs are highly skilled, filling a gap in resources, and participant C said that if the police were still training dogs to this standard that it would cost tens of thousands of pounds in addition to the emotional value of working alongside their dog.

Participant E who previously worked in the RAF and Armed Forces as an operational dog handler and as a trainer explained that dogs were primarily brought in as puppies from breeders, and that the dogs could be split into two roles, scenting and protection. These dogs

worked both at home in the UK, and also overseas if deployed. It takes on average 12 months to train a puppy from eight weeks of age, to become licensed in their discipline. Search dogs take slightly longer to train than the patrol dogs, with service police dog training taking on average 12 weeks to complete. For an arms explosives dog, it would take on average 24 weeks, possibly slightly less but it would be around six months of intense training. If a dog was brought in that was slightly older, for example a companion dog, then it would take on average four to six months for them to train as a detection dog and three to six months to train as a patrol or police dog. During the dog's service, they are cared for by the organisation, coming under the care of a local veterinary officer and a local veterinary surgeon for the RAF, and the Royal Army Veterinary Corp for dogs in the army. If a dog is retired or sold, then they become the responsibility of that handler or their new carer, including all financial responsibility.

Participant F, a police dog handler, worked with both general-purpose police dogs and search dogs, and depending on their job role, they will attend different courses using reward-based training methods. Their last general-purpose dog retired at around seven and half years old. While the dogs are operational, they are the responsibility of the organisation. Similarly to the military dogs, when a police dog is retired, they are signed over to either the handler or their new carer and they become their sole responsibility.

Participant G, a fire investigation dog handler, said that there are approximately 15 fire investigation dogs in the whole of the UK. One dog is funded regionally by four counties, and other fire dogs are funded by individual fire brigades. This is the participant's third dog; their first dog was bought as a companion and then at 13/14 months old, the participant decided to try to turn her into a working dog, setting up a project to see if it would work and it did. This participant's dog then became a full-time fire investigation dog, retiring in 2009. Their second dog was an adult dog that was donated to them after they let people know that they were looking for a new dog. The participant's current dog came to them as a 16-week-old puppy after they said that they were looking for a dog through the police force. In terms of training and the cost of doing so, the participant said that there is no "ballpark figure" as different places offer different quotes. A civilian canine training company may charge in the region of £6,000 for a six-week course. This course is a standard course used for the majority of search dogs, from explosives to drugs. The participant said if you go to one of the services then the cost may be less, quoting a figure of £2,500. For this participant, they had training offered free of charge because it was a pilot project; after that, they have trained the dogs themselves. For the participant's first and second dog, they paid for any vet's bills incurred, because they were a part of a sponsored project. For their current dog, they did consider insurance, but the cost was prohibitive; any vet's fees incurred come out of the service's budget, providing that the

dog could continue working after treatment. If their dog could not continue to work, then it would be up to the participant to decide what to do.

The qualitative survey responses and the interviews were thematically analysed, resulting in four overall themes which are:

- Legal status
- Legal protection
- Relationship
- Public benefit

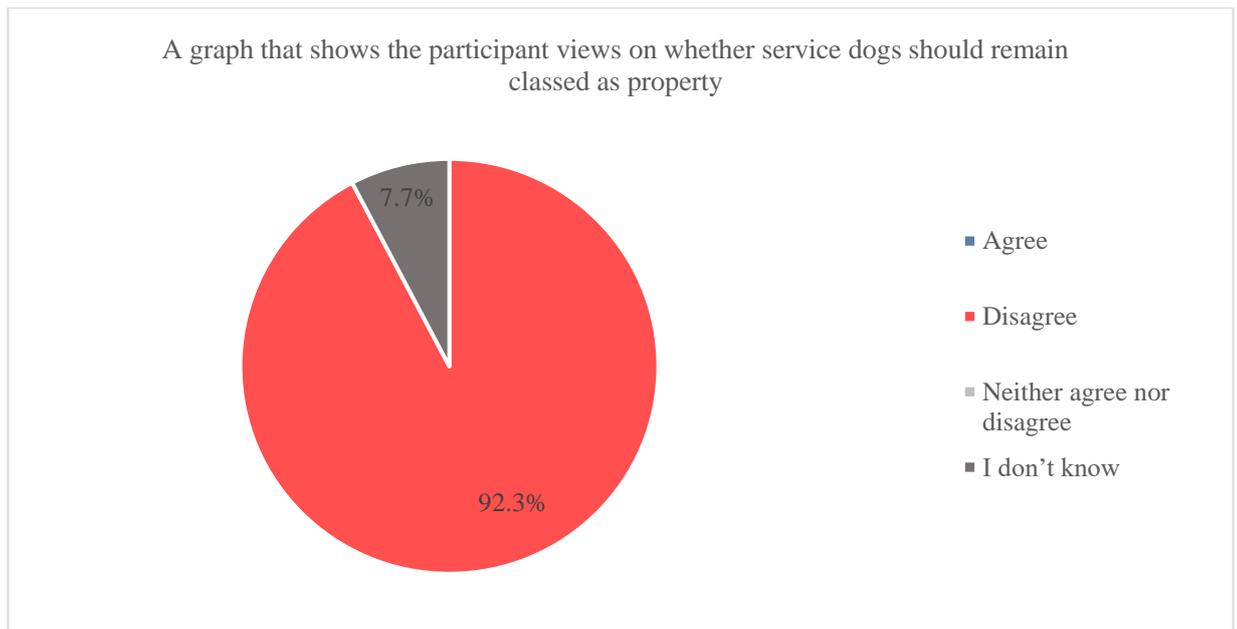
The remainder of the chapter sets out the main findings from the survey and the interviews are discussed in relation to the four themes identified above.

6.4 Legal status

A common theme identified through the thematic analysis of my qualitative data was in relation to the legal status of service dogs. As set out in chapter two, service dogs are currently property under the law of England and Wales, with various duties owed to them under legislation, such as the AWA. This theme is broken down in to two main sub-themes: property and alternative status. The findings of my survey data are presented first, supported and expanded upon using the findings of my interviews.

6.4.1 Property

Question 18 of my survey presented participants with a series of statements, and they were asked if they agreed or disagreed with each one. One of these statements was “service dogs should remain as property.” Of the 26 participants, 24 disagreed with this statement which equates to 92.3%. These findings are illustrated by graph 5 below.

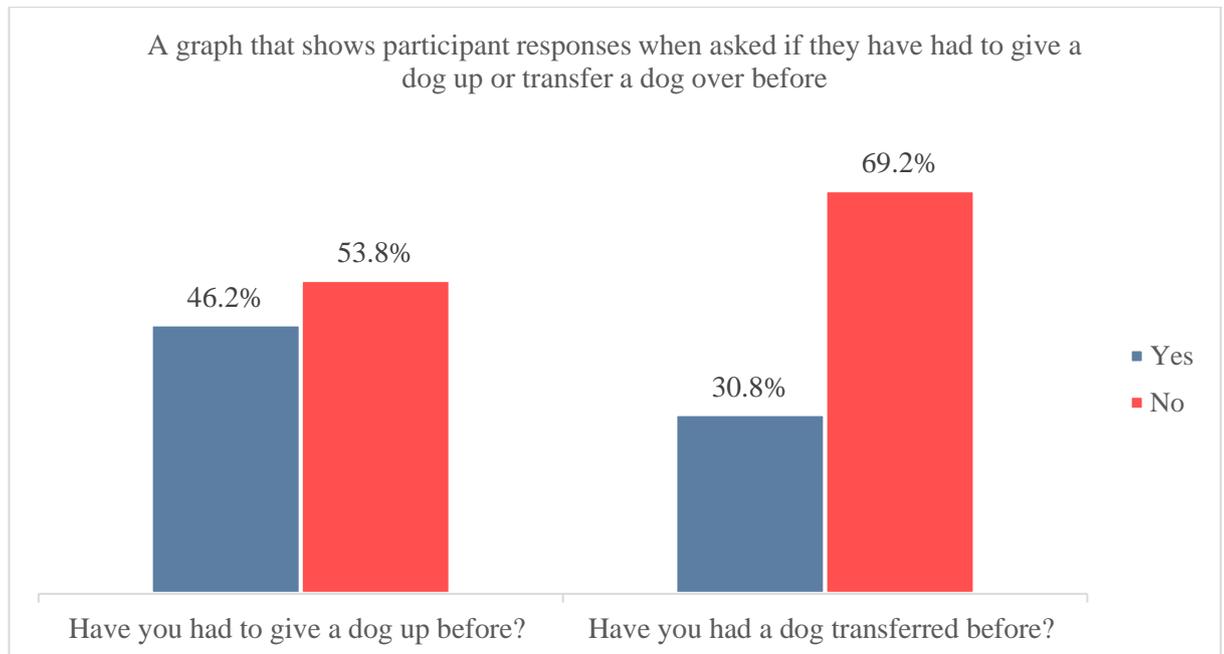


Graph: 5 A graph showing participant views on the property status of service dogs (Question 18.4)

From this finding, it appears that service dog handlers do not believe that service dogs should remain legally classed as property; this was also a common opinion shared by my interview participants, which will be discussed in further detail during this chapter.

One of consequences of any animal being classed as property is the ease with which they can then be acquired or transferred to a new individual, and in the case of a service dog, the handler may not be the legal owner and therefore have no ownership rights. The graph below shows participants' responses to question 10 when asked if they have ever had to give a dog up, such as at the end of the dog's career and to question 12, if participants had ever had a dog transferred before, for example because the partnership with the dog was not working, or their time as that dog's handler had come to an end. For question 10, there were 12 participants (46.2%) who answered yes, and 14 participants (53.8%) who answered no, so there was quite a small difference. For those who answered yes, they were asked how they felt about having to give their dog up. Interestingly, 13 participants responded to this question despite only 12 answering yes. The responses were somewhat mixed, with some positive but the most common theme was that it was an emotionally difficult experience, followed by a justification. One participant responded, "I felt absolutely devastated but no consideration was given by any other ranking officer and they just thought it was just like handed over a piece of paper." This perhaps links in with the property status of service dogs and, as mentioned previously, that in some services the dog is the property of the organisation and not the individual. This response may also tie in with what another participant wrote about their experience, that it was, "very difficult to part with the animal. And if i had the space/capacity to keep it, i would have. It's a very emotional experience giving up your partner but it's understood that its part of the role

also.” The idea that this is a part of the handler’s role seems at conflict with how the participants felt about giving up their dog, but this response may provide a reason for the first participant’s experience where their fellow officers were seemingly detached from the situation of giving up their dog. The same was asked for question 12, anyone who answered yes was asked how they felt about having their dog transferred. Eight participants answered yes (30.8%) with 18 answering no (69.2%) as shown in the graph below.



Graph 6: A graph showing the number of handlers that have ever had to give a dog up or transfer a dog before (Question 10, 12)

In contrast to question 10, there was a much more positive response to this question which was the common theme. This seems to be because the participants received a new dog via transfer over to them, and if a dog was being transferred away from them, then they were going to another handler.

The overall agreement that service dogs should no longer be classed as property was also reflected in my interview responses. Each participant discussed how they felt about their service dog(s) being legally classed as property. Participants tended to respond negatively, with all agreeing that service dogs should not be legally classed as property. What is most interesting about this finding is that it is in direct contrast to the current UK legal position which service dogs find themselves in. Many participants drew comparisons between service dogs, their children and family to show that there was no difference in how they viewed them despite what the law states. Others drew comparisons between inanimate objects to illustrate that there is a distinction between the two. Here is an extract from the interview with Participant B where they see their service dog as family, “yeah I know that she’s legally property, well I don’t regard her as property so if legally she’s property that doesn’t bother me

because I don't regard her as property I regard her as family..." Participant B appeared indifferent to their service dog being legally classed as property because they viewed their service dog as a family member. However, this participant went on to say that they were concerned with the legal implications of their service dog being classed as property as per the following extract, "they should have you know, I don't think they should be regarded as property, for the legal implications but, would they put someone in prison if they killed a dog?" Participant B was concerned that if someone caused intentional harm to their service dog, their property status would mean that such an offence may not be taken seriously, therefore, this participant felt that service dogs should not be classed as property. Participant C also shared the view that service dogs should not be classed as property, explaining that there is a difference between a service dog and property, using examples to illustrate their point. For this participant, their service dog was not comparable to an object, or simply a tool to be utilised, and instead a part of their family and their team, as shown in the following extract taken from their interview:

"So, no it's you know when I see them basically described as property they're not, they're living beings. They've got the, you know, they give and take, you know emotions and all the rest of it so it's very different to a tool. Very different to just like a piece of technology or an inanimate object like a drone or something like that you know, he's very much part of the family and you know it's all about us we work together very much as a team, so and it is a very very close relationship. You know he's everything to me really you know that's what it comes to at the end of the day."

Many of the handlers that I interviewed agreed to some extent that their service dog was a tool but were keen to stress that this did not reflect the only way they viewed their service dog, if at all. However, some did acknowledge that other people such as managers or members of their team were more likely to view them in this way. Participant D explained that their service dog is a family member first and how a service dog is viewed is perhaps dependant on the individual's perspective:

"But at the end of the day she's a family member first who just happens to be able to do something very, very, extraordinary so I think it's who you are in the relationship so certain people in the team would look at Fido as a dog, as a loved one and a family member first but someone like a search manager would look at Fido as a tool..."

The idea that some individuals who have less direct contact with service dogs are perhaps more likely to view a service dog as a tool was also reflected by Participant G. This participant emphasised that for them their service dog is a best friend and family member, akin to a child but that as far as work is concerned, their service dog is a tool:

"First and foremost, he's my best friend, I know that sounds a bit corny but he's with me 24/7- the only time we separate is when he goes in kennels, first and foremost he's like having a kid he's part of the family all the time. As far as work's concerned, yeah he is a tool but he is my tool and I deploy him so he's like if you've got a favourite

pen he's like that he's with me all the time so he's the first thing I would turn to at a job..."

Participant A talked about how it is hard to think of their service dog as property but was quite happy to say that their service dog was a tool, or rather her nose is, and compared what their dog does to what they also do.

"I think from a service dog perspective I think you know they are massively valuable, and I am proud of it and the idea of thinking of her as property is really hard. I'll be the first to say that she is a tool right, she is a tool, her nose is the tool, her nose is the sensor and in the same way that when we're searching we're using our ears and nose and so forth, she's doing the same it's just that she's more sensitive..."

In contrast, Participant E who worked within the British Armed Forces for over 30 years but had now left, felt that they had never experienced the view of a service dog being a tool or equipment, and that this was not a view shared by the people that they had worked alongside either, as shown in the extract below:

"P: No I don't think so.

JH: No?

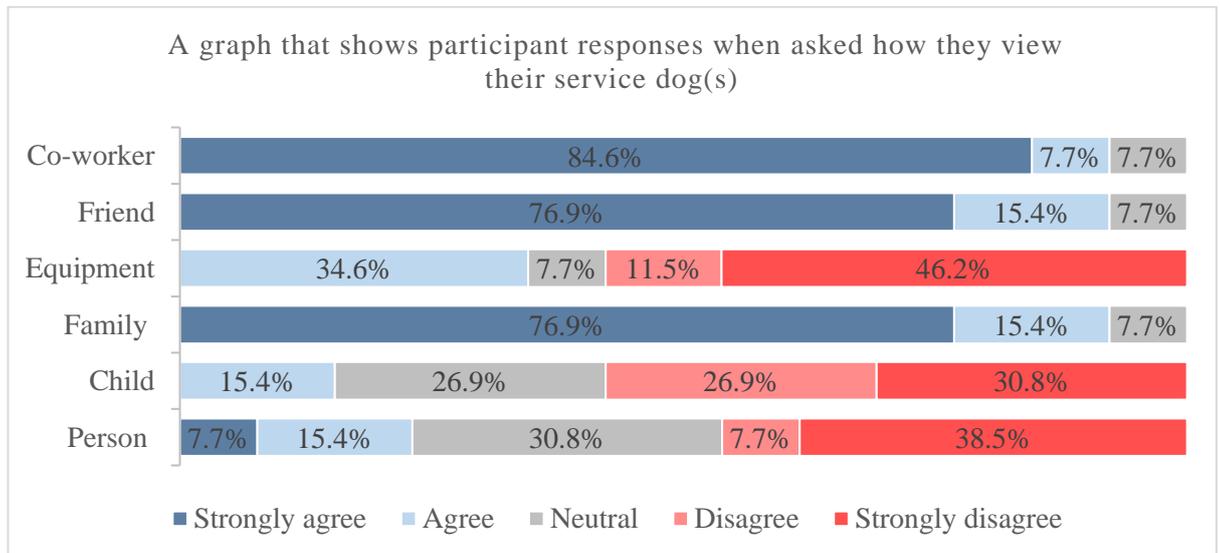
P: I don't think so, I don't know many people that do, do that. When you want to be a dog handler you do that because you love dogs and that's in the way that even non handlers...you know I don't think anyone's used the dogs as equipment. I certainly don't know any handlers that do it, and I think anyone who has served alongside dogs even when they weren't handlers themselves I don't think they do it as well. They view the dog as something other than the [inaudible] you know some are akin to another service person, but I've never met anyone who's expressed the opinion no it shouldn't, and we've talked about this, I've never heard anyone say a word about a dog. "It's only a piece of kit" I've never heard anyone say that. In 30 odd years I've never heard anyone say that."

In this participant's experience, they not only feel that dog handlers do not view service dogs as a tool or equipment, but that this view also extends to the non-dog handlers as well.

6.4.2 Alternative status

Question 17 of my survey explored how service dog handlers view their service dog(s) and presented participants, with the sentence "I see my dog as a..." They then had a range of

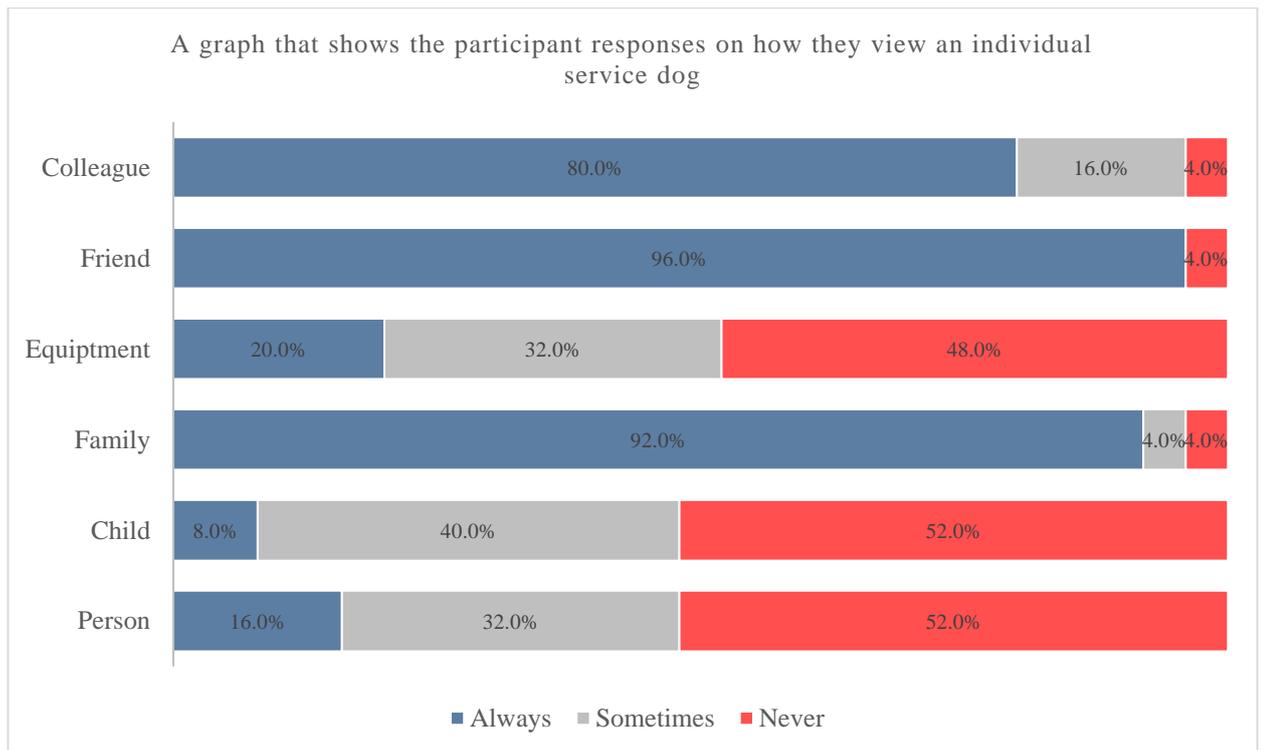
responses from strongly agree to strongly disagree, to choose how they felt about each term. The results of this question are illustrated by graph 7 below.



Graph 7: A graph showing participant views when asked about how they view their service dog(s) using these terms (Question 17)

Overall, co-worker received the highest proportion of strongly agree responses (84.6%), followed by friend and family which both received 76.9%. Interestingly, if you combine both the strongly agree and agree responses, co-worker, friend, and family all share the same percentage of responses at 92.3%. What is also of note is that none of these terms received a disagree or strongly disagree response, again receiving the same percentage of 7.7% for neutral. Equipment received the highest proportion of strongly disagree responses at 46.2%, this is followed by person at 38.5% and child at 30.8%. When both the strongly disagree and disagree responses are combined, the terms equipment and child have a percentage of 57.7% and person has less at 46.2%. Participants were most neutral about the term person (30.8%) and child (26.9%) compared to the 7.7% that all other terms received.

Question 27 is very similar to question 17 but instead I asked participants to answer the questions with one specific dog in mind which they named at the start of the section. As this question related to one specific dog rather than being general, the participants were given the options of always, sometimes, or never, rather than a range from strongly agree to strongly disagree. This change was done to reflect that the participants were answering based on a dog that they knew and worked with, and it felt more appropriate to reflect this relationship. The results are illustrated by the graph below.



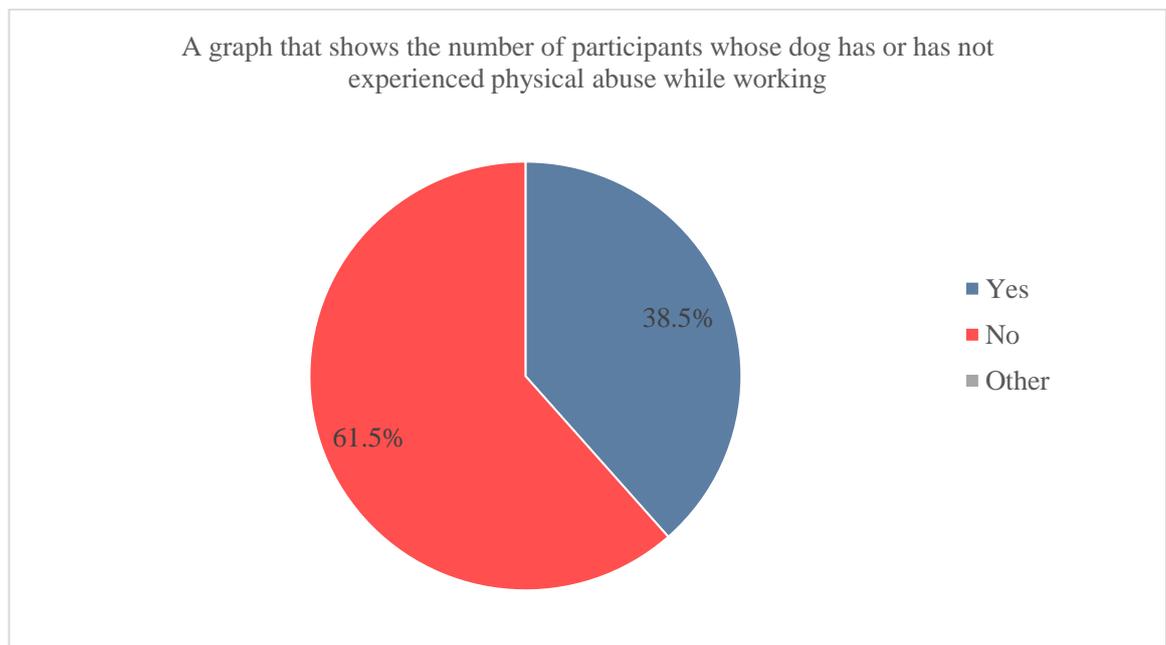
Graph 8: A graph showing how participants viewed a particular individual service dog (Question 27)

The highest response for “always” was friend at 96.0% followed by family (92.0%) and finally colleague (80.0%). Combining both the always and sometimes responses, family and colleague have a percentage of 96.0%, the same as friend. Child and person received the highest percentage of “never” responses at 52.0% each, followed by equipment at 48.0%. Friend was the only term to receive no “sometimes” responses. The lack of a neutral option could have altered the results slightly as participants had to choose a response. In comparison with question 27, the results are similar, with colleague/co-worker, friend and family all being the top three ways that participants viewed their service dog, with equipment, child and person all receiving the greatest number of negative responses. There are also slight differences; for example, for question 17, co-worker received the highest number of strongly agree responses, followed by friend and family sharing an identical total. The fact that 26 participants answered question 17, and 25 participants answered question 27, may have impacted slightly on these results. Person scored quite poorly in terms of responses. The participants were not given any additional information when answering this survey; it was down to them to interpret what a person is, for example. I believe that this is a term that is perhaps misunderstood by the public, who do not realise that there is a distinction between a human being and a person. What is most curious about this is that question 20 of my survey presented each participant with the sentence “a service dog should be entitled to...” and then provided six different potential entitlements for service dogs. One of these options was legal standing and 50% of participants strongly agreed that service dogs should be entitled to legal standing, with a further 42.3%

agreeing. That is a combined total of 92.3% of participants. In addition, question 28 of the optional section of the survey asked participants if they viewed their dog in any way not already mentioned. There were eight responses to this question, and most were similar to the previous question but were perhaps more specific or with added emphasis, for example, “best friend,” “family pet first and foremost” and “team member/colleague.” The other responses were outside of the scope of any previous question, such as “companion,” “essential” and “reason for living.” It is clear from these responses that the term property is inconsistent with the handler’s perception of their service dog. This theme is heavily connected to the next, which is legal protection, and also relationship; both will offer more insight into how service dog handlers feel service dogs should be legally recognised and protected.

