

Business and Regulatory Impact Assessment

TITLE OF PROPOSAL

Microchipping of Dogs (Scotland) Regulations 2016

PURPOSE AND INTENDED EFFECT

Background

Stray dogs in Scotland

Table 1: Estimated number of dogs owned and straying in Scotland

	Estimated No.
Dogs in Scotland	680,000
Dogs microchipped	460,000
Stray dogs in Scotland	8,740
Local Authority Strays p/a	6,554
Welfare org. strays p/a	3,497*

* Including those passed to them by Local Authorities

Currently, there are an estimated 8.5 million dogs in the UK (Pet Food Manufacturers Association); if we assume that Scotland's dog population is proportional to our share of the UK population of people at 8%, this means an estimated population of 680,000 dogs in Scotland. Of these, approximately 460,000 (around 68%) were already thought to be microchipped in 2014 (Dogs Trust, in communications). This is a similar figure to that estimated by Defra in their 2014 Impact Assessment for England, based on information from four microchip databases (66%).

There are 32 local authorities in Scotland with 84 dog wardens/animal welfare officers covering dog welfare, including stray dogs, as part of their duties. Between 1st April 2014 and 31st March 2015, 6,145 stray dogs were handled by 30 of the 32 Local Authorities (LAs) in Scotland (Dogs Trust Stray Dog Survey 2015). This gives an average of 205 dogs per LA, and an estimated total for all LAs for this period of 6,554. The Dogs Trust estimate that around 75% of all stray dogs are handled by local authorities, so the total number of strays in Scotland during this period is estimated at around 8,740.

Of those handled by the 30 reporting LAs in Scotland, 3,063 were re-united with their keeper (50%), 1,233 were passed to welfare organisations (20%), and 180 were put to sleep (3%) (Dogs Trust Stray Dogs Survey 2015). The other 1,669 were unaccounted for and are assumed to still be in LA kennel facilities. This suggests that welfare organisations in Scotland also handled around 2,866 dogs during this period, including those passed to them by LAs (20% of estimated 6,554 handled by all LAs is 1,311 passed over to welfare organisations; estimated number taken in directly by welfare organisations is 8,740 minus 6,554, i.e. 2,186). It is likely that a large proportion of these would have been handled by the Scottish SPCA, as in 2014 they re-homed 1,813 dogs (Scottish SPCA Annual Review 2014).

Table 2: Estimated microchipping figures

	%
Percentage of dogs microchipped in Scotland	68
Percentage of UK strays microchipped	20
Percentage of UK strays re-united via microchip	10

At a UK level, in 2014-2015, 20% of the 102,363 dogs taken in by 345 LAs that reported figures were microchipped already (20,473). This is a much lower proportion of dogs than in the general population, and suggests that un-microchipped dogs are more likely to end up as strays than microchipped dogs. Furthermore, only 10,496 re-unifications (accounting for around 10% of the strays taken in) were attributed to microchips despite 20% having a microchip (Dogs Trust Stray Dog Survey 2015). This suggests that a large proportion of dogs that are currently microchipped may not be registered on a database or that their keepers have not kept details on the database up to date. There is no reason to suspect that keepers in Scotland are any different to those in the rest of the UK in this respect.

Costs of handling stray dogs

Table 3: costs of handling stray dogs

Falls to	Cost	Estimated amount p/a
Keepers	Reclaim fees	£140,911
	Boarding fees*	£281,822
		£422,733
LAs	Euthanasia	£20,645
	Boarding costs**	£281,822
	Re-homing fees	£360,470
		£662,937
Welfare charities	Boarding costs	£2,781,864
Total cost		£3,867,534

* Dogs reclaimed from LAs

**Un-reclaimed dogs

Reclaim fees: Local authorities charge owners of stray dogs varying fees to reclaim their pet (for example North Lanarkshire Council £125, Renfrewshire £90.60; Fife £64.20; Aberdeen £58.80; Shetland £50; South Ayrshire and Na h-Eileanan £34; Edinburgh £30; West Lothian, Angus, Moray, Perth and Kinross, North Ayrshire, East Ayrshire, South Lanarkshire and Glasgow city Council £25;. If we take an average estimated cost of **£43**, and the figure of 3,277 dogs (50% of dogs handled by all LAs) being reunited with keepers per year, this gives an estimated cost to keepers of **£140,911** per year, before any boarding costs.

Boarding costs to Local Authorities and keepers: The cost of keeping stray dogs for the statutory seven day period fall to local authorities or the police, though they

may be recouped from the keeper where the dog is re-claimed within 7 days. In their 2014 impact assessment, Defra estimated boarding costs at £21.50 and that dogs were held for 4 days on average (IA 2014). Boarding costs in Scotland are therefore estimated at £86 per dog, with a total boarding cost of around £ 563,644 per year (£86 times 6,554). As 50% of the dogs handled by LAs are re-united with owners, 50% of this cost could potentially be passed on to the keeper re-claiming the dog, suggesting annual boarding costs to LA's of **£281,822**, and annual boarding costs to keepers re-claiming their dogs of **£281,822**.

