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## **COVID-19 data on the fringes**

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## 22. COVID-19 DATA ON THE FRINGES: THE SCOTTISH STORY

### ANGELA DALY/AINGEAL NÍ DHÁLAIGH

COVID-19 hit at a time when the United Kingdom was vulnerable, reeling from its exit from the European Union and wracked by ongoing issues over the devolved nations, particularly Northern Ireland and Scotland, both of which had voted to remain in the EU during the 2016 referendum. Scotland had its own 2014 referendum on independence from the UK, which was narrowly won by the “No” side. While a pro-Brexit, right-wing Conservative government rules in London, the devolved administration in Edinburgh is led by the center-left Scottish National Party (SNP) government and first minister Nicola Sturgeon.

However, when the pandemic first hit the UK in the early months of 2020, there was no discernible difference in approach between the Scottish government and the UK Government. In March 2020, both Scotland and the wider UK imposed lockdowns later than in other European countries. By mid-March, both had abandoned manual contact tracing around the same time that “Big Tech” firms such as Palantir were invited to meetings with the UK government.<sup>1</sup> Later that month, NHSX (the English public health service unit tasked with setting policy and best practice for digital technologies and data in health) started developing a contact-tracing app amid techno-deterministic claims from the Johnson administration in London that we could digitize our way out of the pandemic.<sup>2</sup>

Health is a devolved power in the UK, so the Scottish government has full responsibility for health policy in Scotland. In May 2020, we began to see divergence between Scotland the wider UK on pathways out of lockdown and also on data, with the publication of the Test, Trace, Isolate, Support policy.<sup>3</sup> This policy signalled the relaunch of Scotland’s contact tracing scheme, foregrounding manual contact tracing which may then be supplemented by a “web-based” digital “tool,” not an app. But data in the context of COVID-19 is not solely produced by contact tracing and apps, even though they have been the focus of significant debate and advocacy. The data the government releases and restrains about COVID-19 infections and prevalence also vitally informs political debates and personal choices. The situation in Scotland presents a complex picture of the tensions between health, the economy and politics both at the local and global levels.

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- 1 Gian Volpicelli, ‘Inside Dominic Cummings’ coronavirus meeting with big tech’, *Wired*, 12 March 2020, <https://www.wired.co.uk/article/dominic-cummings-coronavirus-big-tech>.
  - 2 Andrea Downey, ‘Timeline: Where are we at with the NHS contact-tracing app’, *DigitalHealth*, 28 September 2020, <https://www.digitalhealth.net/2020/09/timeline-what-happened-to-the-nhs-contact-tracing-app/>.
  - 3 Scottish Government, ‘COVID-19 - Test, Trace, Isolate, Support’, May 2020, <https://tinyurl.com/yawdxwqf>.

## Contact Tracing and the app

Scotland's (belated) approach to contact tracing is one of the most prominent examples of its divergence with the UK central government on COVID-19 data policy. Since May, Scotland has set up its own contact tracing system to build capacity in its public healthcare service (NHS Scotland). This approach contrasts with the outsourcing of this service to private companies that has occurred in England. The Scottish government has also expressed its reservations about the NHSX app and the lack of consultation with devolved administrations.<sup>4</sup> However, it still came as a surprise in August when the Scottish government announced that it was launching a contact-tracing app and would be adopting the Republic of Ireland's model and software, developed by Irish company Nearform.<sup>5</sup> The Northern Irish administration has also adopted this model which makes sense given political and geographical reasons, principally the land border with the Republic. The Scottish government's decision to adopt the app is more overtly political, since its land border is with England rather than Ireland. However, the Republic of Ireland's app is reasonably privacy-protecting through its adoption of the Google-Apple app protocol. It has decentralized design, is purpose limited, and already has a track record of functioning reasonably well. The same cannot be said of the original NHSX app. Even the NHSX app's current incarnation, released after the Scottish app, still seems to be suffering from malfunctions.<sup>6</sup>

The Scottish overnment may have adopted the Republic of Ireland's app for politically pragmatic reasons, but it leaves the nation in a position where it has followed the lead of another nation-state rather than its own central government in London. This has led to a "Gaelic Fringe" approach to apps and contact tracing across the contested borders of nation-states in the islands of Britain and Ireland.<sup>7</sup> The outcome of this approach may be the establishment of Scotland's digital sovereignty in a similar way to the movement in Catalonia, another separatist region in Spain.<sup>8</sup> This is all the more significant given Scottish Parliament elections in 2021 that the SNP are tipped to win by a landslide, and calls for another independence referendum, in which polls consistently show a pro-independence vote in the lead.

