



Make Work Pay: Consultation on workplace monitoring technologies

Submission to the Department for Business, Science, Innovation & Trade



About CIPD

The CIPD is the professional body for HR and people development. The not-for-profit organisation champions better work and working lives and has been setting the benchmark for excellence in people and organisation development for more than 100 years.

It has 160,000 members across all sectors and sizes of organisation and provides thought leadership through independent research on the world of work and offers professional training and accreditation for those working in HR and learning and development.

Public policy at the CIPD draws on our extensive research and thought leadership, practical advice and guidance, along with the experience and expertise of our diverse membership, to inform and shape debate, government policy and legislation for the benefit of employees and employers. It also seeks to promote and improve best practice in people management and development and to represent the interests of our members.

Our response

Question 28 of 68. To what extent do you agree that local engagement with workers, trade unions or elected representatives is important to the responsible use of WMT?

Agree

Question 29 of 68. What do you believe meaningful worker engagement looks like in practice?

Meaningful worker engagement happens where management:

1. Gives workers enough information to assess the proposal as well as adequate time and opportunities to share their views. It also allows sufficient time for senior managers/decision makers to take account of views put forward before decisions are made.
2. Explains how employee feedback was used in reaching a key decision, including why particular suggestions were accepted or not accepted.

<https://www.cipd.org/uk/knowledge/factsheets/voice-factsheet/>

Question 30 of 68. Are you aware of any examples of worker engagement or consultation regarding WMT or similar topics that have worked well or poorly - please explain.

Yes. The action research on responsible AI adoption carried out by CIPD's research partner and supported by the government-funded Innovate UK BridgeAI programme provide examples where worker engagement worked well or poorly. Most of the case studies focused on the adoption of AI assistants:

<https://www.cipd.org/uk/views-and-insights/thought-leadership/insight/people-centered-ai/>

Where it worked well, worker engagement was meaningful. These case studies also highlighted the value of cross-functional representation and building in a group reflection process at different stages of the adoption.

Holiday retailer case study: <https://www.cipd.org/uk/knowledge/case-studies/holiday-retailer-ai/>

Not-for-profit organisation case study: <https://www.cipd.org/uk/knowledge/case-studies/non-profit-ai/>

Where it didn't work as well, worker engagement was less meaningful. Workers weren't given genuine opportunity to voice concerns or didn't have appropriate channels to raise these with the



right people. This meant that organisations missed opportunities to deal with employee concerns early and risked being led too much by their technology providers' commercial interests.

Large organisation: <https://www.cipd.org/uk/knowledge/case-studies/return-on-ai-investment/>

Safety-critical and unionised sector case study: <https://www.cipd.org/uk/knowledge/case-studies/non-profit-ai/>

Across several case studies, concerns about redundancy risks, industrial relations processes or reputational implications made managers cautious about discussing job and work redesign at an early stage with employees or trade union representatives.

The research highlighted the value of early discussions with trade union representatives and employees about changing tasks or skill requirements which can both support effective AI adoption and help minimise the need for headcount reductions.

It suggests that a partnership approach is needed where managers and trade union or employee representatives engage or consult in good faith and seek to achieve optimal outcomes for both the business and workforce.

It's worth looking more broadly at research on employee voice to understand what makes worker engagement meaningful and effective:

1. How establishing common goals and internal feedback loops helped improve management decisions. Experiences from four organisations with different challenges.
CIPD (2021) Employee voice case studies. <https://www.cipd.org/uk/knowledge/case-studies/employee-voice/>
2. Sufficient and timely information is foundational to building trust. A good trust relationship between management and works councils increases employee voice effectiveness.
Berg, A. V. D., Grift, Y., Witteloostuijn, A. V., Sapulete, S., Brehmer, W., & Behrens, M. (2025). German and Dutch works councils: A trust theory of legal employee voice. *Human Resource Management Journal*, 35(1), 183-205. <https://doi.org/10.1111/1748-8583.12561>
3. Trust can exist but consultation may be weak or partial because of management's desire to maintain control. Jointly agreeing the role and purpose of consultation and consistently sticking to it can help eliminate factors that hinder managerial decisions to take risks, such as consulting before a decision reached, when information is still highly confidential.
Kougiannou, N. K., Wilkinson, A., Dundon, T. (2022) Inside the meetings: The role of managerial attitudes in approaches to information and consultation for employees. *British Journal of Industrial Relations*, 60(3), 585-605. <https://doi.org/10.1111/bjir.12650>
4. How trust and justice influence the efficacy of employee information and consultation bodies.
Kougiannou, N.K., Dundon, T. and Wilkinson, A. (2021), Forming Effective Employee Information and Consultation: A Five-Stage Trust and Justice Process. *British Journal of Management*, 32: 200-218. <https://doi.org/10.1111/1467-8551.12382>
5. Manager openness to employee voice may be even more important where employees have greater job security fears.
Detert, J. R. & Burris, E. R. (2007) Leadership behavior and employee voice: is the door really open? *Academy of Management Journal*, Vol. 50, No. 4
<https://doi.org/10.5465/amj.2007.26279183>
6. Wilkinson, A., Barry, M. & Morrison, E. (2020) Toward an integration of research on employee voice. *Human Resource Management Review* Vol. 30.
<https://doi.org/10.1016/j.hrmr.2018.12.001>



