



# WORKPLACE MONITORING

## How to Navigate the New ICO Guidance

The Information Commissioner's Office ("ICO") recently issued new guidance for employers on the monitoring of workers (see [here](#)). Data protection law does not prevent the monitoring of workers in the workplace, but it must be done in a way that is compliant with the law and fair. The guidance relates to employees as well as other people performing work for a company e.g. through the gig-economy.



### 1. What does 'monitor workers' mean?

Any form of monitoring of people who carry out work on behalf of a company. This includes:

- The systematic or occasional monitoring of workers
- Monitoring workers on work premises or elsewhere, such as when working from home or operating a company vehicle
- Monitoring workers during or outside of working hours
- Examples of monitoring include keystroke-logging, mouse-tracking software, location tracking of company assets and camera surveillance



### 3. Is it necessary to notify workers of the monitoring?

Yes, workers have the right to be informed about the collection and use of their personal data.

As monitoring will involve both collecting and using personal data, it is necessary to tell workers about the monitoring in a way that is accessible and easy to understand. It is also necessary to notify workers if any changes to monitoring are introduced.



### 2. Is it possible to use covert monitoring?

According to the guidance, it is unlikely that organisations will be able to justify covert monitoring in most circumstances.

However, it may be permitted if, for example, it is necessary to prevent or detect suspected criminal activity or gross misconduct. Organisations should identify the circumstances in which it might take place in the relevant policy.



### 4. Is it a legal requirement to have a policy in place?

No, it is not a legal requirement to have a policy in place. However, it is necessary to demonstrate compliance with data protection legislation.

The guidance suggests that putting appropriate policies, procedures and measures in place may help demonstrate this. The policy should outline the nature, purpose and extent of the monitoring.

# Checklist for Monitoring in the Workplace



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