

No: 2(10)/2020-CLeS
Government of India
Ministry of Electronics and Information Technology
Electronics Niketan, 6 CGO Complex,
New Delhi

Dated : 11th May, 2020

ORDER

Subject: Notification of the Aarogya Setu Data Access and Knowledge Sharing Protocol, 2020 in light of the COVID-19 pandemic


WHEREAS, the Aarogya Setu mobile application is a useful technological solution developed to facilitate contact tracing of persons infected with COVID-19, inform persons at-risk of precautions to be taken, and allow health departments to take effective actions to mitigate the spread of the pandemic and enhance their preparedness;

WHEREAS, vide Orders No. 40-3/2020-DM-1(A) dated 29.03.2020 and 01.05.2020, the Central Government has constituted Empowered Groups under the Disaster Management Act, 2005 to identify problem areas and provide effective solutions therefor, delineate policy, formulate plans, strategise operations and take all necessary steps for effective and time-bound implementation of these plans/policies/ strategies/ decisions in relation to the Covid-19 pandemic;

WHEREAS, under these Orders, the National Executive Committee of the National Disaster Management Authority has created the Empowered Group 9 on Technology and Data Management ("Empowered Group").

WHEREAS, the functioning of the Aarogya Setu mobile application relates to technology and data management and certain necessary steps are required to be taken to ensure its effective operation to detect and mitigate the spread of the COVID-19 pandemic and enhance government preparedness at all levels;

NOW THEREFORE, in order to ensure secure collection of data by the Aarogya Setu mobile application, protection of personal data of individuals, and the efficient use and sharing of personal or non-personal data for mitigation and redressal of the COVID-19 pandemic, the undersigned, in his capacity as Chairperson, Empowered Group 9 on Technology and Data Management, after a decision of the Empowered Group 9 to this effect, hereby issues the following directions - Aarogya Setu Emergency Data Access and Knowledge Sharing Protocol, 2020 (enclosed) for necessary compliance.


(Ajay Sawhney)

Chairperson, Empowered Group on Technology and Data Management

The Aarogya Setu Data Access and Knowledge Sharing Protocol, 2020

Rationale for this Protocol:

1. Owing to the COVID-19 pandemic, guidelines have been issued by the Ministry of Home Affairs (vide Orders dated 24.03.2020, 25.03.2020, 28.03.2020, 1.04.2020, 2.04.2020, 14.04.2020, 16.04.2020, 1.05.2020) on the measures to be taken by the Central Government as well as the State/Union Territory Governments. Various advisories and statements have been issued by the Ministry of Health and Family Welfare, Government of India and other Ministries of the Government of India and State/ Union Territory Governments on precautionary measures such as social distancing and treatment of individuals who are affected or at-risk. In order to ensure their effective implementation, there is a need to ensure efficient data and information sharing among the different Departments and Ministries of the Government of India as well as those in the State/Union Territory Governments.
2. At present, the Government of India and State/Union Territory Governments are tasked with formulating appropriate health responses to not only contain the epidemic but also protect the health and safety of the community at large. Here, appropriate health responses include prevention and management of the COVID-19 pandemic, syndromic mapping, contact tracing, communication to an affected or at-risk individual's family and acquaintances, performance of statistical analysis, medical research, formulation of treatment plans or other medical and public health responses related to the redressal and management of the COVID-19 pandemic.
3. In order to formulate appropriate health responses for addressing the COVID-19 pandemic, data pertaining to individuals is urgently required. Here individuals means persons who are infected, at high risk of being infected or who have come in contact with infected individuals. This data includes demographic data, contact data, self assessment data and location data (collectively called 'response data' in this document). Here, demographic data means the name, mobile number, age, gender, profession and travel history of an individual. Contact data means data about any other individual that a given individual has come in close proximity with, including the duration of the contact, the proximate distance between the individuals and the geographical location at which the contact occurred. Self assessment data means the responses provided by that individual to the self assessment test administered within the Aarogya Setu mobile application. Location data means data about the geographical position of an individual in latitude and longitude.

4. Implementation of the Protocol:

Keeping in view of the above, the Ministry of Electronics and Information Technology, Government of India ("MeitY") is designated as the agency responsible for the implementation of this Protocol and its developer, the National Informatics Centre shall, under this Protocol be responsible for collection, processing and managing response data collected by the Aarogya Setu

mobile application. Any reference to MeitY under this Protocol is a reference to its supervisory role in relation to the Aarogya Setu mobile application and its developer, the National Informatics Centre (NIC) and not in any other capacity. For the purpose of this Protocol, MeitY shall act under the overall direction of the Empowered Group 9 on Technology and Data Management.

5. Principles for collection and processing of response data:

- a. Any response data and the purpose for which it is collected by NIC shall be clearly specified in the Privacy Policy of the Aarogya Setu mobile application.
- b. NIC shall collect only such response data as is necessary and proportionate to formulate or implement appropriate health responses. Further, such data shall be used strictly for the purpose of formulating or implementing appropriate health responses and constantly improving such responses.
- c. NIC shall process any data collected by it in a fair, transparent and non-discriminatory manner.
- d. Contact and location data shall by default, remain on the device on which the Aarogya Setu mobile application has been installed after such data has been collected. It may be uploaded to the server only for the purpose of formulating or implementing appropriate health responses.
- e. Contact, location and self assessment data of an individual that has been collected by NIC shall not be retained beyond the period necessary to satisfy the purpose for which it is obtained which, unless a specific recommendation to this effect is made in the review under Para 10 of this Protocol, shall not ordinarily extend beyond 180 days from the date on which it is collected, after which such data shall be permanently deleted. Demographic data of an individual that has been collected by NIC shall be retained for as long as this Protocol remains in force or if the individual requests that it be deleted, for a maximum of 30 days from such request, whichever is earlier.
- f. The response data shall be securely stored by NIC and shall only be shared in accordance with this Protocol.

