NEGOTIATING THE FUTURE OF WORK

LEGISLATING TO PROTECT WORKERS FROM SURVEILLANCE

Joe Atkinson and
Joseph Evans

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IPPR
8 Storey's Gate
London
SW1P 3AY
E: info@ippr.org
www.ippr.org
Registered charity no: 800065 (England and Wales),
SC046557 (Scotland)

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ABOUT THE AUTHOR

Joe Atkinson is a lecturer in employment law at the University of Southampton. As a guest author he is applying his expertise in workers' rights to the question of surveillance.

Joseph Evans is a researcher at IPPR.

ABOUT THIS PAPER

The purpose of this paper is to outline legislative changes which will protect workers from excessive surveillance.

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SUMMARY

New technologies are radically transforming worker surveillance. Employers' surveillance of their workforce increased substantially during the pandemic and rapidly evolving artificial intelligence is creating new ways to monitor and track workers. The intense and extensive surveillance enabled by new technologies pose serious risks to workers' rights and wellbeing, and potentially economic productivity.

Meaningful worker voice is needed over surveillance practices to address these risks. But UK law currently provides little scope for workers to influence decisions over the adoption or deployment of surveillance technologies. The government's commitment to introduce worker rights to negotiation and consultation is therefore significant.

Introducing new worker rights for negotiation and consultation on surveillance technologies is relatively straightforward. As part of its bold package of reforms to employment rights, we recommend that the government should adapt existing legislation to give workers a greater voice over the implementation of new surveillance technologies. We argue that legislative amendments should:

- **adopt a broad definition** of surveillance technologies
- **expressly include surveillance in the list of potential topics for collective bargaining** under voluntary recognition, and add it to the list of mandatory bargaining topics under the statutory recognition framework
- **model new consultation rights on those that already exist** for redundancy
- **ensure effective consultation by introducing new information rights**, and mechanisms allowing workers to effectively challenge unjustifiable monitoring practices.

We argue that rights to negotiation and consultation should also be extended to 'algorithmic management' systems, which evaluate and manage workers, given the impossibility of disentangling the two forms of technology.

INTRODUCTION

The world of work is undergoing a technological revolution. Much attention has rightly been focussed on AI-driven automation changing the nature and quantity of jobs (Jung and Desikan 2024). This report addresses another urgent issue: the radical expansion of workplace surveillance, and the legal reforms needed in response.[1]

The government has committed to introduce consultation and negotiation over worker surveillance technologies, as set out in its *Plan to Make Work Pay* (Labour Party 2024). This report explores:

1. how this commitment can be effectively implemented
2. why the commitment should be extended to cover broader 'algorithmic management' technologies.

Employers may have legitimate reasons to monitor their workforce. This includes ensuring efficient production, compliance with legal obligations, and protecting assets and commercial interests. Some workplace surveillance is inherent in capitalist employment relations. The key questions are therefore what limits should be placed on worker surveillance, and what role workers themselves should play in shaping its adoption and deployment.

The paper proceeds as follows.

- **Chapter 1** sets out how new technologies have transformed worker surveillance.
- **Chapter 2** outlines the harms of technological surveillance, and why new protections of worker voice are needed.
- **Chapter 3** considers how the government's commitment to introduce consultation and negotiation can be implemented effectively, and how these rights can be integrated into existing legal frameworks.
- **Chapter 4** explains why this commitment should be extended to other new 'algorithmic management' technologies.

1 Surveillance is understood here as the monitoring of workers or collection of worker data, identifiable or not, for the purpose of influencing and managing the behaviour of those being monitored (Parkes 2023; Lyon 2001). It therefore encompasses all 'monitoring' of workers for managerial purposes, and the two terms are used interchangeably here.

1. THE TRANSFORMATION OF WORKER SURVEILLANCE

Worker surveillance is inevitable in capitalist employment relations due to employers' need to oversee and control production. To some extent, therefore, the challenges posed by workplace surveillance are not new. However, recent technological developments have radically changed worker surveillance.

