Microchipping of dogs regulations – one year on

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It is one year since the introduction of the Microchipping of Dogs (England) Regulations 2015 came into force to a mixed public reception.

No standardised microchip implantation site exists; however, UK convention is between the scapulae.

With hindsight of the past year, this article looks to unravel the parliamentary intent behind this legislation and, from that vantage point, assess whether the regulations are achieving their aim.

Although the Government first announced its intention to introduce the legislation in February 2012, the foundations were laid in section 12 of the Animal Welfare Act 2006, and much of the early impetus was provided by the Microchipping Alliance, which was established in 2009.

The fact dog welfare and irresponsible ownership were foremost in ministers’ minds was made...
clear in a written ministerial statement by Owen Paterson MP on 6 February 2013. General cross-party agreement was also given to parliamentary under-secretary of state for Defra George Eustice’s statement to the Second Delegated Legislation Committee in January 2015.

The regulations were an important step in dealing with the annual average of 102,000 stray dogs costing councils and charities £33 million annually. The cost savings were to be made through increased traceability and reuniting lost dogs with owners more quickly.

**When the system fails**

Every veterinary practice has had lost dogs brought to it to be scanned and owners found, in the majority of cases, this worked well.

However, many cases exist where the system breaks down. If the animal is chipped, the phone number is often unobtainable and some dogs, although chipped, cannot be found on the database.

The dog warden service in the author’s council area operates Monday to Friday, 9am to 5pm, and the council kennels are about nine miles away. In his practice, where an animal cannot be identified or the owner contacted, no option other than directing the finder to the kennels is available. However, occasionally, staff members have recognised a dog as belonging to a known client and have returned it to its owners themselves.

Ironically, due to data protection legislation, divulging an owner’s name and address to a finder, which would allow him or her to take the dog back to its owner, is not permitted. It is ironic because, as was raised by Lord James Wallace and Christopher John Suenson-Taylor (Lord Grantchester) in separate debates, The Control of Dogs Order 1992, which requires all dogs in a public place to have a collar with the owner’s name and address, remains in force.

The maximum penalty for failing to comply is £2,000 – that is £1,500 more than for not microchipping your dog. The welfare argument, of rapidly reuniting pet and owner, would be better served if a clause in the microchipping contract allowed for the passing on of this legally required information. Additionally, more could be done to inform owners a collar, with a name and address, is still required. Inevitably, this will come down to individual vets and practices.

It is widely understood by the general public dogs are more likely to be microchipped – less so it is a legal requirement. In the author’s practice, owners regularly have to be advised their adult dogs should be microchipped.

The public is also aware the local vet is the most convenient place to have a stray dog scanned for the chip number to be read. What is not appreciated is the majority of vets, in many instances, are unable to take the dog off the finder’s hands, which can lead to a sometimes difficult conversation, one that could portray the veterinary profession in a negative light in the finder’s mind, or that of
any client overhearing the dog is being, effectively, turned away.

**Traceability**

Despite the introduction of the regulations, councils have not increased their resources to cope with the rising demand placed on them by the more aware public.

When Lord Grantchester asked in the Grand Committee: “Can the minister satisfy me that local authorities are confident they have the resources necessary?”, Lord Rupert De Mauley replied: “It is very clear from our discussions with both dog welfare organisations and local authorities this is about saving money. It is not going to involve them in any more expense.”

This contrasts sharply with the statement made by George Eustice, in which he said: “Microchipping is a dog welfare measure above all... Compulsory microchipping should have the additional benefits of reducing kennelling costs to local authorities and welfare organisations.“

An issue of concern in both Houses was that of the traceability of an owner once the microchip number had been read. Lord Sandy Trees’ thoughts were directed to the possibility of a “single portal of entry for enquiries”. His lordship’s thoughts were echoed by Angela Smith MP, who added that was the preferred approach of the Microchipping Alliance.