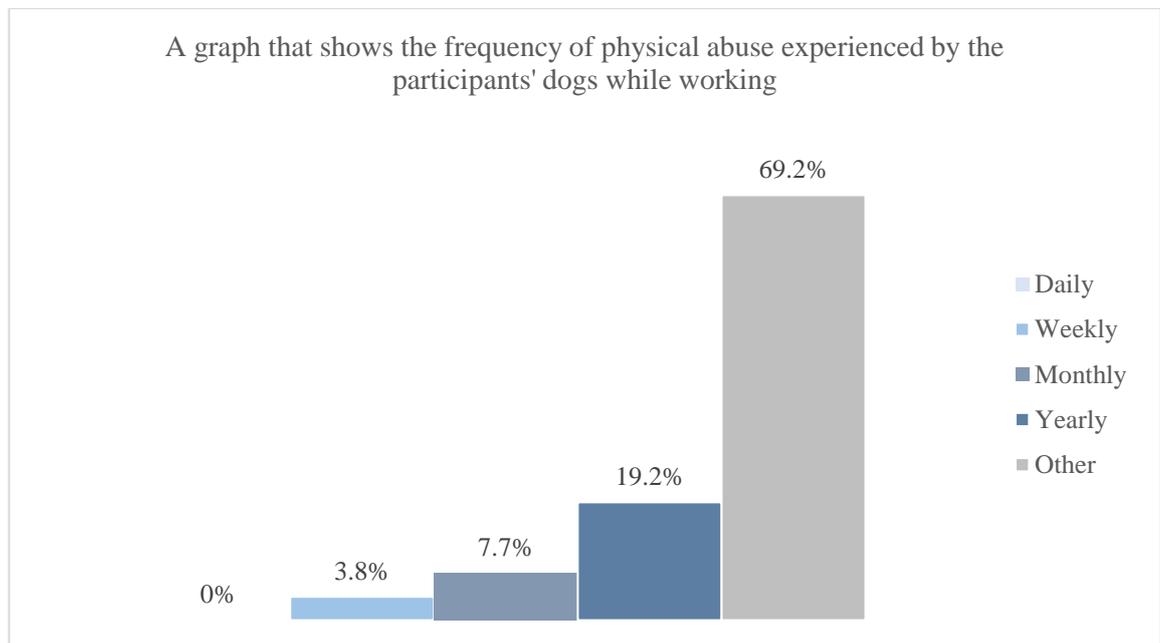
6.5 Legal protection

Reference to protection, particularly legal protection, was a repetitive theme across my interview data and shared many overlaps with the previous theme of legal status. The first graph in this section, graph 9 below, shows that 38.5% of participants’ service dogs have experienced some form of physical abuse while working. In contrast, 61.5% indicated that their service dog had not experience physical abuse while working. Of those participants who said that their dog had experienced physical abuse, seven of the ten participants from the police force said yes, in addition to one medical detection dog and two from the job category of “other.”



Graph 9: A graph showing the number of participants whose service dog has or has not experienced physical abuse while working (Question 14)

When asked about the frequency of experiencing such abuse, the highest response was “other” at 69.2%, followed by yearly at 19.2%, as shown by the graph below. The majority of responses came from those in the police force, with one saying that they experience such physical abuse weekly, two saying that they experience this monthly, and four saying that they experience this yearly and three selecting “other.” The only other response was from the one medical detection dog participant who chose the response yearly. Besides the police force and medical detection dog, the participants simply entered N/A or none, which is perhaps why other scored the highest response. Those who did provide a response said that physical abuse was rare, with one participant putting every three to four months.



Graph 10: A graph showing the frequency of physical abuse experienced by participants' service dogs while working (Question 16)

What came through from conducting the interviews is that although intentional harm is a potential risk for all the service dogs, many of the participants' dogs equally face risks from accidental harm. For example, many of the search and rescue participants talked about the fact that searches can take place through areas that people have not walked through before and difficult terrains, such as steep slopes. Risks posed by dense vegetation, thorns, fallen trees, cliffs, barbed wire and electric fencing, rubble and rubbish such as needles, tin cans, broken bottles were all highlighted. Participant A's dog had injured their paw on a search previously and said that another search dog had impaled themselves on a branch that was sticking up. In addition, Participant B explained that they have training on adder bites and that this particular participant carried medication from the vets with them during searches, to give to their dog in the interim if their dog was ever bitten.

Participant G talked about whether there was any risk posed by their dog searching for petrol. This participant only knew of one dog that had died due to developing cancer at a young age. They explained that because the dogs are trained on scent, they indicate presence of the substance and are then removed from the source, so they had never experienced a dog who had developed any problems as a result or had become addicted to drugs, for example. This participant, however, indicated an issue that can occur for a service dog that has been in the job for many years, stating:

“So the answer to the question is the exposure to the chemicals there is no evidence of any long-term damage. There is anecdotal evidence that dogs as they get older their nose tends to go off, but that’s across the board, that’s dog’s explosive, firearms, that’s everything. You know you get sort of 10 or 11 year old dog you tend to find that they’re ability to sniff minute samples went a bit but there’s no research ever been done on that so that’s anecdotal, but I feel with both my previous dogs as they got to be old and you brought a new dog in you could see the difference the new dog’s picking up stuff that the old dog can’t find, and it would have to be nose degradation it can’t be anything else.”

Participant G also talked about the possible risks faced at a fire scene, such as broken glass, plastic, nails, splinters, and debris. There may be a risk of chemical exposure, water work and working at heights. This participant discussed how these risks are minimised through a risk assessment of the scene and extensive safety equipment, which will be outlined in more detail further into this section. In terms of intentional harm, there was the possibility of attending a suspect’s address for example, and for the suspect to harm their dog, or even for this particular dog to be a potential target due to working on major crime investigations searching for evidence.

For the search and rescue dog handlers, many said that if the person they were looking for was a potential risk to them and their dog, then a police officer would be with them. However, there was still a potential risk from the people that they attempt to find. Participant C explained:

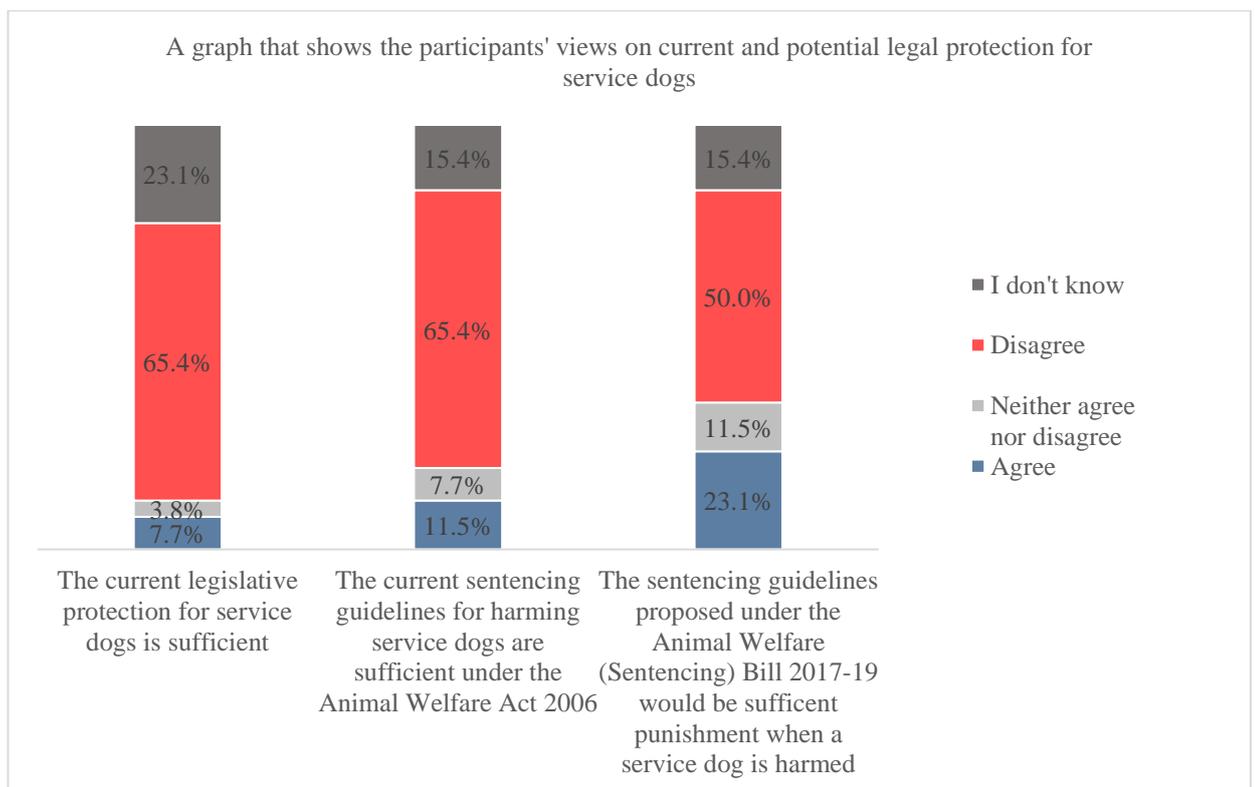
“There’re very few occasions where there is a potential risk from that missing person to our dog but it does happen, when you know we know that person has gone out maybe armed with a knife, got a bottle and is perhaps likely to break it and use it. So, obviously then I’m then potentially putting my dog into a risky situation and whilst in a situation like that we would normally have a police officer with us, the dog as I said is often working a long, long, way away from me and there’s no way even if you know in close proximity there’s no way a police officer is going to get to that situation as quickly you know as my dog is. So, I’m relying on the way my dog operates to basically get in there and leg it back to me fairly quick. Which he does, but yeah potentially we are always put were often putting out dogs into a situation where they could potentially be harmed by that missing person.”

Participant E offers an insight in the following extract into the types of risks that the service dogs faced during the participant’s time working within the Armed Forces:

“The risks that we had were obviously the dog detonating the device, I mean just to put things in context we lost I think with Afghanistan and Iraq combined, we lost 4 dogs... but as far as I’m aware none of them were actually killed by explosives. The dogs were very effective at actually sensing the explosives and actually going into a passive indication before they went anywhere near them and before they put themselves or those operating... I mean I think the biggest danger one that the lads would notice was sniper fire and small arms fire was probably every bit as dangerous as the explosives, particularly as the dog and handler were such an important asset and quite easily identifiable that were a problem for them, they were easily identifiable so yeah there was a significant risk to them out there.”

This passage highlights some of the potential dangers faced by these service dogs, it shows that in the participant’s experience, the number of dogs killed was relatively small, but the risk to them was high, especially due to the importance of the dog’s role and their ability to be identified.

Question 18 of my survey asked participants whether they agreed, disagreed, neither agreed nor disagreed, or did not know, a number of statements, three of which were focused on the current and potential legal protection for service dogs. The results from these questions are outlined by the graph below.



Graph 11: A graph showing the participants’ views on current and potential legal protection for service dogs (Questions 18.1, 18.2 and 18.3)

When asked if the current legislative protection for service dogs is sufficient, the highest response was for disagree at 65.4%. Similarly, 65.4% disagreed that the current sentencing guidelines under the Animal Welfare Act 2006 were sufficient when a service dog is harmed. The percentage of disagree responses dropped slightly to 50% when asked if the current sentencing guidelines proposed under the Animal Welfare (Sentencing) Bill 2017-19 would be sufficient punishment for when a service dog was harmed, with 23.1% of participants agreeing. At the time of survey, this was the current Sentencing Bill, however it has since been replaced by the Animal Welfare (Sentencing) Act 2021. The findings of this section of my survey are in line with what the majority of my interview participants expressed, that the current protection available for service dogs, and other animals in fact, should be greater. This theme overlaps with the other themes identified, particularly legal status and relationship. Across all three statements in question 18, there was a higher percentage of participants selecting “I don’t know” at 23.1%, 15.4%, and 15.4% respectively. This finding was also reflected in my some of my interviews, with participants unsure how well protected their dogs were and what would happen if their dog was in fact harmed by another person. For example, Participant C said:

“Yeah, that’s an interesting one because uh huh thinking about it I’m not really sure how well protected we are in terms of the dogs. For ourselves from our own perspective slightly different issue, but from the dog’s perspective yeah I’m not too sure as to how well they are protected if there was an issue basically.”

The overall feeling was that service dogs should have greater protection. Participant A said:

“I don’t think that they’re protected enough, and I think it could go a lot further than even what you know I mean good in roads have been made over the last you know 2-3 years with Finn and so forth, so I think that’s it’s probably a lot better than what it used to be, but I still don’t think that it’s as much as it needs to be.”

Some of the participants mentioned Finn’s law in their interviews, and there appeared to be some confusion around which service dogs this legislation applies to, as in this extract from Participant G:

“P: Yes, yeah, I think the problem is in law dogs are not seen as a human if that’s the right word so therefore they’re seen like an axe or a piece of hose pipe or you know, certainly in my job. I would strongly disagree with that. I would say he’s part of the work force but the problem you’ve got is that they don’t recognise them as humans therefore they cannot be part of the human work force do you know what I mean? It is a totally grey area and we’re still I know we’ve had Finn’s Law come through in the last year or so but I’m still a little bit is that purely for police dogs? Or does that also include service dogs? So, if I go to an address where there is still somebody still there say I get asked to go to a suspect’s house and the suspect is still present and the

suspect harms my dog if that was a police dog they'd do him for assault, if that was my dog nothing would happen which can't be right...

JH: Okay so you feel that the law could have gone further to incorporate...

P: I don't think it's strong enough, I think they looked at working Police Dogs that are chasing criminals and biting criminals but that's as far as they've gone..."

This feeling of being unsure as to whether anything would happen if their dog was harmed was reflected in most of the participants' interviews, especially the search dog handlers who are all volunteers. Participant A said:

"... So, I don't think they're recognised, I don't think they're appreciated, and I don't think they're protected enough as they should be right. So, I think that any dog that is injured or whether maliciously, or by accident I think should have an element of protection and again you know the volunteering aspect of it does make it a little bit difficult from our perspective because well we are volunteers..."

Participant E believed that all service animals should have greater protection and suggested that there should be specific offences available and a minimum tariff for someone who harms any service animal. Here is an extract from their interview:

"I mean they've already incorporated changes into the Dangerous Dogs Act for dogs that injure service dogs guide dogs, and it's I can't remember if it's classed as, I think it's an aggravated offence where the dog gets loose and attacks a dog then you're gonna get prosecuted if that dog attacks a guide dog then it's an aggravated offence, and I believe I'm not sure that the punishments for that are akin to if your dog had injured a human being. So if they can do the same under the Dangerous Dogs Act for guide dogs then surely they incorporate something else in where you know a service dog is offered a higher level of protection. I'm not sure I would say as the same level as a human because I don't think that when you're looking at say the offence of murder that is murder for killing a human being. I don't, I'm not quite sure it should be assessed at that sort of level but certainly there should be an aggravated offence of harming a service animal, and it should you know it should be dealt with accordingly and I think they should as well, there again I think a lot of things, I think there should be minimum tariffs. The problem comes if it's all very well that you can get 20 years for harming a police dog, but if 9 out of 10 you can get, you know an awful lot of jail time for harming an animal but most people get a conditional discharge and £100 fine. So you know if the courts aren't prepared to take it seriously which it's not, then I think there should be something in law which says you know this is a minimum tariff if you injure a police dog or police horse or any other sort of service animal then this should be the minimum sentence standard tariff, I think that for all sorts of service people as well. I think there should be a minimum tariff on that."

It is interesting that Participant E, who previously worked in the RAF and Armed Forces, when suggesting greater protection for service animals, made the distinction between protection for humans and protection for animals, using murder as an example. Participant F, who works as a police dog handler, shared the view that the law could go further, including with Finn's law, and also said that we needed to be careful with the distinction between humans and animals. From my interviews, this is a minority view that was not shared by the other participants. In

fact, Participant C suggested that service dogs in many ways should potentially be treated equal to, or greater than a human. They said:

“I think they should be in many ways treated exactly the same as a human being. Because at the end of the day they are a living being, they and so certainly the same as a human being. Arguably I think you could say that they should be treated even slightly better perhaps than a human being because they haven’t got the ability to react and defend and sense perhaps dangers perhaps quite so much as we humans.”

Participant A shared a similar view to Participant C and felt that there should be no distinction between human and dog. They also raised concern about the dangers that the dogs face and this idea of choice or sensing danger, as explained in the following passage:

“Well I don’t think why there should be any distinction between you know if a police officer got stabbed. I wouldn’t think they’d be any difference, or should be any difference, between a police dog getting stabbed because I think in that scenario, they are both members of the police force so why should one be treated any different to the other? I think there’s probably people saying oh well ones a human and ones a dog but and I kind of get that but at the same time the dog isn’t choosing to be a part of that. They joined at it from a very young age, it’s not optional for them right so and most of the dogs I mean when they’re working you know they’re doing it because it’s a big game, and they’re doing it because they want to keep their handlers happy and stuff like that so its super super unfair to think well they put themselves in harm’s way because they’re not, we’re putting them in harms way right, the dog is just doing what we ask them to do. So it’s not as if they can see someone with a knife and think oh I’m not going over there, they can’t make that decision they’ll just go right, and I think we’re when we see humans do that for example on the London Bridge thing with the guy with the Narwhal tusk right, it’s like that guy running towards the terrorist you know if that was a dog it would somehow be like expected, but because it’s a human it’s like oh my god this guys a hero etc etc, but I think you know there’s is a distinction there and I just don’t think people appreciate how amazing dogs are really.”

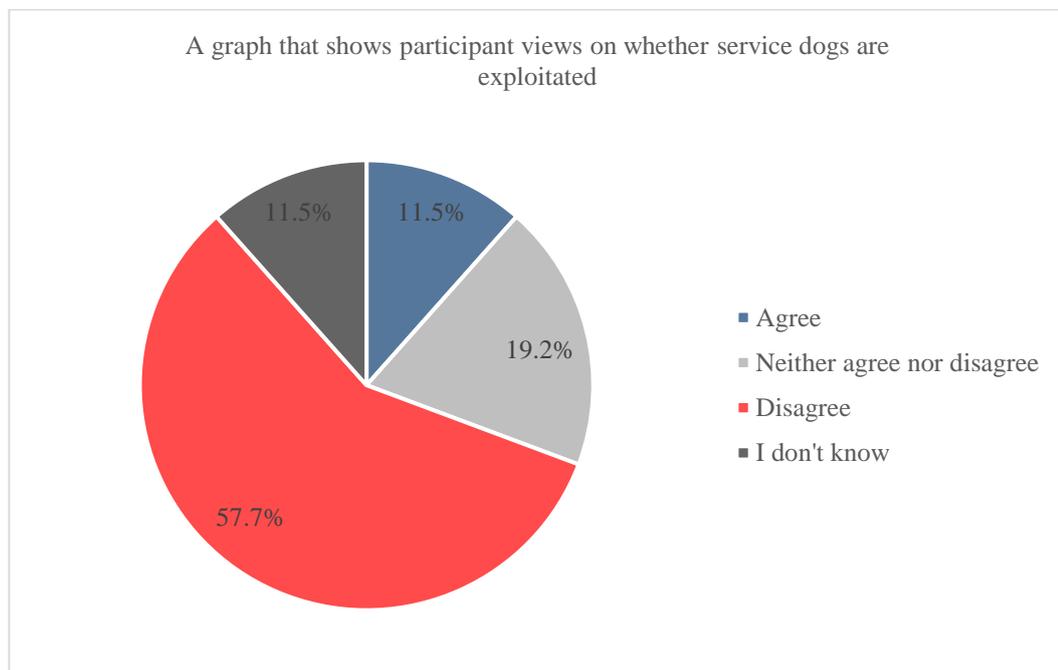
Overall, the majority of participants felt that their dogs should be viewed and protected in exactly the same way as the handler, and that all service dogs, no matter what their role or organisation, should have equal protection. Participant B said:

“I think that she should have the same protection as me. Particularly working dogs, well that’s discriminating against dogs that don’t work, but if they’re working and they’re doing a public service then they should have the same protection as the human that’s working them.”

This view was not only reflected in my interviews but also by question 19 of my survey, which asked participants if they had any suggestions as to how the service dog – handler relationship should be legally recognised. Of the 26 responses to this question, the most common theme was for a service dog to be recognised in a similar way to a human or to their handler. One participant suggested that service dogs should be recognised in a similar way as in the US,

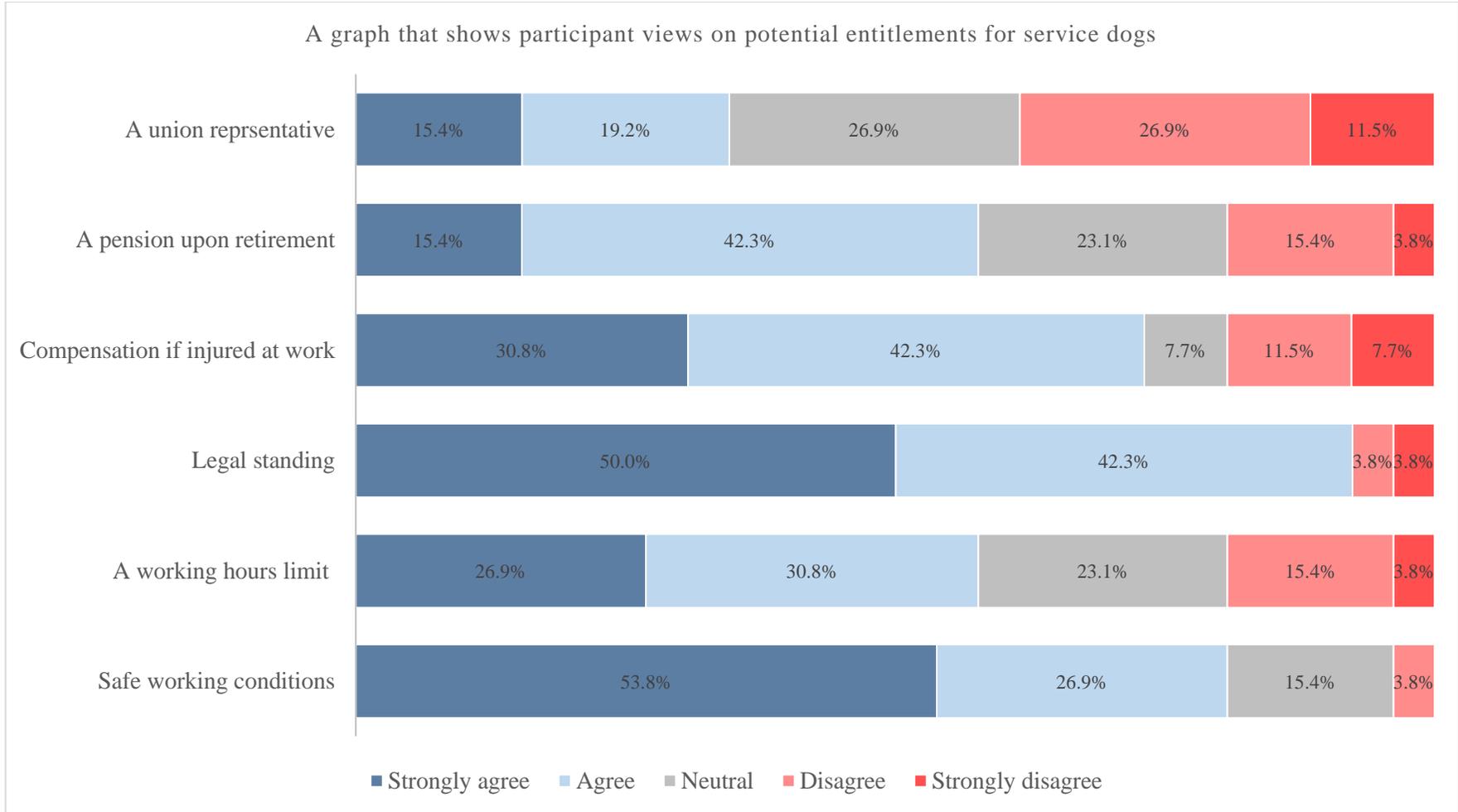
recognised as officers and provided with the same or a greater level of protection. Another participant suggested service dogs should be treated as persons and provided the example of guide dogs under the Dangerous Dogs Act 1991. Other participants shared the view that service dogs should be seen in the same way that their handler is, with equal protection and as a recognised member of their organisation.

Question 18 also asked participants if service dogs were exploited, and the results of this question are shown in Graph 12 below. 57.7% of participants disagreed with this statement, with only 11.5% of participants agreeing with the statement. More participants neither agreed nor disagreed (19.2%) and 11.5% said that they did not know.