Previously, workers' attendance, hours and performance were overseen manually by human managers. Today, their hours and activity can be precisely tracked through the combination of electronic swipe cards and biometric systems, sensors detecting desk use and worker movements, facial recognition equipped CCTV, and the monitoring of wifi connections and computer activity. While human supervisors could not possibly keep an eye on an entire workforces' location, performance, and communications in real time this is now possible with new technologies. As a result, worker surveillance has been transformed both *qualitatively* and *quantitatively*.

Qualitatively, technology enables new forms of surveillance due to the vastly expanded range of worker data that can be collected. This includes the much more granular collection of some information types, such as workers' location or task performance. Technology can also collect data inaccessible to human managers, for example relating to workers' physiological or psychological states, communications, and online activity.

Quantitatively, the ease and relatively low cost of collecting and processing huge volumes of worker data has led to a significant increase in the intensity and frequency of surveillance. Also relevant is the growth in remote work, with companies seeking to manage workers from a distance due to both the Covid-19 pandemic and rise of 'platform work' in the so-called gig economy (Ball 2021). Recent research shows that over 40 per cent of workers experienced increased surveillance in the past three years (IFOW 2025), and that surveillance technologies are now widespread (Kropp 2019; Aloisi et al 2025).

Another key driver of this transformation is the emergence of 'algorithmic management' systems. These collate and process worker data to evaluate performance or make recommendations and decisions traditionally undertaken by human managers. Algorithmic management is now commonly used in the context of recruitment, the allocation and evaluation of work, and even disciplinary matters (Aloisi et al, 2025). As chapter 4 shows, these systems are inextricably linked to workplace surveillance technologies.

2. THE NEED FOR WORKER CONSULTATION AND NEGOTIATION

If left unchecked, employers' ability to introduce almost unlimited worker surveillance creates serious risks to workers, employers, and the wider economy. If left unchecked, surveillance could exacerbate existing labour market inequalities. In many cases, however, employers have legitimate reasons for adopting workplace surveillance. The law must therefore strike an appropriate balance, enabling employers to manage production processes while securing rights and decent conditions for workers.

Legal frameworks giving workers a say over workplace surveillance are essential for striking this balance and addressing the detrimental effects of surveillance.

HARMS AND RISKS OF WORKER SURVEILLANCE

At the individual level, employer surveillance can infringe workers' fundamental rights and creates new risks to their health and wellbeing.

Most obviously, worker surveillance threatens workers' right to privacy. This risk is most acute where surveillance extends beyond the workplace or working time, for example to individuals working from home, or personal activities and communications. But the right to privacy also applies in the workplace during working hours, and cannot be reduced to zero (Atkinson 2018).

Less often recognised are the significant impacts of surveillance on fundamental rights beyond privacy (Atkinson and Collins 2023a). Where workers know or suspect they are being monitored this can have a substantial 'chilling effect', and limit their exercise of rights to freedom of association, expression and belief.

Other negative effects of workplace surveillance include increased stress and anxiety, physical and mental health risks, and lower levels of autonomy, trust, and satisfaction at work (Parkes 2023). Surveillance technologies also deepen information asymmetries and power imbalances, thus increasing worker subordination.

Excessive surveillance has negative consequences beyond individual workers. Decreased worker wellbeing and satisfaction will lead to higher staff turnover and employee misconduct, with associated costs for employers (Parkes 2023). Where surveillance creates a working environment with low levels of worker trust and commitment this may similarly impact on productivity.

WORSENING EXISTING LABOUR MARKET INEQUALITIES

Worker surveillance may exacerbate existing labour market inequalities. While there is no data available to systematically understand the likelihood of surveillance, we can identify a number of 'risk factors' which may make invasive surveillance more likely.