Euthanisation: Figures from the Dogs Trust Stray Dog Survey 2014 suggest that 3% of stray dogs handled by LAs in Scotland are put to sleep. Defra assumed a cost of £105 per euthanisation (IA 2014), suggesting an annual cost to LAs of around **£20,645** (3% of 6,554 dogs times £105)

Re-homing fees: If a dog is not claimed by its owner during this period, it may be gifted to an animal welfare organisation to be re-homed. They would then become responsible for the animal's care. The Scottish SPCA for example, has stray dog contracts for Strathclyde Police and 8 Local Authorities in the west of Scotland. For every stray that is admitted to an SSPCA centre, the relevant local authority or police is charged in the region of £250 plus an additional one off veterinary fee of £25. It is unclear whether other animal welfare charities charge similar fees; however, since the Scottish SPCA appear to take in the largest proportion of dogs in Scotland, it seems reasonable to extrapolate these costs to all dogs passed on to animal welfare charities for re-homing. This would give an estimated cost to **LAs of £360,470** per year (£275 times 20% of 6,554) for handing the dogs over for re-homing.

Welfare charity boarding costs: While some dogs may be rehomed within a few weeks, there will be others that may require housing for several months before finding a new home. The Scottish SPCA target is to rehome dogs within 20 days, but sadly that is not the case in reality. Some dogs are lucky and are rehomed the day after the seven day period, however many stay in kennels for many months. The Scottish SPCA's longest staying resident at the moment is over 430 days. There is therefore a significant on-going cost to **animal welfare charities**, which is ultimately borne by the general public that fund them. If we ignore vet costs, for which we have no data relating only to stray dogs, and use Defra's assumptions of £21.50 per day boarding costs and an average stay of 37 days before re-homing (IA 2014), for the estimated 3,497 dogs handled by welfare charities in Scotland per annum, that is an estimated cost of around **£2,781,864** per year to animal welfare charities on stray dogs in Scotland.

Microchipping

Microchipping is a quick and permanent way to identify a dog, taking only a few minutes to implant. A microchip is a passive device that is inert unless powered by an appropriate scanner, when it emits a radio signal indicating its 15-digit numerical code, which is received by the scanner. This code is unique and can be mapped against the data stored on the microchip database to identify the keeper of the dog and ensure traceability.

The Scottish Government has for some time recommended microchipping as best practice in the identification of dogs in our Codes of Practice for the Welfare of Dogs and for Cats (<http://www.gov.scot/Publications/2010/03/04105616/0>). We recognise the useful role it plays in re-uniting lost pets with their owners, where the dog has also been **registered** on a microchip database and where details relating to the dog in question have been **kept up to date**.

Existing legislation on microchipping

At present there is currently no legislation that requires all dogs to be microchipped in Scotland; however, there is a variety of legislation related to microchipping either already in place or under development.

Scotland and UK/GB applying in Scotland

- The Control of Dogs Act 2010 allows the issue of a Dog Control Notice to irresponsible dog owners in Scotland who allow their dogs to be out of control. If a DCN is issued, the owner of the dog is legally required to have their dog microchipped within 14 days of the notice being served.
- The Dangerous Dogs Act 1991, as amended, which applies to England, Scotland and Wales, introduced strict controls on types of dogs that were specifically bred for fighting i.e. the Pit Bull Terrier, the Japanese Tosa, the Dogo Argentino and the Fila Brasileiro. It requires the owners of such dogs to comply with certain conditions, including the dog being permanently identified with a tattoo.
- The Non-Commercial Movement of Pet Animals Order 2011 (as amended) came into effect on 1st January 2012 and applies across Great Britain. It acts to harmonise the rules of the Pet Travel Scheme (PETS) with those in the rest of Europe and implements Regulation (EC) No 998/2003 on the health requirements applicable to the non-commercial movement of pet animals. It allows pet animals, including dogs, to enter GB without the need for quarantine, so long as they meet all the statutory requirements for travel; these include a requirement to be microchipped, and both the microchip number and the date it was implanted must be recorded in the pet travel documents. This date must precede all the other steps taken to meet the conditions of the scheme.

Elsewhere in UK

- The Dogs (Licensing and Identification) Regulations (Northern Ireland) 2012 has, since 1st January 2013, implemented a requirement in Northern Ireland for all dogs over 8 weeks old to be microchipped.
- The Microchipping of Dogs (England) Regulations 2015 will implement a similar requirement in England from 6th April 2016.
- The Microchipping of Dogs (Wales) Regulations 2015 also requires all dogs in Wales to be microchipped by April 2016. These were passed by the Welsh Assembly on 20th October 2015.

Europe

- Regulation (EC) No 998/2003 of the European Parliament and of the Council of 26 May 2003 on the animal health requirements applicable to the non-

commercial movement of pet animals and amending Council Directive 92/65/EEC. This harmonises animal health requirements applicable to the non-commercial movement of pet animals between Member States and from third countries in light of the improvement of the rabies situation and the removal by the United Kingdom and Sweden of the system of six months' quarantine in favour of an alternative, less restrictive system. Introduces a pet passport system for specific species, including dogs, which requires the permanent identification of the pet being transported.

- Regulation (EU) No 576/2013 of the European Parliament and of the Council of 12 June 2013 on the non-commercial movement of pet animals and repealing Regulation (EC) No 998/2003. This introduced some new requirements including age for rabies vaccination and also sets out a requirement for suitable training for those implanting microchips at Recital 13. Article 18 requires Member States that intend to allow the implantation of transponders by a person other than a veterinarian to lay down rules on the minimum qualifications that such persons are required to have.
- EU Animal Health Law – this is under development and may bring in requirements for permanent identification of animals, potentially including dogs.