Graph 12: A graph showing participant views on whether a service dog is exploited or not (Question 18.5)

Question 20 presented participants with the sentence “a service dog should be entitled to...” and then presented them with six different options. The results of these responses are illustrated in graph 13 below.



Graph 13: A graph showing participant responses to certain entitlements for service dogs (Question 20)

Safe working conditions received the highest number of strongly agree responses at 53.8%, just slightly higher than legal standing which received 50.0%. Compensation if injured at work received 30.8% of strongly agree responses, followed by a working hour limit just slightly lower at 26.9%. Both a union representative and a pension upon retirement received the same number of strongly agree responses at 15.4%. A pension upon retirement, compensation if injured at work and legal standing all received the highest number of agree responses, with an identical percentage of 42.3%. This was followed by a working hours limit (30.8%) and safe working conditions (26.9%) and a union representative (19.2%). A union representative received the highest number of neutral responses (26.9%), followed closely by a pension upon retirement (23.1%) and a working hours limit (23.1%). Interestingly, legal standing did not receive any neutral responses from participants.

The entitlement with the highest number of disagree responses was a union representative 26.9% which also received the highest number of strongly disagree responses (11.5%). A pension upon retirement and a working hours limit both received 15.4% of the disagree responses and also had the same percentage of strongly disagree responses (3.8%). Compensation if injured at work received 11.5% of disagree responses and 7.7% of strongly disagree responses. Legal standing received an equal number of disagree and strongly disagree responses at 3.8% each. Safe working conditions received 3.8% of disagree responses and is the only right not to receive any strongly disagree responses.

If the strongly agree and agree responses are combined, then the results are as follows.

1. Legal standing has the highest combined percentage (92.3%).
2. Safe working conditions has the next highest combined total (80.7%).
3. Compensation if injured at work (73.1%).
4. A working hour limit and a pension upon retirement received (57.7%).
5. A union representative, significantly lower (34.6%).

If the strongly disagree and disagree responses are combined, then the results are as follows.

1. Union representative has a combined total of (38.4%)
2. A pension upon retirement, compensation if injured at work and a working hour limit all received the next highest combined total (19.2%)
3. Legal standing (7.6%)

Safe working conditions is not included as it was the only entitlement not to receive any strongly disagree responses, as already mentioned.

Overall, there was a positive response to the majority of the entitlements put forward to the participants, with five out of the six entitlements receiving well over 50%. Legal standing

appears to have the most support according to the results of the survey, perhaps unsurprising given that the majority of participants felt that legal protection for service dogs should be higher. In contrast, a union representative appears to be the most divisive entitlement suggested, with only 3.8% separating the combined totals. It also received the highest number of neutral responses from participants at 26.9%.

Question 21 asked the participants if there was anything else that they would like to add, and 11 participants left comments for this question. One of the participant's comments related to the idea of a union representative. The participant wrote that they had, "never really thought about a Union rep for a K9, but it might be a good idea when establishing responsibilities upon retirement." The first part of this response could be shared by other participants, it may be that they had never thought about a union representative for a service dog before as it is currently quite a novel concept. I did not offer any description or information regarding the entitlements listed for question 20, so it was left up to the participant to interpret and imagine what these entitlements might look like in practice and how these current human-centric concepts could be applied to a service dog.

In relation to the other comments made by participants for question 21, they varied. Safe working conditions and safety in general received the most comments from participants. One participant wrote that, "safe working conditions are a little unrepresentative of our role." This feeling was also echoed by another participant, stating, "safe working conditions is difficult as clearly the job we do is inherently dangerous however, steps should be taken to minimise the risk our dogs are subjected to as best as possible within the confines of the role." Naturally, some service dogs are at greater risk of intentional and/or accidental harm than others because of their role. The suggestion of minimising risk as much as possible is something that some of the participants touched upon during their interviews. Participant E, while discussing the legal status of service dogs and the differences between property and a service dog, said,

"...so I always find that's quite old the fact that we regard the dog as a piece of property or piece of equipment or the law does, sorry, and treated differently like that when you know I don't think that should be the case. I'm pretty strongly against that, and I'm not some sappy git you know we put our dogs in situations where there is a chance you know they will be killed but we do everything possible to mitigate that you know, and give the dog the very, very, best training, the best equipment, the best of everything to ensure that we keep the dog happy, fit and healthy, and I don't think that it's right that a dog should be treated as property. Whether it is a military or a pet dog to be quite honest."

Participant G's dog had a range of equipment to help them remain safe while carrying out their role, stating, "... you're probably a bit young to remember Mr Ben, but Mr Ben the cartoon when he always had to wear like different had he had hundreds of different uniforms to wear

so Fido's a bit like that..." This participant went on to outline the different equipment that their service dog has available to them, including their standard uniform, which was their work harness, around 20 different sets of fire boots for when they enter a fire scene, and a nylon onesie for potential chemical exposure such as asbestos to protect their handler from the fibres which could attach to their dog's fur. In addition, they also have a full working at height harness which also allows their dog to use the Simon snorkel, and a life jacket if working near water. The participant went on to explain what happens when they first arrive at a scene to help ensure the safety of their dog while working:

"...but what we'll always do part of my role when I first get to the scene is to carry out a risk assessment of the scene and if there's any suggestion of injury to the dog then the dog's not put into the scene, but we can still work because what we do is items within the scene that need to be checked can be brought out and the dog can search them away from scene anyway. So we don't physically need to go into the scene although we usually do, but we can work from a distance so specifically, on a murder case that we were dealing with last year the forensics team didn't want the dog in the scene because they hadn't checked it for DNA evidence and stuff. So, what we did was the sample that they suspected had accelerant on it at the scene they brought it out and we searched it on the car park outside, so we could still tell them that there's accelerant in the scene but without going into the scene."

The majority of handlers are primarily responsible for their dog's welfare and safety. One participant from the survey highlighted that the, "handler is responsible for safety of their dog. Unlike other service dogs with me being a volunteer my [search and rescue] dog was first and foremost a pet. I therefore have more say about his welfare and working conditions." This participant has highlighted an important distinction between the search and rescue dog handlers that I interviewed and the other service dog handlers; the volunteers are the legal owners of their dog, the majority of whom were companions first and search dogs second. However, in terms of general welfare and safety considerations, this was clearly the responsibility of all of the dog handlers interviewed, regardless of whether they were the legal owner. This is because under s. 3 AWA;

"(1) In this Act, references to a person responsible for an animal are to a person responsible for an animal whether on a permanent or temporary basis.

(2) In this Act, references to being responsible for an animal include being in charge of it.

(3) For the purposes of this Act, a person who owns an animal shall always be regarded as being a person who is responsible for it.

(4) For the purposes of this Act, a person shall be treated as responsible for any animal for which a person under the age of 16 years of whom he has actual care and control is responsible.”

Therefore, even though a handler may not be the legal owner, they still have a duty under the AWA as the person deemed to be responsible for their service dog. Participant E, while discussing their relationship with their service dogs, said:

“No, I think it is a close relationship it you know I mean if you’re, a lot of the times just to with the RAF we tended to have our dogs a lot longer than the Army we were allocated dogs, so when I was a search handler, I was given my 2 dogs and they were my 2 dogs. I operated them, I looked after them, and I was responsible for them when we’re searching, when I had my patrol dogs it was exactly the same, they were my dogs. The only time that anyone else would have anything to do with my dogs was if I was on leave, or on a training course, but I was responsible for looking after those dogs every day...”

One participant raised an interesting point regarding the suggestion of a working hours limit. This participant wrote:

“Technically they have working hours limit as they will only work alongside us and we are limited to the number of hours we are legally supposed to work. Further to that, police dogs will spend the vast majority of their time at rest in the kennel or in the back of the police vehicle.”

This participant’s comments suggest that the legal protection provided to them limiting their working hours, by extension limits their dog’s working hours as well. Questions 29 to 30 of my survey focused on exploring where the service dog spent most of their time during the day and at night, which will be outlined in the next section on relationship. One participant felt that it was important to ensure time for service dogs to rest and only work while they are still enjoying it, stating, “quiet rest time between sessions and only worked while they are still enjoying it, ie not pushed to work when they are not in optimum health.” Question 41 explored whether participants felt that their dog(s) enjoyed the work that they do and the reasons behind this, so this will be considered in more detail under the theme of relationship. Two of the participants who included comments for question 21 were concerned about the cost of medical care for their dogs:

“dogs often suffer from medical conditions, depending on cost your dog may or may not get treatment, this is wrong, its the forces responsibility regardless of costs. Many cases the force retire dog and new owner of handler is expected to pay the cost.”

In addition to this, a second participant was also concerned about the cost of medical care for their dog, writing, “we should be able to get compensation for the vet bills due to dogs sustaining injuries on duty.” All of the participants discussed medical or veterinary care for

their service dogs. Participants E, F and G all provided similar responses to the first written comment. While their dogs are operational, the organisation is responsible for their care. When a dog is retired, they then become the responsibility of the new carer or the handler, including veterinary care, as reflected by the response of Participant F, “yes [inaudible] so [inaudible] responsibility of the organisation whilst they’re operational, as soon as they retire they’re either signed over to the handler or another [inaudible] so yeah that is yeah.” Participant E discussed this point, and in addition, the level of care that the dogs tended to receive during their time in service:

“I think it would be because when I took my dogs on and I brought my dogs they became my responsibility. There are a lot of, there are quite a few charities now where they are certainly excellent police charities where the dogs get funded, they source little pension schemes for the dogs, but I don’t think that is particularly widespread. I know in the armed forces when a dog is sold or retired, or a retired dog is sold to a new owner or retirement that dog then become their responsibility which they have to fund it. I mean the treatment in service is absolutely superb, the RAF dogs they will come under the care of a local veterinary officer and local veterinary surgeon so yeah they would come under their care and for Army dogs they come under the Royal Army Veterinary Corp so most of the squadrons have at least one or two vets on the paperwork all the time and they would look after them and certainly the dogs that were injured in Afghanistan I mean their care was second to none I mean one of the little dogs he was CASEVAC [casualty evacuation] back with the humans when he was injured. He came on the same casualty evacuation flight as the human soldiers, he was given exactly the same treatment, he was given his own bed, he was treated in exactly the same way, and fortunately he made a full recovery.”

From this participant’s response, it can be seen that there appears to be very little difference in how some of the dogs were treated and the treatment of their human counterparts. However, some of the participants, like the first written survey response, explained that there can be times when cost considerations come into treatment decisions. This was touched upon briefly by Participant E in the following passage:

“The Army used to use two phrases that I really kicked off about when I first went there, one was a dog that showed aggression towards the handlers, and they would call that where we had to sign on the paperwork treachery. Now I just said I’m not signing that... I said I ain’t signing it because a dog isn’t capable of treachery. I refused to sign that, so you can write something else on it. I’ve got to say it is very very rare a dog is just put to sleep [inaudible] and there is another term that the Army used which again I hated which was OWO, Old and Worn Out. I fucking hated that term I thought it was just, where is the dignity of the dogs... but most of them were the ones that had had some sort of ailment, the older they get treatment and to be honest when they come to the end of their service they couldn’t be rehomed because the vets bills were just going to be astronomical for the new owners of those dogs, but again pretty few and far between, and when we looked at this number of dogs I think it said I’ve just had a think about this now it said in the last 10 years 100 dogs had been put to sleep and I put a response to that bearing in mind we have 1000 dogs in service at any time yeah? 1000 dogs in service and the average working age of a dog is probably 8-10 years. Yeah, that works out yeah as you know a real small proportion of dogs... and

9 times out of 10, 99 out of a 100 it's because there are underlying veterinary issues where actually it's for the benefit of the dog that it is better to put it to sleep, you know the same as anybody would do with a pet dog... so it is nearly always, it's very very rarely for aggression and it's more than always because [inaudible] best interests of the dog to be put to sleep you know I would say in 90% of the cases."

From Participant E's response, it seems that there were very few cases where a dog would be put to sleep, and even though some of the dogs were euthanised due to prohibitive costs for the handler or the new owner, these instances were low. In relation to Participant G, any vets fees incurred come out of the services budget, providing that their dog can continue working after treatment:

"When we turned to Fido the service that we did really turned [inaudible] and we looked at insurance but as soon as you say it's a working dog they, the cost goes through the roof. So the agreement we've currently got is that they will pay any vets fees for the dog, but I've got them to agree basically that if the dog has an injury where the dog can no longer work then it's my decision what to do to pay the bills because eventually, we're gonna have to get another dog anyway. So it's my, you know it's say he did a cruciate but he could come back to work after he'd had it repaired then yes the service would pay for it, but if it's an injury that then can't come back to work but then we have to get another dog so therefore, which is what the Police do, the Police just put the dog down and get another dog, so it sounds a bit cruel but it's the best option.

For the search dog handlers, they all paid for their own pet insurance, and the majority said that they were responsible for all costs if their dog was injured while working. Participants A and D said that while on call by the police, the police owed them a duty of care. There were some inconsistencies regarding whether the dogs medical care would be covered under another insurance policy other than their own personal pet insurance if their dog was injured while training or working. Participant D expanded upon this during the interview and also said that insurance for their service dog was an important issue for them:

"P:...what I'm really focused on is making sure that there is insurance for Fido in Lowland rescue and [inaudible] obviously I've got my own insurance, so when it comes to the legal status and stuff I have no knowledge of that really at all.

JH: Okay. So, if Fido gets injured who picks up the cost of that? If you have your own personal insurance for her [inaudible]

P: So I've got dog insurance, [inaudible] Lowland Rescue insurance which covers Fido you know if were training and things like that so if she got injured, I could claim on the Lowland Rescue insurance [inaudible] if we're on a call out we're covered by the police so the police force so if the police force has called us out then we come under there umbrella they owe a duty of care to us..."

In contrast, Participant C on this issue explained:

“So we’re all volunteers and so not paid for any of it and we sort of provide everything ourselves, although operational stuff we need we get we provide through the charity we are a charity so we raise our own funds. The dogs are our own personal dogs and we’ve got responsibility, we buy them in the first place, we’ve got to look after them, pay for the vets fees, pay insurance and all the rest of that stuff for the dogs.”

Some of the search and rescue participants mentioned that their dogs are brand ambassadors and, as a result, may receive free dog food or collars for example, or the organisation sometimes provides certain items for the dogs such as light collars or cool down coats, but this seemed to depend on the charity.

Finally, one participant raised a valid concern at question 21 regarding how it could be ensured that it would be the service dog who benefited from the pension entitlement. This participant wrote, “if a dog was given a pension, it should only be given to the handler for the dog. My concern is sometimes our dogs go to selected members of public. How do you know that the funds would be used on the dog.” Participant G was also concerned that if money was provided, this may not be used for the benefit of the service dog, as can be seen in the following extract. They drew upon family law, suggesting a pension for a service dog be provided in a similar way to family allowance, or alternatively, food and medical costs, for example, be provided for instead of money:

“P: I think it would be nice there’s obviously [inaudible]

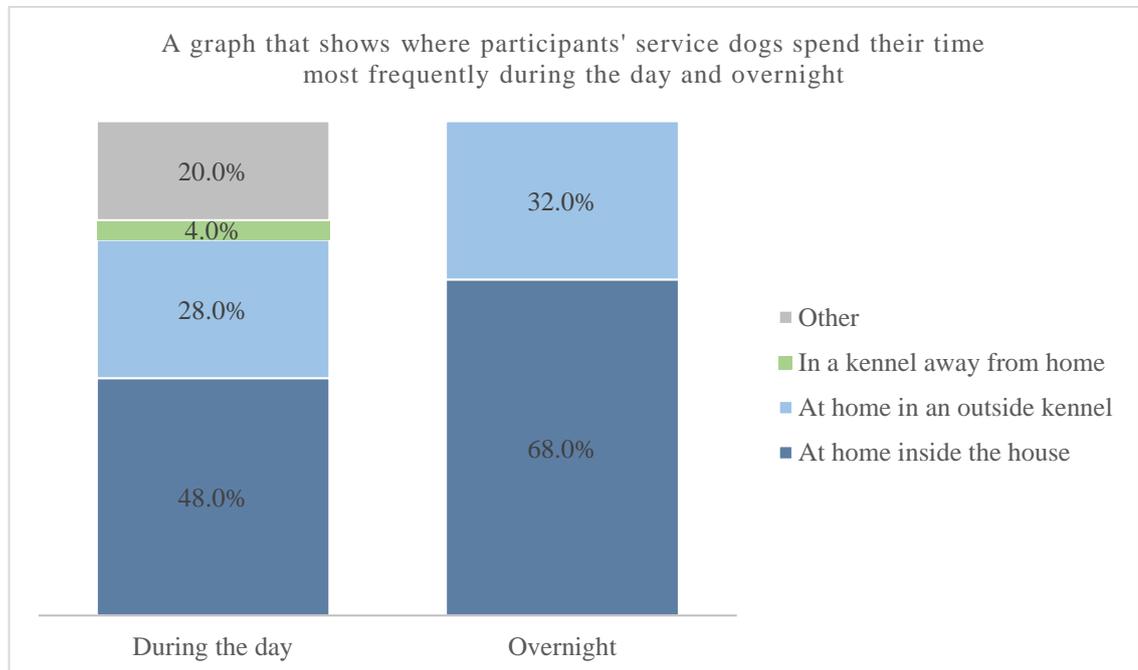
JH: Yeah there’s a few charities.

P: But I think it depends what you class as a pension, if he gets food for life and his medical care sorted, or do you class it as physical cash, and me personally I would rather not have the cash because I think you would have some people who would take the money and [inaudible] where as if the dog gets looked after a little bit like family allowance so if you’ve got children, then the government pay family allowance, the government pay family allowance to the mother and it was done that way on purpose because they said that if they paid it to the father the father wouldn’t necessarily give the mother the money and they might not get it. For me if you’re going to pay pensions to the dogs then I think that you should pay for food for that dog and the welfare of that dog rather than just giving cash to the handler if that makes sense.”

Participant F agreed during their interview that pensions for service dogs would be beneficial as service dogs and retired service dogs face issues being insured and quite often require medical care at some point in their lives. It seems that the majority of pension schemes at the moment are offered by charitable organisations but are not widely available.

6.6 Relationship

A theme identified through my interview data was reference to the handler’s relationship with their service dog(s), including their retired service or companion dogs as well. Questions 29 to 30 of my survey focused on exploring where the service dog spent most of their time during the day and at night, as shown by graph 10 below.



Graph 14: A graph showing where participants’ service dogs spend most of their time (Question 29, 30)

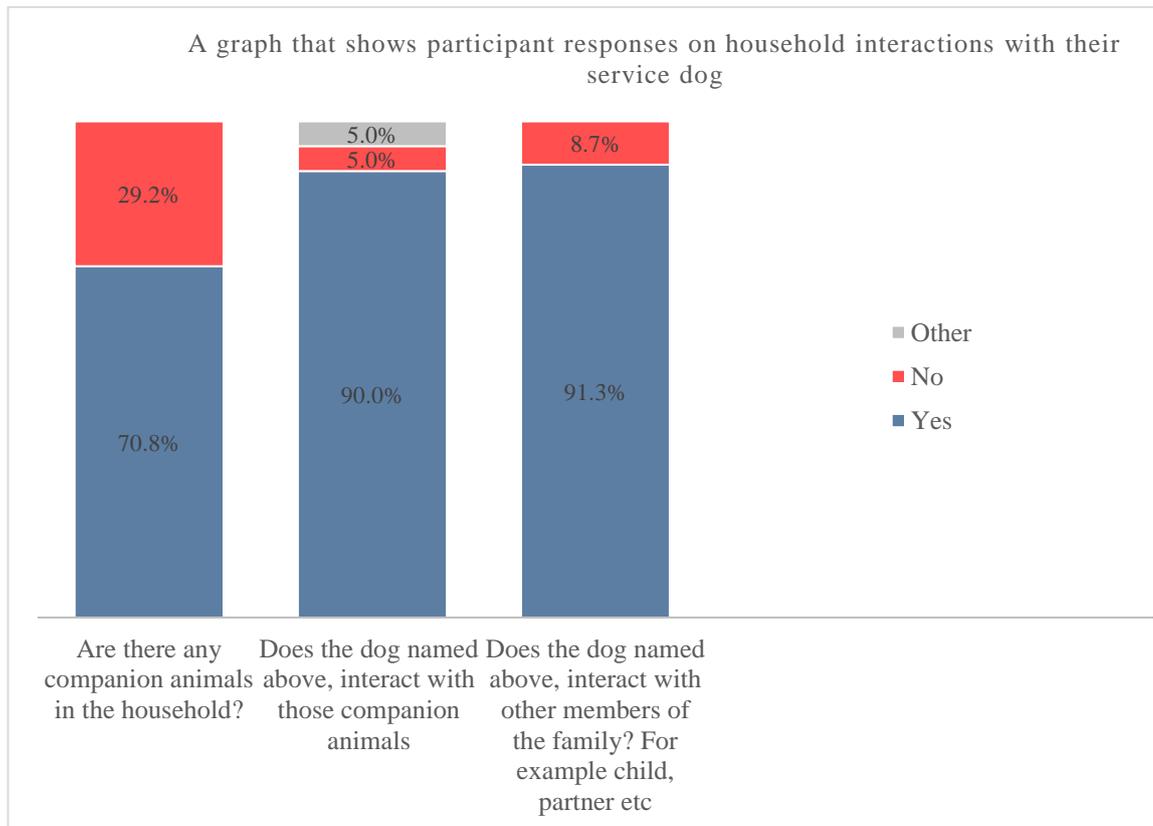
During the day, it seems many of the participants’ service dogs spend their time inside the home (48.0%), followed by at home but within an outside kennel (28.0%). Of the 20.0% who selected the option “other”, it seems these service dogs spend their time during the day going wherever it is the handler goes; this was the most common response from the qualitative data. One participant wrote on the survey response that their dog spent most of their time, “in the police car/training/working” and another said, “wherever I am. She comes everywhere I go such as work etc.” Overnight, a significant percentage was for service dogs to remain at home inside the house (68.0%), followed by at home within an outside kennel (32.0%). Overall, the majority of responses from my interviews showed that participants spend a significant amount of time with their dogs. Participant D said:

“...you know if you add that altogether we’re around each other 24/7 if I go to work and if I don’t take Fido with me for one reason or another, it’s like there’s something missing like I’ve lost my car keys or I’m not wearing my wedding ring, that’s just what we have.”

Many of the participants talked about how their service dog is the first thing they think of or care for in the morning and the last thing at night, and the relationship is pretty much 24/7, with few exceptions. Participant G, when asked if they could describe what their service dog meant to them in a few words, said:

“Well, there’s only one, everything. He’s my life at the end of the day the first thing I do when I wake up in the morning is feed him, the last thing I do at night is put him to bed. It’s 24/7 innit in that respect, it is like having kids except you don’t send him to school instead when you go to work you take him with you.”

Questions 31 to 34 focused on exploring if other members of the household interact with the service dog or not. The responses are illustrated by graph 15 below.



Graph 15: A graph showing participant responses on household interaction with their service dog (Question 31, 33, 34)

70.8% of participants’ households were also shared with a companion animal, with another dog being the most common companion at 94.7%. 90% of participants indicated that their service dog does interact with the companion animals also found within the household, with 5% not interacting with the other companion animals within the household. It was also found that 91.3% of service dogs interact with other members of the family within the household, such as partners, children, etc, with 8.7% not interacting with fellow members of the household.

My interview responses reflect the survey results in that the majority of participants' service dogs interacted with other members of the household, including other animal and human family members. Participant G explained that because their service dogs work is purely based on searching, there were no concerns regarding aggression, so he lives with the family:

“He spends most of his time upside down on the settee watching telly when he's off duty but there's no risk to the family. He's not gonna bite anybody so if the postman knocks on the door he aint gonna rip his arm off or anything like that so off duty he is totally part of the family.”

Not all of the participants shared their home with another dog; however, some participants did talk about whether they felt there was any difference in their relationships with those dogs. Participant D's service dog also lived in the family home with another companion dog, Dottie. This is what Participant D first told me when telling me about Dottie, “so we got Dottie she's from a working bloodline but she's a family dog and she's pretty much brought the girls up and has been the golden thread throughout the whole of our lives.” Later in this interview, the participant talked about the differences that they felt in their relationship between the two dogs:

“Yes, there's a totally different relationship with Dottie. Dottie has really been a family member since me and my missus started getting really serious. Dottie gives cuddles she's a really sweet kind gentle dog she's never bit or snarled or snapped at anyone. Fido is different, Fido doesn't do cuddles, when you come in it's like being hit by an elephant running towards me she's a bit of a klutz around the house but the relationship that I have with Fido is totally different. Fido is like my wingman as opposed to Dottie who is like my lovely family dog. I don't love either any less or more, but Fido is my best friend, wingman, [inaudible] whereas Dottie just a cuddly [inaudible] so we definitely have a different relationship and Dottie is more like the family dog that you love, and Fido is like my wingman.”