6. Principles for sharing of response data:

The response data may be shared by NIC in the following manner:

- a. Response data containing personal data may be shared with the Ministry of Health and Family Welfare, Government of India, Departments of Health of the State/Union Territory Governments/ local governments, NDMA, SDMA, such

other Ministries and Departments of the Government of India and State Governments and other public health institutions of the Government of India, State Governments and local governments, where such sharing is strictly necessary to directly formulate or implement an appropriate health response.

- b. Response data in de-identified form may be shared with such Ministries or Departments of the Government of India or the State/Union Territory Governments, local governments, NDMA, SDMA and such other public health institutions of the Government of India or State Governments or local governments with whom such sharing is necessary to assist in the formulation or implementation of a critical health response. Here, de-identified form means data which has been stripped of personally identifiable data to prevent the individual from being personally identified through such data and assigned a randomly generated ID.
- c. NIC shall, to the extent reasonable, document the sharing of any data and maintain a list of the agencies with whom such data has been shared. Such documentation shall include the time at which such data sharing was initiated, the persons or agencies who are being provided access to such data, the categories of data that are being shared and the purpose for which such data is being shared.

7. Obligations of entities with whom response data is shared:

An entity with whom response data is shared under this Protocol shall have the following obligations:

- a. Any entity with whom response data has been shared under Para 6 of this Protocol shall use such data strictly for the purpose for which it is shared. Such Ministry, Department of the Government, NDMA, SDMA or public health institution shall process response data in a fair, transparent and non-discriminatory manner. The data accessed and used by such entities should not be retained beyond the period necessary to satisfy the purpose for which it is shared. In any circumstance, such data shall not ordinarily be retained beyond 180 days from the date on which it was accessed, after which such data shall be permanently deleted. Any Ministry, Department of the Government, NDMA, SDMA or public health institution shall also implement reasonable security practices and procedures as prescribed under any law for the time being in force.
- b. Any response data accessed under para 7(a) shall ordinarily not be onward shared with any third party. However, response data may be shared with such third parties only if it is strictly necessary to directly formulate or implement appropriate health responses. The Ministry or Department of the Government of India or State/ Union Territory Government/ local government, NDMA, SDMA or public health institution of the

Government of India/ State Governments/ local governments referred to in Para 6 that is sharing such information shall remain responsible for adherence to this Protocol by any other entity with which it shares information. Any third party with whom data is onward shared under this para shall be subject to the same obligations as under para 7(a) of this Protocol. In addition they shall not re-use the data for any other purpose or disclose the data to any other entity and remain subject to audit and review of their data usage by the Central Government.

8. Principles for sharing of response data for research purposes:

Response data may be made available for research purposes by NIC in the following manner:

- a. Hard anonymisation refers to a series of technical processes which ensure that any individual is incapable of being identified from the response data through any means reasonably likely to be used to identify such individual. This anonymisation shall be done in accordance with anonymisation protocols that are to be developed, reviewed and updated on a periodic basis by an expert committee appointed by the Principal Scientific Advisor to the Government of India. Such review shall have regard to the nature and sensitivity of the data being processed, the robustness of the anonymisation protocol and advances in technology.
- b. Response data which has undergone hard anonymisation, as under para 8(a), may be made available to Indian universities and research institutions / research entities registered in India.
- c. Any university or research institution / entity seeking to access response data under para 8(b) shall make a request for such data to the expert committee referred above at para 8(a), who may approve of such request and provide access to this data only if it is of the view that such access is sought for the purposes of statistical, epidemiological, scientific or any other form of academic research, on such terms as may be stipulated by the expert committee in this behalf.
- d. Any university or research institution/ entity which accesses anonymised response data under Para 8(b) shall not reverse anonymise such data or re-identify individuals in any manner. If any person knowingly or unknowingly, takes any action which has the effect of such data no longer remaining anonymised, any rights granted to them under this Protocol shall stand terminated, and they shall be liable for penalties under applicable laws for the time being in force.
- e. Any university or research institution/ entity which accesses anonymised response data under this Para may share such anonymised response data with other Indian universities or research institutions/ research entities registered in India only if such sharing is in furtherance of the same purpose for which it has sought approval to access such data from the expert committee. Any such third party with whom data is shared under this

Para shall be subject to the same obligations and penalties under this Protocol as the university/ research institution/ entity which has shared the data with it. Any such sharing must be pursuant to a contract between the two entities, which shall state the nature of data shared, the purpose of such sharing, the duration of such sharing and other relevant details as may be specified by the expert committee. Such contracts, intimation of the fact of sharing and other relevant documentation as may be specified by the expert committee shall be submitted by the approved university/ research institution/ entity to the expert committee for review and compliance.

- f. Any university/ research institution/ entity with whom hard anonymised data has been shared under Para 8(a) or Para 8(e) shall remain subject to audit and review by the Central Government. Further, if the Expert Committee finds any non-compliance with this protocol by such university/ research institution/ entity, it can terminate any rights granted to them under this Protocol at any time.

9. Violations:

Any violation of these directions may lead to penalties as per section 51 to 60 of the Disaster Management Act, 2005 and other legal provisions as may be applicable.

10. Sunset Clause:

The Empowered Group shall review this Protocol after a period of 6 months from the date of this notification or may do so, at such earlier time as it deems fit. Unless specifically extended by the Empowered Group on account of the continuation of the COVID-19 pandemic in India, this Protocol shall be in force for 6 months from the date on which it is issued.