- For lower-skilled roles, worker retention may be perceived as less critical for employers, making surveillance a relatively more attractive an option.
- For roles with lower levels of employee trust, surveillance may be more likely to be employed. Although there are limited available data on employee trust, we consider low worker autonomy as a proxy for this.[2]
- If a workplace is non-unionised, the likelihood of worker consultation or the ability for employers to resist excessive surveillance are lower. According to research by Prospect, union members are twice as likely as non-union members to be consulted on the introduction of workplace monitoring software (Prospect 2021).

Our analysis of these risk factors using available survey data (Understanding Society) shows a complex picture.

TABLE 2.1: PREVALENCE OF WORKER SURVEILLANCE 'RISK FACTORS' AMONG DEMOGRAPHIC GROUPS

	Gender		Ethnicity					Age				
	Male	Female	White	Mixed	Black	Asian	Other	16–29	30–39	40–49	50–59	60+
Low autonomy	20%	22%	21%	21%	26%	19%	22%	28%	18%	17%	19%	25%
Low skill	37%	34%	35%	34%	42%	32%	28%	47%	27%	28%	33%	44%
Non-trade union members	79%	73%	75%	73%	73%	82%	90%	87%	76%	73%	69%	72%

Source: IPPR analysis of ISER (2023)

Table 2.1 shows the following.

- Overall, young people are the most exposed across all the risk factors: they are far more likely to be in lower-skilled work, not have union representation in the workplace and to experience low levels of autonomy in the workplace. This chimes with polling conducted by Prospect which found young people were at much greater risk of monitoring (Prospect 2021).
- Men are more likely to be in lower-skilled work and less likely to be members of trade unions, but women are slightly more likely to report low autonomy. Higher female union representation is driven by a greater likelihood to be in the public sector. Among those in the private sector, men are at higher risk across all three measures.
- Overall Black workers have high rates of low autonomy and lower-skilled, but this is balanced somewhat by being more likely to benefit from union representation than other ethnic groups.

Interviewees highlighted that the rise of surveillance practices can fuel insecurity particularly for those in more precarious work, given they are less empowered to 'argue back' with technology and have lower barriers to dismissal by algorithm. Previous research has shown that such work is disproportionately taken up by minority ethnic workers (Living Wage Foundation 2022) and the young (Posch et al 2020).

2 We measure this as workers self-reporting having little or no autonomy in three or more of the following aspects of work: job tasks, work manner, pace and task order.

THE NEED FOR WORKER VOICE

Providing workers with a meaningful say over monitoring and surveillance practices is an essential means of mitigating the harms outlined above.

It is workers themselves who are best placed to identify surveillance that is likely to undermine workplace trust and commitment or damage their health and wellbeing. Giving workers a say over these matters can help employers find ways of achieving their aims while avoiding the negative effects of surveillance. It also improves workers' perception of surveillance practices (Ball 2010), reducing potential harms to productivity.

Consultation and negotiation are particularly important in this context because legislation inevitably fails to keep up with rapidly developing technologies and employer practices. In contrast, worker co-determination is a more agile form of regulation, capable of responding to these changes (Atkinson and Collins 2023b).

THE CURRENT LACK OF RIGHTS

Workers in the UK currently have little right to input into decisions over the adoption and implementation of workplace surveillance.

Under the UK's voluntarist system of collective bargaining, trade unions are free to try and negotiate over employers' use of surveillance, or to resist it by threatening and taking industrial action. Some have already had notable successes in doing so (Atkinson and Collins 2023b; Hurfurt and Copson 2024). Importantly, however, unions have no legal *right to negotiate* with employers over surveillance, only the *liberty to seek to do so*.

The closest UK law currently comes to a general right for workers to be consulted over monitoring and surveillance is found in article 35 of the UK General Data Protection Regulation (UKGDPR). Article 35 (9) provides that data controllers must 'seek the views of data subjects or their representatives' when preparing Data Protection Impact Assessments (DPIAs). Employers will generally need to undertake a DPIA prior to introducing worker surveillance technologies, as this will count as high risk data processing (article 29 Data Protection Working Party 2017). In most cases, therefore, workers or their representatives should already be consulted by employers before they are monitored.