Participant F had four dogs in total, two that were retired and two that were still in service, including a general-purpose police dog and a search dog:

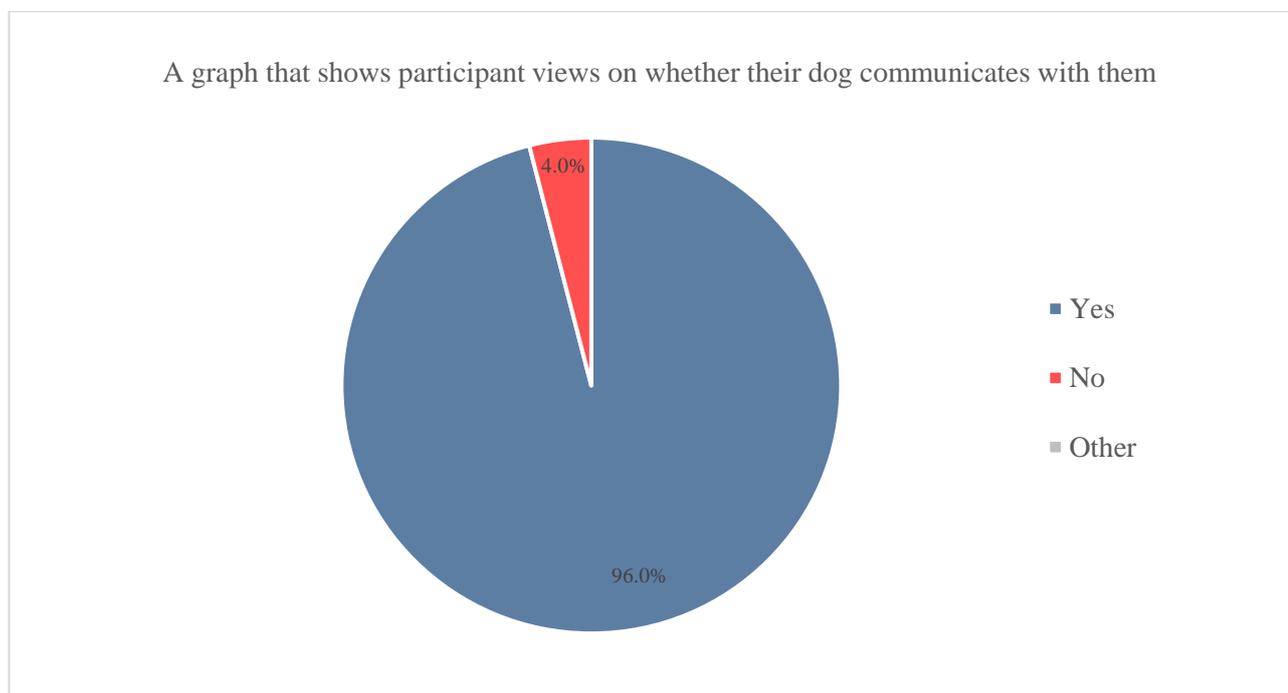
“For me personally the bond with the general-purpose dogs always seems greater than with the search dog. I put that down to the fact that of things we expect the general-purpose dogs to do for us. [inaudible] so for me personally the bond is stronger with the general-purpose dog than it is with the search dogs, but that's how I find it, they obviously come home with us and other handlers, so I spend more time with the dogs than I do my own family...”

In contrast, Participant E felt that there was no difference in their relationship with their different dogs:

“Oh, I don't know, I'm not sure really. I would like to say yes but I don't think there is, I mean I bond with all my dogs I mean like I said we've got two of the pups that we kept and one that we kept we kept because it had a defective eye when it was a puppy and I didn't want to sell it until I'd had it fully vet checked to check that there was no loss of vision and then when we got to five months old I just said “well she's

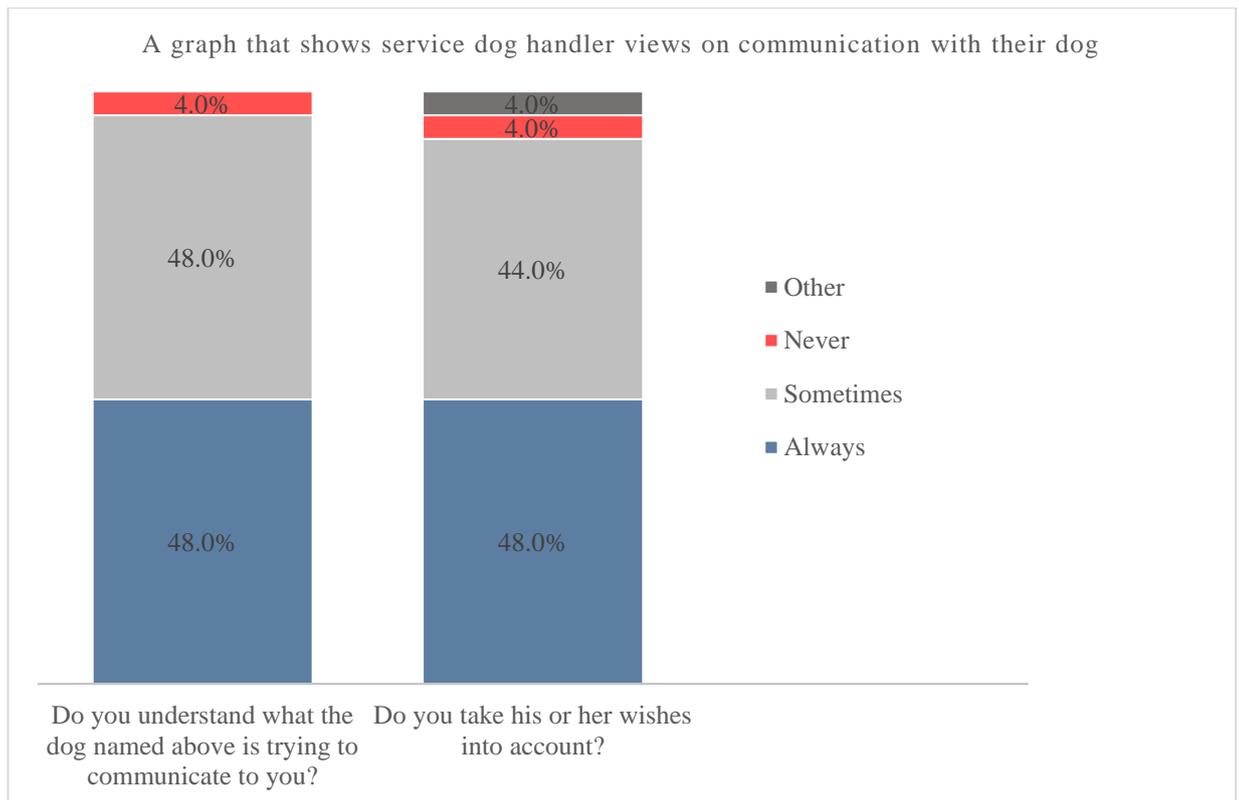
not getting sold anyway she's staying." So, and I when I bought my older dog now Fido, he was one of six that I bought for the Armed Forces... where we specifically brought in, specifically bred and tested puppies at the age of eight weeks to train up to be military dogs. Fido was one of them because my Colonel wouldn't give me permission to buy a full litter, he told me I could have up to six, so I ended up with five for the armed forces and one for myself, and I kept Fido. And yeah, nah I think you just bond with the dogs I do anyway, so I don't think there is a massive great difference I think if you care about dogs, you know yeah, I think if you care about dogs you care about dogs to be honest."

Questions 37 to 41 explored the participants' communication with their service dog and whether the participant felt their service dog enjoyed the work that they undertake. Graph 16 below shows the responses of the participants when asked if their service dog communicates with them.



Graph 16: A graph showing participant views on communication with their service dog (Question 37)

24 of the 25 participants who answered this question said that their service dog does communicate with them. There was one participant who answered no, and none of the participants answered other. Following on from this question, questions 38 and 39 explored whether participants always, sometimes or never understand what their service dog is trying to communicate to the participant and whether or not the participants take the wishes of their service dog into account. Graph 17 illustrates the results from these two questions.



Graph 17: A graph showing participant communication with their service dog (Question 38, 39)

Just under half of the participants (48.0%) said that they always understand what their service dog is trying to communicate to them, and the same percentage (48.0%) said that they sometimes understand what their service dog is trying to communicate to them, with only 4% stating that they never understand. Similarly, 48.0% of participants indicated that they always take their service dog’s wishes into account, with slightly less (44%) indicating that they sometimes take their service dog’s wishes into account and 4% answering that they never take their service dog’s wishes into account.

Question 40 of the survey allowed participants to include a free text answer as to how they take their service dog’s wishes into account. Twenty participants chose to provide an answer to this question. Many participants wrote about meeting their dog’s needs referring to activities such as feeding, water, exercise, rest, reward, and play. Others wrote about watching their service dog’s body language and letting their dog choose and not forcing them to do something that they do not want to do, and also facilitating their preferences where possible. Question 41 asked participants if their service dog enjoyed the work that they do with them and if they could provide reasoning for their answer. 24 of the 25 participants chose to respond to this question and every single participant answered in the affirmative. Each response to this question used positive and enthusiastic language. For example, one participant wrote, “oh yes, I only have to touch her harness and she starts dancing around in anticipation. She tries to get

me to train by picking up her equipment.” This was a common theme in the written responses. Another participant wrote, “absolutely! No doubt about it. She LOVES searching. You can see this when she works, and in the build up to working. The expectation is huge.” There was reference by participants to the fact that working for their dog(s) is a game which they enjoy playing and gaining the reward from. Some wrote about how their dogs recognise their uniform and equipment, showing excitement. Others said that their dogs show different emotions such as jealousy if they see another dog working or they will sulk if they are not taken to work too. These themes continued into the interviews as well. Participant A, in the next passage, discussed their relationship with their search dog and how they communicate while working. This participant offered a detailed insight into their working relationship with their dog and the intricacies involved:

“People say why do you do it? And funny thing is I don’t do it to save missing people, that’s kind of like well if we find them, we find them, that’s great, right – I do it because I love watching Fido work and I think that we’ve got to a point now where I can, you know it sounds really corny when people say this, but I think that when you can understand what the dog is thinking, and the dog can understand what I am thinking where I don’t even need to talk to her now, right, it’s literally my body language, where I position myself, where I look, you know, so if I can see something I’d like her to search and I can literally just kind of head towards it, give it a quick glance or whatever, and she’ll be like “ah got that, I’ll get that dad, don’t worry”. She’ll be in there do that search and while she’s searching that area over there I can then kind of say okay what’s next? Where do you want to go? You know and that’s obviously I’m directing the search, but obviously a lot of the time she’s autonomous so she’s off doing her own thing. I think it does take a long time to get there and one thing that new handlers really struggle with because they kind of see that and they don’t realise how long it takes, and how hard it is, the dogs learn to search quite quickly and we always joke that it’s generally if anyone fails an assessment it’s generally the human’s fault, it’s not the dog’s fault right, you did something wrong, you made a bad decision, you made a bad choice, that’s the reason why you failed it, and it takes, it might take 6 months to train a dog how to search but it might take 18 months to teach the human how to work as a team and that’s the real thing. You need to really understand your dog, you need to watch how they hold their ears, how they wag their tail, you need to understand their behaviours so if they’re on scent their behaviours are typically quite different, so when they’re searching, they’ve usually got a pattern but when they pick up on scent something will change and every dog’s different and you need to kind of be aware from your dog’s perspective what they’re doing. So when I get new handlers follow us round sometimes you know we can be out searching and I’ll go be ah okay she’s got something now, and they’re like what? How can you tell? How can you tell that she’s got something? You know and it’s like and when they ask that question you kinda go, yeah it’s weird, cause you didn’t really know it and then just because you’re kind of tuned in, so there is a massively you know, bond between the working dog handler and the dog and obviously that sounds obvious but I don’t think people fully appreciate it unless you actually are one or have been in that position.”

The majority of participants felt that their dogs enjoyed the work that they do with them. For example, Participant C talked about their dog's excitement for both work and training and why it is important that their dog enjoys their role:

“Oh, definitely yeah, the sort of excitement he gets as soon as the harness comes out you know he knows when we're going either training or searching and it is excitement. He gets a wiggly bum, and you know if he didn't want to do it, he wouldn't do it, and that's you know that's for us slightly different to the police dogs where they tend to retire based on age. You know we don't do that, we retire when we think actually the dog is not delivering anymore, or it's got an injury or something like that, and what we see with the dogs when they get to that stage in their career, we see them just not having that interest in searching, not having that interest in and that excitement in finding. So, you know and that for us is a key point because we then can't trust the dog to deliver on an operational shout, so yeah very much I think he loves it. It's probably you know for him it's everything it really, it's what it's all about.”

Many of the participants felt that if their dog did not want to work then they would not, and this was also reflected in the following extract from Participant G:

“Yeah I have a bit of a problem with this particular dog because he loves food and he will, say he goes to search a house and the kitchen has been on fire, the fridge has burst open so that all the chicken in the freezer or whatever has now been cooked and it's all lying on the floor he'll pile in and eat all the food so we do have a bit of a battle sometimes to actually try and sort of get him away from the food but he does like what he does yeah, he enjoys it. At the end of the day the search dog regime is reward based so it's the dog would not do it if it didn't want to because it's the reward for it to work and the reward is just a tennis ball, so his work is all done for a tennis ball at the end of the day...”

Of the participants that talked about training it was all reward based, with training and working forming part of a game for the dog which the majority of participants said their dogs thoroughly enjoyed taking part in. The only participant who said that their dog preferred another activity more was Participant B who said that their dog preferred agility to searching:

“Well she prefers agility, she thinks that's working, she takes that seriously. I mean she does searching, she's very biddable and she wants to please me she really it does, so whatever I say she'll work it out, oh yeah I know what you want but you know agility is more fun because its running around doing obstacles but yeah it would have a massive impact if they took all service dogs out of the equation, we would have a problem.”

Question 35 asked participants to describe their relationship with the dog they had named in that section, and question 36 asked participants to describe what the dog named in that section meant to the participant. 22 participants decided to answer these two questions. The responses to question 35 referred to the closeness of the bond and relationship between dog and handler, with many referring to them as family, partners, and best friends. The responses to question

36 echoed those of question 35, with participants emphasising the strength and closeness of their bond and relationship, with many referring to their dog as their family, best friend, partner, or colleague. Some participants referred to their dog as their protector, another simply wrote, “everything.” The response to these questions were also reflected in my interviews; the majority of the handlers, through their interviews, talked about the close bond that they have with their service dog. Participant D said:

“So, Fido is definitely part of me now, part of who I am, mainly because we go more places together and we’ve been through so much already and she’s only 3 and a half. So that whole journey that we’ve been on from us getting qualified, to the call outs that we’ve been on, now you know what I know that if it was really really late at night and the weather was awful and there was someone in that woods and I asked Fido to go and find them she would run through a brick wall to go and find that person. So again the bond that we’ve got because of my illness, training, you know we’ve brought each other through it. So what she means to me is almost beyond words, because that whole picture about how quick she is and how much better I think she is than other search dogs, [inaudible] so if I was to ever lose Fido I would be absolutely distraught, not only because of the effort we’ve gone through, the bond that we’ve got, not only because of what she can do to try and find missing people and give solace to the families by bringing back their loved ones if their alive. I could sit here for half an hour and say how much she means to me and why she means that much, she’s an incredibly incredibly important dog, and also if I was ever to lose her then that’s part of me gone as well.”

Participant D was diagnosed with a chronic illness a few days before they brought Fido home as a puppy. As a result of their illness, Participant D was signed off work for a number of months, spending a significant amount of time and training with Fido. This participant said that “the route to training Fido was parallel to my recovery”; the journey that the participant and Fido went on together has resulted in a relationship that they describe as “so incredibly special.” The majority of the participants also jokingly made reference to the fact that they perhaps love their dogs more than their human families. Participant C said, “he’s my life. Don’t tell my wife I said that.”, along with Participant A stating, “so you know my family joke that I love the dog more than I do them and I think in some size that’s probably true. I don’t think they’re listening...” Participant D recounted a time when someone else spotted just how much they love their dog:

“I was in a party in Australia and there was loads of people there that we didn’t know, so you move around and talk to people in the room and this one lady started talking to me about kids and family and she just mentioned her dogs, and I said oh I have dogs, and I started to tell her all about Fido and she was like “wow you really love that dog because we weren’t that interested in talking about your kids!” [inaudible]...”

There were two outliers in terms of the common themes identified regarding the service dog – handler relationship in the survey and interviews. Participant E, when talking about the army and the relationship between handlers and dogs, said:

“with the Army, it’s slightly different with the Army, they’ll have a pool of dogs they’ll have like a squadron or whatever and you know one handler there might have 6 or 7 dogs so who might operate them so he’s not going to be as close to those dogs back in the UK as he is when he deploys but when you deploy, you deploy one handler and one dog or two dogs. I mean in the UK and Northern Ireland we operated one handler and two dogs so you could rotate your dogs through, and you know when I mean I always say to people when I train their pet dogs you know and they get all sort of stressed out when they’ve got a test coming up and the thing that I always say to them is “you’re not going to step on a landmine love...” you know what I mean, the worst thing that’s going to happen is your dog makes a mistake you’re going to have to do the retest, you’re not going to lose a leg you know, when you put your trust in a dog like that then I really think that does make a close bond, I think it’s the same with the lads as well I worked with lads that I served with for years but you’re not as close to them as the lads that you actually deploy with and that you’ve actually sat next to thinking to yourself “shit this might be the last person I see” so that does improve the bond...”

This extract shows that circumstances can influence the relationship that a handler may experience with their dog. This was also reflected somewhat in Participant F’s interview. I contacted this participant on the day of the interview by telephone. When the participant answered, they said that they had been called out to a firearms incident and that they would call me back. When the participant did call me back, they had just deployed their dog into a house where there was potentially a person with a suspected firearm. The recording for this interview was not very good, but the interview itself was memorable. I picked up on the contrast between Participant F’s responses and the others that I had already conducted and probed a little bit during the interview:

“JH: You seem to, you seem to try to remain quite detached and have a very professional working relationship with your dog’s almost like a fellow colleague. Is that something that you try to do on purpose? Do you worry that they might get injured, and you need to remain detached?”

To this, the participant explained that they had been heartbroken over their first dog that failed training, and that there was a little bit of fear regarding being hurt again, similar to the saying once bitten twice shy. Following on from this, the participant explained:

“I am also acutely aware that he could do his cruciate ligament and that would be that, and also, I am acutely aware as with that like that last firearms jobs I’ve just been to, that I just sent him into that house with who knows what, to search that house because their life is worth less than one of my colleagues or any other humans. It’s a really cold harsh reality but the truth is if it’s a human life or the dogs, then it’s going to be the dog every time and that’s the cold hard facts of it. So I think [inaudible] fall madly in love with your dogs...”

Participant F was matter of fact about the realities of their relationship with their service dogs; their dogs, at the end of the day, are there to do a job and by the nature of their work both service dog and handler face certain risks. Part of the police dog handler's role is to make decisions in a high-pressure environment, factoring in consideration for their dog, themselves, and others. The wording that Participant F chose to use was interesting "...because their life is worth less than one of my colleagues or any other humans." This view is consistent with previous comments made by this participant around the legal protection of service dogs needing to go further but also needing to be distinguishable from that received by a human. The view that this participant expressed here is not solely unique to service dogs, it connects back to the historical foundations on which our relationships with animals and their legal protection were established, as explored in chapter three. The final theme to be presented in this chapter is the public benefit that service dogs provide to society.

6.7 Public benefit

A common theme that was identified from my interviews, but did not form part of my survey, was the benefit that the public receive from the work that service dogs undertake and the importance of their role.

Participant D highlighted the number of call-outs that they have attended in the last year and their shock at the number of people who require their dog's skills and abilities, "...we get called out a lot, and last year had about 50 call outs. I was gob smacked at how many times we were called out and it can be very sporadic we can have 3 call outs in a week [inaudible]..." Participant A, in a similar vein, explained how their search dog can be called out to help search for anyone within the UK and highlighted how few dogs are trained to be able to carry out this role:

"And so yeah, we've been a level 3 search dog now for 2 years this June, so our ticket runs out in June and we have to requalify. Pretty much as soon as Fido can get back to work, and in that time, we've attended probably 80 call outs, and those call outs have been Sussex, Surrey, Kent, Dorset, Hampshire, Buckinghamshire, Berkshire, all across the UK. We are a national resource even though we're based in [location not included] and we're called [name not included] within Lowland rescue there's only 43 qualified search dogs, and out of that 43 there's only 13 search dogs that are level 3 search dogs. So, it is a very limited resource, so if there are kind of high you know important call outs to go to, we could go anywhere like Wales or Scotland or just really depends where the work is really, it sounds weird saying that but that's what I mean."

Between these two participants, only in the last year and two years respectively, they have attended approximately 130 callouts to high-risk vulnerable people. In relation to the other

participants, Participant G indicated that there have been approximately 15 dogs in the UK constantly working for the fire service since 1996:

“...not every fire service has got a fire dog there’s only currently working I think there’s 15 in the country, so it’s quite a scant resource...”

All participants felt that there was no doubt that without their dog(s) and service dogs in general, the public would be negatively impacted as a result. Participant E, who previously worked within the British Armed Forces, spoke about how the dogs were there to protect human life, which included the military personnel and the general public where they were operating. This Participant said, “well to put it quite bluntly they probably saved tens of thousands of lives...” This sentiment was shared by many of the handlers. Participant F, a police dog handler, provided examples of how their dogs are capable of tracking and searching, holding back large crowds of people that would take significantly more officers to do because of their intimidation factor, and offer a less lethal option when supporting the firearms team. For example, Participant F said, “Yeah I mean general police dogs bring to the table what humans can’t...” The participant explained that without their dogs it is likely that there would be an increase in deaths. One example they discussed was that if you remove the ability to use police attack dogs then there would be a potential rise in people being shot by the police because you are removing an alternative non-lethal option. Participant B, one of the search and rescue dog handlers, also felt that the removal of service dogs would negatively impact on humans; this is shown in the extract below:

“P: On, the impact on other humans that she’s helping?”

JH: Yeah.

P: Well it would have a massive impact because the dogs have got more chance in finding than the foot teams, there’s guys and girls that go out in a foot team they can cover the area quickly and find them quickly so it would have a massive impact and like the dogs that can detect the service dogs that know someone is going to have a fit or a diabetic coma, they can warn them or warn someone that would have an incredible bad impact on humans, incredibly bad, because dogs are wonderful.”

Participant C, also a search and rescue dog handler, outlined why they felt that their dog’s role is so important:

“Well he’s absolutely vital, you know he’s the nose he’s the one that finds the people. So far, we’ve been operational for just about five years now he’s found three people, he’s saved lives. Two of those would definitely have died, yeah before they would have got found if it hadn’t had been for him, so you know he’s an absolutely vital part of the whole sort of search mission that we do.”

Many of the participants discussed the superior olfactory capabilities of their dogs, and in the search and rescue context, this ability, combined with the dog's speed, means that they are a vital resource when searching for missing people. The four search and rescue dog handlers that I interviewed all searched for vulnerable members of the public such as those under 18 or over 65, including high risk missing people; these are people who may suffer from mental health issues. All of the handlers could be called out by any of the emergency services, but it was predominantly the police who would call them out for assistance. Participant A explained that "...a really good way of summing it up is that Mountain Rescue look for people that are lost, and we look for people that are missing and there is a distinction between the two." Participant D explained to me how the speed that a search takes place can be vital when looking for someone:

"Okay so some of the ways people try to commit suicide are by taking an overdose and putting their neck in a noose so as they slowly fall to sleep that's then how they take their own life. So with Fido and the speed that she now brings, speed being key [inaudible] before that overdose takes place there's a lot more chance of saving their life, so speed is key, we've got Fido and whenever there's a callout I try to get there as quickly as I can with Fido..."

There were many benefits discussed by participants regarding the use of service dogs but the speed that the dogs are capable of was a repetitive theme throughout. Participant D talked about how they now shape the way that they search as a team around their service dog:

"So, we qualified in, pretty much a year ago, and the way that we as a team and an organisation we've now changed the way that we operate, and we search. Instead of us all arriving without a dog and we all get in our teams, find out who's missing and come up with a search plan and then just going out into our areas and looking we now mould the way we operate around how Fido works... and so we have a team of three and Fido counts as a third person so now as our team leader which is another mandatory [inaudible] so I'm the team leader and Fido's the second person..."

Participant C discussed whether a search and rescue dog could be replaced by technology such as drones or helicopters, or by people:

"Yeah, it the technology I think no, people yes, but it just takes a long long long long time, and lots and lots of people. For an area that the dog will cover in about an hour, a foot team you're probably talking well five times as many people probably talking about eight to ten hours for them to do the same sort of job, and also not to the same level of assurance that they would find as well. Obviously because a dog's nose picks up from considerable distance, then you know a person has to be within visual range which at night with somebody buried under something or other that's just not going to happen."

