Institute of Directors

116 Pall Mall

London

SW1Y 5ED

28/09/2026

Workplace monitoring technologies,

Employment Rights Directorate

Department for Business, Innovation, Science and Trade

Old Admiralty Building Admiralty Place

London

SW1A 2DY

IoD response to Make Work Pay: Workplace monitoring technologies

About the IoD

The IoD is an independent, non-party political organisation representing 20,000 company directors, senior business leaders, and entrepreneurs. It is the UK's longest-running organisation for professional leaders, having been founded in 1903 and incorporated by Royal Charter in 1906. Its aim is to promote good governance and ensure high levels of skills and integrity among directors of organisations. It campaigns on issues of importance to its members and to the wider business community with the aim of fostering a climate favourable to entrepreneurial activity in the UK.

The IoD welcomes the opportunity to respond to this consultation on workplace monitoring technologies (WMT). The responsible adoption of new technologies is critical to improving productivity, innovation, and competitiveness across the UK economy. It is therefore important that any framework governing the use of workplace monitoring technologies supports trust and transparency in the workplace while remaining proportionate, practical, and sufficiently flexible. We are therefore pleased to present the views of our members.

WMT present both significant opportunities and important challenges for employers and workers. Used appropriately, these technologies can support productivity, innovation, security, regulatory compliance, and the effective management of increasingly flexible workforces. Equally, their use raises legitimate questions around transparency, trust, privacy and employee engagement.

Employers are already required to navigate a complex landscape of employment and data protection law when introducing and using these technologies, and understanding how these overlapping obligations apply in practice can be challenging as technologies evolve. It is therefore important that any policy response strikes the right balance between supporting innovation and growth and

maintaining effective workplace relations on the other. Getting this balance right will be critical if the UK is to realise the benefits of workplace monitoring technologies while ensuring their use remains responsible and proportionate.

Question 06. Which of the following activities takes place in your workplace or organisation (select all that apply)?

As an employer representative organisation, the IoD is responding to this question not as an individual workplace but on the basis of a survey of 811 IoD members carried out in August 2026 to understand the prevalence of workplace monitoring technologies among UK businesses.

It is notable that three fifths of respondents to our survey indicated that they do not currently use and have no plans to use any workplace monitoring technologies. Of the 811 respondents to our August 2026 survey, 59% reported that their organisation does not currently use, and has no firm plans to adopt within the next three years, any of the workplace monitoring technologies listed (Figure 1). Among organisations which do use such technologies, the most common were biometric access or verification systems (18%), location and movement tracking (16%), monitoring of employee communications (14%), and digital activity monitoring (8%). The use of more intensive forms of monitoring was rare, including automated performance evaluation (7%), health and physiological monitoring (4%), and individual video monitoring (4%).

Figure 1: IoD Policy Voice results, August 2026 (811 responses)

Which of the following workplace monitoring technologies does your organisation currently use or have firm plans to adopt within the next three years? Please select all that apply.

None of the above	58.9%
Biometric access or verification (e.g. fingerprint or facial recognition)	18.2%
Location and movement tracking (e.g. GPS on vehicles or handheld devices)	16.3%
Monitoring of employee communications (e.g. emails, messages or calls)	14.1%
Digital activity monitoring (e.g. keystroke logging, time spent on applications or websites)	8.4%
Automated performance evaluation (e.g. algorithmic scoring, productivity monitoring or task logging)	6.7%
Health and physiological monitoring (e.g. heart rate or fatigue indicators)	4.4%
Individual video monitoring (e.g. driver-facing cameras or always-on webcam monitoring)	3.8%
Don't know	3.0%

Other	2.7%

Workplace monitoring technologies are therefore currently concentrated in a minority of organisations, with adoption focused on specific operational, security, or access-control purposes rather than more intrusive forms of employee monitoring.

Question 31. Based on the description above, would a statutory WMT code of practice better support the responsible adoption and use of WMT and increased worker voice?

Yes.

However, the most effective approach would non-statutory guidance alone.