Lord Grantchester had pointed out, under the Microchipping Regulations 2015 – Regulation 6(1i and 1j), database operators must “have a system for redirecting telephone queries relating to dogs whose details are recorded on other databases” and “be able to automatically redirect online requests relating to dogs whose details are recorded on other databases”.

The author ran some investigative tests of the system, using known microchip numbers of known databases, with full owner consent, purposely checking for the numbers on incorrect databases. He was satisfied, on this small test, Lord Grantchester’s faith was justified.

Ms Smith asked the minister: “Why is there no mandatory link between the [UK] databases and the European Pet Network?” The minister replied: “Procedures for sharing information at the European level exist.”

With the help of a Romanian veterinary colleague, the author tried to trace known microchips in both directions – Romanian chips on UK databases and vice versa. In each instance the chips could not be identified. This is not an insignificant problem. An increasing number of owners travel between Europe and the UK holidaying with their dogs every year. It is most unlikely someone on holiday for a few weeks will think of re-registering their dog in the country where they are staying. The likelihood of a lost dog being traced to its travelling owner while abroad or in the UK is, at best, uncertain. Given it was a Government intention linked European databases would be in place, it is not unreasonable a traveller might rely on this assumption.
Debate

Prof Lord Trees raised two separate, but not unrelated, issues about microchipping and migration of the chip.

The first point was the regulations should stipulate the site of implantation, he suggested the UK convention of “between the scapulae”. Lord De Mauley did not consider it “necessary or appropriate to legislate on this”.

Secondly, Prof Lord Trees questioned the necessity of Regulation 10(2b), requiring microchip migration be reported to the secretary of state and failure to do so would be an offence punishable by a fine, given some migration was not uncommon and was of little consequence. However, without a standardised implantation site (the pet passport acknowledges this variance) and no requirement to record the site used, how can a subsequent vet distinguish between chip migration and non-conventional placement?

Following the introduction of the regulations, the BVA reported: “We understand from Defra it is highly unlikely they will pursue prosecutions.”

Much of the early debate, in which Prof Lord Trees was quite outspoken, centred on the consequential, proposed repeal of Section 1(4i) of the Breeding of Dogs Act 1973, through the introduction of the Deregulation Bill, now the Deregulation Act 2015 (a full discussion of this is the subject of another article). Lord Trees called it “a retrograde step” in safeguarding the welfare of breeding bitches.

Lord De Mauley, in a later debate, said: “The issue of dog breeding... is not the primary purpose of these regulations.” However, a few paragraphs later, he said: “Yes, the breeder, as defined by the regulations, is always considered the first keeper of the puppy.”

Unfortunately, the regulations do not “always” allow the identification of the breeder. Regulation 5(1b) requires a record of, where applicable, the fact the keeper is also the breeder. The assumption is made the breeder will microchip and register the pup before ownership is transferred. The reality is, hardly a week goes by where a recently purchased puppy older than eight weeks and unchipped is presented, for the first time, for a veterinary examination. In these instances, the keeper is not the breeder, so Regulation 5(1b) does not apply, and there is no other provision for recording the breeder’s details. Consequently, the stated parliamentary intention is not achieved.

Summary

The Microchipping of Dogs (England) Regulations 2015 was introduced with the purported aim of safeguarding animal welfare and promoting responsible pet ownership.
On a day-to-day basis, in practice, the author has not seen a decline in the numbers of stray dogs being brought into surgery and believes retrospective figures will be available in a few years.

Other than imposing fines for not microchipping, if one is able to trace the owners of unmicrochipped dogs, it is not apparent how responsible pet ownership is promoted by this legislation. However, from a practical standpoint, a large proportion of the consequential burden the regulations have created is being carried by caring members of the public and private veterinary practices.

It is a missed opportunity that the regulations do not require local authorities to take positive steps in dealing with the problem of stray dogs. The Government wants responsible owners, but not responsible local government.

Further Reading

- www.bva.co.uk/Microchipping