The research above shows the variety of formal and informal channels that management use to consult with workers.

The Involvement & Participation Association (IPA) recommends options-based consultation as a model for best practice consultation. Consultation should ideally begin once the business objective and possible options have been identified and before a preferred option is selected. Managers may need to share potentially sensitive information and employee representatives need to treat it confidentially. Done well, it gives representatives a genuine opportunity to influence and management to explain their decision clearly.

<https://www.ipa-involve.com/pages/faqs/category/factsheets>

Option A - statutory code of practice with guidance

Question 31 of 68. 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

Question 32 of 68. What impact would this option have on industrial relations?

Somewhat positive

Question 33 of 68. Please explain your answer

As outlined in the consultation document, the code would help clarify what good practice looks like and could be promoted and disseminated to employers via a wide range of channels including professional bodies such as the CIPD, chambers of commerce, local authorities, Acas and the Fair Work Agency.

The impact of the code would be limited to employers who use it and workers bringing relevant claims to the tribunal.

Question 34 of 68. What impact would this have on the adoption and use of WMT by organisations?

No impact

Question 35 of 68. Please explain your answer

Likely no impact in terms of increased/reduced adoption if the code simply clarifies existing legal obligations. Employer decision to invest in technology is typically financially driven. Non-compliant organisations might be attracted to use the statutory code of practice to provide reassurance over compliance risks. We know from our People Skills pilots that many SMEs are not compliant with all existing employment legislation.

Question 36 of 68. What benefits, costs, risks or practical challenges could arise from this option?

The consultation document already highlighted the potential benefits and limitations. Another benefit is that the statutory code of practice may highlight gaps in people management capability



and capacity in small and micro firms, as they may have limited access to professional HR and legal advice and support.

A practical challenge we see would be defining the scope of the code.

The statutory code of practice should align with related guidance produced by the Information Commissioner's Office, Health and Safety Executive and Acas. For example:
Health Surveillance: <https://www.hse.gov.uk/health-surveillance/types-of-health-surveillance.htm>
Monitoring workers and their health: <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/employment/>
Acas: <https://www.acas.org.uk/consultation>

Question 37 of 68. What should be the main purpose of a statutory WMT code of practice? (select all that apply)

Clarifying expectations under existing law
Supporting responsible technology adoption

Option B - Legislative requirement to consult and negotiate with trade unions or elected representatives on WMT

Question 40 of 68. 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?

Don't know

Question 41 of 68. Please explain your answer

In principle it's a good idea to engage with workers to support responsible adoption of workplace monitoring technologies.

However, in practice it's difficult to implement a legal requirement to consult with workers meaningfully and not add significant compliance burden. Furthermore, there are already a lot of changes from the Employment Rights Act 2025 (ERA) that employers have to implement.