Question 32. What impact would this option have on industrial relations?

Somewhat positive.

Question 33. Please explain your answer.

A statutory WMT code of practice, supported by non-statutory guidance, has the potential to support the responsible adoption and use of WMT and encourage effective worker engagement. Such a code, if carefully designed to be proportionate and technology-neutral, could help improve understanding of existing legal and regulatory requirements and provide greater certainty for employers seeking to adopt WMT responsibly.

In a survey of 333 IoD members in August 2026, 35.4% of respondents identified a statutory code of practice supplemented by guidance as their preferred option for reform, making it the single most popular approach tested (Figure 2).

However, the survey results also suggest that employers' principal concern is securing greater clarity rather than introducing additional frameworks or procedural requirements. While 35.4% preferred a statutory code supported by guidance, 29.4% favoured non-statutory guidance alone and 23.1% believed no additional intervention was required. Taken together, these findings indicate substantial support for approaches that rely on guidance and existing legal frameworks.

High-quality non-statutory guidance would therefore be better placed to achieve these objectives while preserving flexibility and avoiding the risk that guidance evolves into a quasi-regulatory framework.

Figure 2: IoD Policy Voice results, August 2026 (333 responses)

Which of the following approaches do you think would best support the responsible use of workplace monitoring technologies in UK workplaces?

Statutory Code of Practice plus supporting non-statutory guidance	35.4%
Non-statutory guidance only	29.4%
No additional intervention is required	23.1%

Legal requirement for employers to consult and negotiate with unions or elected worker representatives before introducing workplace monitoring technologies	8.4%
Other	3.7%

Question 34. What impact would this have on the adoption and use of WMT by organisations?

No impact.

Question 35. Please explain your answer.

The overall impact of a statutory code of practice and accompanying guidance is likely to be neutral. While a code may provide some employers with the confidence to proceed with adoption due to greater clarity around existing legal obligations, others may become more cautious about adopting particular technologies where there is concern about compliance or potential legal risk.

Question 36. What benefits, costs, risks or practical challenges could arise from this option?

The principal benefits arising from this option relate to the clarity which the code and guidance could, if well drafted, provide employers, while avoiding the costs, complexity, and compliance burdens that would arise under a new legal requirement to consult and negotiate prior to the introduction of workplace monitoring technologies.

Employers are already subject to a range of obligations relating to WMT under existing employment and data protection law, but the application of those frameworks to rapidly evolving technologies is not always straightforward. A code could therefore help translate existing legal requirements into practical expectations.

It should be noted, however, that while these benefits could be achieved through a statutory code, many could also be realised through high-quality non-statutory guidance without introducing an additional quasi-regulatory framework.

The primary risks of this approach would stem from placing additional burdens on employers already navigating an increasingly complex regulatory environment with regards to employment. The challenges are likely to be particularly acute for SMEs, which often have limited access to specialist HR, legal, and compliance expertise. Even where a code is intended primarily as a clarification tool, businesses would still incur costs in reviewing their existing policies and practices, understanding the implications of the code, and ensuring that they can demonstrate compliance with its expectations.

There is a further risk that, if the code is drafted too prescriptively, it would both create uncertainty about how its provisions interact with established legal obligations and dissuade employers from adopting technologies with the potential to deliver productivity, security, safety, or compliance benefits due to increased legal risks.

Question 37. What should be the main purpose of a statutory WMT code of practice? (select all that apply)

Improving transparency about WMT; clarifying expectations under existing law.

Question 38. Should the code be drafted to qualify for the TULRCA S207A tribunal compensation adjustment mechanism, where an employer unreasonably fails to follow it?

No.

If the principal purpose of the code is to clarify how existing obligations apply to WMT, attaching a tribunal compensation adjustment mechanism to it risks changing employer behaviour from using the code as practical guidance towards treating it primarily as a litigation-compliance document.

Question 39. Should the code be supplemented with guidance to provide more detailed practical support for employers, workers and representatives?

Yes.