This view was similar to that of Participant D who felt that in some circumstances you would be able to use technology or a human but in other circumstances you could not. However, Participants A and B, the other search and rescue handlers interviewed, felt that neither technology nor humans could replicate or replace their service dog's abilities. Participant A provided a detailed explanation of their reasons behind this, including an example where they won a Queens Award for Voluntary Service in 2015 and a Police Commendation as a team for one of their searches. The extract below provides the account of this search and why the participant feels search and rescue dogs are irreplaceable:

“...it was at 4:30 in the morning it was April... it was cold, it was rainy, it was not a particularly nice that day, morning even and a 72-year-old ex para had gone missing from his care home in [location removed] and it literally the last time they saw him was at 10:30 at night and then they suddenly realised at stupid o'clock in the morning that he wasn't in his room. When we got there the police drone was up, the foot team had been out searching the grounds of the care home and they went out extending out a little bit wider. The police drone came down after about an hour and it had gone tech, it just basically didn't work, so the pilot of the drone came down in the police [inaudible] chucked it in the back of the car and literally drove off because he was so annoyed. The police asked us to search an area at the bottom of the valley the care home was at the top of a hill. They said could you search the bottom of the valley, we said yeah that's fine what we'll do before we head down to the bottom of the valley, we'll just stand in the garden at the back of the care home and check our maps and figure a way down to where we need to go. What we tend to do with the dogs is because they're such a hugely valuable resource you want to get them out as soon as you can so we will literally let them off lead and allow them to start searching pretty much straight away. So, we were there looking at the maps in the back garden and just pointing out the maps in pitch black and Buddy the dog that was out searching at the time, which was our chairman's dog at the time disappeared, we were like okay that's normal he's just searching, and we carried on looking at the maps. Then about a minute later Buddy ran back and alerted on his handler which is [name not included] now an alert basically means dad I think you should come and follow me because I've found someone... so at this point [name not included] and I looked at each other our hearts went into our mouths and the next thing that we do he said show me... so [name not included] said show me to Buddy and Buddy zipped back through the fence down and disappeared, so we followed Buddy, and we went down this embankment quite muddy, and we found this guy and this guy was in a brambles bush. He had all his clothes almost ripped off, so he had a pair of slippers and half a shirt, it was fairly steep, and he didn't know he was lost he was an Alzheimer's patient so when we got to him and said [name not included] you know [name not included] how are you doing he said ah I'm really good thanks what are you doing here? He had no idea where he was, he had no comprehension of time, so at that point there to cut a long story short we had to extract him back up the hill pass him on to the paramedics, and the paramedics turned around and said look an hour and a half, two hours more he would have died from exposure. That's a really good example of where the foot team had been round, the police had been round with their new tech, and if we hadn't of had a dog resource on that morning the guy would have died, and we've got some really good video on our site of the wife of that chap kind of saying you know to the BBC that was brilliant, and if it wasn't for the dogs who knows...”

The overall majority of participants felt that their service dog could not be replaced or replicated by either technology or by humans. Participant G felt that service dogs and technology are capable of working together:

“The problem you’ve got is that for me the two complement each other, so instead of being in competition they should be working together, and there’s certain jobs that the dog does that the machine can’t... where I think the complimentary bit is if it was the dog locating where it is I don’t see any issue with sticking the machine on it and saying it is what it is, do you know what I mean?”

This participant went on to explain that a dog is capable of carrying out what is known as discrimination testing:

“What the dog’s trained to do is as part of his licensing test, is he has to do what’s called a discrimination test where they’ll burn say 5 polyester shirts and only one of them will have a tiny spot of petrol on it when it’s burnt and he has to identify the one that’s got petrol on it, so he’s trained to discriminate between them, if that makes sense? So, whereas the machine will say yeah there’s volatiles on all of these shirts, the dog will say there’s only petrol on that one and that’s there the two, open area and discrimination are the two areas where the dog really, really, comes into his own over the machine, but everything else the machines can do what the dog does best, but they just take a lot longer to do it.”

Confirmation of the dog’s indication is an important aspect for Participant G, because if their sample comes back negative then it cannot be used as evidence in court. The participant told me that they see testing the sample to provide confirmation of the dog’s indication as a form safeguard:

“I think for a drugs dog it’s a lot easier because the dog handler will get an indication off the dog say on a drawer, they’ll open the drawer and find a packet of drugs in there, so he knows the dog’s right. The problem I’ve got is I’m looking at a pile of ash on the floor, the dog indicates on that pile of ash it takes 3 weeks for a sample to come back, so I can’t tell you whether he’s right or wrong until we get that sample.”

Participant F also touched upon the way that their dogs can help to provide evidence in court through tracking:

“...you imagine there’s the scene of a burglary and someone goes off and they’re hiding in a ditch somewhere the helicopter can pick up that heat source if someone’s hiding in a ditch but what they won’t be able to do is say how they got there so when we find that person in the ditch and they say to us well I was just [inaudible]. What I can do with the dog is leave the scene [inaudible] ditch [inaudible] sign a statement to say that [inaudible] I have to say that the same guy that left that house is now in the ditch so I can offer evidence that nobody else can...”

It was clear through the participants’ interviews the importance of their dogs’ roles and how the public receive a significant benefit from the contribution and abilities of these service dogs.

If these dogs were to be removed from their roles, then it appears that there would be a significant skills gap which would adversely impact upon humans, and struggle to be effectively replicated by either humans or technology.

6.8 Conclusion

In this chapter, I have explored the main findings identified from both the quantitative and qualitative aspects of my research, which include:

- That the current legal status of property used to define a service dog appears to be out of step with the participants' perspectives.
- The participants viewed their service dog not only as a family member, but equally as a friend, and as a co-worker/colleague.
- The participants overall felt that there was a need for increased legal protection to be provided to service dogs.
- The majority of participants felt that service dogs should be viewed and protected in a similar, if not the same way as the handler, regardless of role or organisation.
- The findings suggest that participants may support legal standing, and a number of additional labour focused entitlements for service dogs.
- Overall, the participants felt that service dogs offer a contribution to society through their work that could not be sufficiently replicated or replaced by technology or humans.
- Were service dogs no longer allowed to contribute to society, the results showed that participants felt that this would have an adverse impact on the public and others, leaving a skills gap.

I have shown how the qualitative findings help to build upon the quantitative responses to provide a deeper and a more complete understanding of the participants' views. Together, the combined findings of this chapter offer an insight into how these participants view their service dogs and their current legal protection, which has previously been an underexplored area of research. The following chapter will analyse the findings that have been identified in this chapter.

Chapter Seven: Discussion

7.1 Introduction

Animals whom we have made our slaves we do not like to consider our equals.⁵¹⁴

This chapter provides a discussion of the most notable findings identified in chapter six, with the aim of addressing the research questions outlined below. In chapter six, it was found that the current legal status of property used to define a service dog appears to be out of step with the participants' perspectives, in that they viewed their service dog not only as a family member, but equally as a friend, and as a co-worker. It was found that the participants felt that service dogs are offering a contribution to society through their work that could not be sufficiently replicated or replaced by technology or humans. If service dogs were no longer able to contribute to society, the results showed that the participants felt that this would have an adverse impact on the public and others, leaving a skills gap in the workforce. In addition, the participants overall felt that there was a need for increased legal protection to be provided to service dogs. The majority of the participants felt that service dogs should be viewed and protected in a similar way to the handler, regardless of the service dog's role or organisation, with the findings suggesting that participants may support legal standing, and a number of additional labour focused entitlements for service dogs. The overall results suggest that aspects of citizenship for service dogs may hold the potential to improve upon their current status, and I argue that a citizenship-based framework would potentially provide an avenue for the increased protection and recognition that the participants felt is needed for their service dogs.

As a reminder, the research questions which this chapter will focus on addressing are as follows:

- What is the relationship between service dogs and their handlers?
- Is the legal protection that service dogs currently receive when performing the duties required by their role adequate?
- Can service dogs meet the criteria of citizenship, and what are the implications of this?
- If service dogs were treated as co-citizens, what additional rights would they be entitled to considering the public benefit that service dogs provide?
- Does citizenship offer a potential improvement to the current status of service dogs?

⁵¹⁴ Darwin C. R. Notebook B [Transmutation of Species (1837-1838)] 231 CUL-DAR121.-
Transcribed by Kees Rookmaaker. < <http://darwin-online.org.uk/> > accessed 6th October 2020

I will use all four themes which were identified and described in chapter six throughout this chapter to address the research questions above. As a reminder, these themes are:

- The legal status of service dogs.
- Legal protection for service dogs.
- The service dog – handler relationship.
- The public benefit that service dogs contribute towards through their work.

Overall, the themes overlap with one another, addressing multiple research questions. Below is a table to help illustrate which of the themes primarily address which of the research questions. The fact that the themes overlap so heavily with my research questions highlights the complexity and interconnectedness of these issues. This chapter aims to address the research questions outlined above and it will highlight as appropriate where my research has helped to contribute to knowledge in this area. The last two themes regarding the service dog – handler relationship and the public benefit that service dogs contribute towards through their work will be taken together. This is because the discussion regarding these two themes relates in a similar way and therefore, it made sense structurally to consider these two themes simultaneously.

Research Question	Theme	Main Finding
What is the relationship between service dogs and their handlers?	<ol style="list-style-type: none"> 1. The legal status of service dogs. 2. Legal protection for service dogs. 3. The service dog – handler relationship and the public benefit that service dogs contribute towards through their work. 	Service dogs and their handlers appear to have a close relationship based on the findings of my research. The participants viewed their service dogs as a family member, friend, and co-worker. This was reflected by the overall view of the participants that service dogs should be legally recognised and protected in a similar way as the handler themselves.
Is the legal protection that service dogs currently receive when performing the duties required by their role adequate?	<ol style="list-style-type: none"> 1. The legal status of service dogs. 2. Legal protection for service dogs. 	There was some uncertainty by participants concerning understanding how well their service dog is protected under the law should something happen to them while carrying out their role. The application of the Animal Welfare (Service Animals) Act 2019 in particular seemed to be a source of uncertainty for some of the participants. Overall, the participants seemed to feel that the current protection available for service dogs, and other animals as well,

		should be greater. In addition, the participants who took part in the survey may potentially support legal standing for service dogs, and at least four of the entitlements suggested by my research.
Can service dogs meet the criteria of citizenship, and what are the implications of this?	<ol style="list-style-type: none"> 1. The legal status of service dogs. 2. Legal protection for service dogs. 3. The service dog – handler relationship and the public benefit that service dogs contribute towards through their work. 	In this thesis, I have not disputed Donaldson and Kymlicka’s arguments regarding domesticated animals and therefore, dogs having the capacity to meet the criteria necessary become our co-citizens. Based on the findings of this research, aspects of the citizenship framework appear to resonate with the views of the participants.
If service dogs were treated as co-citizens, what additional rights would they be entitled to considering the public benefit that service dogs provide?	<ol style="list-style-type: none"> 1. The legal status of service dogs. 2. Legal protection for service dogs. 3. The service dog – handler relationship and the public benefit that service dogs contribute towards through their work. 	If service dogs were treated as our co-citizens there are a number of additional rights that they could be entitled to, such as medical care, a pension and increased legal protection to reflect and uphold their co-citizenship status.
Does citizenship offer a potential improvement to the current status of service dogs?	<ol style="list-style-type: none"> 1. The legal status of service dogs. 2. Legal protection for service dogs. 	Citizenship theory offers a potential framework to improve and rethink the current status of service dogs, and our relationship with them. The relational approach of the citizenship framework is an appropriate approach to take when considering the role that service dogs play in our society. Although citizenship theory taken in its pure form is a rights-based approach advocated for by Donaldson and Kymlicka, it also has the capacity to straddle the current welfarist framework. Therefore, there does not necessarily have to be a sudden and radical overhaul of our current system to improve the current status of service dogs.

Table 3: A table showing which themes contribute to answering the research questions

One of the main focuses of chapter three was considering the most significant contributions by animal law theorists, particularly their approach to the question of the legal status of animals as property, and it was highlighted throughout the chapter the difficulties faced by these theories. In addition, some alternative approaches were considered before moving on to set out the framework put forward in *Zoopolis* in chapter four, where it was concluded that a shift to *Zoopolis* which falls under political theory may offer an interesting and workable alternative for service dogs.

One of the central issues identified from chapter three was that the deeply entrenched welfarist paradigm adopted within England and Wales that informs animal protection laws, regulations, and policies, has enabled the perpetuation of the exploitation of animals for the benefit of individuals and society, rather than having the protection of animals at its heart. While considering the property status of animals, the crucial question that many animal law theorists have turned to is how to achieve legal standing, which in turn would give rise to the recognition of animals as legal persons. As previously mentioned in chapter four, Kymlicka succinctly summarises the issue as this, "...working within the property framework is politically feasible but ineffective and struggling for legal personhood would generate real change but is politically unfeasible."⁵¹⁵ Obtaining legal standing for animals has presented a significant challenge for animal law theorists and lawyers alike. The ways in which animal law theorists have attempted to tackle this central issue would most likely appear to a member of the public as fanciful in the abstract, and it may seem difficult to grasp how such a theory could be implemented in the "real world." This is because many of these theories are not accessible to those outside of academic circles and would generally fail to resonate with the wider population. Indeed, Lovvorn rather scathingly describes the efforts of theorists focused on the legal status of animals as "an intellectual indulgence."⁵¹⁶ He suggests that lawyers within animal law should not involve themselves "with the advancement of such impractical theories while billions of animals languish in unimaginable suffering that we have the power to change."⁵¹⁷ It is understandable why Lovvorn may hold this view. The aim of this thesis is one that is focused on how pragmatic and practicable change could be achieved for service dogs using empirical research to explore the theory relied on. The widespread lack of empirical research and public engagement has perhaps been a missed opportunity on the part of animal

⁵¹⁵ Will Kymlicka, 'Social Membership: Animal Law Beyond the Property/Personhood Impasse', (2017) 40(1) *Dalhousie Law Journal*, 125

< <https://digitalcommons.schulichlaw.dal.ca/dlj/vol40/iss1/4/> > accessed 20th April 2021

⁵¹⁶ Jonathan R Lovvorn, 'Animal Law in Action: The Law, Public Perception, and the Limits of Animal Rights Theory as a Basis for Legal Reform', (2005) 12 *Animal Law*, 139

< <https://www.animallaw.info/article/animal-law-action-law-public-perception-and-limits-animal-rights-theory-basis-legal-reform> > accessed 20th April 2021

⁵¹⁷ *Ibid*

law theorists. In addition to this, service dogs face a further hurdle when it comes to the majority of legal theories attempting to address the legal status issue, as many would prohibit all or some use of animals for human benefit,⁵¹⁸ as outlined in chapter three.

I argued in chapter three that it can be acceptable for us to maintain our relationships with service dogs and for service dogs to continue to use their irreplaceable skills to provide a public benefit, and at the same time it is possible for service dogs to be treated as intrinsically valuable individuals, capable of flourishing when carrying out their roles and having relations with humans. The general argument put forward in *Zoopolis* in relation to domesticated animals is that by virtue of their domestication, their lack of choice between domestication and an alternative form of existence and the nature of our relationship with them, there is a duty to incorporate and consider their interests within both the social and political context.⁵¹⁹ Dogs have been bred over thousands of years to live and work alongside humans, as a result they have the necessary “capacities to have and express a subjective good, to participate, and to cooperate.”⁵²⁰ As set out in chapter four, Donaldson and Kymlicka argue that domesticated animals, and therefore dogs, have the capacity of meeting the criteria of citizenship, the basis of which has not been disputed in this thesis. I would suggest, based on the findings of this research, that the introduction of a service dog as our co-citizen may offer a potential improvement to a service dogs’ current legal status as property, as aspects of the citizenship framework resonated with the views of those who took part in the survey and the semi-structured interviews, which will be explored in more detail throughout this chapter.

7.2 The legal status of service dogs

This theme relates to the current legal status of service dogs within England and Wales, and the exploration of a potential alternative status that would reflect the actual views of the participants. The results of both the survey and semi-structured interviews with the participants revealed that the participants do not agree that service dogs should remain legally classed as property. This result rejects the entrenched welfarist paradigm and is at odds with the present legislative position, that service dogs are treated as property within England and Wales. This is not, however, a surprising result.

In recent years, the concept of animals being classed as property, particularly domesticated animals such as those kept as companions, has been viewed as increasingly archaic,⁵²¹ “the

⁵¹⁸ For example, a strong animal rights approach, such as abolitionism

⁵¹⁹ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 101

⁵²⁰ *Id.* at 122

⁵²¹ More Than Pet Insurance, ‘The Future of Pet Ownership Report’, (RSA, April 2018)

nature of companion animals as living beings which are both included with the family and treated as property creates conceptual confusion about their moral status.”⁵²² As a result, there has been a push for increased legal protection and recognition of domesticated animals, particularly companion and service animals such as through the Animal Welfare (Service Animals) Act 2019, the Animal Welfare (Sentencing) Act 2021, and the Pet Theft Reform Campaign.⁵²³ As discussed above, the legal status of animals has been the focus of many animal law theorists over the years, however, there has not been a convincing alternative presented that would likely have any resonance outside of academia. Nor have there been attempts to establish through empirical research how such a shift might be achieved and enforced in practice.

In order to explore how service dogs might be shifted from their legal status as property to something else, I asked my participants how they viewed their service dog, in addition to asking them if they had any suggestions as to how their service dog should be legally recognised. The results from the survey and semi-structured interviews support the previous finding discussed in relation to companion dogs – that the participants do not view their service dog(s) as property. This finding, although expected, is still interesting because service dogs, unlike companions, are often specifically bred and trained for a particular role. Furthermore, service dogs can be considered to be “tools” and, or, “equipment” in both law and in policy. This use-based concept is even reflected in the majority of the participants’ job titles, being that of a service dog “handler.” In chapter four, the language used to talk about service dogs was discussed, particularly in relation to Weisberg,⁵²⁴ and what types of language may be acceptable to use in relation to domesticated animal co-citizens in the specific context of service dogs.

The participants said that they viewed their service dog as family, but equally as a friend and co-worker. This finding contributes to answering my first research question. The finding that service dogs are viewed as family by participants is consistent with previous studies that have been carried out on companion animal – human relationships. There is a growing body of evidence which has increased over the past decade that companion dogs have shifted away from their traditional legal status as property. There is an abundance of research on the

< <https://www.rsagroup.com/media/2675/rsa-press-release-more-than-future-of-pet-ownership-report-released-09042018.pdf>> accessed 6th October 2020

⁵²² Steve Cooke, ‘Duties to Companion Animals’, (2011) 17 Res Publica, 262

<https://doi.org/10.1007/s11158-011-9159-x> accessed 6th October 2020

⁵²³ Pet Theft Reform, < <https://www.pettheftrreform.com/> > accessed 20th February 2021

⁵²⁴ Zipporah Weisberg, Animal Assisted Intervention and Citizenship Theory, in *The Ethics of Our Relationship with Companion Animals* edited by Christine Overall (Oxford University Press, 2017)

relationships and attitudes between companion dogs and their humans.⁵²⁵ In the 2018, *Future of Pet Ownership Report*, it was found that 78% of the 10,063 pet owners surveyed considered their dog or cat as part of their family.⁵²⁶ In contrast, there has been no UK-based research conducted into exploring the relationship and attitudes of service dog and handler, and my study has added to this gap in knowledge. This finding offers a potential new insight as service dogs are providing a contribution to society with some, but not all, being bred with this purpose in mind, unlike companion dogs. Identifying that the participant's view their service dog as a family member, friend and co-worker enables the consideration of how these views could be reflected both legally and practically. Why the handlers perceive their service dogs in this way has not been the focus of this study, and there could be a number of factors which have influenced their perception. This could be an interesting area for further study, to understand why someone may view their service dog, or indeed their companion dog, in this particular way.

The findings discussed above suggest that the participants who took part in this study may be open to an alternative form of legal status being considered, to potentially move service dogs away from their traditional status as property. Therefore, it may be that the participants would consider co-citizenship as an alternative legal status for their service dogs. In addition, these findings support Kymlicka's view that domesticated animals could potentially be successfully included within our social membership as family members and co-workers.⁵²⁷ Furthermore, what is interesting about these findings is that a shift to legally recognising service dogs as family members, friends, or co-workers, at least in the participants' case would more accurately reflect how they view their dogs.

As discussed throughout this thesis, there are numerous consequences that stem from dogs and other animals being legally classed as property. To use a current example, the theft of a pet is treated under the law as the theft of any other chattel. This realisation by pet owners after a rise in this crime being committed, particularly since the start of 2020, has resulted in a significant campaign to have pet theft considered as a separate recognisable offence, with "access to appropriate custodial sentences."⁵²⁸ This does not challenge the property status of companion animals and works within the current framework. However, this shows some

⁵²⁵ For two examples see the Guide Dogs Great British Dog Survey: The Results 2017 and Pet plans Pet Census 2018 (full references at footnote 320)

⁵²⁶ More Than Pet Insurance, 'The Future of Pet Ownership Report' (RSA, April 2018) < <https://www.rsagroup.com/media/2675/rsa-press-release-more-than-future-of-pet-ownership-report-released-09042018.pdf> > accessed 6th October 2020

⁵²⁷ Will Kymlicka, 'Social Membership: Animal Law Beyond the Property/Personhood Impasse', (2017) 40(1) *Dalhousie Law Journal* < <https://digitalcommons.schulichlaw.dal.ca/dlj/vol40/iss1/4/> > accessed 20th April 2021

⁵²⁸ Pet Theft Reform, < <https://www.pettheftreform.com/> > accessed 20th February 2021

movement towards a greater distinction between a table for example, and a dog, which would more suitably reflect the duty of care which is imposed onto companion animal owners under s. 9 of the AWA, which is a key distinguishing feature between animals and other forms of property. Finn's law⁵²⁹ is another example: as mentioned previously, this legislation was the result of a national campaign when it was understood by the public that the life-threatening injuries that he had sustained would be charged under the Criminal Damage Act 1971, and that no additional sentence would be imposed by the court. The impact of dogs and other animals being legally classed as property are wide-reaching and the simplicity of their acquisition or transfer to a new individual presents an issue in itself. As previously mentioned, in the specific case of a service dog, many will be the property of an organisation such as the police or military. Therefore, in some instances the handler is not the legal owner and has no ownership rights over the dog themselves. For the handlers who work in these capacities, it seems that to a certain extent this reality simply forms part of their role and is an aspect that they have to come to terms with, as previously highlighted by one of the survey participants in chapter six. To remind the reader, this participant said that in relation to having to give their dog up, it was "very difficult to part with the animal. And if i had the space/capacity to keep it, i would have. It's a very emotional experience giving up your partner but it's understood that its part of the role also." As is noted in chapter six, the responses from the participants in relation to having to give their dog up were to some extent mixed, with some positive comments being made. However, the most common theme that was found was that for a handler to give their dog up was an emotionally difficult experience, as can be seen by this survey participant's response, "I felt absolutely devastated but no consideration was given by any other ranking officer and they just thought it was just like handed over a piece of paper." There appears to be a conflict between this being an assumed part of the handler's role and how the participants who took part in the survey felt about having to give their dog up. Lack of security for service dogs is one of the issues identified by Donaldson and Kymlicka when discussing animal labour in *Zoopolis*. In relation to assistance dogs in particular, Serpell highlights that "having to endure a whole succession of different handlers with different characteristics, experience, and motivations for "ownership" is likely to be particularly stressful for these individuals."⁵³⁰ As co-citizens, service dogs would be required to have a secure stable environment where they could form attachments and be supported in flourishing as an individual.⁵³¹ As the authors note, one of the issues with the use of service dogs can be

⁵²⁹ Animal Welfare (Service Animals) Act 2019

⁵³⁰ James Serpell, Raymond Coppinger and Aubrey H. Fine, 'The Welfare of Assistance and Therapy Animals: An Ethical Comment', in Susan J Armstrong and Richard G Botzeler, *The Animal Ethics Reader* (2nd Edition, Routledge, 2008) 566

⁵³¹ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 141

that “they are often denied a stable environment and continuity in terms of their friendships and environment, and instead shunted between trainers, workplaces and human employers.”⁵³² There may be instances where it is in the best interests of the dog to be rehomed or to work with another individual, but it should be assumed that a service dog will reside with the handler for life,⁵³³ and that the handler will be encouraged and supported in any way necessary to ensure that happens. In chapter six, it was noted that Participant E shared their view that it was important for a service dog to remain with their handler, but also highlighted that sometimes this is not always possible, particularly where one handler may have multiple dogs:

“...the litter of puppies that I bred not long ago these are now 7 months old, two of them which I’ve kept. I had a lot of enquiries from civilian police forces about the dog but when I spoke to them I wouldn’t let them have a puppy for the simple reason that they couldn’t guarantee me that dog would stay with its handler after service and that I didn’t like that. So, I just said no sorry I won’t sell you a pup, they needed to give me that guarantee. If that dogs worked with that handler for seven or eight years, I expect the handler to take it home. You know it’s not always possible in the armed forces for the simple reason that, if you’re a single lad living in a barrack block can’t handle three dogs you can’t take them all home when you retire. It is something that and I know most forces do try and make arrangements and most have certainly kept there dogs after they’ve retired, but yeah sadly it doesn’t always happen.”

The contention surrounding the legal status of service dogs and their protection is not limited to the UK. In 2012, a Bill was proposed in the United States to legally reclassify military working dogs through the Canine Members of the Armed Forces Act. In the end, the Bill was never enacted in its own right, but some aspects such as those relating to adoption, and medical care were incorporated into the National Defence Authorization Act 2013.⁵³⁴ The aim of the original Act was to reclassify military working dogs as “canine members of the armed forces” which would have had the effect of removing their status as “equipment.” In addition, the Act aimed “to establish and maintain a system to provide for the lifetime veterinary care of retired, adopted dogs,” including the payment of transportation costs particularly in relation to the adoption of a retired military working dog. The Act aimed to ensure that the contribution of the dogs through their service to the country was suitably recognised.⁵³⁵

“The simple provisions of this bill acknowledged in a concrete way the service and sacrifice of these valuable and valued members of the military by recognizing them as true members of the armed services and by facilitating their adoption and access to appropriate veterinary care upon retirement.”⁵³⁶

⁵³² Ibid

⁵³³ On the importance of attachment in dogs see for example, Lynn Barber, ‘Attachments,’ Dogs Trust

⁵³⁴ Animal Welfare Institute, ‘Canine Members of the Armed Forces Act’,

< <https://awionline.org/content/canine-members-armed-forces-act> > accessed 19th March 2021

⁵³⁵ S.2134 Canine Members of the Armed Forces Act 112th Congress (2011-2012)

⁵³⁶ Animal Welfare Institute, ‘Canine Members of the Armed Forces Act’,

< <https://awionline.org/content/canine-members-armed-forces-act> > accessed 19th March 2021

Although the Bill is originally from the United States and its focus is primarily on retired military working dogs, based on the findings that have been discussed throughout this section so far, particularly in relation to legal status and protection, if a similar or modified Bill, or Bills, were potentially proposed that could be extended to *all* service dogs in England and Wales, then it would almost certainly receive significant support from the public and service dog handlers alike, based on the findings from the participants, and the public reaction to Finn's Law and Finn's Law Part 2. As the quotation above says, the provisions of the US Bill were simple, but they would have a demonstrable impact on the lives of both service dogs, their handlers and those who provide homes for retired service dogs at the ends of their careers. The US Bill offers another potential avenue to consider in the effort to try to provide service dogs with the recognition and protection that they deserve, and is another area where further research could be conducted.