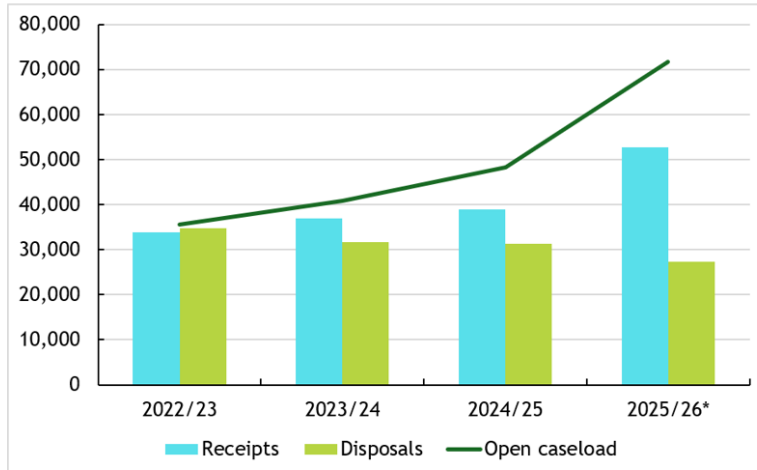
Evidence from CIPD's People Skills pilots highlighted the low level of HR/people management capability in many micro and small firms with many struggling to comply with existing regulation. It is not unusual for small firms not to have written employment contracts or job descriptions and to have no formal policies on areas such as absence management or performance management.

Many SMEs will struggle to comply with new legal provisions arising from the ERA and won't have the capacity to meet a new legal duty to consult in relation to workplace monitoring. The introduction of such a requirement would lead to wide-spread accidental non-compliance and further increase the burden on the employment tribunal system. See Figure 1 below.

The creation of a legal duty to consult may well lead to employment tribunal claims being brought against employers for procedural or technical failures to consult even if no harm has been caused. In CIPD's view, the limited resources of the employment tribunal service and the enforcement system more widely should be focused on addressing issues of unfair treatment where actual detriment or harm has been caused to employees.

There is also a need for additional funding for Acas to increase its capacity to provide advice and guidance to support employers to comply with their existing legal obligations and help improve their HR or people management capability.

Figure 1: Employment tribunal volume trends



Source: Ministry of Justice Tribunal statistics 2022/23 to 2024/25. All figures are single claims plus the lead claim for multiple claims. Open claim figures are for 31st March. *2025/26 figures are provisional.

Question 42 of 68. What impact would this option have on industrial relations?

Don't know

Question 43 of 68. Please explain your answer

It depends on the scope of the legal requirement to consult, how well it supports meaningful worker engagement without adding significant compliance burden.

Question 44 of 68. What impact would this have on the adoption and use of WMT by organisations?

Somewhat reduced adoption

Question 45 of 68. 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?

Typically, an employer's decision to invest in technology is financially driven. If the cost of compliance, the risk of missing a compliance step and the penalty for procedural non-compliance far outweigh the benefits, it may deter some employers from adopting workplace monitoring technologies.

The consultation document already highlights the benefits and limitations of introducing the requirement to consult.

Question 46 of 68. 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 of 68. Please explain your answer

Meaningful consultation is a good idea in principle, but it is difficult to define this in law unless the scope is narrow. See research on worker engagement referenced in answers to Question 30. The existing ICE Regulations 2004 already supports a request-based model and trade unions can already negotiate these directly with individual employers. Legislative changes under the ERA will make it easier for trade unions to access workplaces for recruitment and organising purposes and to achieve statutory recognition. These changes will support increased consultation over the adoption or use of technology, further undermining the need for additional regulation in this area.

Consultation requirements could be embedded into a statutory code of practice on workplace monitoring. The tribunal would then consider the statutory code of practice and organisation's situation and resources when determining redress in circumstances where harm or detriment to employees have been proved.

Introducing a new legal duty would further stretch the limited resources of existing regulators. It would be more effective to provide regulators with the capacity and funding they need to enforce existing employer duties.

Option C - non-statutory WMT guidance

Question 57 of 68. Based on the description above, would non-statutory guidance by itself support the responsible adoption and use of WMT and increased worker voice?

No

Question 58 of 68. Please explain your answer

The non-statutory guidance can't enforce responsible adoption. There are plenty of conferences and networking groups where employers can share good practice.

Question 59 of 68. Would impact would this option have on industrial relations?

No impact

Question 60 of 68. Please explain your answer

The non-statutory guidance can't enforce responsible adoption.

Question 61 of 68. What impact would this option have on the adoption and use of WMT by organisations?

No impact

Question 62 of 68. Please explain your answer

The non-statutory guidance can't enforce responsible adoption.

Question 66 of 68. What would make non-statutory guidance more likely to be used in practice?

Other: linked to a statutory code of practice