If a code is introduced, supplementary guidance should include worked examples, case studies, sector-specific scenarios, and explanations of how existing legal requirements apply to different forms of workplace monitoring technology.

More widely, the principle of separating the code and guidance is a welcome one. In some areas of employment law, there can be uncertainty about the distinction between statutory expectations and recommended good practice. A separate code-and-guidance model would help ensure that practical examples and illustrative case studies are not inadvertently treated as mandatory requirements.

Question 40. Based on the description above, would a requirement to consult and negotiate with trade union or employee representatives before the introduction of WMT better support the responsible adoption and use of WMT and increased worker voice?

No.

Question 41. Please explain your answer.

A requirement to consult and negotiate is neither necessary nor proportionate, given existing legal protections and the practical realities of technology adoption. Instead of supporting the responsible adoption and use of WMT, it would act as a significant barrier to technology adoption.

Question 42. What impact would this option have on industrial relations?

Somewhat negative.

Question 43. Please explain your answer.

While intended to improve worker voice, a mandatory consultation and negotiation requirement risks making decisions about workplace technologies more procedural and adversarial. Good industrial relations are built primarily on trust, effective management, and open communication rather than statutory process requirements.

The introduction of a new consultation duty could create disputes about process and compliance, particularly where there is disagreement about whether a technology falls within scope, whether consultation has been adequate, or whether worker concerns have been sufficiently addressed. There

is also a risk that consultation becomes a procedural exercise rather than a meaningful discussion focused on outcomes.

Employers already operate within a framework of employment, data protection, and information rights legislation in relation to the adoption and use of WMT. Introducing an additional statutory consultation requirement would add complexity and could generate unnecessary tension in workplaces where employment relations are currently constructive.

A statutory code of practice supported by guidance would be more likely to support positive employment relations than a mandatory consultation and negotiation regime.

Question 44. Would impact would this have on the adoption and use of WMT by organisations?

Somewhat reduced adoption.

Question 45. In your review, what benefits, costs, risks or practical challenges could arise from this a legislative requirement for businesses to consult with staff prior to adopting WMT?

The principal practical concern identified by IoD members is the potential effect on organisations' ability to adopt new technologies. An IoD survey of 333 members in August 2026 found that more than half of respondents (54%) reported that such a requirement would have a somewhat or very negative impact on their organisation's ability to adopt new technologies (Figure 4). By contrast, only 14% expected a positive impact, while 21% anticipated no impact.

Figure 3: IoD Policy Voice results, August 2026 (333 responses)

What impact would a legal requirement to consult and negotiate before introducing workplace monitoring technologies have on your organisation's ability to adopt new technologies?

Very positive impact	3.5%
Somewhat positive impact	10.6%
No impact	20.9%
Somewhat negative impact	34.6%
Very negative impact	19.3%
Don't know	8.3%
None	2.8%

Workplace monitoring technologies are not a single category of technology. They range from biometric access systems and vehicle tracking through to cybersecurity tools, communications monitoring, and software updates that incorporate new monitoring functionality. In many cases, technologies are introduced incrementally through upgrades, pilots, or changes in scope. Any requirement to consult would inevitably create uncertainty about when consultation obligations are triggered.

The proposal would also impose additional administrative and legal burdens on employers. Consultation and negotiation processes require management time, documentation, coordination and in some cases legal advice. These burdens are likely to fall disproportionately on SMEs, which may lack dedicated HR and employee-relations resources.

> "The real negative impact of anything becomes legal is more on the admin burden of creating policies and working groups to establish physical binding principles on the deployment and approach to be taken between employer and employee" – 250+ employees, Manufacturing, Yorkshire and the Humber

> "No thought is given to SMEs, we are treated like multinationals" – 10-49 employees, Wholesale and retail trade, South West England

Members expressed concern that additional procedural requirements could slow the adoption of technologies that improve productivity. Several respondents argued that restrictions on the adoption of WMT would worsen the UK's longstanding productivity challenges:

> "The UK lags in terms of productivity and investment to support this, without accountability and a measurable ROI on human productivity it is difficult to justify this investment short of eliminating the human from the task" – 100-249 employees, Manufacturing, West Midlands

A further risk resulting from any additional legal constraints on employers' ability to adopt and implement WMT would be reduced employer willingness to allow remote working. Qualitative responses to the IoD's survey on WMT found that some employers' confidence in allowing employees to work remotely is in no small part dependent on WMT which allow them to track productivity levels remotely:

> "Feel very strongly against any form of legislation for this - team members need to have their work / productivity monitored either by being the office and visible or by use of monitoring software. If this was introduced we would not allow any home working at all - which would have a negative impact on our recruitment - but that is how it would have to be." – 10-49 employees, Construction, South East England

> "Where staff have significant amount of time working from home/remotely it is incredibly important to be able to independently and accurately determine the relative contribution of individuals." – 2-9 employees, Financial and insurance activities, London

> "Employers need to know if their staff are working for them when they should be." – 2-9 employees, Construction, East Midlands

These risks are significant and underpin the findings of our research, which found that only 8.4% of business leaders identified a legal requirement to consult and negotiate with unions or elected worker representatives as the preferred policy option, compared with 35% who favoured a statutory code of practice supported by guidance and 29.4% who favoured guidance alone (Figure 2).

Question 46. What model for a mandatory duty would be most appropriate to ensure greater worker voice while being proportionate?

No legislative requirement is appropriate.

Question 47. Please explain your answer.

A new statutory duty relating to workplace monitoring technologies is neither necessary nor proportionate. Employers are already subject to a range of obligations under employment, data protection, and other relevant legislation. The case for intervention set out in this consultation is primarily one of improving clarity, consistency and understanding, rather than addressing a regulatory gap.

Question 48. What should trigger a consultation requirement or right to request consultation? (select all that apply).

Introduction of high-risk WMT only (e.g. systems involving continuous/real-time monitoring or biometric or sensitive data).

Neither a consultation requirement nor a right to request consultation should be implemented.

However, if the Government decides to proceed with such a requirement, it should be limited to the introduction of genuinely high-risk workplace monitoring technologies. Any broader approach would risk imposing disproportionate burdens on employers and employee representatives, given the wide range of technologies that could potentially fall within scope.

An IoD survey of 333 business leaders in August 2026 found that the most commonly supported trigger was the introduction of high-risk monitoring technologies only (36.6%), while only 19.5% supported a trigger based on the introduction of any new workplace monitoring technology (Figure 4).

Figure 4: IoD Policy Voice results, August 2026 (333 responses)

If the Government introduces a legal requirement for employers to consult with unions or worker representatives prior to introducing these types of technologies, which of the following to you think should be the trigger? Please select all that apply.

Introduction of high-risk monitoring technologies only (e.g. continuous monitoring, biometric technologies, AI driven decision-making)	36.6%
Use of monitoring technologies in decisions relating to performance, pay, discipline or dismissal	29.4%
Consultation only where requested by workers or their representatives	27.0%
Significant changes to an existing monitoring system	24.6%
Introduction of new workplace monitoring technology	19.5%
Don't know	13.2%

Other	5.4%

If a requirement to consult is implemented, high-risk technologies should be clearly defined and limited to circumstances where there is a significant potential impact on employee privacy, autonomy, or employment outcomes, such as continuous monitoring, biometric technologies, or AI-driven decision-making systems. Routine operational, security and compliance technologies should not be subject to mandatory consultation requirements.

Question 49. Should completion of the process be time limited and if yes, what period would be appropriate?

Within reasonable notice.

Neither a consultation requirement nor a right to request consultation should be implemented. However, if such a requirement is introduced then the consultation process should not be subject to a prescriptive timeframe.

Question 50. Should employers also be legally required to carry out further consultation and negotiate processes if "significant" changes are made to WMT's use and purpose?

No.