Objective

Compulsory microchipping has been the subject of a long campaign by dog welfare charities such as the Dogs Trust and The Kennel Club, who view it as a crucial tool in the enforcement of animal welfare legislation. The Scottish Government agree that the successful reuniting of dogs with owners could be improved by ensuring that: all dogs are microchipped, owners and animals are registered on a database and that details are kept up to date. Bringing in a legal requirement to microchip would also: provide the opportunity to require standardised types of microchips, standardised information to be kept on the database, and appropriate access to the data held; ensure consistency within the UK; and fulfil a commitment made by Cabinet Secretary for Rural Affairs, Food and the Environment on 4th March 2015 by Mr Lochhead, Cabinet Secretary for Rural Affairs, Food and the Environment, when he announced that Scotland will be taking forward mandatory microchipping in Scotland and will aim to do so in line with the timetables of England and Wales, i.e. by April 2016.

The ultimate objective of the proposed legislation is to secure the welfare of all dogs in Scotland. There are wide ranging benefits to microchipping, which helps to: reunite lost or stolen dogs with owners; identify an owner in an animal welfare incident; identify an owner related to an attack and could help promote more responsible dog ownership, deter dog theft, and help to trace those breeding dogs illegally. Although a significant proportion of the Scottish dog population is already microchipped on a voluntary basis, by introducing legislation making microchipping mandatory for all dogs, we have the opportunity to maximise the benefits of microchipping by: making it a requirement for all dogs; requiring dogs and their owners to be registered on a database and their details to be kept up to date; standardising the type of microchip to be used and therefore the type of scanner required; standardising the type of data to be held; and requiring data to be released to the appropriate authorities as required.

Such measures should help reduce the number of lost, stolen and abandoned animals and minimise the time spent in shelters, and may also help in the tracing of keepers in cases of animal welfare abuse or illegal breeding. This would also have a knock-on effect of relieving the current significant pressure on animal welfare charities and rehoming centres, potentially allowing them to direct their efforts to improve animal welfare more effectively elsewhere.

Rationale for Government intervention

Dealing with stray dogs places a cost on society, either directly, in the case of keepers re-claiming their dogs, or indirectly through costs to Local Authorities and animal welfare charities, both of which are ultimately funded by the general public. The costs as they stand have been estimated earlier in this document. Irresponsible dog ownership can also impose wider costs on society through, for example, dog attacks, poor animal welfare, and the need to treat and care for abandoned dogs. Microchipping increases the traceability of dog keepers, helping to minimise all these costs; however, it is evident that the current voluntary approach is not achieving the full potential of microchipping in this respect. The legislation proposed is intended to correct this market failure and further limit these costs to society.

The Scottish Government's core purpose is to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. The proposed legislation would help to fulfil this purpose by enabling local authorities, the police and animal charities return dogs to their keeper much more quickly and efficiently, minimising the costs of kennelling stray dogs.

The Government also has five objectives that underpin its core purpose, including:

Safer and Stronger: *Helping communities to flourish, becoming stronger, safer places to live, offering improved opportunities and a better quality of life.* As well as allowing faster and more efficient re-uniting of dogs that have been lost with owners, microchips will also help trace the keepers of dogs allowed to stray, including those that might pose a danger to people and other animals. It is anticipated that this will encourage owners to be more responsible and ensure that their dogs are under proper supervision and control at all times, providing a safer environment for others at the same time as protecting the welfare of the dog itself.

CONSULTATION

Within Government

The Government agencies, directorates and enforcement bodies that have been consulted are listed below, with a brief explanation of how their input supported the formulation of the policy proposals.

- Criminal Justice (Criminal Law and Sentencing) – provided advice on the proposed offences and penalties

- Information Services and Information Systems (Information Management and Assurance) – provided advice on data protection and on the Privacy Impact Assessment
- Animal Health and Welfare Division (veterinary advisors) – provided technical advice on microchipping and some liaison with the British Veterinary Association regarding requirements for implanters.
- Communications– provided advice on a potential publicity campaign prior to the Regulations coming into force.
- Defra and the Welsh Government – provided advice on developments and policy rationale in other parts of Great Britain and engaged in regular discussion to ensure consistency across GB where possible.
- Convention of Scottish Local Authorities (Cosla) and National Dog Warden Association Scotland – provided advice on powers required for effective enforcement of the proposed Regulations.

Public Consultation

The consultation “Promoting responsible dog ownership in Scotland: microchipping and other measures” ran from 27th December 2013 to 31st March 2014. It was initially intended as a consultation solely on the mandatory microchipping of dogs, but was expanded to cover other measures that might promote responsible dog ownership following a meeting that the First Minister had with families of dog attack victims in December 2013. The report of the analysis of the results was published on the 31st October (<http://www.gov.scot/Resource/0046/00462055.pdf>).

Regarding microchipping, the key findings were:

- A large majority (83%) of respondents were in favour of compulsory microchipping, many suggesting that responsible dog owners already did this voluntarily.
- However, although generally seen as a first step towards responsible ownership, microchipping was not regarded as a solution in itself and support came with significant caveats from a substantial minority of respondents, particularly around data quality and enforcement
- Other concerns raised were that: compulsory microchipping would only work to make owners more responsible if it was introduced in conjunction with mandatory dog licensing (this was a separate mechanism on which initial views were being gathered; those views were mixed); irresponsible dog owners would not microchip their dogs and that substantial resources would be needed to enforce microchipping effectively.
- Despite the challenges, respondents to the Scottish consultation thought that microchipping would:
 - Help deter at least some types of dog theft (60%)
 - Make dog owners more responsible (58%)
 - Help tackle other welfare issues (52%)
 - Help tackle puppy farming (38%) or dog attacks (22%).
- With regard to promoting responsible dog ownership, the main method suggested by respondents to the consultation was that microchipping would help by making owners more accountable through increased traceability.

