Contact tracing apps in the UK

A new world for data privacy

As of June 5, 2020

The COVID-19 pandemic has seen governments across the world restricting civil liberties and movement to new levels. To aid the safe lifting of current public health restrictions, new technologies are being developed – contact tracing apps – and rolled out to automate labour intensive tasks critical to containing the spread of the virus. Our contact tracing survey summarises the principal regulatory and policy issues applicable to contact tracing across a range of key jurisdictions in real time.

Is technology being used by the government to monitor and control the spread of COVID-19 (e.g. contact tracing app, CCTV, cell phone location data, credit-card history)?

The National Health Service (NHS) reports that it will be launching a contact-tracing app which is currently under development. This is being developed by the technology arm of the NHS (NHSX). A trial was commenced on the Isle of Wight on 5 May.

What are considered to be the major privacy concerns in relation to the app in your jurisdiction (in relation to its use (a) by the government; and (b) by private sector organisations)?

Concerns centre on privacy principles of security, data minimisation, transparency and accountability and these apply both to private and Government use of tracing apps.

In particular in relation to Government use:

- Government surveillance – government harvesting superfluous data and being able to centralise the data and use it for unrelated purposes.
- Lack of trust in government to store and handle data appropriately if the data is centralised.
- Centralised data being held indefinitely given the ongoing nature of the pandemic.
- A lack of Government accountability.
- Privacy being trumped by community health concerns.

In particular in relation to private sector use:

- Employee surveillance beyond what is necessary for the purposes of maintaining a safe work environment – e.g. using data for keeping tighter controls on employee movements/engagements.
- Unnecessary dissemination of data within a business beyond strict confines of relevant HR manager.
### App details

1. **What is the name of app**
   - NHS COVID-19

2. **Is the app voluntary?**
   - Yes

3. **Is there any suggestion that use of the app and a clean result may be necessary to enter workplaces or any commercial or public buildings (or is this explicitly or implicitly prohibited)?**
   - No
   - The NHS developed app is not currently envisaged to be used in this way. According to NHSX the data will "only ever be used for NHS care, management, evaluation and research".

4. **What information is required to register for the app? Is the information collected considered excessive?**
   - Not yet clear what information would be required to register.
   - There are reports that a user will need to enter the first 3 characters of their post code (which resolves on average to about 8000 addresses) to allow the NHS to understand where infected persons reside.

5. **Is GPS or Bluetooth used?**
   - Bluetooth

6. **Is data stored on a centralised server?**
   - Yes

7. **Does the identity of the infected user get captured centrally?**
   - No
   - Full details yet to be disclosed, but it is thought not.

8. **Is the identity of the infected user disclosed to proximate users or public health authorities? Is it disclosed to anyone else?**
   - No
   - It appears that it will be the individual’s decision as to whether to disclose their infection status to the public health authorities. Further disclosure by the public health authorities of the identity of the infected user is not envisaged.

9. **Is consent needed to share data with other users/ upload the data to a centralised system?**
   - Yes
   - As currently proposed.

10. **Is the identity of the proximate users disclosed to public health authorities? Is it disclosed to anyone else?**
    - No

11. **Does the app incorporate “privacy by design” and was a privacy risk assessment completed?**
    - Privacy by design: Reportedly yes
    - Risk assessment: Not known
    - NHSX states that it has “prioritised security and privacy in all stages of the app’s development, starting with the initial design, and user testing”.

12. **How long will the data be kept for, are there clear lines around timing?**
    - Not known as yet

13. **Has data security been addressed expressly (e.g. encryption)?**
    - Yes
    - According to NHSX security has been “prioritised” at all stages of the app’s development, starting with the initial design, and user testing. The key security and privacy designs alongside the source code will be published so privacy experts can review this. The National Cyber Security Centre has been involved and published a paper on the privacy and security design on 3 May.
14. Are there clear limitations regarding who may have access to the data?

No

The purposes for which the data may be used are set out under the following question. It is unclear as yet which third parties will support these activities.

15. Are there clear limitations on the purposes for which the government may use the data?

Yes

NHSX states that data will only ever be used for NHS care, management, evaluation and research.

16. Is the government of your country bound by privacy laws in respect of the contact tracing data?

Yes

However, the UK Parliament’s Human Rights Committee proposed legislation to limit the use that Government could make of data collected through the NHS COVID-19 app but the Government rejected its proposals. The Government’s position is that the existing data protection framework is sufficient.

17. Has the regulator commented/ provided guidance on the technology?

Yes

The final app has not yet been reviewed by the UK Information Commissioner’s Office (ICO). However, ICO has stated that it has “been working with NHSX to help them ensure a high level of transparency and governance”. ICO published an opinion on the previously proposed underlying Apple/Google technology, however as of 5 May press reports indicate that this technology will not be used.

18. Are there any private sector initiatives you are aware of to use/ integrate the app or the information from the app (e.g. to reflect the results back to workforces)?

Yes

SaferMe advertises a business contact tracing app in the UK.