Yet the need to adhere to the Google-Apple protocol in order to create functioning apps does limit political entities' digital sovereignty, both of Scotland and full nation-states which have had to use this protocol for their own apps. The Google-Apple protocol has promoted a measure of privacy protection sorely lacking in the UK Government's initial NHSX app. Still,

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4 Scottish Government, 'COVID-19 - Test, Trace, Isolate, Support'.

5 Scottish Government, 'Contact tracing app development', 31 July 2020, <https://www.gov.scot/news/contact-tracing-app-development/>.

6 Rowland Manthorpe, 'Coronavirus: Some users of NHS tracing app incorrectly given COVID-19 exposure alerts', *Sky News*, 1 October 2020, <https://news.sky.com/story/coronavirus-some-users-of-nhs-tracing-app-incorrectly-given-covid-19-exposure-alerts-12086225>.

7 Angela Daly and Maurice Mulvenna, 'UK contact tracing apps: the view from Northern Ireland and Scotland', *Ada Lovelace Institute*, 24 September 2020, <https://www.adalovelaceinstitute.org/uk-contact-tracing-apps-the-view-from-northern-ireland-and-scotland/>.

8 John Biggs, 'Catalonia is moving to achieve digital independence using blockchain', *Coindesk*, 6 February 2020, <https://www.coindesk.com/catalonia-is-moving-to-achieve-digital-independence-using-blockchain>.

the need to adopt this protocol for a successful app demonstrates and reinforces the power of “Big Tech” firms.

## Government Transparency

The Scottish government has undoubtedly been more transparent about its COVID-19 app than its counterparts in London have been about the NHSX app. A series of openDemocracy investigations have demonstrated that “Big Tech” firms provided the UK government with digital infrastructure to manage the pandemic.<sup>9</sup> However, the Scottish government does not have a flawless record on its own transparency during this period. In Scotland, freedom of information (Fol) laws were relaxed at the outbreak of the pandemic in April, allowing government agencies a threefold extension to their deadlines for responding to freedom of information requests. These measures were strongly criticized at the time.<sup>10</sup> Even the UK government did not relax Fol laws to the same extent. The Index on Free Expression criticized the Scottish government, comparing it to Bolsonaro’s Brazil for its restrictions of freedom of information rights during the pandemic.<sup>11</sup>

Access to public data and information extends beyond Fol. Who is infected with COVID-19, who has died from it, and where have been key questions to ask in order to understand whether certain groups have been more impacted than others.<sup>12</sup> In England, people from Black and Minority Ethnic (BAME) backgrounds have been more susceptible to infection and death from COVID-19 for reasons including socio-economic circumstances, structural racism, and pre-existing health inequalities.<sup>13</sup> Scotland has a significant minority population of South Asian origin, and there was anecdotal evidence in spring 2020 that this community was experiencing a disproportionate amount of COVID-19 deaths. The Coalition for Racial Equality and Rights (CRER), a Scottish NGO, raised concerns about the lack of data and the poor quality of the data that did exist.<sup>14</sup> Finally, in July the National Records of Scotland published a study on ethnicity and COVID-19 in Scotland which found that South Asian people were nearly twice as likely to die of COVID-19.<sup>15</sup> This finding is in line with outcomes in other parts of the

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- 9 Mary Fitzgerald and Cori Crider, ‘Under pressure, UK government releases NHS COVID data deals with big tech’, *openDemocracy*, 5 June 2020, <https://www.openDemocracy.net/en/under-pressure-uk-government-releases-nhs-covid-data-deals-big-tech/>.
- 10 James McEnaney and Rob Edwards, ‘Relief as opposition parties move to restore information rights’, *The Ferret*, 15 May 2020, <https://theferret.scot/information-rights-opposition-parties-coronavirus/>.
- 11 Mark Frary, ‘How FOI laws are being rewritten during the COVID-19 crisis’, *Index on Censorship*, 1 May 2020, <https://www.indexoncensorship.org/2020/05/how-foi-laws-are-being-rewritten-during-the-covid-19-crisis/>.
- 12 See chapter 15 in this volume (pp. 106-109)
- 13 Benjamin Butcher and Joel Massey, ‘Why are more people from BAME backgrounds dying from coronavirus?’, *BBC News*, 19 June 2020, <https://www.bbc.co.uk/news/uk-52219070>.
- 14 Jatin Haria, ‘COVID-19 and ethnicity in Scotland: Where’s the data?’, *Coalition for Racial Equality and Rights*, 22 June 2020, <https://www.crer.scot/post/2020/06/22/covid-19-and-ethnicity-in-scotland-wheres-the-data>.
- 15 Emily Woods, ‘Deaths from COVID-19 almost twice as likely among South Asian people in Scotland’, *Holyrood*, 9 July 2020, <https://www.holyrood.com/news/view/deaths-from-covid19-almost-twice-as-likely-among-south-asian-people-in-scotland>.

