



# Microchipping minefield

Microchipping companion animals is a good idea, but it can raise one particularly tricky issue for veterinarians. VCNZ's **Wayne Ricketts** tackles the questionable ownership dilemma.

**WHAT SHOULD YOU** do when an animal is presented to you for treatment and a microchip scan reveals the animal is owned by a different person?

Right from the outset, I can advise that there is no straightforward answer to this question. The issue is a difficult one and has been debated internationally, with different jurisdictions reaching different conclusions. There are issues of client confidentiality (as per the Privacy Act 1993), and the ethical and moral obligations of the veterinarian.

The veterinary profession has been a long and strong advocate for microchipping companion animals. Microchipping assists in the retrieval of lost animals and the reunification of lost pets with their owners. However, when a veterinarian is confronted with the above situation, it's very challenging.

## ADVICE

I have written this article with the contribution of information from a legal source, some overseas literature, the NZVA FAQ and an animal control officer. There is no obligation for a veterinarian to scan for a chip to check ownership status. However, it's undoubtedly good practice to do so. In addition, I think many veterinarians will be of the view that if we promote microchipping on the one hand, we should attempt to deal with the above situations. But veterinarians must proceed with caution and on a case-by-case basis, since there are no clear answers. We recommend getting a client's consent before scanning – it may be useful to include this in the client consent form.

The *Code of Professional Conduct* states that veterinarians must be satisfied that

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the person presenting the animal is the owner or the authorised agent of the owner. In most cases, the veterinarian is entitled to trust the client's confirmation that they are the owner.

Veterinarians are not the 'pet police' and there is no legal obligation to act as such. Usually ownership is confirmed by the client affirming a statement to this effect in the consent form. Of course, clients may not tell the truth. And there is always the possibility that a family member or partner is acting without the consent of the other family members or partner.

## WHAT CAN VETERINARIANS DO?

As a first step, veterinarians should always talk openly with presenting clients about their concerns, giving them the benefit of the doubt. It would be unwise to accuse a client of stealing an animal without better evidence than microchip registration.

If there is an unexplained discrepancy, or the client accepts that they found (or stole) the animal, an attempt should be made to persuade them to cooperate in notifying the true owner of the animal's whereabouts and arranging to have it returned.

If the veterinarian is not satisfied that the client is authorised to consent, the veterinarian can refuse to treat the animal, except in an emergency situation.

Where a veterinarian feels obliged (they are not legally obliged) to notify the true owner that the animal has been brought in by another person, they need to consider this decision and seek legal advice first. Breaching the confidentiality of the client presenting the animal could have serious consequences for the veterinarian. They can encourage the client to return the animal, explaining that they are potentially breaching the owner's rights. However, it's the decision of the person presenting the animal, not the veterinarian.

Where the true owner is also the practice's client, the veterinarian may wish to encourage the person presenting the animal to have their details passed on to the true owner, and they may wish to advise the true owner (or the police) regardless. Arguably, the veterinarian has a duty to the true owner to do so, but this has to be balanced with the duty of confidentiality owed to the client and the fact that generally there will be no conclusive evidence of theft.

There is an argument that passing on the presenting client's details would breach the Privacy Act and confidentiality requirements. However, there is an exception to the non-disclosure rule where doing so is necessary for the enforcement of a law. This would likely apply where there is good evidence of a theft.

As I said, there are no black-and-white answers. We strongly recommend caution. Where possible, veterinarians should aim for consensual outcomes. We are happy to discuss individual situations with you. <sup>10</sup>