Further statutory consultation should not automatically be triggered by changes to an existing system. Workplace monitoring technologies are frequently updated and refined over time, for example through software updates, changes in functionality, or evolving business requirements. Creating a legal duty to consult whenever a significant change occurs would likely generate uncertainty and disputes about whether a threshold had been crossed.

Repeated consultation requirements would also impose substantial administrative burdens on businesses, particularly SMEs, and risk delaying the adoption of technologies that improve productivity, security, health and safety, or regulatory compliance.

Guidance could, however, encourage renewed engagement where a change materially alters the purpose of the technology, the information collected, or the effect on workers.

Question 51. What should happen if trade union or employee representatives object to the introduction of WMT following a consultation and negotiation process?

Employer may proceed after considering and discussing concerns.

Neither a consultation requirement nor a right to request consultation should be implemented. However, if a requirement is introduced then it is important that employers are able to proceed after considering and discussing concerns.

Employers should remain ultimately responsible for decisions regarding the adoption and use of workplace monitoring technologies. Consultation should provide an opportunity for workers and their representatives to raise concerns, ask questions, and influence decision-making, but it should not amount to a veto over management decisions.

Requiring agreement, mandatory mediation, or implementation pauses would risk creating additional delays, uncertainty, and costs, and could prevent organisations from adopting technologies that deliver legitimate benefits in areas such as productivity, security, health and safety, regulatory compliance, and service quality.

Question 52. Who should be covered by any legislative consultation requirement?

Employees only.

Question 53. Please explain your answer.

Neither a consultation requirement nor a right to request consultation should be implemented. However, if a requirement is introduced then it should only apply to employees.

If a new statutory consultation duty is introduced, limiting it to employees would align it most clearly with established workplace representation and consultation structures. This would not mean that other individuals affected by WMT are outside relevant protections; data protection requirements and appropriately designed guidance would continue to apply across wider workforce models.

Question 54. In which circumstances should enforcement action be available where a WMT consultation process has not been followed?

Where no consultation process was undertaken.

Neither a consultation requirement nor a right to request consultation should be implemented. However, if the government introduces one then enforcement action should be available only where no consultation process was undertaken.

Question 55. What remedies should be available in response to the circumstances you selected in the previous answer?

A requirement to suspend or delay the use of WMT until a compliant consultation process has been completed; a requirement to provide specified information to workers or their representatives.

Neither a consultation requirement nor a right to request consultation should be implemented. However, if the government introduces one then remedies should be limited to suspending or delaying the use of WMT and a requirement to provide specified information to workers or their representatives.

Question 56. Please explain your answers to the previous two questions. If consultation became a legal requirement, how do you think it should be enforced?

Neither a consultation requirement nor a right to request consultation should be implemented. However, if the Government decides to proceed with a legislative model, any enforcement regime should be proportionate and focused on securing compliance rather than imposing punitive sanctions.

Enforcement should be limited to circumstances where an employer has wholly failed to undertake a consultation process that is legally required. An approach to enforcement based on subjective judgements regarding whether consultation was sufficiently "meaningful" or whether workers had a sufficiently strong opportunity to influence outcomes would create uncertainty, increase litigation risk, and encourage disputes about process rather than substance.

Furthermore, any remedies should be corrective rather than punitive. For example, where appropriate, employers could be required to provide information that should have been supplied during consultation. Existing regulators should continue to address any breaches of data protection or other legal obligations through established enforcement mechanisms.

Question 57. Based on the description above, would non-statutory guidance by itself support the responsible adoption and use of WMT and increased worker voice?

Yes.

Question 58. Please explain your answer.

Non-statutory guidance would support the responsible adoption and use of workplace monitoring technologies by helping employers understand existing legal obligations, identify good practice, and engage with workers in a transparent and proportionate manner.

As set out in Figure 2, member views were spread between support for a statutory code of practice supported by guidance (35%), guidance alone (29%), and no additional intervention (23%). By contrast, only 8% of respondents identified a legal requirement to consult and negotiate with unions or elected worker representatives before introducing workplace monitoring technologies as their preferred approach.