This duty to seek workers' views only applies where this is deemed 'appropriate' by employers, however, and the weak enforcement of data protection law in the UK makes it very difficult to challenge any failures. More fundamentally, even where employers do consult, the UKGDPR contains no mechanisms to ensure workers' views are listened to.

Some additional piecemeal rights to information or consultation over surveillance are contained in other frameworks, such as health and safety law. But these also fall far short of providing workers with any meaningful say (Atkinson and Collins 2023b).

3. HOW TO IMPLEMENT NEGOTIATION AND CONSULTATION RIGHTS

The Labour government's *Plan to Make Work Pay* commits to "ensure that proposals to introduce surveillance technologies would be subject to consultation and negotiation, with a view to agreement of trade unions or elected staff representatives where there is no trade union" (Labour Party 2024).

This section considers how this can best be practically implemented. It sets out the definition of worker surveillance which should be adopted, how new consultation and negotiation rights can be introduced, and the supporting mechanisms needed to ensure they are effective.

DEFINING SURVEILLANCE TECHNOLOGIES

The definition of worker surveillance adopted is a crucial issue, as it will determine the scope of consultation and negotiation rights. A narrow definition will lead to weak and ineffective rights.

Worker surveillance should be understood broadly, as being the monitoring of workers and collection of worker data, identifiable or not, for the purpose of managing the workplace and behaviour of those being monitored. This definition equates surveillance with monitoring and is widely adopted in the academic and policy literature (Parkes 2023; Moore 2020; Aloisi et al 2025). Importantly, it is not limited to the collection of personal data and so goes beyond data protection laws.

This is both more straightforward and appropriate than the alternative, of adopting a restrictive meaning of 'surveillance' that limits the scope of consultation. For example, if surveillance is defined as particularly intrusive or high-risk monitoring.

A risk-based approach should be rejected. The specific context and power dynamics of employment means that, in practice, *all* technological monitoring is high risk and has the potential to significantly affect workers. This is recognised by the GDPR Working Group (2017), and the EU AI Act which automatically classes technology uses in the employment context as high-risk (article 6(2) and annex III). Furthermore, any list of high-risk monitoring invites avoidance attempts and prolonged legal disputes about the precise boundaries of these categories. Duties to consult and negotiate should therefore apply to all worker monitoring technologies.

It might be logically consistent for consultation and negotiation to extend to all worker monitoring and surveillance, whether technologically mediated or otherwise. This would then include conventional methods of worker oversight by human managers. Such duties could be regarded as overly burdensome for employers, however, and the *Plan to Make Work Pay* commitment only extends to 'surveillance technologies'.

Focussing any reforms on surveillance technologies may be justified on the basis that these are more intense and intrusive than traditional worker monitoring by human managers. It also incentivises employers to refrain from technological surveillance, by making human oversight less regulatory burdensome. However, it remains crucial to adopt a broad definition of surveillance technology, which encompasses all electronic monitoring or collection of worker data for management purposes.

FACILITATING NEGOTIATION

The simplest and most direct route to introducing worker voice over surveillance is to integrate this topic into existing legal frameworks that govern collective bargaining and consultation.

To facilitate *negotiations* over worker surveillance the topic should be expressly included in the list of topics that can be the subject of collective bargaining and agreements in the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) s.178, and as a matter that can form the basis of a trade dispute in TULRCA s.218. While bargaining and industrial action over monitoring and surveillance is already possible under this legislation, this explicit recognition will encourage bargaining on the topic.

Surveillance technologies should also be added to the list of topics that trade unions have a right to negotiate over if they are recognised under the statutory procedure contained in TULRCA Schedule A1. At present, entitlements to bargain collectively under this framework are limited to the topics of pay, hours and holidays unless employers agree otherwise (Schedule A1, s.3) It should be noted that in practice, the statutory route is rarely used by unions, although the government is planning to reduce the threshold for statutory recognition in the Employment Rights Bill. But this change will facilitate collective negotiations over worker surveillance even where unions are voluntarily recognised, as they can threaten to force negotiations on this topic via the statutory procedure.

