

# Policy Position: Microchipping and traceability

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## Introduction

The Microchipping of Dogs (England) Regulations 2015 came into force on 6<sup>th</sup> of April 2016, in exercise of the powers conferred by section 12 of the Animal Welfare Act 2006. Under the law it is compulsory for all dogs over the age of 8 weeks in England to be fitted with a microchip. (unless it is a certified working dog for the purposes of section 6(3) of the Animal Welfare Act 2006 or a veterinary surgeon certifies that a dog should not be microchipped) Owners of dogs found by the police or local authorities not to have a microchip will have the benefits explained to them and be given a short period to comply with the microchipping law. If they do not, they could face a fine of up to £500.

Microchipping is a quick and permanent way of identifying a dog, taking no more than a few moments to implant. A microchip is a passive device unless stimulated by an appropriate scanner which can receive a radio signal from the microchip indicating its 15 digit identification code. This code can then be mapped against the data recorded on the microchip database to identify the owner of the dog and therefore ensures accurate traceability.

The Impact Assessment, published by Defra on 3<sup>rd</sup> of March 2014 stated the policy objective:

*‘to improve animal welfare by increasing traceability of dogs through microchipping and to encourage responsible dog ownership. More lost dogs will be re-united with their owners more quickly to the benefit of owners and dogs and saving Local Authorities and charities considerable*

*kennelling costs. It will be easier for those responsible for tackling abuses of dog welfare to bring owners to account and to protect public safety. Traceability back to breeders will in the longer term lead to dog health improvements as poor breeding conditions and practices lead to health problems and generic/congenital problems.'*

The intentions of Defra in the impact assessment were a step forward in dog welfare, and applauded by dog welfare charities, the veterinary profession and dog owners. However when the Regulations were enshrined in law there were serious omissions which have meant that the promised traceability has not happened

## Issues

Under the Breeding and Sale of Dogs (Welfare Act) 1999 and The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 it is illegal for licensed breeders to sell puppies under the age of eight weeks. Defra's recent proposals endorsed by the government should also ensure that more breeders fall into the category of licensed breeders.

The Obligation to microchip dogs is stipulated at (3) in the Microchipping Regulations, making it law for the keeper of any dog older than eight weeks to ensure that it is microchipped in the format set out in Regulation (4). Therefore, read simply it appears that all licensed breeders who are selling or transferring puppies at eight weeks or above will have an obligation to microchip the puppies. It is clear from Defra's impact assessment that that this was an original objective. Thus allowing traceability back to breeders. However, the way the Regulations have been drafted has not ensured that this is the case. It is unclear whether this was intentional or the result of poor drafting.

The following issues are apparent:

- a) The Regulations make no provision for the database to hold the information of anybody but the current keeper. A 'keeper' is described in section 2(d) of the Regulations in relation to a new

born puppy as the owner of the bitch which gave birth to it; and in relation to any other dog the person with whom it normally resides. This means that even if the breeder has recorded their details on the microchip, once it has been transferred or sold to a new keeper and their details recorded on the microchip, the breeder will be untraceable.

- b) Regulation 5 lists the details to be recorded on the databases, and it does not mention anywhere that the original owner i.e. the breeder's details should be retained. The only information which must be given to an 'authorised person'<sup>1</sup> is the details of the current keeper. Therefore there is no obligation to record or give any information about the breeder who would have been the dog's original keeper.
- c) Another problem arises where the breeder may have sold the dog to a licensed pet shop under the age of eight weeks old. Under the Breeding and Sale of Dogs (Welfare) Act 1999 a licensed breeder may sell puppies under the age of eight weeks to a licensed pet shop. In this case it will be the pet shop licensee who is responsible for microchipping the puppy in the first instance. Again there will be no obligation to record or divulge the name of the breeder.
- d) There will invariably be licensed breeders who sell or transfer a puppy to a new owner at the age of exactly eight weeks, who will not have microchipped the animal. They will deem it the responsibility of the new owner/keeper to do so as the dog reaches eight weeks.

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<sup>1</sup> An authorised person is defined in regulation 11 as:

(1) The secretary of state may authorise in writing any person to act for the purpose of enforcing these regulations

(2) a local authority in whose area the dog is kept may authorise in writing any person to act for the purpose of enforcing these regulations in its area.

(3) Any police constable or community support officer

e) The EFRA Animal Welfare report published in November 2016 estimated that 88% of puppies born in the UK, are born to unlicensed breeders. This means that the law banning the sale of puppies before the age of eight weeks will not apply to a vast majority of puppy sales. This will apply even if the law is extended to cover more breeders. Puppies can, and will continue to be sold at any age by unlicensed breeders and therefore the microchipping regulations will not apply. It is another casualty of not banning the third party sale of dogs.

### **DBRG Position**

Defra's original recommendations were expected to be implemented in a way which would allow dogs to be traced back to their breeders. It is very disappointing that this is not the case. This legislation would have been an excellent way of tracing back health issues which arise from poor breeding practices giving dog owners and animal welfare charities a way to make breeders more accountable.

It is a step forward that dogs will have to be microchipped by their 'keepers' and therefore traced back if they go missing, or cause harm to other animals or humans. However this is an opportunity which has been missed for the welfare of dogs.

The legislation is already in force, and cannot be amended. It can, however be superseded by new Regulations. There is an opportunity at Sec 18 for a review of the Regulations. It states the review must: *'(a) set out the objectives intended to be achieved by these regulations and (b) assess the extent to which those objectives are achieved and (c) assess whether those objectives remain appropriate.'* The first report must be published within five years.

If it can be shown that an objective was (and should be) traceability back to breeders, it is possible at a review for the recommendation to

be that new Regulations should be drafted to supercede the current ones. The new Regulations would include traceability. In any event the current Regulations will cease to have effect after 7 years.

## Recommendations

1. The Regulations should be reviewed at the soonest time possible within the 5 year period, and include the original objective that breeders details should be included, and retained on the microchip for the welfare of the dogs.
2. That it should be an offence for a puppy to be sold or transferred under the age of eight weeks old, whether or not from a licensed breeder without the original breeder implanting a microchip recording their details.
3. The name of the breeder and current keeper to be recorded on the microchip for the whole life of the dog. *(if there are keepers in between this may not be as important and if there is a problem with overloading the database only those 2 key names should be stored).*
4. An 'authorised person' or the current keeper may request details about the original breeder.

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