

The governmentâ€™s naive belief that it is in char...

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I am worried by the way that the government is handling the coronavirus crisis.

The crisis itself has clearly been mismanaged. Some still try to dispute it, [but it seems very likely that England](#) (but maybe not Scotland, Wales and Northern Ireland) will suffer death rates that are aberrational compared to the rest of Europe. I do not think that is by chance.

But I am as worried by the government's massive failure to tell the truth in this crisis. There have been so many examples of this. It's as if the government is not aware that everyone now has their own fact-checkers available to them just about all the time. It's called a phone.

This weekend there was a fiasco when [Matthew Hancock claimed](#) there was no lockdown for all over 70-year-olds. Except, of course, that is exactly what the government demanded of all over 70-year-olds, in black and white.

Then there is the testing fiasco, where quite ridiculously the claim was made that 100,000 tests were undertaken on 30 April to save Matt Hancock's face, and yet it was glaringly apparent that this was not true. The figures were crudely rigged to pretend that this had happened. And [now the test rate has fallen rapidly](#). Instead of the actual achievement looking to be a good effort, it now all looks like a farce and the quality of the testing being undertaken is in doubt.

And this matters. As I will note elsewhere this morning, the easing of lockdown is going to be harder than the vast majority of people realised. Testing and tracing is going to be a key part of it. People will have to trust the government can get this right. That was already going to be hard when they have got so much wrong. But a new legal opinion from Matrix Chambers makes the likelihood of people wishing to comply with the government's planned app to assist this process much harder still. The [summary of the opinion is as follows](#):

Legal Advice on Smartphone Contact Tracing Published

Related Member(s): [Matthew Ryder QC](#), [Edward Craven](#) Related Practice

Area(s): Media and Information Law, Human Rights
Matthew Ryder QC and Edward Craven from Matrix, along with Ravi Naik solicitor and legal director AWO, a new data rights agency, and Gayatri Sarathy of Blackstone chambers, have been instructed by Open Society Foundation to provide a detailed legal opinion on smartphone contact tracing and other data driven proposals that are part of the Government's response to the Covid-19 pandemic.

Their opinion can be downloaded [here](#).

Its conclusions include the following:

- * A de-centralised smartphone contact tracing system – the type contemplated by “DP-3T” and being considered by governments across Europe and also Apple and Google – would be likely to comply with both human rights and data protection laws. In contrast, a centralised smartphone system – which is the current UK Government proposal – is a greater interference with fundamental rights and would require significantly greater justification to be lawful. That justification has not yet been forthcoming.**
- * The UK Government’s announcements in March and April for sharing health data between the private and public sector appear to be flawed. This means such data sharing is potentially not in compliance with legal requirements. Further information needs to be provided to ensure compliance and a data impact assessment should be conducted and made public.**
- * Any attempt to introduce ‘immunity passports’ would be a dramatic measure, both socially and legally. It would need a clear scientific basis and would also have to address the significant impact on fundamental rights including the risk of indirect discrimination.**

In summary, there are three issues, as I see them.

First, for reasons that are not clear, but which appear to be entirely related to a) a centralism fetish by the ULK government b) a lack of respect for personal privacy and c) a desire to use this opportunity to collect vastly more data on us to feed into the next round of a Cambridge Analytica style control exercise, the government has rejected the use of the app being created by Google and Apple for this purpose, which respects human rights, and is instead pushing ahead with its own app.

Second, that app is unproven but is unlikely to be anonymised in the way that the Google and Apple apps are. In other words, it transfers data on a person to the government and the Google and Apple apps, as I understand them, instead have the single goal of tackling coronavirus and nothing else, leaving data under the users control.

And third, this leaves the UK government in potential massive breach of data

regulations.

An obvious question follows from the three observations, and is what happens if there is a mass refusal to use this app? I have no intention of using it. Put bluntly, I do not want this government to secure data from me that is not needed for the purpose of beating coronavirus. I would join an anonymised app. But not this one.

The risk of such refusal is obvious. That risk is that there could be (and I rather just hope that there will be) mass civil disobedience in the face of this app being introduced. The question is then how the government will react.

Will it instead behave rationally and use the alternative, tried and tested system that so happens will be in use in Europe? Or will it insist that the new app be used and either a) face the system not working, which will impose serious cost on the country or b) have to try to enforce its use by, for example, insisting it be downloaded as a condition of using phones, which would I then think create outright opposition to state control and become a touchstone for the complete breakdown in trust.

I have no idea how this will develop. What I do know is that the trajectory of mistrust, that is entirely self-inflicted by ministers of very limited competence, will continue and that this app might become a focal point for this concern as people refuse to give up control of their data to the government, whatever the crisis.

The government's belief that it has a compliant population may be tested, quite soon. Breaking points are never apparent in advance and I might, of course, have got my judgement on sentiment on this wrong. But it only takes small numbers to be vocal on such issues and change can happen. And to refuse this government our data, whatever the reason for it thinking it wants it, is a wholly rational act necessary act when there can be no logic to it having tracking data of the sort that such an app might supply on our every movement and contact.