Ongoing reforms to trade union law should also incorporate the issue of worker surveillance where appropriate. Surveillance should be expressly included as a topic within the remit of any new sectoral level negotiating bodies, such as those being created for school staff and adult social care (Evans 2025). The new right of trade union access to workplaces, which currently forms part of the government's employment rights bill, could also be expanded to entitle unions to access and audit information about employers' surveillance practices (Parkes 2023).

ENSURING CONSULTATION

To secure *consultation* over the use of surveillance technologies, a new right should be introduced that is modelled on the redundancy consultation rights already contained in TULRCA s.188. This should be combined with the creation of 'workplace technology representatives' who can act as a focal point for consultation.

Employers' duty to consult should be triggered wherever they are proposing to introduce *or change* their use of worker surveillance. Ongoing consultation over changes to surveillance is crucial given the tendency for surveillance to expand over time once established, something known as 'function creep'. Consultation could also be required on surveillance technologies already in place at the time the duty is introduced. Consultation should be required at least 30 days before the proposed changes and be undertaken "with a view to reaching agreement".

Employers should be prohibited from introducing the proposed changes to worker monitoring until consultation has been completed.[3]

The matters to be consulted on should be specified in the legislation itself or subsequent regulations. They should include: the form of surveillance proposed, the employers' reason for introducing it and whether it is necessary and proportionate means of achieving the employers' goals, including whether any alternative means can be adopted to achieve these goals. Consultation should also take place on the workers who will be subject to the surveillance, the categories of data to be collected and the purposes they will be used for, as well as the steps taken to monitor and mitigate potential risks to workers' rights and health and safety.

The duty must require consultation with all appropriate representatives of the workers affected by the proposed surveillance. This will include representatives of an independent trade union where one is recognised, and the union should be required to designate a 'workplace technology representative' for the purposes of the consultation. Where there is no trade union presence, employers should be required to establish elections for 'workplace technology representatives' who can gather worker views and represent them in the consultation. Where there is a failure to elect a workplace technology representative the employer should be required to consult affected workers directly. These recommendations largely mirror the approach taken to redundancy consultation in TULRCA s.188.

Any failures to consult should entitle workers to bring tribunal claims for compensatory 'protective awards' of up to 180 days' pay, as is the case for redundancy consultation, as well as for injunctive relief orders preventing employers from adopting the proposed surveillance.

A final difficult issue is the personal scope of consultation, i.e. who is entitled to be consulted. These rights must have a broad scope if they are to cover all those who need a voice over surveillance practices. They should not be restricted to the existing categories of 'employee' and 'worker' status. This would, for example, exclude Deliveroo riders who are subject to numerous surveillance technologies that they should be entitled to be consulted on.

The more promising approach is for consultation rights to cover all individuals who provide work or services personally and are not running a business that employs others. This would include the solo self-employed who are electronically monitored by clients or customers, such as platform and crowd workers or online freelancers. However, extending the scope of consultation rights in this way in isolation from other employment rights would introduce an undesirable level of complexity into the law. The personal scope these new consultation rights should therefore be addressed as part of any wider reforms to employment status.

MAKING NEGOTIATION AND CONSULTATION EFFECTIVE

It is important that consultation and negotiation over surveillance is not relegated to a tick box exercise for employers, and that workers have a genuine opportunity to influence the use of surveillance technologies. The new rights outlined above must be supported by two further legal frameworks if they

3 In our view, this is the most straightforward and least burdensome way of introducing meaningful new rights for workers to be consulted on the introduction of new surveillance technologies. They are closely modelled on existing consultation obligations for redundancies and therefore do not introduce concepts or duties unknown to domestic law, but rather expand existing consultation frameworks to a new topic.