7.3 Legal protection for service dogs

What would some of the implications be if service dogs were to receive citizenship status? To simply answer this question, it means that domesticated animal co-citizens would be supported and encouraged to flourish as an individual in their own right, entitled to inviolable rights and membership rights as outlined in chapter four. In chapter four, it was noted that in *Zoopolis*, it is suggested that it is too soon to work out an established list of rights and corresponding responsibilities in relation to domesticated animals⁵³⁷ without “enabling agency and participation amongst all co-citizens.”⁵³⁸ Nevertheless, this allows room for imagining the form that these rights and responsibilities could take and means that there is scope for adaptation and development over time.⁵³⁹ To be clear, the basic rights of domesticated animals such as the right to life, are based on their sentience or selfhood only.⁵⁴⁰ Their corresponding membership rights such as access to medical care, are extended based on the fact that domesticated animals should be included as members of our society, in addition to possessing the “capacities to have and express a subjective good, to participate, and to cooperate,”⁵⁴¹ which are necessary to be considered as a citizen.⁵⁴² A domesticated animal's basic rights and membership rights would *not* be predicated or affected by their contribution to society through work. These are fundamental rights which remain with a domesticated animal as a citizen

⁵³⁷ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 122

⁵³⁸ *Ibid*

⁵³⁹ *Id.* at 123

⁵⁴⁰ *Id.* at 31

⁵⁴¹ *Id.* at 122

⁵⁴² *Ibid*

throughout their life. If a domesticated animal co-citizen does contribute to society through work, then they would be entitled to an additional corresponding set of rights to protect them; these rights would most likely take the form of labour rights.⁵⁴³ An essential aspect of the citizenship framework for domesticated animals is the creation of equality between animal and human. In the service dog specific context, this means that service dogs would be entitled to comparable labour rights as the person whom they work beside. This position reflects the participants' views that service dogs should be legally recognised and protected in a similar way as the handler themselves, which contributes to answering my first and second research questions and will be discussed in further detail in the next section.

Donaldson and Kymlicka provide some thoughts as to what may need to be considered in terms of labour rights specifically, but it is given very little attention overall.⁵⁴⁴ In chapter four, I turned to some of the labour rights suggested by Cochrane; as a reminder, he suggests that labour rights for animals may include:

“the right to representation by a labour union; the right to a decent standard of remuneration; the right to healthy and safe working conditions; the right to rest and leisure; and the right to a decent retirement.”⁵⁴⁵

Cochrane does not explore these rights in great detail; he suggests that the labour rights of animals would not diverge far from those that human workers are currently entitled to, as a result these rights are “indicative” in nature.⁵⁴⁶ In the UK, there has been no empirical research carried out to explore which labour rights for animals may garner the support of the public, or those who work with service dogs, to test which labour rights may be feasible to enact and enforce in practice. To better understand whether service dog handlers would be open to the suggestion of additional entitlements for service dogs and to identify which entitlements, if any, may have the potential to resonate in practice, my survey asked participants to indicate their views on six entitlements. Interestingly, the majority of these received a positive response from the participants; legal standing in particular received the greatest number of positive responses from the participants who took part in the survey. The reason this particular result is intriguing is because of the struggle that academics and lawyers have faced in attempting to justify and obtain legal personhood for animals, but this finding offers hope that legal personhood for service dogs at least, may be potentially achievable in the future.

Overall, these findings seem to suggest that the participants who took part in the survey may potentially support legal standing for service dogs, and additionally, at least four of the

⁵⁴³ *Id.* at 140

⁵⁴⁴ *Ibid*

⁵⁴⁵ Alistair Cochrane, ‘Labour Rights for Animals’ in Robert Garner and Siobhan O’Sullivan (eds), *The Political Turn in Animal Ethics* (Rowman and Littlefield International, 2016)

⁵⁴⁶ *Id.* at 15

entitlements suggested, and indicates an area for further research. What may be suggested based on my findings is the potential of a “top-down” approach to achieve increased protection for service dogs. The fact that the participants indicate their support for legal standing and the majority of the entitlements further suggests that the participants may be open to consider some of the practical implications that would result from citizenship. In addition, these findings appear to support Kymlicka’s social recognition strategy where he suggests that “the quickest route to the recognition of personhood might involve a detour through social recognition.”⁵⁴⁷ Rather than shifting service dogs from property to legal persons to obtain these entitlements, some of these entitlements could be introduced to all service dogs now which would ultimately feed into obtaining legal personhood for service dogs in the future, and there is evidence of some of these entitlements already in practice, such as pensions for police dogs.⁵⁴⁸ In 1995, Sunstein put forward the concept of “incompletely theorized agreements”. He suggested:

“...that well-functioning legal systems often tend to adopt a special strategy for producing agreement amidst pluralism. Participants in legal controversies try to produce incompletely theorized agreements on particular outcomes. They agree on the result and on relatively narrow or low-level explanations for it. They need not agree on fundamental principle. They do not offer larger or more abstract explanations than are necessary to decide the case. When they disagree on an abstraction, they move to a level of greater particularity. The distinctive feature of this account is that it emphasizes agreement on (relative) particulars rather than on (relative) abstractions.”⁵⁴⁹

As an example of this, many animal law theorists believe that animals should no longer be legally classed as property,⁵⁵⁰ even if there is disagreement over how this can and should be achieved. However, there are multiple theories and approaches focused on why this is the case, and how animals should be recognised instead. If legal personhood could be achieved for animals, significant legal protection would naturally flow from its implementation as it is the greatest protection and legal status an animal could be provided with. However, how to achieve legal personhood for animals, as already discussed, is an area of significant controversy and disagreement. Based on Sunstein’s incompletely theorised approach, it is not necessarily required for all individuals to agree to the deep level principles of achieving legal personhood. It may be more prudent to work on establishing the particular aspects of an approach,

⁵⁴⁷ Will Kymlicka, ‘Social Membership: Animal Law Beyond the Property/Personhood Impasse’, (2017) 40(1) *Dalhousie Law Journal*, 126

< <https://digitalcommons.schulichlaw.dal.ca/dlj/vol40/iss1/4/> > accessed 20th April 2021

⁵⁴⁸ Unknown, ‘Nottinghamshire's police dogs to receive 'pensions'', (*BBC News Online*, 4th November 2013)

⁵⁴⁹ Cass R. Sunstein, ‘Incompletely Theorized Agreements’, (1995) 108(7) *Harvard Law Review*, 1735-1736, < <https://ssrn.com/abstract=2995488> > accessed 5th August 2021

⁵⁵⁰ For example, Steven M. Wise, Gary Francione and Will Kymlicka

implementing legal protections first, then turning attention towards the acceptance of the underpinning principle. In terms of co-citizenship, at the deepest level there is the acceptance of universal basic rights and differentiated membership rights. For co-citizenship, there is no differentiation between groups of domesticated animals such as companions, those used in experimentation, or for farming;⁵⁵¹ all domesticated animals who possess sentience or selfhood would be treated as co-citizens. This is in contrast to our present reality, where society is happy to differentiate our treatment of animals depending on how they are subjectively valued.⁵⁵² Morally, there should be no distinction drawn between these different groups of domesticated animals. However, at an incompletely theorised level it is argued that it would be easier to reach an agreement implementing an approach akin to citizenship rights for companion, and working animals, such as service dogs, because as has already been discussed, companion animals are increasingly viewed as family members⁵⁵³ and it can be seen from the results of my study that the participants service dogs are also viewed as family members, friends, and as co-workers. Adopting an approach which focuses on implementing certain membership rights allows less controversial changes to be put into practice first which will begin the process of challenging wider established attitudes and perceptions around the current treatment and protection of domesticated animals. If certain membership and labour rights could be established for service dogs first, then it can be envisaged how this could easily be expanded to incorporate other working animals, such police horses, and then companion animals. This is an area for further exploration in future.

At one end of the spectrum there is legal and institutional protection, and at the other end there are what are arguably more realistic, obtainable outcomes for service dogs. These changes do not necessarily require a significant overhaul of the law and would be possible to deal with through both policy, procedure, and voluntary implementation. For example, access to medical care is a potential membership right for all domesticated animals which would include service dogs, because “recognising domesticated animals as members of the community includes accepting their equal right to communal resources and the social bases of well-being.”⁵⁵⁴ Medical care was highlighted by the participants of this research as being important to them in relation to their service dogs. Based on these findings, the participants would likely support the inclusion of service dogs within this membership right, as concerns regarding access to

⁵⁵¹ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011)

⁵⁵² On this point see for example, the “paradox of pigs and pets” by James Serpell in his book *In the Company of Animals: A Study of Human-Animal Relationships* (Cambridge University Press, 1996)

⁵⁵³ For another example see, Charles N, Davies CA, ‘My Family and Other Animals: Pets as Kin’, (2008) 13(5) Sociological Research Online < [10.5153/sro.1798](https://doi.org/10.5153/sro.1798) > accessed 5th August 2021

⁵⁵⁴ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 142

and the cost of medical care was a repetitive theme. Question 21 of the survey asked those who took part whether there was anything else that they would like to add; as noted in chapter six, two out of the eleven comments left were focused on the financial costs of medical care for their service dogs. Participant E, F and G's interviews all provided similar responses to the first written survey comment. It appears that when their service dog is operational then generally the organisation will be responsible for that individual dog's care. When a service dog is retired either due to old age, injury, illness, etc. then the service dog and their care becomes the automatic responsibility of the individual who has assumed responsibility for that service dog in retirement, whether that is the handler themselves or someone else. Participant F, said "yes [inaudible] so [inaudible] responsibility of the organisation whilst they're operational, as soon as they retire they're either signed over to the handler or another [inaudible] so yeah that is yeah." Participant E also discussed this point and, in addition, the level of care that the dogs tended to receive during their time in service:

"I think it would be because when I took my dogs on and I brought my dogs they became my responsibility. There are a lot of, there are quite a few charities now where they are certainly excellent police charities where the dogs get funded, they source little pension schemes for the dogs, but I don't think that is particularly wide-spread. I know in the armed forces when a dog is sold or retired, or a retired dog is sold to a new owner or retirement that dog then become their responsibility which they have to fund it. I mean the treatment in service is absolutely superb...and certainly the dogs that were injured in Afghanistan I mean their care was second to none I mean one of the little dogs he was CASEVAC back with the humans when he was injured. He came on the same casualty evacuation flight as the human soldiers, he was given exactly the same treatment, he was given his own bed, he was treated in exactly the same way, and fortunately he made a full recovery."

From Participant E's answer, it can be seen that while the service dogs are operational, they appear to receive a level of care that was similar to that of their human colleagues. When the dogs were then retired or no longer operational, they became the participant's responsibility, including their medical care. There is a case to be made that the comparable care received by the service dogs while operational should continue for the lifetime of the dog. This participant, and some of the others, did touch upon pensions for retired service dogs or charities which will offer funding for them after service, which will be considered further into this section.

Based on *Zoopolis*, it would be a "right of membership" for domesticated animals to have access to medical care.⁵⁵⁵ Just as UK citizens are entitled to medical care under the NHS, domesticated animals would be entitled to their own form of medical care either through a similar NHS scheme or insurance.⁵⁵⁶ As noted by some of the extracts above, in some cases

⁵⁵⁵ Ibid

⁵⁵⁶ *Id.* at 142-143

the cost of medical care for any animal can be prohibitive. For example, in the rehoming of retired service dogs, individuals may be unable or unwilling to take on a dog with high medical care costs. To highlight and support this point, the extract below is from Participant E's interview:

...but most of them were the ones that had had some sort of ailment the older they get, and to be honest when they come to the end of their service they couldn't be rehomed because the vet's bills were just going to be astronomical for the new owners of those dogs, but again pretty few and far between..."

Zoopolis touches upon the issue of euthanasia for domesticated animals, highlighting that "animals are euthanised (so-called) simply because they are unwanted or abandoned, old, inconvenient, or expensive."⁵⁵⁷ Like all domesticated animals, service dogs can face being euthanised not necessarily for medical reasons. However, the authors suggest that euthanasia would not necessarily be incompatible with domesticated animals being considered full members of society.⁵⁵⁸ In a recent article, Lorenzini considers the definition on nonhuman animal euthanasia, putting forward a comprehensive nonprescriptive definition of euthanasia and distinguishes between different times when euthanasia may be implemented. For example, it is suggested that where animals used for non-fatal scientific procedures are then killed, this should not be referred to as euthanasia but "at best – "merciful killing."⁵⁵⁹ I do not intend to enter the debates surrounding euthanasia or its definition here, however, the five conditions identified by Lorenzini to define an instance of nonhuman euthanasia may be the type of definition that could be adopted where domesticated animals are full members of society within *Zoopolis*, where euthanasia is deemed to be just and, therefore, provides an interesting example. Lorenzini explains that:

"In order to talk legitimately of nonhuman animal euthanasia, I argued, five conditions should be satisfied:

- (1) The nonhuman animal's death must be intended by at least one moral agent, where the latter is either the cause of death or a causally relevant feature of the event resulting in death (whether by action or omission).
- (2) There must be sufficient current evidence for the moral agent to believe that the nonhuman animal is acutely suffering or comatose, and that this condition is irreversible or that any available treatment would be too painful compared to the quantity and quality of life that the nonhuman animal is expected to gain from it.
- (3) The moral agent's primary reason for intending the nonhuman animal's death must be cessation of the nonhuman animal's condition of acute suffering or irreversible

⁵⁵⁷ *Id.* at 143

⁵⁵⁸ *Ibid*

⁵⁵⁹ Lorenzini, Daniele, 'The Definition of Nonhuman Animal Euthanasia', (2020) 9(2) *Animal Studies Journal* < <http://dx.doi.org/10.14453/asj/v9.i2.2> > accessed 3rd May 2021

comatoseness, where the moral agent does not intend the nonhuman animal's death for a different primary reason, even though there may be other relevant reasons.

(4) a. There must be sufficient current evidence for the moral agent to believe that the causal means to the nonhuman animal's death will not produce any more suffering than would be produced for the nonhuman animal if the moral agent were not to intervene.

b. The causal means to the event of the nonhuman animal's death are chosen by the moral agent to be as painless as possible, unless there is an overriding reason for a more painful causal means, where the reason for choosing the latter causal means does not conflict with the evidence in (4a).

(5) The nonhuman animal's condition of acute suffering or irreversible comatoseness must not be the immediate outcome of the way they were treated by the moral agents (directly or indirectly) involved in the termination of their life."⁵⁶⁰

To contrast this comprehensive definition, the current RCVS Code of Professional Conduct for Veterinary Surgeons at 8.1 states that "euthanasia may be defined as 'painless killing to relieve suffering'."⁵⁶¹ The former definition may help to address some of the concerns as outlined by Donaldson and Kymlicka regarding euthanasia and the way that it is currently abused. Continuing on from Participant E's extract above, were there to be an instance of a service dog needing to find a new home for a particular reason, although every effort should be made for that service dog to remain with their handler, and only once every option had been exhausted should the consideration of a new home begin, the costs of medical care and living would not be prohibitive to the rehoming process. Service dogs in many cases are difficult to insure and are at higher risk of potential injury or developing long term medical conditions. On this point, Participant F said that it is very difficult to insure a service dog, or ex-service dog, and that there are only one or two companies that will consider insuring them. Participant G, while talking about their experience of looking for insurance for their service dog said that "...we looked at insurance but as soon as you say it's a working dog the cost goes through the roof." This potentially places service dogs in a precarious position as economic factors are being taken into account when considering their access to medical care or their future costs, and this will then have a knock-on effect on other areas, such as rehoming as already mentioned. In relation to the search dog handlers, their dog is primarily their companion and, therefore, their own responsibility. Each of the search and rescue dog handlers paid for their own pet insurance and the majority explained that they would be responsible for any costs incurred if their dog was injured while working. Two of the participants said that when called out by the police, the police then owed them a duty of care but there were some inconsistencies in relation to whether their dog's medical care would be covered under another insurance

⁵⁶⁰ *Id.* at 13

⁵⁶¹ Code of Professional Conduct for Veterinary Surgeons, Euthanasia of animals 8.1

policy other than their own personal pet insurance if the dog was injured while training or working. Participant D, during the interview, expanded upon this:

P: So I've got dog insurance, [inaudible] Lowland Rescue insurance which covers Fido you know if were training and things like that so if she got injured, I could claim on the Lowland Rescue insurance [inaudible] if we're on a call out we're covered by the police so the police force so if the police force has called us out then we come under there umbrella they owe a duty of care to us..."

In contrast to Participant D, Participant C explained:

"So we're all volunteers and so not paid for any of it and we sort of provide everything ourselves, although operational stuff we need we get we provide through the charity we are a charity so we raise our own funds. The dogs are our own personal dogs and we've got responsibility, we buy them in the first place, we've got to look after them, pay for the vets fees, pay insurance and all the rest of that stuff for the dogs."

Based on the findings of my research, lifetime medical care would be a desirable outcome for service dogs, and the participants would likely support the inclusion of their service dogs within this. It should be noted that inclusion within medical care does not require full co-citizen status to be implemented; it does not require legal standing, nor legislative enactment to be put into practice. This could be something that individual organisations take upon themselves to implement in a way that suits them. However, it has to be acknowledged that some considerable thought would have to go into understanding the practicalities of implementing such a scheme on a large scale and how this could be effectively achieved. In addition, for charities such as the service dogs who are volunteers as above, along with their handlers, it would be potentially more difficult for them to implement such a scheme due to their charitable status. Nevertheless, comparing this to the literature, there are already a small number of charities that offer assistance to certain retired service dogs, usually retired police or fire dogs,⁵⁶² but they do not appear to be widely available. Additionally, some police forces themselves provide financial assistance in the form of a state pension for retired police dogs. As previously mentioned in this thesis, Nottinghamshire Police Force in 2013 had funding approved for the first police dog pension scheme in England. Although it is referred to as a pension scheme, the funds were designed to be used for medical costs, such as injuries or illness that had occurred during the course of the dog's working life. Each retired dog was approved the sum of £500 for the initial three years of their retirement.⁵⁶³ As already

⁵⁶² See for example, Pawsome Pensions Retired Police and Fire Dogs, <<http://www.pawsomepensions.org.uk/>> accessed 30th August 2020 and Thin Blue Paw Foundation, 'About Us', <<https://thinbluepaw.org.uk/about>> accessed 30th August 2020

⁵⁶³ Section 3, Nottinghamshire Police & Crime Commissioner Police Dog Pension Scheme 2019

mentioned, service dogs that work for an organisation such as the police or military already have their medical care and living costs provided for while they are in service, so it is possible to envisage that these provisions could be extended to the full life of the service dog without encountering too many difficulties. A pension upon retirement for service dogs was one of the labour entitlements that I asked my survey participants to specifically consider, and this received a combined response of strongly agree, and agree, of 57.7%. I did not elaborate on this so it was up to the participants to decide what this pension might be used for or how it might work. One of the eleven comments left at question 21 was that “if a dog was given a pension, it should only be given to the handler for the dog. My concern is sometimes our dogs go to selected members of public. How do you know that the funds would be used on the dog.” One of the interview participants shared similar concerns, and Participant G discussed their point of view regarding pensions for service dogs, explaining that “for me if you’re going to pay pensions to the dogs then I think that you should pay for food for that dog and the welfare of that dog rather than just giving cash to the handler if that makes sense.” These are some of the potential practical considerations that would need to be considered in relation to not only how a pension could work for service dogs but also medical care. However, as there are current examples of this in practice, for example by Nottinghamshire Police, it should not be too difficult to resolve any issues that arise. Cochrane argues that animals that provide labour should be entitled to a “decent retirement,” suggesting that “if we are to respect the basic interests of working animals – including their interest in being recognised as valued members of our societies – then it is imperative that we do not simply dispose of them once they have served their working purpose: they are entitled to a decent retirement.”⁵⁶⁴ A pension in addition to medical care as discussed above would assist in helping to provide service dogs with the retirement that they deserve, removing economic factors from consideration. What has been considered in this section is ultimately an area for further research: my findings have shown that the participants who took part in the study are likely support the inclusion of service dogs within medical care and also their provision with a pension to support service dogs in their retirement, but this would need to be replicated on a larger scale to establish the general attitude of service dog handlers, in addition to the general public. Furthermore, there would need to be more in-depth research carried out with key stakeholders to understand the practical effects of implementation and which membership rights might be the easiest and most desirable to establish in the first instance.

⁵⁶⁴ Alistair Cochrane, ‘Labour Rights for Animals’ in Robert Garner and Siobhan O’Sullivan (eds), *The Political Turn in Animal Ethics* (Rowman and Littlefield International 2016) 18

This appetite for change in relation to how their service dog is currently viewed and protected under the law continued to be reflected through the participants' responses. Under the theme of legal protection, a number of findings were identified. The findings showed that although some service dog roles do carry a greater risk of harm than others, all service dogs, regardless of role, are at risk of both intentional and accidental harm. The survey and semi-structured interviews found that there was some uncertainty by participants concerning understanding how well their service dog is protected under the law should something happen to them while carrying out their role. The application of the Animal Welfare (Service Animals) Act 2019 in particular seemed to be a source of uncertainty for some of the participants. Current legislation applicable to service dogs is piecemeal and inconsistent. For example, all service dogs in England and Wales are protected under the AWA, however, dogs that work for the police or prison service fall under the protection of the Animal Welfare (Service Animals) Act 2019. Assistance dogs, on the other hand, have additional protection under Part 7 of the Anti-Social Behaviour, Crime and Policing Act 2014 which amended the Dangerous Dogs Act 1991. I believe that this variance in applicable legislation was a potential contributing factor in relation to some of the participants showing confusion over how well their service dog is protected under the law, particularly in relation to the Animal Welfare (Service Animals) Act 2019 which received a significant amount of media attention at the time of its enactment.

Overall, the feeling of the participants was that current legal protection for service dogs is insufficient, even with the Animal Welfare (Sentencing) Bill 2017-19,⁵⁶⁵ now replaced by the Animal Welfare (Sentencing) Act 2021, creating a change to the mode of trial and an increase in the available sentencing for certain animal welfare offences under the Animal Welfare Act 2006 of up to five years imprisonment.⁵⁶⁶ Comparing this to the literature, under citizenship theory, all domesticated animals, including dogs, would be "entitled to the full benefit and protection of the law."⁵⁶⁷ This has the effect of creating a legal obligation on humans and would result in the criminalisation of causing harm to any domesticated animal. It is accepted that currently England and Wales have a weak version of this through the AWA, particularly s. 4 in relation to causing unnecessary suffering, and s. 9 regarding the duty of care. However, this would incorporate protection from both intentional and negligent harm,⁵⁶⁸ and the law would have to be efficacious in delivering this protection to animal co-citizens.⁵⁶⁹ This would help to address the participants' concerns that current legal protection for service dogs is insufficient. In addition, through adopting the approach of *Zoopolis*, all domesticated animals

⁵⁶⁵ Animal Welfare (Sentencing) Bill (HC) (2017-19) [410]

⁵⁶⁶ Animal Welfare (Sentencing) Bill (HC) (2019-21) [14]

⁵⁶⁷ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 132

⁵⁶⁸ Ibid

⁵⁶⁹ Ibid

would be entitled to identical protection under the law. This would create consistency and equality. The above findings most likely contributed to what is perhaps the most significant findings of this theme; strikingly, the overall majority of participants from both the survey and semi-structured interviews felt that a service dog should be recognised and protected in the same or similar way as the handler themselves. Participants felt that this should be the case for all service dogs, regardless of their organisation or their role. This finding appears consistent with the literature, as the obligation of full legal protection goes beyond simply protecting animals from harm however, as “...criminal law should be used to reflect and uphold their membership in the community.”⁵⁷⁰ The law would play an important role in establishing and maintaining the recognition of domesticated animals as co-citizens, because legislation and sentencing would need to reflect this change in status. In addition, it was discussed in chapter four that domesticated animals may be entitled to further protection from “predators, disease, accidents, floods, or fires”⁵⁷¹ as part of their membership. The implications of this could mean that emergency services, for example, would need to be trained and capable of coming to the aid of domesticated animal citizens. Aspects of this happen in some cases already, for example, in 2010 a specialist animal rescue unit was established at Royal Berkshire Fire and Rescue Service.⁵⁷² Interestingly, there is legislation in five states⁵⁷³ in the US which allows emergency services to provide emergency care to both dogs and cats, which would otherwise be illegal. In addition, there have been a number of bills proposed over the last few years in other states to allow a similar approach either for companion animal emergency care, or for emergency care and transportation for service dogs specifically.⁵⁷⁴ Below is a brief look at the California Act, as the wording is an interesting example of this type of legislation. Additionally, the County of San Bernardino in California enacted a pilot programme in 2019 allowing for emergency transportation via ambulance for a police dog that has been injured while on duty. Section 1799.109 of the Health and Safety Code s. (1) to (6) reads as follows:

⁵⁷⁰ *Id.* at 133

⁵⁷¹ *Ibid*

⁵⁷² Royal Berkshire Fire and Rescue Service, ‘Animal Rescue’, < [Animal Rescue \(rbfrs.co.uk\)](http://AnimalRescue(rbfrs.co.uk)) > accessed 9th April 2021

⁵⁷³ See for example, California, Colorado, Maryland, Ohio, and Wisconsin

⁵⁷⁴ See for example, Indiana, and Nero’s Law Massachusetts

“(a) The Legislature finds and declares all of the following:

- (1) California residents receive comfort and unconditional love on a daily basis from their household pets, particularly dogs and cats.
- (2) California residents benefit from the special support, comfort, guidance, companionship, and therapy provided by dogs and cats.
- (3) Pets provide critical support to many California residents with disabilities.
- (4) Pets provide assistance and aid in the official duties of military personnel, peace officers, law enforcement agencies, fire departments, and search-and-rescue agencies.
- (5) Personnel of some fire districts and other first responder agencies currently provide stabilizing, life-saving emergency care to dogs and cats, which violates the Veterinary Medicine Practice Act.
- (6) In enacting this section, it is the intent of the Legislature to authorize emergency responders to provide, on a voluntary basis, basic first aid to dogs and cats without exposure to criminal prosecution or professional discipline for the unlawful practice of veterinary medicine.”

