

ICO consultation on fertility tracking apps

19 September 2023

The Information Commissioner's Office (ICO) has just announced that it is conducting a public survey on period and fertility tracking apps available to UK users. The survey follows a poll recently commissioned by the ICO which revealed that over 50% of women had concerns about the use and security of their data when using such apps.

The ICO is particularly focused on ascertaining whether individuals have suffered any harmful consequences from these apps, for example by having:

- received upsetting or unexpected adverts;
- discovered that their information was being used in a way they didn't expect; and/or
- found it difficult to control how their information is used, such as by setting or changing any app preferences.

The ICO's survey can be found here: [Period tracking apps and fertility tracking apps – your views | ICO](#). The closing date for the survey is **5 October 2023**.

The ICO's intervention in this area is running in parallel to the deep-dive the regulator is doing into smart devices generally. It is a timely reminder for [HealthTech](#) companies to ensure that compliance with the data protection legislation is "baked-in" to app development at an early stage to ensure policies and practices are robust. In addition, policies and practices should be kept under regular review, especially if data is being used in a new way or feedback from customers suggest these can be strengthened.

The obligations of fairness and transparency are particularly important in this regard, and HealthTech companies should ensure that their privacy notice and related documentation clearly stipulate how personal data will be used, stored and shared. The ICO will be looking at taking regulatory action against companies who do not meet these obligations.

Browne Jacobson have an expert team of HealthTech and data lawyers that can assist you with any queries you have about the ICO's consultation, or help you conduct an audit of your data protection compliance to ensure you are meeting your obligations.

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