Business

Face to face discussions

During the development of the proposed Microchipping of Dogs (Scotland) Regulations 2016, Scottish Government officials had two face to face discussions with interested parties:

- 19 March 2015 – *Local Authority Animal Health and Welfare Strategy Group meeting*. Scottish Government official attended the meeting at Saughton House, Edinburgh (also attended by 8 of the 32 LAs and a representative of Cosla) and: provided an up-date on developments to date; discussed possible approaches to enforcement; and requested input to draft instructions to lawyers, and in due course, to the draft Regulations.
- 8 July 2015 - *Microchip database operator meeting*. – Scottish Government official attended the meeting at the Kennel Club Headquarters in London. This was attended by representatives of one dog breeder's organisation (Kennel Club); six microchip database operators (Petlog, Pet Identity, Pet Protects, Avid, Animal Care, Protected Pet) and the two other GB Governments (Defra, and Welsh Government). The official: provided update on developments to date; discussed proposals for additional requirements on database operators beyond those applied in England and Wales; and requested input to draft Regulations.

Email and telephone discussions

During the development of the proposed Microchipping of Dogs (Scotland) Regulations 2016, Scottish Government officials had a number of exchanges with interested parties via telephone and email:

- March/April of 2015 - Draft instructions for lawyers regarding the drafting of the Microchipping of Dogs (Scotland) Regulations 2016 were circulated by email for comment to representatives of the British Veterinary Association (BVA, implanters), the Microchip Trade Association (MTA, manufacturers), Cosla and East Lothian Dog Wardens (enforcers).
- April 2015 – Focussed email consultation on proposed additional requirements for database operators sent to Petlog, Avid, Animal Care, Pet Protect, Pet Identity UK, Protected Pet, and Smartchip.
- July-October 2015 – draft Regulations circulated by email for comment to representatives of: BVA (implanters); MTA (manufacturers); Cosla and the National Dog Warden Association for Scotland (enforcers); Kennel Club (breeders); Petlog, Avid, Animal Care, Pet Protect, Pet Identity UK, Protected Pet, Smartchip (database operators); Scottish SPCA (animal welfare charity); Welsh Government and Defra (other GB administrations).
- There have also been a number of ad-hoc email and telephone exchanges with some of these organisations dealing as necessary with particular concerns.

Formal consultation

As well as being made publically available on the Scottish Government website, the consultation on promoting responsible dog ownership in Scotland: microchipping and other measures was issued directly to a wide range of businesses, enforcement agencies and animal welfare charities with a potential interest. A full list is provided in the covering letter to the consultation available at <http://www.gov.scot/Resource/0044/00441552.pdf> .

Respondents were specifically asked, as part of the consultation, whether they believed that compulsory microchipping would have a positive or negative financial or other impact on owners, enforcement agencies, animal welfare organisations/rehoming charities, dog breeders, pet shops, and microchip database companies. They were asked to explain their answer.

A full list of the organisations that responded to the consultation broken down by type is provided in Annex 2 of the analysis of consultation responses, available at <http://www.gov.scot/Publications/2014/10/4357>. In brief, responses came back from 22 LAs, enforcement bodies and law agencies, 33 rescue/rehoming/welfare organisations, 4 organisation that train or support working dogs, 9 community councils or other community bodies, 12 dog training/agility schools, 6 farming, countryside and conservation bodies, 6 dog health and veterinary organisations/practices, 9 breed-specific dog clubs and breed enthusiasts, and 8 'other' groups, including professional dog walkers and sitters.

Unfortunately little detailed information was provided, and the analysis of this question yielded little of use to this assessment.

OPTIONS

The options considered included:

Do nothing – The Scottish Government statutory Code of practice for the Welfare of Dogs already suggests microchipping is best practice for the identification of dogs, and it is estimated that 460,000 dogs in Scotland are already microchipped. This option would continue to leave it to owners to decide whether or not to microchip their dogs, whether and/or where to register their dog and whether to keep the details up to date. It would also continue to leave it to database operators to decide what information to hold, to microchip suppliers and implanters to decide what type of microchip to supply and use, and therefore what type of scanner is required to activate and find it. There would be no additional imposed costs on owners and no additional burden on enforcement authorities.

Require microchipping as per draft Regulations – Require keepers of all dogs in Scotland to microchip all dogs over 8 weeks old, to register them on a database and keep all relevant information up to date. Require particular microchip types to be used (reducing the variety of scanners required to read them), place requirements on database operators regarding the data held, how long for and who they release it to. Place requirements on implanters to be properly trained. Provide enforcement powers to authorised persons.