The choice of wording used here is interesting, particularly s. 1, 2 and 3 where terms such as “comfort,” “unconditional love,” “special,” and “critical” have been adopted. S. 2 appears to recognise the close relationship that the residents of California have with both dogs and cats, specifically referencing those two animals. In addition, in s. 4 the term “pets” is being used to describe working animals that contribute to society through labour, rather than simply companion animals. S. 5 acknowledges that some emergency services staff are choosing to deliberately ignore the Veterinary Medicines Practices Act which prohibits anyone who is not trained in veterinary medicine from treating an animal, choosing to provide emergency care where needed to “dogs and cats.” The Act under s. (b) allows emergency workers to provide “basic first aid to dogs and cats” without fear of being prosecuted. The term “basic first aid” is defined under s. 5 as per the extract below:

“(5) “Basic first aid to dogs and cats” means providing immediate medical care to a dog or cat by an emergency responder, in an emergency situation to which the emergency responder is responding, that is intended to stabilize the dog or cat so that the dog or cat can be transported by the owner as soon as practical to a veterinarian for treatment and which is provided through the following means:

- (A) Administering oxygen.
- (B) Managing ventilation by mask.
- (C) Manually clearing the upper airway, not including tracheal intubation or surgical procedures.
- (D) Controlling hemorrhage with direct pressure.
- (E) Bandaging for the purpose of stopping bleeding.
- (f) This section does not require or authorize the provision of emergency services to dogs or cats in response to a telephone call to the 911 emergency system and is not a

basis for liability for the failure to provide emergency services to dogs or cats in response to a telephone call to the 911 emergency system.”

The primary purpose of this legislation appears to be to protect emergency workers from prosecution. In addition, it is now reflecting the reality of some California emergency workers and residents who want emergency care to be extended to include dogs and cats. Legislation that explicitly recognises the importance of the dog and cat – human relationship both as companions and as workers, can only be beneficial. In addition, setting out clearly that emergency services workers are allowed to provide treatment to dogs and cats if necessary, and the scope of that treatment, means that more workers may feel encouraged to provide emergency care to more dogs and cats. The legislation does not allow for the transportation of a dog or cat by the emergency service, or for the emergency services to respond to an emergency call solely regarding a dog or cat. However, under 1797.10 of the Health and Safety Code, the County of San Bernardino enacted a pilot programme which allows for the emergency transportation of a police dog that has been injured in the line of duty to a veterinarian for medical attention. This pilot program will collect data and submit a report to the legislature at the end of the programme which commenced on the 1st of January 2019 and runs until the 1st of January 2022, when the legislation will automatically be repealed. It would be interesting to see the report from this pilot project when it comes to an end in 2022, to see how successful it was and whether a case could be made for trialling a similar project in England and Wales.

In England and Wales, Schedule 3 of the Veterinary Surgeons Act 1966 is concerned with exemptions, and paragraph 3 allows for “the rendering in an emergency of first aid for the purpose of saving life or relieving pain or suffering.” Therefore, it is not illegal in England and Wales for an unqualified person to provide emergency care to an animal, unlike the majority of the United States. However, having the relationship between dogs, cats and humans explicitly recognised through legislation, in addition to clearly setting out that emergency workers are able to treat animals, can only serve as a benefit. In addition, it will be interesting to consider the report from San Bernardino when it is released at the end of the pilot project, and to seriously consider whether a similar scheme could be trialled in England and Wales, thus this is an area for close monitoring and further research.

What has been highlighted and discussed under the theme of legal protection is that while full incorporation as a co-citizen may be unobtainable at the moment, what appears possible from the findings discussed is the incorporation of elements of citizenship theory through membership rights, which will in turn help to work towards achieving legal standing for service dogs in the long term and achieve increased protection and recognition for service dogs

overall in the short term. In addition, this would bring service dogs in line with the current perception and views of the participants which was discussed earlier in this chapter.

7.4 The public contribution of service dogs to society and the service dog – handler relationship

The public contribution of service dogs was deemed by participants to be essential. The participants felt that their skills are not able to be sufficiently replaced by technology or humans and should they not be allowed to continue to perform their roles, this would have an adverse impact on the public and others, leaving a skills gap.

Donaldson and Kymlicka briefly considered the question of animal labour in *Zoopolis* and suggested some of the questions that might be asked when considering the compatibility of work with domesticated animals being our co-citizens.⁵⁷⁵ This would be an important aspect of developing a citizenship framework for domesticated animals, to explore which types of animal labour domesticated animal co-citizens may be able to undertake, and how their self-determination can be ensured. This is also one of the most challenging areas to address; the authors caution that it is not easy to identify when the line from contribution to exploitation has been crossed.⁵⁷⁶ Blattner too draws attention to the importance, and the difficulty, in doing this,

“...for labour to become a site of interspecies justice, animals must also have the right to enter and exit the labour relationship, to freely choose their work, and not be subject to forced labour. Animals are harmed by unfreedoms to a far greater extent than we currently acknowledge. Even when choice and control do not deliver specific instrumental benefits, they considerably increase animals’ well-being, which demonstrates that animals have intrinsic interests in self-determination and require rights to secure the fulfilment of those interests. Formulating effective standards of self-determination will not be easy, and we need to constantly remember that work environments can easily be manipulated to manufacture animal consent.”⁵⁷⁷

As part of this thesis, I wanted to explore the concept of animal labour, focusing specifically on which service dog roles may be compatible in a world where domesticated animals are our co-citizens. However, the full extent of the challenges that this seemingly simple question creates means that it was an ambitious question to attempt to consider. This is a question that requires an interdisciplinary approach, involving animal welfare science, for example, that would examine and assess each novel role that a service dog performs in detail, which is far

⁵⁷⁵ Will Kymlicka on Animal Co-Citizens – Interview Part 1. (Adriano Mannino, on January 11th 2014)

⁵⁷⁶ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press 2011) 142

⁵⁷⁷ Charlotte E. Blattner, ‘Animal Labour: Toward a Prohibition of Forced Labour and a Right to Freely Choose One’s Work’, in Charlotte E. Blattner, Kendra Coulter, and Will Kymlicka, *Animal Labour: A New Frontier of Interspecies Justice?* (Oxford University Press, 2020)

beyond the scope of this thesis. Animal labour is an emerging area out of the political turn and, as mentioned in chapter four, some academics are focusing on the concept of “humane work,” and the approach taken by D’Souza, Hovorka, and Niel⁵⁷⁸ in relation to the role of conservation canines in Canada is perhaps one of the ways that roles compatible with citizenship could be identified. Blattner, when considering the case of conservation canines, notes that those who work closely with dogs “are often deeply connected to the dogs they work with, and are in a good position to gauge their many embodied forms of communication, and there is every reason to believe that they prioritize and protect the safety of the animals.”⁵⁷⁹ The findings of my research with the participants would support this thinking, overall, the handlers who took part in this research spent a significant amount of time with their service dogs and had a very close relationship with them, which contributes to answering my first research question regarding what the relationship is between service dogs and their handlers. From the surveys and the interviews, the majority of service dogs were allowed to interact with other members of the family, both human and non-human, which would be one of the considerations needing to be taken into account under citizenship, along with whether the dog actually enjoys their role.⁵⁸⁰ One of the most interesting results of this section was that the majority of participants who took part in the surveys and interviews said that their service dog communicated with them and that they enjoyed their work, which, as noted above, would be important when considering whether a domesticated animal could contribute to society through work. For the most part, handlers said that they understood some or all of the time what it was that their service dog was trying to communicate to them, and that they take their wishes into account some or all of the time. The difficulty with some of these findings is that I was relying on the handlers to be honest, and objective, and to some extent, assuming that the handler does understand their dog and their dog’s signs of enjoyment. Blattner highlights some of the issues surrounding the service dog – handler relationship when trying to establish the wants, preferences, and desires of the individual.

“When the dogs live, work, train, and recreate with a single trainer, and that one person has a monopoly on interpreting the dog’s assent,⁵⁸¹ there is clear risk of bias and paternalism. Responsibility is unnecessarily concentrated in one person, who may

⁵⁷⁸ Renée D’Souza, Alice Hovorka and Lee Niel, ‘Conservation Canines: Exploring Dog Roles, Circumstances, and Welfare Status’ in Charlotte E. Blattner, Kendra Coulter, and Will Kymlicka, *Animal Labour: A New Frontier of Interspecies Justice?* (Oxford University Press, 2020)

⁵⁷⁹ Charlotte E. Blattner, ‘Animal Labour: Toward a Prohibition of Forced Labour and a Right to Freely Choose One’s Work’, in Charlotte E. Blattner, Kendra Coulter, and Will Kymlicka, *Animal Labour: A New Frontier of Interspecies Justice?* Oxford University Press 2020

⁵⁸⁰ Sue Donaldson and Will Kymlicka, *Zoopolis: A Political Theory of Animal Rights* (Oxford University Press, 2011) 140

⁵⁸¹ D’Souza, Renée, ‘*Conservation Canines in Canada: Roles, Welfare & Environmental Impacts*,’ Thesis for the Degree of Master of Environmental Studies. Queen’s University, Kingston, 2018, 79-80

easily misunderstand, misinterpret, or read their own preferences into a dog's behaviour, and there are no safeguards in place to prevent this."⁵⁸²

A further issue identified in *Zoopolis* is the training methods used: many of my participants referred to "reward-based training" and said that for the dog, their role is a game to obtain a reward such as a ball or toy. Some participants said that dogs are selected based on particular characteristics during assessment, such as a high drive to find a ball for example, and particular breeds are chosen due to their natural instincts which have been developed through thousands of years of domestication, which means that less training is required overall. Additionally, there is the issue of protection and benefits being dependent upon the sector that the service dog is employed under, and the variance that occurs within each organisation. The four interview participants who were volunteers for a search and rescue charity highlighted during their interviews that they currently help to fill a skills gap that exists within the police force, as the search and rescue volunteers are specialist search resource. It is acknowledged that in England and Wales it is common for a charity to support other sectors or fill a gap in resources. In addition, it is usual for employment protection and role benefits to vary based on their employer and, or the contract the individual is employed under. It is recognised that there can be benefits to allowing organisations the flexibility to decide how to incorporate additional protections and benefits for their workers, based on what works for them as an organisation. However, it was important to the search and rescue handlers who took part in this study that attention was drawn to the fact that their dogs and themselves are unpaid for their work and that they are highly skilled in their role. In terms of what our current structure would mean for domesticated animal co-citizens who work, it is hard to answer with any certainty because of the complexities and nuances involved. To give this the full consideration it deserves, further research would need to be conducted. There would be difficult issues, for example, on the point of implementation. Labour rights such as a pension scheme or some form of remuneration across the public, private, and charity sector would carry individual difficulties. This would be particularly so in relation to charities due to the way that charities are structured; it is easy to envisage issues regarding the use of charitable funds to provide pensions, or a form of remuneration to service dogs. It may be that initially only those service dogs working within the public and private sector are able to receive pensions, or some form of remuneration, with charities in the future having some form of opt-in scheme, perhaps. This would require each sector to consider the scope of such a scheme, including financial implications, funding options, whether current infrastructure is in place or if this would need to be established, the feasibility of such as scheme and any unintended consequences. As mentioned, these are not

⁵⁸² Charlotte E. Blattner, 'Animal Labour: Toward a Prohibition of Forced Labour and a Right to Freely Choose One's Work', in Charlotte E. Blattner, Kendra Coulter, and Will Kymlicka, *Animal Labour: A New Frontier of Interspecies Justice?* (Oxford University Press, 2020)

issues that can be addressed here but they can be highlighted for further consideration in the future. It is argued, however, that if a dog is providing a service to society or to an individual, then that dog should be entitled to a minimum standard of protection and benefits, regardless of role or circumstance, with the organisation able to provide additional protection and benefits above this minimum level if desired. As mentioned above, this would require further research with key stakeholders to establish what a minimum standard of protection and benefits may look like for service dogs, and how this could be implemented in practice.

7.5 Conclusion

Citizenship may not be as fanciful as it first seems and provides an interesting framework for considering the unique position of service dogs. In addition, the findings of this section have provided evidence that supports the social recognition strategy suggested by Kymlicka. In this chapter, I have discussed the most notable findings of both the survey results and the semi-structured interviews conducted, in relation to the literature. As a reminder, these results were that the current legal status of property used to define a service dog appears to be out of step with the participants' perspectives, in that they viewed their service dog not only as a family member, but equally as a friend, and as a co-worker. In addition, participants overall felt that there was a need for increased legal protection to be provided to service dogs. The majority of participants felt that service dogs should be viewed and protected in the same or a similar way as the handler, regardless of role or organisation, with the findings suggesting that participants may support legal standing, and a number of additional labour-focused entitlements for service dogs.

One of the main focuses of this chapter has been on the desire shown by participants for an increase in protection for service dogs. In addition, participants wanted the contribution of their service dogs to be recognised. The lack of consistency regarding the protection and current benefits received by service dogs has been highlighted. It has been discussed, reflecting on the literature, the difficulties that are faced in achieving significant protection for service dogs, particularly through altering their legal status from property to something else. Rather than challenging the most significant issues from the outset, such as obtaining legal personhood, there are promising signs that service dogs could be included as family members, friends, and co-workers/colleagues instead. This is an area that needs to be explored through further research. My findings suggest that there may be the potential for a "top down" approach to achieve legal standing for service dogs, supporting Kymlicka's social recognition strategy. Participants were open to service dogs being provided with legal standing; however, the reality of our present situation means that legal standing is going to be difficult to obtain in the near future. Nevertheless, there are membership rights that could be implemented now to increase

protection for service dogs in the short term and go some way in providing the recognition that these dogs deserve. In addition, the implementation of an approach akin to citizenship would hopefully help in building a strong pathway towards obtaining legal personhood. In an ideal world where there was no moral arbitrariness, all domesticated animals would be co-citizens however, this is not our present reality. I have argued that membership and labour rights would be easier to obtain in the first instance for service animals and companion animals. This could then be expanded to include other animals in the future, as human perceptions grow and expand to view and include animals in the collective “we,” rather than seeing them as “others” that are there to be used to fulfil human desires.

Although there are some limitations to this study, it has provided data in relation to the service dog – handler relationship, their legal status, and their protection. The findings discussed in this chapter have resulted in recommendations being able to be made, identification of areas for further research, and has filled a current gap in the literature. The following chapter is my conclusion which draws together the findings of this research, makes recommendations, and expands on the areas identified for future research.

Chapter Eight: Conclusion

8.1 Introduction

This thesis has considered the extended citizenship framework for domesticated animals proposed by Donaldson and Kymlicka in relation to the specific case of service dogs, using the views of service dog handlers on how they feel about the legal protection their service dog(s) currently receive, and their property status, to explore this theory. In 1958, Chief Justice Earl Warren of the US Supreme Court said in the case of *Perez vs Brownell*⁵⁸³ that “citizenship is man’s basic right, for it is nothing less than the right to have rights,” borrowing the term widely attributed to Hannah Ardent. This thesis has explored the potential of a citizenship framework in relation to service dogs, and it seems that there may be future potential for “man’s basic right” to be extended to service dogs. This chapter will draw together the research that has been presented in this thesis, including the findings, limitations, recommendations, and areas for further research.

The following research questions have been explored through this thesis:

- What is the relationship between service dogs and their handlers?
- Is the legal protection that service dogs currently receive when performing the duties required by their role adequate?
- Can service dogs meet the criteria of citizenship, and what are the implications of this?
- If service dogs were treated as co-citizens, what additional rights would they be entitled to considering the public benefit that service dogs provide?
- Does citizenship offer a potential improvement to the current status of service dogs?

As highlighted throughout this thesis, service dogs in England and Wales sit within a liminal space in our society, neither solely companion nor worker. The current welfare-based approach fails to take a holistic view and consider the complexities of a service dog’s life and role from birth to death. Nor does it take into consideration that service dogs provide a significant contribution to the public good through their work supporting individuals, the public, private, and charitable sector. As a result this contribution, and their irreplaceable skills have gone largely unrecognised, leading to their contribution being undervalued, and the dogs themselves being under protected. Over the last decade, there has been an increase in public interest concerning service animals, particularly in the years following the high-profile attack on police dog, Finn in 2016 which raised public awareness and resulted in the ensuing campaign for

⁵⁸³ *Perez vs Brownell* [1958] 356 U.S. 44

Finn's law or the Animal Welfare (Service Animals) Act, which was enacted in June 2019. Since the enactment of Finn's Law, and the Covid-19 pandemic, public interest has waned somewhat with the focus being on the enactment of the Animal Welfare (Sentencing) Act 2021, as some have labelled this Finn's Law Part 2.⁵⁸⁴ On examination, there continues to be a dichotomy in law and policy, where service dogs are property and equipment, while simultaneously being deemed heroes⁵⁸⁵ and as the results from this thesis have shown, for the participants, their service dogs are also their family, their friends and their co-workers.

It is now quite well established that companion animals are viewed primarily as members of the family, and there is a dearth of research on how service dogs are viewed and their current legal protection. To explore this gap in knowledge, this thesis has drawn on the work of Donaldson and Kymlicka. In addition, a survey and semi-structured interviews were conducted with service dog handlers to consider the implications of regarding service dogs as "co-citizens" rather than "property." This included exploring how it may be possible to use the joint experiences of service dog and handler to create positive policy and legal changes for their service dogs. I have argued that the citizenship framework outlined by the authors in *Zoopolis* provides a potential way of creating more just relations with service dogs, that would allow service dogs to continue to use their irreplaceable skills for the good of individuals and society while treating them as intrinsically valuable individuals, capable of flourishing when carrying out their roles and having relations with humans.

This thesis has found that the current legal status of property used to define a service dog is out of step with the participants' perspectives. Specifically, I found that the participants who took part in this research viewed their service dog not only as a family member, but equally as a friend, and as a co-worker/colleague. Furthermore, the participants overall felt that there was a need for increased legal protection to be provided to service dogs, the majority of whom suggested that service dogs should be viewed and protected in the same, or a similar way as the handler, regardless of role or organisation. In addition, there is some evidence to suggest that an adapted version of citizenship, implementing aspects such as some membership rights and labour rights could be considered to increase protection for service dogs and begin to provide the recognition that these dogs deserve.

⁵⁸⁴ Fabulous Finn, '#FinnsLawPart2', < <https://www.finnslawpart2.info/> > accessed 20th April 2021

⁵⁸⁵ For two recent examples see various new headlines from the 1st June 2021 regarding Police Dog Kaiser. In addition to, Ruchira Sharma, 'Hero dog 'Digby' saves woman from taking her own life on M5 motorway in Exeter', (*iNews*, 16th June 2021)

8.2 Chapter summaries

Chapter one is an introduction to the overall focus of the thesis; it is summarised in this chapter why service dogs have been chosen as the focus of the research and why I felt that this topic needed further exploration. The definition of a service dog is defined and justified through the use of the Animal Welfare (Service) Animals Bill 2017-19, before moving on to set out the research questions that will be answered by the end of the thesis. Finally, the chapter details what my original contribution to knowledge will be and provides a structural outline for the remainder of the thesis.

Chapter two is designed to provide the background information to this thesis. A general overview of service dogs is given, in addition to highlighting why service dogs are deserving of being the focus of this research before attention is turned to the legislation that is applicable to service dogs.

The main reasons provided in this chapter are –

- Service dogs contribute to society and individual lives in a nuanced and tangible way.
- The skills and abilities of service dogs are essential, and it would be difficult, if not impossible, to replicate these.
- Service dogs do not choose their path; their lives are pre-determined by humans to serve human needs.
- Service dogs currently have little specific protection, and their contribution is not sufficiently recognised nor reflected in their protection.

Chapter three examines the literature regarding the legal and moral status of service dogs in England and Wales. Firstly, it started by introducing the most significant historical and current animal protection developments in England and Wales. The chapter then shifts focus to discuss the Animal Welfare Act 2006 and detail the current underlying paradigm behind these protections and the limiting effect that the welfare approach can have on the progression of animal protection legislation and policy. Finally, the chapter presents a number of alternative and competing approaches to address the legal status of animals as property, from Francione's abolitionist approach to Wise's legal personhood. Both chapters three and four draw attention to the failure of the current welfare-based approach towards service dogs who are currently in receipt of limited protection and no employment rights. Their contribution going unrecognised, and their legal status being that of mere property.

Chapter four offers an alternative framework to those outlined in chapter three. This chapter begins by defining and explaining what inviolable rights are and why I adopt the starting point of sentience to argue that service dogs are entitled to inviolable rights. The extended version of citizenship theory developed by Donaldson and Kymlicka is then introduced, before focusing on why domesticated animals should become our co-citizens. This chapter then considers in detail three main ethical areas – duties of protection, medical care and the use of animal labour, with a specific focus on service dogs. Finally, Cochrane’s five labour rights for animals are set out.

Chapter five justifies why a mixed methods approach was deemed to be the most suitable methodological approach to explore how current and ex-service dog handlers feel about the legal protection their dog(s) currently receive, and their property status. The chapter then details the chosen data collection method which resulted in 26 survey responses and seven semi-structured interviews taking place. The respective underpinning research philosophy and epistemology are discussed, which was that of pragmatism and constructivism. The results of the data collected was analysed through thematic analysis. The remainder of the chapter is focused on considering the positionality, ethical issues, limitations, and validity pertaining to my research.

Chapter six presents the findings of my data collection. The chapter starts by providing some background information about both the survey and interview participants and their service dogs. The four themes identified from the thematic analysis of the qualitative data are then outlined and provide the structure for the chapter. These themes are legal status, legal protection, relationship, and public benefit. Each theme is examined in turn, with both the quantitative and qualitative findings being discussed in unison, with the qualitative findings developing the quantitative findings.

Chapter seven provides the analysis of the findings identified in chapter six. This chapter aimed to address my research questions in light of the empirical findings. The chapter begins by reiterating the main findings of the previous chapter and provides a reminder of the research questions to be answered and the previously identified themes. There is a summary table at the beginning of the chapter which highlights the individual research question, the themes which help to answer that research question and the main finding(s). The chapter mirrors the structure of chapter six, with the third and fourth themes discussed together; this made structural sense, as the discussion of both themes is interconnected.

8.3 Contribution to knowledge

The original contribution to knowledge in this thesis has been achieved by filling a current gap in our understanding, through using empirical research to explore citizenship theory in the specific context of service dogs, providing a study that has not been done before. As discussed, there has been little empirical research carried out exploring how service dogs are perceived by those who are closest to them, their handler, as has been done for companion animals. This research, by undertaking a survey in combination with conducting semi-structured interviews with service dog handlers, has created an original contribution, and has helped to fill a gap in knowledge. In addition, it has been shown that the current protection received by service dogs is viewed as inadequate by their handlers, and that there was a desire by the participants for greater protection. This thesis has adopted a novel approach to explore this topic, using empirical research to explore the chosen theory. Animal labour in particular is an emerging area of study, and there has been the suggestion of adopting labour rights for animals but no empirical research to consider this. My research has provided evidence to suggest the implementation of aspects of citizenship theory may be possible and has identified areas of further research and development. As discussed in the previous chapter, there is a need for interdisciplinary research to help shed some light on the compatibility of animal labour and citizenship theory. As previously noted, this is also one of the more challenging areas to work on. The research carried out in this thesis does not claim to provide a definitive answer as to how this can be achieved, nor how compatible the labour of service dogs is with citizenship theory. However, my research does contribute towards beginning to develop an answer, by suggesting that in some respects, the work, training, and relations between the participants and their service dogs appear to be compatible with citizenship theory.