Importantly, the duty here is to *consult with a view to reaching agreement*, rather than a requirement of *consent*. This is in contrast to the approach taken in some European countries, such as banning surveillance which has not been expressly agreed by unions and/or workers.

are to provide meaningful voice over the adoption and implementation of surveillance technologies.

First, workers and their representatives need legal rights to information about employers' use of surveillance technologies. Without this it will be impossible for them to meaningfully engage in negotiations and consultations.

Where there is collective bargaining over worker surveillance, unions have an existing right to the information needed for these negotiations under TULRCA s.181. At a minimum this should normally include information on the forms of surveillance in use, information gathered and purposes it is used for, and the employers' assessment of the impact of monitoring on workers. The ACAS Code of Practice on disclosure of information to trade unions should be updated to reflect this.

The new right to consultation proposed above must also include rights to the information needed to support effective consultation. This should include: the nature of the proposed surveillance and when it is intended to take effect, the reasons for the proposals and their necessity and proportionality. Information should also be provided on the workers surveillance will be applied to, the categories of data to be collected and how this information will subsequently be used, the expected impacts and risks of the proposed surveillance on workers' rights and wellbeing, as well as any steps to mitigate these impacts.

These transparency obligations could just form part of the consultation provisions. Alternately, they might be introduced as part of a wider requirement for employers to undertake and publish detailed impact assessments before introducing monitoring systems, with workers and their representatives having the opportunity to be involved in the process.

Second, consultation and negotiation will only be effective if backed up with robust limits on unjustifiable surveillance practices. The substantive limits to be placed on worker surveillance are not the main focus here. However, workers need effective rights to challenge monitoring practices that are unlawful (e.g. because they are discriminatory or breach data protection law), or that infringe their fundamental rights. Workers must be able to bring tribunal claims if they are subject to these forms of monitoring, both individually and collectively, and be awarded substantial damages or injunctions ordering employers to stop unjustifiable monitoring practices.

One way of achieving the necessary minimum floor of protections would be to establish a broad legal prohibition of technological surveillance practices that disproportionately impact workers' ECHR rights. Additionally, the government could establish a new category of 'automatically unfair' surveillance practices that can never be justified, listed in regulations that are reviewed and updated regularly (Atkinson and Collins 2023b). Surveillance technologies that deserve to be classed as automatically unfair include, for instance, those aimed at inferring workers' emotional states, inner thoughts or beliefs, monitoring trade union activity, and the physical microchipping of workers.

4. MOVING BEYOND WORKER SURVEILLANCE

The government's commitment to introducing negotiation and consultation rights over worker surveillance is welcome, but should be extended to algorithmic management if it is to be effective.

Surveillance and algorithmic management (AM) are inseparably linked. First, they are often integrated into single software packages which both collect worker data and use it to make recommendations or decisions. Consultation on surveillance technologies will in many cases, therefore, involve consultation on AM. Second, AM and surveillance mutually reinforce each other. Algorithmic management is *necessarily surveillance management*, because these systems rely on huge amounts of worker data to function. Conversely, granular surveillance is only being carried out by employers because AM tools enable them to understand and make use of the data collected.

Moreover, algorithmic technologies often combine and analyse different sources of data to infer or predict new information about workers that has not been monitored directly. Creating risk profiles, for instance, or predicting character traits. Although AM systems may not collect new data on workers, they can nevertheless interfere with worker privacy in much the same way as surveillance technologies.

Algorithmic management causes many of the same harms as surveillance: intensified work, increased worker subordination, and risks to physical and mental health. The combination of surveillance and AM creates new risks to the quality of jobs and workplace relationships, can give rise to discrimination, and makes it difficult for workers to understand and challenge decisions affecting their lives at work.

The intertwined nature of surveillance and AM makes it impossible to justify drawing any sharp line between them for the purposes of negotiation and consultation. To negotiate the future of work, workers need meaningful voice over monitoring technologies *and* the algorithmic systems that interpret and act on the data collected.

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