Sectors and groups affected

	Do nothing	Require microchipping
Dogs	No impact	Majority of dogs should be quick to re-unite – less time in kennels and fewer dogs put down – improved dog welfare
Dog keepers	No impact	Required to microchip and register their dog and keep information up to date. Some costs attached. Own dogs returned to them quicker if lost.
Local Authority shelters	No impact	Reduction in pressure/costs, as majority of dogs should be quick to re-unite with keeper with majority of dogs microchipped and details up to date. Dogs may require little if any time in kennels.
Charity shelters	No impact	Reduction in pressure/costs as majority of lost dogs taken in directly able to be re-united quickly and few dogs passed to them by LAs. Increased ability to deal with abandoned/abused dogs.
Microchip implanters	No impact	Increase in business as all keepers required to microchip.
Microchip suppliers	No impact	Increase in business for suppliers of the microchip type specified. Reduction in business for suppliers of any other type.
Microchip database operators	No impact	Increase in business for database operators complying with requirements in legislation. Reduction in business for non-compliant operators, but no significant barrier to them becoming compliant.
Enforcement authorities	No impact	Additional enforcement burden with associated costs in terms of time and money. Mitigated by: targeted enforcement strategy; cost-

		savings from kennelling stray dogs; improved efficiency in tracing keepers with standardised microchips and up-to-date information on databases.
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Benefits

Do Nothing

This option would not require any action on the part of dog keepers, enforcement authorities, implanters or the Scottish Government and would incur no additional costs.

Require microchipping

- Reduced cost of dealing with stray dogs

Table 4: Estimated savings around stray dogs

Benefits:	Cost	p/a before	p/a after [†]	Potential Saving
Keepers	Reclaim fees	£140,911	£281,822	
	Boarding fees*	£281,822	£140,911	
		£422,733	£422,733	£0.00
LAs	Euthanasia	£20,645	£0.00	
	Boarding costs**	£281,822	£0.00	
	Re-homing fees	£360,470	£0.00	
		£662,937	£0.00	£662,937
Charities	Boarding costs	£2,781,864	£46,999^{††}	£2,734,865
Total		£3,867,534	£469,732	£3,397,802

* Dogs reclaimed from LAs **Un-reclaimed dogs

[†] Assuming same number of dogs stray, 100% compliance with regulations, all keepers traced, all keepers reclaim dogs within 24 hours and all LA boarding costs recouped from keepers.

^{††} Based on estimated 2,186 strays passing directly to charities

- Improved reuniting of dogs with keepers by:
 - Ensuring that all dogs are microchipped, owners and animals are registered on a database and that details are kept up to date.
 - Simplifying scanning requirements by requiring standardised types of microchips, produced to recognised quality standards.
 - Simplifying microchip checking with standardised information to be kept on all compliant databases and systems to be in place to allow cross-checking between databases.

- Encouragement of responsible ownership by:
 - Improving traceability of dogs to keepers
 - Ensuring appropriate access for enforcement authorities to the data held.

- Support for the prevention and detection of crime relating to the welfare of dogs by:
 - Requiring the retention of historical data for a certain period
 - Allow tracing of a dog's history back to the breeder/dealer
 - Ensuring appropriate access for enforcement authorities to the data held.

- Improved welfare of dogs by:
 - Minimising the time lost dogs spend in kennels
 - Allowing welfare charities to target more resources to abandoned/abused dogs
 - Ensuring microchip implanters are properly trained and competent
 - Ensuring that any adverse reactions, migrations and microchip failures are reported.
 - Allow genetic defects to be traced back to the breeder

Costs

Do Nothing

This option would incur no additional costs or savings over those described previously.

Require Microchipping

Table 5: costs of mandatory microchipping

<u>Microchipping and registration 2016</u>	<u>£2.4 million</u>
<u>Database updates 2016</u>	<u>£3.5 million</u>
	<u>£5.9 million</u>
<u>On-going annual microchipping and registration</u>	<u>£526,949*</u>
<u>On-going database updates</u>	<u>£1.0 million*</u>
	<u>£1.5 million*</u>

* Costs expected to increase by 1% per year

Initial microchipping in 2016 – There are an estimated 220,000 dogs in Scotland that are currently un-microchipped. Initially, in the run up to the date the legislation would come into force, it is likely that the majority of keepers responsible for currently un-microchipped dogs will be people with pet dogs, who will need to go to an implanter. Some LAs offer microchipping at prices ranging from £8-15, while most keepers will go to their veterinarian, who may charge as much as £20-30. These prices will generally include overheads; however, most dog keepers are likely get their dogs microchipped by their vet while visiting for other reasons, and Defra estimated that the actual cost of microchipping and initial registration is around

£10.90 (IA 2014). If we assume a cost of £10.90, there could potentially be a one-off additional cost to Scotland's dog owning population of **£2.4 million**.

On-going microchipping costs – In the longer term, dogs will be microchipped and registered as puppies before they reach the age of 8 weeks, and it will generally be the breeder who arranges it. Commercial breeders are likely to find it more cost-effective to microchip and register puppies themselves before sale, and Defra estimate that this would cost £8.25 per puppy (IA 2014). Defra also estimated a birth rate for dogs of 9.3% (hence 9.3% of the population will need to be microchipped each year) and the death rate as 8.3% (IA 2014), suggesting a population growth rate of 1% each year. This suggests a cost for microchipping in 2017 of 9.3% of 686,800 times £8.25, i.e. **£526,949**. This figure could be expected to go up by 1% per year with the increase in population growth.

Updating database details –The cost of subsequently updating details depends on the database operator chosen. Some allow updates for free, some allow free updates after payment of an additional one off fee of a further £10-15, others charge around £15 per update. If we takes Defra's assumption that all owners will take out the offer of lifetime updates for a one off cost of £16 (IA 2014), there could be an additional cost of **£3,520,000** to keepers in 2016 (220,000 un-microchipped dogs times £16). Going forward, taking the same assumptions as above of a birth rate of 9.3%, death rate of 9.3% and population growth rate of 1%, the cost for 2017 is estimated at £1,021,958, with this figure expected to increase by 1% per year.