Donaldson and Kymlicka's theory provided a springboard for this research and the findings of this thesis could be taken forwards and developed to try to progress the current situation of service dogs and lead to gaining the recognition that they deserve. The original contribution to knowledge in this thesis can be broken down into three main subsections, namely, law, policy, and citizenship theory itself. These sections can be considered individually, but they are also interlinked, which has been a theme running throughout this thesis. These suggestions would need to be subject to further research, and constraints such as time, money, enforcement, and resources would likely be key issues. This thesis has shown that there is scope to rethink our relationships with service dogs, to provide the protection and recognition that their contribution deserves.

8.3.1 Law

This thesis has explored and considered some of the main pieces of legislation that are applicable to service dogs in England and Wales. There are a number of legal changes that have been suggested for service dogs throughout this thesis, such as:

- It was highlighted in chapter seven that the law in relation to service dogs appears to be lacking in consistency, and clear communication regarding what the law actually means in the case of these specific individuals.
- Creating parity between the protection and recognition of the handler and the service dog, as suggested by the participants.
- Altering the legal status alone of service dogs so that in law they are viewed as a family member, co-worker or potentially a co-citizen, as was consistent with how handlers viewed their dogs.
- Introducing clear labour rights, such as the right to a pension and support during retirement, as was supported by the participants.
- Access to medical care for all current and retired service dogs, creating a lifetime commitment to their medical care.
- The introduction of a Bill similar to the suggested Canine Members of the Armed Forces Act in the US for all service dogs, not just those who have served in the military.
- A law allowing emergency services to respond and provide emergency assistance to service dogs, a scheme similar to that currently being trialled in San Bernardino, California.

All of the suggestions above could be achieved through legislative means, but in the absence of legislation, many of the recommendations made here, could still be implemented voluntarily. For example, changes in the use of language, pensions and a lifetime commitment to medical care could be implemented by the organisations themselves, or with encouragement in the form of financial incentives.

8.3.2 Policy

Individual organisations could choose to implement a range of policies based on the above. For example, an organisation could choose to recognise their service dogs as workers. This does not have the same impact as being legally recognised as a worker, but it would have a symbolic impact. A change like this would need to be supported by actions such as the introduction of pensions or lifetime support. Equally, policies can become law in the future and can be subject to regular reviews which could reflect changing future attitudes. If some of

these suggestions were to be implemented, this could help encourage us to progress forwards in our treatment, recognition and attitudes towards service dogs and their essential role in society. Further, once some of the recommendations in this thesis are implemented, it could create momentum and lead to further implementations or strengthen current ones in future.

One area that could be taken forwards is further research into how a centralised body or organisation could be established solely for the benefit of service dogs and to advocate their interests. This organisation could be signed up to by public, private and charitable organisations. This would aid in collecting further data about service dogs, such as the number of service dogs in England and Wales, which is currently unknown, in addition to further data collection to develop a sound evidence base for the creation of future change. This body could also act as a central point of contact and distribution in the case of pensions, for example.

A further area of research would be in relation to medical care. For example, each individual service dog could be signed up to an online register or provided with an identification card that is linked to their microchip number so that the benefit is for the dog, regardless of the human who is caring for them. Initially, veterinary care centres could voluntarily sign up their practice to provide free or discounted care for those registered or who hold an identification card.

8.3.3 Theory

Donaldson and Kymlicka's citizenship theory has been relatively overlooked by legal theorists, and it has not before been combined with empirical research as it has been in this thesis. Although I agree with their framework overall, their consideration of the theory's application to service dogs is limited and this thesis has helped to expand on this area. It was clear from my participants' views that citizenship theory for service dogs, or certainly aspects of this, could potentially be a viable option for service dogs, moving forwards. Many of the concerns raised by participants surrounding legal status, legal protection, medical care, retirement, and pensions could be improved, or addressed by citizenship theory.

Although I support the use of citizenship theory in relation to service dogs, it is clear from the empirical research that it is not an essential element for service dogs to be legally deemed co-citizens in order for many of the benefits of being recognised as such to be implemented. Therefore, even if it was not adopted in its pure animal rights-based form and was based more on Kymlicka's social recognition approach, the implementation of positive rights for service dogs could eventually lead to legal personhood or full co-citizenship in future. In the meantime, the adoption of certain aspects under the current welfarist framework would

provide positive improvements to the lives of service dogs and perhaps be a step towards gaining the recognition that they deserve for their contribution to individual lives and society.

8.4 Limitations of the study

This research has one main limitation, in that my empirical research was based on a relatively small sample, and therefore may not be representative of all service dog handlers. The survey results were used to inform the semi-structured interviews. This approach resulted in a rich data set. Furthermore, my research is exploratory in nature and, as is typical of such research, uses a small sample so as to focus on nuance, depth, and richness rather than generalisable, or conclusive results.

An unforeseeable limitation for my research was the global outbreak of Covid-19. It is difficult to know the true impact of this on my research, but I believe that it did affect my recruitment and the uptake of participation, with seven individuals who indicated that they wanted to be interviewed failing to respond. I feel this was largely attributed to the sudden disruption and reprioritisation of both individuals and organisations. Although these limitations are acknowledged, they do not depreciate the value of this research. These limitations draw attention to the need to replicate this study on a national level, and to include not only service dog handlers but to open it up to the general public, as well to understand their views and attitudes.

8.5 Future research agenda

My thesis is the result of a small-scale exploratory study which has scope to be developed further, particularly in relation to more detailed practical proposals. As a result, this research has provided a starting point for developing research into the legal status and protection of service dogs in England and Wales. From legal and socio-legal perspectives, the potential of recognising service dogs as family members, friends, and co-workers presents many opportunities for future research. One of the first steps would be to repeat this research on a national scale, including service dog handlers and the general public, to establish whether the views held by the participants in this study reflect a majority opinion. The practical implications of according a legal status to service dogs which reflects the way they are socially constructed would require further research and careful consideration. While I have considered citizenship as the legal construct that best accomplishes this, there may be other alternatives that could be explored in future research. Further analysis of which membership and labour rights may garner the most support and be the easiest to implement, in addition to the implications of each option, will require additional research in order to further assess the

impact on law, policy, and current organisations. The pilot scheme which is currently ongoing in San Bernardino in California until January 2022 in relation to the use of ambulances for serving police dogs also provides a strong avenue for future research, particularly in relation to whether a similar scheme could be established and trialled for serving service dogs in the UK.

The findings of this research may form the basis for future research intending to reform the legal status of service dogs and may prove a helpful addition in developing the literature regarding animal labour, which is an area currently in its infancy. This may further inform policy regarding the development of social rights for service dogs, helping us to understand notions of service dogs as something other than property. Future research will further explore the small amount of knowledge created in this study, validating, and reinforcing its findings as our perceptions and views around service dogs change and develop.

8.6 Conclusion

This thesis has provided some evidence that service dogs may be viewed not only as a family member, but equally as a friend, and as a co-worker. In addition, there is potentially a need for increased protection to be provided to service dogs, which as far as possible should be comparable to the protection received by the handler. It also explored the domesticated animal citizenship framework set out by Donaldson and Kymlicka in relation to service dogs and has shown that aspects of citizenship such as membership and labour rights appeared to resonate with the participants of this research. The originality of this research has been highlighted throughout this thesis, and an original contribution to knowledge has been established, in addition to fulfilling the requirements of an exploratory study, through the identification of a number of areas for future research to be developed.

Appendices

Appendix 1 – Participant information sheet example



**Northumbria
University**
NEWCASTLE

How do current and ex-service dog handlers feel about the protection their dog(s) currently receive, and their property status

Participant Information Sheet

You are being invited to take part in this research study. Before you decide it is important for you to read this leaflet so you understand why the study is being carried out and what it will involve.

Reading this leaflet, discussing it with others or asking any questions you might have will help you decide whether or not you would like to take part.

What is the Purpose of the Study

Although there have been many studies of people's relationships with their pet dogs, much less is known about the relationship between service dogs and their handlers. This research aims to gain an insight into that relationship. I am interested in how far the way the law views service dogs reflects the way their handlers view them. This study is being conducted as part of my PhD in Law at Northumbria University.

Why have I been invited?

Participation in this research is limited to individuals who work, volunteer or have previously done so with service dogs as the aim of this research is to gain an insight into the service dog – handler relationship. Service dog is being used as an inclusive term in this context to include assistance and therapy dogs.

Do I have to take part?

No. It is up to you whether you would like to take part in this study, this information sheet is provided to help you make that decision. If you do decide to take part, you can stop being involved in the study whenever you choose, without providing a reason. You are completely free to decide whether or not to take part, or to take part and then leave the study before completion.

What will happen if I take part?

You will have a 1-1 interview arranged with myself at a location and time to suit you. Alternatively, if it is not possible to meet face to face there is the option of conducting the interview via telephone. If the interview is conducted via telephone, then a time to suit you will be arranged. On the day this information sheet and your consent form will be briefly discussed before we start the interview, this is to provide a further opportunity for you to ask any questions that you may have, and to address any concerns. I will ask for your consent to record the interview using a Dictaphone, if you are unhappy with this, I will take notes as an alternative. I will ask you a range of questions relating to your relationship with your service dog(s), the aim of these questions is to build upon the survey that you previously completed. The interviews will last approximately 60 minutes.

What are the possible benefits of taking part?

This is currently an under researched area and your participation will help contribute towards filling this gap in knowledge. The interview provides an opportunity for you to build upon your survey responses, this will help to create a more detailed picture as to your relationship with your service dog(s). Your responses will also help me to identify where there may be potential issues or misalignments between how handlers perceive their relationship with their service dog(s) and current legal protection.

What are the possible disadvantages of taking part?

At some point during the interview it is possible that you may feel emotional, or a feeling of discomfort because of some of the questions asked. You do not have to answer all the questions that are put to you, and you can withdraw from the process at any time. You will be provided with a list of support organisation details at the end of the interview, or when you decide to leave.

Will my taking part in this study be kept confidential and anonymous?

Yes. Your name will not be on the recorded interviews, or on the interview transcript, and your name will not appear in any reports or documents resulting from this study. The consent form you have signed will be stored separately from your other data. The data collected from you will remain confidential, unless it is deemed necessary to share this data with my supervisors.

How will my data be stored, and how long will it be stored for?

All paper data, such as the transcripts from your interview and your consent forms will be kept in locked storage. All electronic data; including the recordings from your interview, will be stored on the University U drive, which is password protected. All data will be stored in accordance with university guidelines and GDPR. 10.12 the retention period is 3 years.

What categories of personal data will be collected and processed in this study?

Contact details of the participants will be collected in order to arrange the interviews. I will also collect information on gender, age and years as a dog handler.

The legal basis for processing the personal data required for the purposes of this study is that the research is being conducted in the public interest.

Who are the recipients or categories of recipients of personal data, if any?

Myself only.

What will happen to the results of the study and could personal data collected be used in future research?

The results of the study will form part of my PhD, they may also be used in research articles or in a book.

Who is Organising and Funding the Study?

I am organising this study as part of my PhD, it is funded by Northumbria University.

Who has reviewed this study?

Before this study could begin, permissions were obtained from The Faculty of Business and Law Research Ethics Committee at Northumbria University.

What are my rights as a participant in this study?

A statement outlining the individual's rights under GDPR should be included, including the following: a right of access to a copy of the information comprised in their personal data (to do so individuals should submit a Subject Access Request); a right in certain circumstances to have inaccurate personal data rectified; and a right to object to decisions being taken by automated means. Participants should also be informed that if they are dissatisfied with the University's processing of personal data, they have the right to complain to the Information Commissioner's Office. For more information see the ICO website.

Contact for further information:

PhD Student: jessica.horton@northumbria.ac.uk

Principle Supervisor: tony.ward@northumbria.ac.uk

Name and contact details of the Data Protection Officer at Northumbria University: Duncan James (dp.officer@northumbria.ac.uk).



**Northumbria
University**
NEWCASTLE

**CONSENT FOR TAKING PART IN A STUDY
WHICH MIGHT CAUSE PSYCHOLOGICAL DISTRESS**

Project Title: How do current and ex-service dog handlers feel about the protection their dog(s) currently receive, and their property status.

Principal Investigator: Jessica Horton

*please tick or initial
where applicable*

I have carefully read and understood the Participant Information Sheet.	<input type="checkbox"/>
I have had an opportunity to ask questions and discuss this study and I have received satisfactory answers.	<input type="checkbox"/>
I understand I am free to withdraw from the study at any time, without having to give a reason for withdrawing, and without prejudice.	<input type="checkbox"/>
I agree to take part in this study.	<input type="checkbox"/>
I understand that by taking part in this study I may be exposed to situations that may generate some psychological distress that may become apparent during and/or after the study has finished. I accept the small risk of experiencing psychological distress as part of this research	<input type="checkbox"/>

I also consent to the retention of this data under the condition that any subsequent use also be restricted to research projects that have gained ethical approval from Northumbria University.

Links to organisations who offer help and advice on mental health:

NHS <https://www.nhs.uk/using-the-nhs/nhs-services/mental-health-services/how-to-access-mental-health-services/>

Mind <https://www.mind.org.uk/>

Links to organisations who offer support with pet bereavement and pet loss:

Blue Cross <https://www.bluecross.org.uk/pet-bereavement-and-pet-loss>

The Society for Companion Animal Studies <http://www.scas.org.uk/human-animal-bond/coping-with-pet-loss/the-pet-loss-support-online-surgery/>

Signature of participant..... Date..... (NAME IN BLOCK LETTERS).....
Signature of Parent / Guardian in the case of a minor

Signature of researcher.....	Date.....
(NAME IN BLOCK LETTERS).....	

Appendix 3 – example email sent out for the survey

To whom it may concern,

I am writing to ask you to take part in a research study. This study forms part of my PhD at Northumbria University, and is approved by Northumbria University's Research Ethics Committee.

Participation in this research is limited to individuals who work or volunteer with service dogs as the aim is to gain an insight into the service dog – handler relationship. Your responses will help me to identify where there may be potential issues or misalignments between how handlers perceive their relationship with their service dog(s) and current legal protection. Service dog is being used as an inclusive term in this context to include police, military, fire & rescue, assistance and therapy dogs (these examples are not exhaustive.)

You will find below a link to an online survey. You do not have to take part in this survey, and all information provided by you will remain confidential. The survey should take you approximately 15 minutes to complete.

Your time and participation in completing this survey is truly appreciated, if you have any questions please do not hesitate to contact me at jessica.horton@northumbria.ac.uk.

I would be most grateful if this email could be passed on to the relevant department and distributed to any service dog handlers within your organisation.

Yours sincerely,

Jessica Horton

Online Survey Link: <https://northumbria.onlinesurveys.ac.uk/how-current-and-ex-service-dog-handlers-feel-about-the-leg>

Appendix 4 – A blank version of the survey

Jisc Online surveys

How current and ex-service dog handlers feel about the legal protection their dog(s) currently receive, and their property status

When creating your survey, we recommend the use of a privacy notice, this should explain to survey respondents about how you plan to use any personal information you collect, and how long you intend on keeping it. Your organisation's data protection officer may be able to provide advice and guidance on creating a suitable privacy notice for your survey.

p. 1

How current and ex-service dog handlers feel about the legal protection their dog(s) currently receive, and their property status

Add item

You are being invited to take part in a research study. Although there have been many studies of people's relationships with their pet dogs, much less is known about the relationship between service dogs and their handlers. This research aims to gain an insight into that relationship. I am interested in how far the way the law views service dogs reflects the way their handlers view them.

Participation in this research is limited to individuals who work or volunteer with service dogs as the aim of this research is to gain an insight into the service dog – handler relationship. Service dog is being used as an inclusive term in this context to include police, military, fire & rescue, assistance, therapy dogs (these examples are not exhaustive.)

You do not have to take part in this survey, all information provided by you will remain confidential. The survey should take you approximately 15 minutes to complete.

Add item

1 Please confirm that you wish to complete the survey. *

I wish to continue and complete the survey

Add item

Add item

p. 2 Page 1

Add item

2  Are you Male or Female? *

- Male
- Female
- Prefer not to Say

Add item

Add item

3  Please select your age range *

- 18-25 years old
- 26-35 years old
- 36-45 years old
- Show all (5)

Add item

Add item

4  Please select your organisation from the drop-down menu *

- Police Force (England & Wales)
- Special Police Force (England & Wales)
- Fire & Rescue Service (England & Wales)
- Show all (14)

Add item

a  If you selected Other, please specify: *

Add item

Add item

Add item

5  Is your role within that organisation paid or unpaid? *

- Paid
- Unpaid
- Other

Add item

a  If you selected Other, please specify: *

Add item

Add item

Add item

6 **T** What is your job title? *



Add item

Add item

7 **☰** How would you define your role within your organisation? *



Add item

Add item

8 **🎯** How long have you worked, or how long did you work with dogs? *



Less than 1 year

1-3 years

4-6 years

Show all (5)

Add item

Add item

9 **🎯** How many dogs are you currently responsible for, or were you previously responsible for? *



1

2

3

Show all (6)

Add item

a **T** If you selected Other, please specify: *



Add item

Add item

Add item

10 **🎯** Have you ever had to give a dog up? For example, at the end of the dogs career. *



*

Yes
No

Add item

Add item

11  If you answered yes to the previous question, how did you feel about having to give that dog up?



Add item

Add item

12  Have you ever had a dog transferred before? For example, the partnership with the dog was not working, your time as that dogs handler had come to an end. *



Yes
No

Add item

Add item

13  If you answered yes to the previous question, how did you feel about having a dog transferred?



Add item

Add item

14  Have any of your dog(s) ever experienced physical abuse while fulfilling their role? *



Yes
No
Other

Add item

a  If you selected Other, please specify: *



Add item

Add item

 If you answered no please go to question 17.



Add item

Add item

15  Did you report the incident or incidences either internally or to an outside organisation such as the Police? If yes, who did you report the indecent to and what was the outcome in each case? If no, what was the reason behind not reporting the incident(s)? *

Add item

Add item

16  What would you say is the frequency of experiencing such physical abuse? *

Daily

Weekly

Monthly

Show all (5)

Add item

a  If you selected Other, please specify: *

Add item

Add item

Add item

17   I see my dog as a... *

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
Co-worker	<input type="checkbox"/>				
Friend	<input type="checkbox"/>				
Equipment	<input type="checkbox"/>				
Family	<input type="checkbox"/>				
Child	<input type="checkbox"/>				
Person	<input type="checkbox"/>				

Add item

Add item

18   Below is a series of statements - please select whether you agree or disagree with each one. *

	Agree	Disagree	Neither agree nor disagree	I don't know
The current legislative protection for service dogs is sufficient	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The current sentencing guidelines for harming service dogs are sufficient under the Animal Welfare Act 2006	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The sentencing guidelines proposed under the Animal Welfare (Sentencing) Bill 2017-19 would be sufficient punishment when a service dog is harmed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Service dogs should remain as property	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Service dogs are exploited	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Add item

Add item

19  Do you have any suggestions as to how the service dog-handler relationship should be legally recognised? *



Add item

Add item

20   A service dog should be entitled to... *



	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
A union representative	<input type="checkbox"/>				
A pension upon retirement	<input type="checkbox"/>				
Compensation if injured at work	<input type="checkbox"/>				
Legal standing	<input type="checkbox"/>				
A working hours limit	<input type="checkbox"/>				
Safe working conditions	<input type="checkbox"/>				

Add item

Add item

21  Is there anything else that you would like to add?



Add item

Add item

p. 3 About your dog(s)



Add item



This section asks you about your relationship with an individual service dog that you work with, when filling out this section of the survey please only consider that individual.



There is the opportunity to include up to five service dogs. If you do not have a current service dog then you may go straight to page 8.

Add item

22



What is your dog's name?



Add item

Add item

23



What is their age?



Less than 1 year old

1-3 years old

4-6 years old

Show all (5)

Add item

Add item

24



What is their job role?



Add item

Add item

25



Please select their breed from the drop-down menu



German Shepherd

Cocker Spaniel

Labrador

Show all (19)

Add item

a



If you selected Other, please specify: *



Add item

Add item

Add item

26  How long have you both been in partnership?  

Less than 1 year

1-3 years

4-6 years

Show all (5)

Add item

Add item

27   Thinking about the dog named above only, you view him/her as a...  

	Sometimes	Always	Never
Colleague	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Friend	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Equipment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Person	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Add item

Add item

28  Do you view the dog named above, in any other way not already mentioned?  

Add item

Add item

29  Where is the dog named above, kept mostly during the day?  

At home inside the house

At home in an outside kennel

In a kennel away from home

Show all (4)

Add item

30  If you selected Other, please specify: *  

Add item

Add item

Add item

30 Where is the dog named above, kept overnight?  

At home inside the house

At home in an outside kennel

In a kennel away from hom

Show all (4)

Add item

a If you selected Other, please specify: *  

Add item

Add item

Add item

31 Are there any companion animals in the household?  

Yes

No

Add item

Add item

32 Please select all companion animals that apply  

Dog

Cat

Small Mammal

Show all (7)

Add item

a If you selected Other, please specify: *  

Add item

Add item

Add item

33 Does the dog named above, interact with those companion animals?  

Yes
No
Other

Add item

a **T** If you selected Other, please specify: *

Add item

Add item

Add item

34 **🎯** Does the dog named above, interact with other members of the family? For example, child, partner etc.

Yes
No
Other

Add item

a **☰** If you selected Other, please specify: *

Add item

Add item

Add item

35 **☰** How would you describe your relationship with the dog named above?

Add item

Add item

36 **☰** In a few sentences, please describe what the dog named above means to you?

Add item

Add item

37 **🎯** Does the dog named above communicate with you?

Yes
No
Other

Add item

a  If you selected Other, please specify: *



Add item

Add item

Add item

38 Do you understand what the dog named above is trying to communicate to you?



- Always
- Sometimes
- Never
- Show all (4)

Add item

a  If you selected Other, please specify: *



Add item

Add item

Add item

39 Do you take his or her wishes into account?



- Always
- Sometimes
- Never
- Show all (4)

Add item

a  If you selected Other, please specify: *



Add item

Add item

Add item

40  How do you take his or her wishes into account?



Add item

Appendix 5 – Participant interview questions

Interview Questions

1. Tell me a little bit about your dog(s) and the work that you do together?
2. Can you tell me about the importance of a dog's role in your line of work?
3. What is your relationship like with your dog? (Do you have any companion dogs? Do you find there is a difference?)
4. Can you tell me a bit about what your dog means to you?
5. My survey responses show so far that other participants don't think that service dogs should legally be classed as property, what do you think about this?
6. How do you feel when you hear that your dog is property?
7. Do you think that service dogs are protected sufficiently under the law?
8. Do you have any suggestions about how a service dog should be viewed under the law?
9. What impact do you think there would be if you replaced a service dog with technology, or paid a human to fulfil their role?
10. Hypothetically, if there was a law that came into effect overnight banning the use of all service dogs, what impact do you think that this would have on your work?

Appendix 6 – An example of two interview transcripts and coding

Interview with Participant A on the 28th February 2020 via Skype

JH: Jessica Horton
P: Participant A

P: you know so in that case it was a decision that we made but to be fair on every single search that we go out on...

JH: Yeah.

P: it may not be as dangerous as that but there's barbed wire fences, there's electric fences, there's big holes in the floor, you know so you're searching areas that people haven't necessarily walked in or travelled in...

JH: Yeah.

P: for sometimes ever right so who knows what we're going to run into, so arguably we are putting ourselves and our dogs in harm's way...

JH: Yeah

P: on every single search...

JH: Yeah.

P: and dogs have been hurt right, so there was a search dog last an area search dog a couple of years ago who literally stabbed herself through the chest with a branch...

JH: Yeah.

P: the area dogs they're jumping over some of the areas they actually search are pretty gnarly...

JH: Yeah.

P: so this dog literally impaled herself on a branch that was sticking up...

JH: Mm.

P: Fido's injured herself on searches you know...

JH: Mm.

P: January last year the last search we did before we went on last year we did a search north of the downs near Portsmouth...

JH: Yeah.

P: and we were near the end of it and she popped out of the undergrowth we had just come onto the path and she popped out of the undergrowth and it was like a scene out of reservoir dogs...

Risk of harm (accidental)

Risk of harm / uncertainty

Frequently

Example of harm / Particular role

Risk of particular role

Example of harm

Personal experience of risk to their dog

Interview with Participant E on the 4th March 2020 via telephone

JH: Jessica Horton
P: Participant E

P: Yeah I think the dog I think you should be able to there should be specific offences lined up for a person who causes injury to a service animal...

Additional legal protection

JH: Yeah.

P: you know whether it be a dog or a horse or anything like that... *All service animals*

JH: Mm.

P: I mean they've already incorporated changes into the Dangerous Dogs Act for dogs that injure service dogs guide dogs and its I can't remember if its classed as I think its an aggravated offence where the dog gets loose and attacks a dog then you're gonna get prosecuted...

Level protection - Example of current legislation

JH: Yeah.

P: if that dog attacks a Guide dog then it's an aggravated offence and I believe I'm not sure that the punishments for that are akin to if your dog had injured a human being...

Level of protection for a dog/human

JH: Yep, yeah.

P: so if they can do the same under the Dangerous Dogs Act for Guide Dogs then surely they incorporate something else in where you know a service dog is offered a higher level of protection.

Current difference in legislation for different service dogs / Greater legal protection

JH: Mm, yeah.

P: I'm not sure I would say as the same level as a human...

Difference between a human and a dog

JH: Okay.

P: because I don't think that when you're looking at say the offence of murder that is murder for killing a human being...

Distinction between offences for a service dog and a human

JH: Mm hm.

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