UK, but the Scottish data was made available later than elsewhere. CRER is still calling for more and better data to be generated and released on COVID-19 and ethnicity in Scotland.<sup>16</sup>

## Data and Marketization

For contact tracing, the Scottish government has followed a less neoliberal and privatized approach to England, where these functions have been outsourced to private companies. However, marketization and privatisation of other public functions have obfuscated what data is available to the public in Scotland. Like elsewhere in the UK and other western countries, care homes for the elderly and disabled have been severely impacted by COVID-19, with many residents dying of the disease. One notorious example is the private Home Farm care home on the Isle of Skye, where ten residents died of the virus. It was run by HC-One, one of the UK's largest care home providers.<sup>17</sup> Care home regulatory bodies in both England and Scotland have refused to make public the numbers of deaths in specific care homes, with part of the justification being that this would negatively affect providers' commercial interests.<sup>18</sup>

While so far not as deadly, marketized universities in Scotland brought students back to campus for the start of the new academic year and have experienced COVID-19 outbreaks in shared student accommodation from September 2020.<sup>19</sup> There has been patchy information about COVID-19 cases among campus communities; some institutions have released this data and others have not, leading to the UniCOVID site being set up by two University of Sussex academics to track developments.<sup>20</sup> It seems that universities are becoming more forthcoming about tracking their own COVID-19 outbreaks and releasing data publicly. However, there is no systematic way to track data, and not every institution is readily providing it. Marketisation of this public service has led to students returning prematurely to campuses and may have contributed to institutions' reticence in compiling and publicising data about COVID-19 cases.

The Scottish digital story demonstrates a different path from that of the UK central government. Notably, the approach to contact tracing remains within the public health service rather than being outsourced to private providers, and also represents a radical alignment with Dublin on the app. Along with the Belfast administration's embrace of the Nearform software, we see a "Gaelic Fringe" approach to contact-tracing apps emerging, which is also in line with European standards more generally, and thus represents further cleavage from the pro-Brexit London

16 Jennifer Galbraith, 'Time for Scottish Government to walk the walk on COVID-19 and ethnicity', Coalition for Racial Equality and Rights, 22 September 2020, <https://www.crer.scot/post/time-for-scottish-government-to-walk-the-walk-on-covid-19-and-ethnicity>.

17 Severin Carrell, 'Skye care home hit by 10 coronavirus deaths allowed to keep licence', *The Guardian*, 20 May 2020, <https://www.theguardian.com/uk-news/2020/may/20/skye-care-home-hit-10-coronavirus-deaths-keep-licence-hc-one-home-farm>.

18 Robert Booth, 'Data on Covid care home deaths kept secret to protect commercial interests', *The Guardian*, 27 August 2020, <https://www.theguardian.com/world/2020/aug/27/data-covid-care-home-deaths-kept-secret-protect-commercial-interests>.

19 Eve Livingston and Donna Ferguson, 'We came all this way to start a new life: the misery of Glasgow's lockdown freshers', *The Guardian*, 26 September 2020, <https://www.theguardian.com/uk-news/2020/sep/26/we-came-all-this-way-to-start-a-new-life-the-misery-of-glasgows-lockdown-freshers>.

20 UniCovid. Available from <https://unicovid.uk/>.

government. While the Scottish government may have adopted this approach for pragmatic reasons, in outcome it may be seen as a further step towards Scotland's digital sovereignty.

The worst excesses of the UK government's privatized and digitized COVID-19 response have not been replicated in Scotland, but things have not been perfect either. Transparency, who is counted in data, and what data is available to the public have been influenced negatively by logics of privatisation and marketization in public functions, particularly in care homes. The needs of ethnic minorities to be counted and made visible in data, when COVID-19 has disproportionately affected them, were not adequately addressed and taken account of by the Scottish government. Scotland shows the potential for the margins to forge different paths on data than the cores. However, Scotland also demonstrates the limits of political autonomy in a world of "Big Tech," neoliberal logics, and inequalities. With COVID-19, data is power and data is political—this is as true in Scotland as it is elsewhere.

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