Training for implantation – We have no data on the costs/revenue currently associated with microchip implanter training; however, we assume that the majority of implanters are already in place, i.e. the existing veterinary practices and animal welfare charities that perform the majority of implantations currently in Scotland. There may be sufficient increase in demand to support some additional implanters if microchipping is made mandatory, and it is particularly likely that breeders and dealers would find it more cost effective to train and equip themselves as implanters than to pay for someone else to microchip all the dogs that pass through their hands. Defra estimate this cost at £130 per candidate, based on information from Lantra (IA 2014). There may therefore be some additional training costs for these sectors, and some additional revenue for implanter trainers; however these are difficult to quantify.

Making databases compliant – Since the majority of the proposed requirements for database operators and most of the information to be recorded are identical to the requirements in equivalent English and Welsh Regulation, there is a pool of database operators that are already largely compliant. In their 2014 Impact Assessment, Defra estimated a cost of £50,000 per database operator to implement the changes required by their microchipping Regulations. The only outstanding change required is the additional facility to record whether a keeper is a dealer and what their licence number is under the Licensing of Animal Dealers (Young Cats and Young Dogs) (Scotland) Regulations 2009. Database operators will be given until 6th April 2017 to implement this change, and the cost of this is anticipated to be small relative to the changes already made.

Enforcement - Legislation needs to be enforced in order to be effective, therefore there will be additional burden on local authorities. However it is anticipated that this can be mitigated by strategic enforcement (see later section on enforcement), the reduced kennelling costs as dogs should be re-united with their keepers more quickly, and the fines issued by the Courts for any offences committed under these regulations. It is therefore anticipated that this policy will effectively be benefit/cost neutral to society

Kennelling – This is anticipated to be the area most affected by making microchipping mandatory. As noted previously, at present, not all dogs are microchipped, and of those that are microchipped, a large proportion of them would appear not to have up-to-date details on a database associated with them, rendering the microchip ineffective in terms of identification and re-unification with their keeper. These problems would largely be eliminated by making it mandatory to microchip and register all dogs, and to keep details up to date. Table 4 outlined the potential savings in this area. In practice, since some of the stray dogs will have been abandoned and there are a higher proportion of un-microchipped dogs within the stray population than in the general dog population, we are unlikely to see this reduction in full. In addition, while the impact on LA kennels should be very significant, animal welfare charities are likely to fill any spaces created by this legislation with cases of cruelty or abandonment, enabling them to focus more resources on the most vulnerable or mistreated animals.

SCOTTISH FIRMS IMPACT TEST

Microchip identification of dogs is a cross-border issue with database operators working across the whole of GB, therefore no face to face discussions were held with Scottish firms as such. See previous section for explanation of sectors/businesses consulted and the methods used.

Competition Assessment

In line with the competition assessment in England (IA 2014), this policy is not expected to have any substantial impact on competition within the microchipping industry. Provided that their products/services meet the required standards, the policy does not discriminate between microchip suppliers. The Regulations are subject to consultation under the EU Technical Services Directive, which gives other Member States the opportunity to voice concerns about potential effect on competition. No concerns were raised during the notification period.

The policy does not discriminate between microchip implanters, provided that they have undertaken the required training and meet the required standards. The increased demand for microchips to be implanted if microchipping is made mandatory may make room for additional microchip implanters to set up in business, and as noted previously, it is likely that breeders and dealers would find it more cost effective to become implanters in their own right. They would then also be in a position to provide an implantation service to others. There may therefore be increased competition between implanters; however it is anticipated that this would be matched by the increased demand.

Test run of business forms

No new forms will be introduced.

LEGAL AID IMPACT TEST

It is not anticipated that this policy will give rise to additional need for legal aid. Although the policy will introduce new offences and appeals, as explained below, it is intended that enforcement will be targeted at irresponsible dog keepers, who are considered to be more likely to be non-compliant with a requirement to microchip their dog than a responsible dog keeper. Irresponsible dog keepers are considered to be those that break rules around, for example, the breeding of dogs, control of dogs, welfare of dogs, dog fouling, and straying. The keepers of dogs picked up for such reasons and on scanning subsequently found to be not microchipped are already likely to be accessing legal services for these other issues and it is therefore considered unlikely that many would access legal aid purely in connection with microchipping offences. Implanters and database operators that may fall foul of the proposed legislation will in general be businesses and unlikely to qualify for legal aid.

ENFORCEMENT, SANCTIONS AND MONITORING

Enforcement Strategy

We expect that most enforcement action would be taken by local authorities; they are responsible for dealing with stray dogs and it is in their interest to enforce as it will save them money in kennelling costs. We expect that the vast majority of responsible owners who have not as yet had their dogs microchipped will do so given the publicity campaigns that will continue until and beyond 2016. We consider that the risk of non-compliance rests with irresponsible keepers – who whilst they get all the publicity are in fact a minority. Irresponsible keepers are also the ones most likely to let their dogs cause problems (straying, fouling, nuisance barking, attacks etc.)

We therefore anticipate that enforcement action with regard to microchipping would be targeted at irresponsible owners. Whenever a dog causes a problem it would be scanned and if not microchipped or its records are not up to date then enforcement action would be taken. Enforcement of microchipping regulations would therefore take place as part of other enforcement activity, which would help reduce enforcement costs.