Against that distribution of views, the IoD considers non-statutory guidance capable of addressing the principal need identified by employers: greater clarity and practical support in navigating the use of workplace monitoring technologies. Non-statutory guidance would improve understanding and promote good practice while avoiding additional legal complexity and preserving flexibility for employers operating in different sectors and workplace environments.

Employers are already subject to a range of obligations under employment, data protection, and other relevant legislation. The principal challenge is therefore not necessarily the absence of regulation, but ensuring that employers understand how existing requirements apply in the context of rapidly evolving technologies. Well-designed guidance could play an important role in addressing this challenge by providing practical advice, real-world examples, and clear explanations of employers' responsibilities.

Guidance would also offer several advantages over more interventionist approaches. It would be flexible, proportionate, and capable of being updated as technologies evolve and new use cases emerge. It would allow employers to adapt good-practice principles to their particular workplace circumstances, recognising that the use, purpose, and impact of workplace monitoring technologies vary significantly between sectors, occupations, and organisational settings. As a result, guidance has the potential to improve transparency and support responsible adoption while imposing the lowest compliance burden on employers.

Question 59. Would impact would this option have on industrial relations?

Somewhat positive.

Question 60. Please explain your answer.

By promoting transparency and sharing examples of good practice, guidance could support more informed conversations between employers and workers and help reduce misunderstandings

regarding the use of workplace monitoring technologies. It could also encourage employers to engage constructively with their workforce regarding the introduction and use of such technologies without imposing prescriptive legal requirements.

More prescriptive approaches, on the other hand, risk creating disputes which centre on process rather than the substance of issues around the introduction and adoption of WMT.

Question 61. What impact would this option have on the adoption and use of WMT by organisations? Very reduced adoption Somewhat reduced adoption No impact Somewhat increased adoption Very increased adoption Don't know

Somewhat increased adoption.

Question 62. Please explain your answer.

Non-statutory guidance is likely to support the adoption and use of WMT by providing employers with greater clarity regarding existing legal requirements and examples of good practice.

Many organisations are interested in adopting technologies that can improve productivity, security, regulatory compliance, health and safety, and service quality, but may be uncertain about how existing legal and employment frameworks apply in practice. Clear and accessible guidance could help address this uncertainty and increase confidence in the responsible deployment of workplace monitoring technologies.

It is important to note that while non-statutory guidance may encourage a modest increase in WMT adoption, the same mechanism would function to encourage that adoption to be responsible in nature by supporting best practice.

Question 63. What benefits, costs, risks or practical challenges could arise from this option?

The principal benefit of non-statutory guidance is that it can improve understanding of existing legal obligations and promote good practice without creating additional regulatory burdens. Employers are already subject to a range of requirements under employment, data protection, and other relevant legislation. Guidance can help employers understand how these requirements apply in the context of workplace monitoring technologies and provide practical examples of responsible implementation.

Guidance would also offer significant flexibility. Workplace monitoring technologies vary widely in their purpose and level of risk and are deployed across a broad range of sectors and workplace environments. Non-statutory guidance can accommodate these differences more effectively than legislation and can be updated more readily as technologies evolve and new use cases emerge.

Question 64. What content should guidance include to effectively support organisations to adopt and use WMT in a responsible way?

Sector specific guidance and examples, including on worker consultation; illustrative case studies, reflecting differences in organisational size capability; iterations to reflect evolving use of WMT and related worker experience; checklist of legal requirements connected with WMT.

Question 65. Who should the guidance be primarily aimed at?

Employers; workers; Trade Unions and worker representatives.

Question 66. What would make non-statutory guidance more likely to be used in practice?

Clear practical examples; sector specific material; simple toolkits tailored for SMEs.

Employers are most likely to engage with guidance that helps them understand what good practice looks like in real-world situations and how existing legal obligations apply in common workplace scenarios.

I hope you have found our comments helpful. If you require further information about our views, please do not hesitate to contact us.

With kind regards,



Alex Hall-Chen

Principal Policy Advisor for Employment

Email: Alexandra.Hall-Chen@iod.com