Authorised person

Regulation 11 states:

10.—(1) Subject to paragraph (2), the following persons are “authorised persons” for the purposes of these Regulations—

- (a) any person authorised in writing by the Scottish Ministers;
- (b) any person authorised in writing by a local authority in respect of its area;
- (c) a constable.

(2) A person authorised under paragraph (1)(a) or (b) is only authorised for the purposes of these Regulations to the extent of the purposes mentioned in the authorisation.

The purposes referred to in paragraph 2 are re-uniting a dog with its keeper and/or enforcement of the Microchipping of Dogs (Scotland) Regulations 2016.

Enforcement powers

Regulation 12 provides authorised persons with certain powers:

- To take possession of a dog for as long as reasonably required without the consent of the keeper of the dog for any of the following purposes:
 - to check if a compliant microchip has been implanted in the dog;
 - to check if a compliant microchip transmits the number encoded in it when scanned by an appropriate transceiver; and
 - to arrange for a compliant microchip to be implanted in the dog in accordance with sub-paragraph.
- To serve on the keeper of a dog a notice requiring the keeper to, within 21 days of the date of the notice:
 - where the dog has not been microchipped, have the dog microchipped;
 - where there has been a failure of a compliant microchip implanted in the dog to transmit the number encoded in it when scanned by an appropriate transceiver, have the dog implanted with a compliant microchip; or
 - where there has been a failure to comply with regulation 6(7), comply with regulation 6(7).
- Where the keeper of a dog has failed to comply with a notice, without the consent of the keeper:
 - arrange for the dog to be microchipped;
 - notify the database on which the dog's details are recorded by virtue of regulation 6(5)(b) the correct details set out in regulation 7; or
 - recover from the keeper the cost of doing so.

Under powers laid out under Regulation 12, an authorised person may also enter any premises except domestic premises at all reasonable times for the purpose of ascertaining whether these Regulations are being, or have been, complied with.

If a sheriff or justice of the peace is satisfied that there are reasonable grounds for suspecting that an offence against these Regulations has been or is being committed at any premises, including domestic premises, the sheriff or justice may issue a warrant authorising any authorised person to enter those premises, by reasonable force if need be, and inspect them and any animals or anything found there.

- Once a premises has been entered, an authorised person may:
 - inspect and copy any records, computer and any associated apparatus kept under these Regulations, or remove such records to enable them to be copied;

- examine, or require the examination of, any dog or any other animal kept on the premises;
- take on to the premises persons to give them any assistance and equipment considered necessary.

These powers would only be afforded to those persons authorised to enforce the Regulations.

Offences and Penalties

Many respondents to the consultation considered that there would need to be serious penalties associated with not microchipping a dog to encourage irresponsible dog owners to do so. Offences and penalties under the Scottish legislation are similar to those in England and Wales; however, we propose to treat implanters, along with database operators, more robustly than keepers and any other individuals, since they will generally be businesses with an impact on a significant number of dogs and their keepers.

The offences and penalties are laid out in Regulation 13:

- It is an offence for a database operator to fail to comply with regulation 8 (conditions to be met by a database operator; to fail to comply with a notice served on it by Scottish Ministers under regulation 9(1) (relating to the provision of required data). (Punishable on summary conviction by a fine not exceeding level 4 on the standard scale)
- It is an offence for a person (representing a non-compliant database operator) to fail to comply with a notice served on the person under regulation 9(2) (relating to ceasing to hold the database operator as compliant and handing over a copy of all the data held). (Punishable on summary conviction by a fine not exceeding level 4 on the standard scale)
- It is an offence for an individual to fail to comply with regulation 5 (relating to the reporting of a failed or migrated chip or an adverse reaction) without reasonable excuse. (Punishable on summary conviction by a fine not exceeding level 2 on the standard scale).
- It is an offence for an individual who is not an implanter to implant a microchip of any kind in a dog. An implanter is defined in regulation 3, essentially as a veterinary surgeon or veterinary nurse, those training to be such and those that have been on a course approved by Scottish Ministers. (Punishable on summary conviction by a fine not exceeding level 4 on the standard scale)
- It is an offence for an implanter to hold out to the keeper of a dog that a microchip is a compliant microchip where the implanter knows, or could reasonably be expected to know, that the microchip is not a compliant microchip. (Punishable on summary conviction by a fine not exceeding level 4 on the standard scale)

- It is an offence for a keeper of a dog to: notify to a database operator any information set out in regulation 7 knowing it to be false in a material particular; recklessly notify to a database operator any information set out in regulation 7 which is false in a material particular; intentionally obstruct an authorised person in the exercise of their powers conferred by regulation 12; fail to comply with a notice issued under regulation 12(b)(ii) (a notice requiring them to get their dog microchipped and/or notify the required details to a database operator). (Punishable on summary conviction by a fine not exceeding level 2 on the standard scale).

Currently the Standard Scale states:

Level 2 - £500
Level 4 - £2,500

Appeals and review

The provisions for appeals are laid out in Regulation 14:

- An individual may appeal to the sheriff against a notice served on that individual under regulation 3(3) (prohibiting a person from implanting microchips).
- A database operator may appeal to the sheriff against a notice served on it under regulation 9 (to provide data and/or cease holding themselves out as compliant with the Regulations).

An appeal under this regulation must be lodged with the sheriff clerk within the period of 21 days from the day on which the notice being appealed was served.

IMPLEMENTATION AND DELIVERY PLAN

In the interests of consistency within GB, the English Microchipping of Dogs (England) Regulations 2014 was taken as a start point from which the Microchipping of Dogs (Scotland) Regulations 2016 was developed as secondary legislation under the Animal Health and Welfare (Scotland) Act 2006. As noted previously, development was undertaken in close discussion with key stakeholders.

It is intended that the proposed Regulations are made in January 2016 and the requirement to microchip comes into effect on 6th of April, in line with equivalent Regulations in England and Wales, though this is subject to when Parliamentary consideration takes place. Dog keepers are being encouraged to ensure that their dogs are microchipped and that their information is up to date before 6th April 2016, hence the need for compliant implanters, microchips and database operators to be in place before this date.

The planned in force date of in January 2016 gives an approximately 2 to 3-month grace period before the requirement to microchip would come into effect on the 6th April 2016, in line with the English Regulations. While this is a shorter grace period than in England, awareness of dog keepers and microchip implanters in Scotland regarding the issue has already been raised by developments elsewhere in GB, by our consultation in 2015, and by the Dogs Trust free microchipping programme in

Scotland throughout 2015. In addition, we are publicising the impending Scottish legislation widely so that people in Scotland are aware well ahead of microchipping becoming mandatory. Regarding database operators and microchip suppliers likely to be affected, these act GB/UK wide; they will therefore already have benefited from the long-lead-in to the English Regulation, and our shorter grace period should not impact negatively on them.

Regulations for compulsory microchipping are considered a technical regulation requiring notification to the European Commission under Directive 98/34/EC (as amended). Notification under this Directive carries a three month standstill period from the date of notification before the regulation can come into force. This may be extended to six months if we receive a “detailed opinion” from the Commission or another Member State to the effect that the regulation needs to be amended. The proposed Regulations were notified to the European Commission on 3 August 2015; notification number and title : 2015/0410/UK - The Microchipping of Dogs (Scotland) Regulations 2016. The closing date of the notification period was 26 October 2015; no objections were raised.

- ***Post-implementation review***

Review of the proposed legislation will be on-going, in light of feedback from enforcement authorities and other stakeholders.

SUMMARY AND RECOMMENDATION

On the basis of:

- Responses received to the consultation document ‘Promoting responsible dog ownership in Scotland: microchipping and other measures’;
- The wide ranging benefits outlined on page 10;
- The estimated limited costs, potentially significant savings and potential revenue outlined on pages 11-12;

it is recommended that Parliament agree to proceeding with the Microchipping of Dogs (Scotland) Regulation 2016.

• Summary costs and benefits table

Option	Total benefit per annum: - economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1 Do Nothing	None.	<p>Continued Costs of stray dogs p/a</p> <p>Keepers: £422,733 LA's: £662,937 Charities: £2,781,864 Total: £3,867,534 p/a</p>
2 Mandatory Microchipping	<p>Reduced costs of stray dogs p/a</p> <p>Keepers Currently = £422,733 New Cost = £422,733 Benefit = £0</p> <p>LA's Currently = £662,937 New Cost = £0 Benefit = £662,937</p> <p>Charities Currently = £2,781,864 New Cost = £46,999 Benefit = £2,734,565</p> <p>Total monetary Benefit of policy = £3,397,802 p/a</p> <p>Wider Benefits of the policy</p> <ul style="list-style-type: none"> • Improved re-uniting of dogs with keepers. • Encouragement of responsible dog ownership. • Support for the prevention and detection of dog welfare crime. • Improved welfare of dogs 	<p>One off cost of microchipping in 2016: £5.9 million (to keepers).</p> <p>On-going costs of microchipping: £1.5 million p/a (to keepers)</p> <p>Wider Costs of the Policy</p> <ul style="list-style-type: none"> • Enforcement (to LA's) • Implanter training (to implanters) • Changes to databases (to database operators).

It is recognised that while the financial savings anticipated from the proposed policy generally fall on LAs and charities, the costs of introducing mandatory microchipping mainly fall on dog keepers. While the additional costs to keepers are significant, they need to be placed in context. In their 2012 Impact Assessment, Defra estimated the lifetime costs of owning a dog at between £16,000 and £31,000, which scaled up for the 680,000 dogs currently in Scotland would be around £21 billion. In addition, much of the initial cost of introducing mandatory microchipping in 2016 is likely to be absorbed by the Dogs Trust, who has pledged to provide free microchipping to as many keepers as possible before January 2016. This is being achieved by holding a series of free microchipping events across Scotland and by working with local veterinary practice, who will receive £5 from the Dogs Trust for every dog that they microchip for free (details are available from their website at <http://www.chipmydog.org.uk/have-your-dog-chipped-for-free/>). It is therefore difficult to estimate what the actual initial cost to Scotland's dog keepers will be.

Perhaps more importantly, despite these recognised additional costs to dog keepers, mandatory microchipping is a policy that was supported by the majority of respondents to public consultation on this matter. The non-monetary benefits to reuniting dogs with their keepers and aiding in the enforcement of animal welfare legislation are considered to outweigh any additional financial costs.

DECLARATION AND PUBLICATION

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

**Mr Richard Lochhead
Cabinet Secretary for Rural Affairs, Food and the Environment**

Scottish Government Contact point: Beverley Williams