Homecare Association

Homecare Association response: workplace monitoring technologies

Executive Summary

The Homecare Association welcomes the consultation on workplace monitoring technologies (WMT), but raises fundamental concerns about the scope, definition, and focus of the proposed regulatory framework. As a UK-wide body, we note that these proposals would apply in England, Wales and Scotland, and that our regulatory examples are drawn from England while the commissioning practices we describe affect homecare across the UK. Our response identifies four critical issues that the Department must address before it implements any statutory code of practice, legislation or guidance in this field.

First, the consultation defines 'workplace monitoring technologies' in broad terms, but does not distinguish them from the essential care planning and medication management systems that homecare providers must operate. This creates a critical risk that essential care planning and medication management systems– which homecare providers must maintain for Care Quality Commission (CQC) compliance and service delivery – could inadvertently be caught by any resulting framework. Electronic Call Monitoring (ECM) systems, which track worker location and attendance time, are fundamentally different in purpose and function from care planning and medication administration software, which is a professional care tool but can also record careworker activity. Without a clear distinction, there is a real risk that regulation intended to address monitoring concerns could impose significant compliance burdens on essential care delivery and clinical record-keeping systems. Any framework should therefore distinguish a system's purpose from any later use of its data: where data from a care or medication system are used to make decisions about a worker, relevant employment legislation safeguards will apply to that use, but the system should not be treated as worker surveillance merely because it records who did what and when.

Second, the consultation adopts a narrow focus on employer-worker relationships whilst ignoring the primary driver of monitoring technology adoption in homecare: **local authority commissioning** practices. Academic research demonstrates that local authorities have mandated ECM as a contractual requirement, often coupling it with

by-the-minute billing models to reduce cost.[1] A statutory framework regulating individual employers will not address commissioning-driven issues and risks distracting from the policy reform actually needed.

Third, any future policy must acknowledge that homecare operates under uniquely prescriptive local authority contracts that do not apply to other employment sectors. Where government legally mandates employers to implement monitoring systems, a framework requiring consultation about their introduction could create impossible positions for employers and false expectations for workers, **potentially increasing workplace tension**. The Homecare Association does not support additional statutory consultation requirements in this context.

Lastly, employers who have contracted to use particular care planning, recording, rota or monitoring software may be subject to software changes and developments that are caused by **supplier system developments**. Once a contract has been entered into, an employer may have little control over how the supplier develops the system. Bespoke requests for system modifications may be prohibitively expensive. This can also constrain employer's options for system choice and what they can meaningfully consult on.

We outline these concerns in detail below and propose that government priority should be reforming how local authorities commission monitoring technologies, with particular focus on eliminating by-the-minute billing practices and establishing clear definitions of what constitutes a 'monitoring technology' versus a professional care delivery tool. The Department must write any guidance with sector-specific awareness to manage these issues.

Implementing legal requirements without addressing these factors risks, at best, box-ticking consultations that are bureaucratic and increase workplace tensions; and, at worst, severe escalation of costs and extended delays when implementing needed care and medication system updates.

Recommendations

For a sector operating under prescriptive local authority contracts, a statutory consultation requirement on monitoring is impractical and counterproductive. The government should instead focus on:

1. Reforming local authority commissioning practices to **eliminate by-the-minute billing** incentives;
2. Narrowing and clarifying the definition of a 'monitoring technology' to protect essential care systems;
3. Drafting non-statutory guidance with full **awareness of sector-specific issues** and a realistic awareness of software development processes to ensure

[1] Hamblin et al. (2023) Technology and homecare in the UK: Policy, storylines and practice, *Journal of Social Policy*; Moore and Hayes (2017) Taking worker productivity to a new level? Electronic Monitoring in homecare—the (re)production of unpaid labour, *New Technology, Work and Employment*

guidance does not expect employers to consult on changes they have no ability to decline.

4. Shaping the **software supply market** if available tools are not serving the workforce or employers.

Response

Question 01: Please indicate whether you are responding as:

- An individual
- An academic, or on behalf of an academic or research organisation
- An employer
- A legal representative
- A business representative organisation (please specify) Homecare Association
- A trade union or staff association (please specify)
- A charity or interest group
- Other – please specify

Question 02: If responding as an employer, business, business owner or business representative, approximately what is the size of your business? If responding as an individual or worker, what size workplace are you employed in?

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250+ employees)
- Don't know
- Not Applicable

Question 03: Which region are you located in?

- North-East
- North-West
- Yorkshire and The Humber
- East Midlands
- West Midlands
- East of England
- London
- South-East
- South-West
- Wales
- Scotland
- Northern Ireland

Question 04: What sector are you based in?

- Accommodation & food service activities

- Activities of households as employers; undifferentiated goods and services producing activities of households for own use
- Administrative & support service activities
- Arts, entertainment and recreation
- Agriculture, forestry and fishing
- Construction
- Education
- Electricity, gas, steam and air conditioning supply
- Financial & insurance activities
- Human Health and social work activities
- Information & communication
- Manufacturing
- Mining and quarrying
- Production
- Professional, scientific and technical activities
- Public administration & defence; compulsory social security
- Real estate activities
- Services Sector
- Transportation & storage
- Water supply; sewerage, waste management and remediation activities
- Wholesale and retail trade; repair of motor vehicles and motorcycles
- Other service activities

Question 05. Which of the following age brackets do you fit into?

[Not applicable]

Questions on experience of WMT

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

- Location and movement tracking (GPS on vehicles or handheld devices)
- Digital activity monitoring (Keystroke logging, time on applications or websites)
- Biometric access or verification (Fingerprint or facial recognition)
- Health and physiological monitoring (heart rate, fatigue indicators)
- Individual video monitoring (always-on webcams or driver-facing cameras)
- Automated performance evaluation (Algorithmic scoring or task logging)
- Other (please specify) ECM and keeping care and medication records that record worker activity in delivering care and administering medication
- None of the above – WMT is not used in my workplace
- Don't know

Question 07. If you did not answer 'none of the above' to Question 06, what (to the best of your knowledge) is the stated purpose of this WMT? (select all that apply)

- Work allocation or scheduling
- Health and safety compliance
- Performance evaluation, discipline or appraisal
- Security or fraud prevention Improve productivity or efficiency
- Supporting employee training or wellbeing
- Other (please specify) Billing, as required by local authorities
- Don't know

Question 08 To the best of your knowledge, how are decisions made using this technology?

- Mostly or solely automated (no human involvement)
- Combination of automated and human input
- Mostly human-led
- Don't know

Question 09. If you are responding as an individual, please indicate your employment status:

- Employee – (A person working under a contract of employment)
- Worker – (A person with a contract or other arrangement to do work or services personally for a reward)
- Self-employed or contractor – (A person who runs their business for themselves and take responsibility for its success or failure.)
- Office holder – (A person who's been appointed to a position by a company or organisation but does not have a contract or receive regular payment)
- Don't know
- I am not responding as an individual

Question 10. What information was provided in your workplace before the introduction of WMT? (select all that apply)

- The nature, extent and reasons for the use of WMT
- Whether a Data Protection Impact Assessment has been carried out
- A clearly defined purpose and lawful basis for data processing
- Whether the WMT will use solely automated decision making
- Employer – worker engagement about the introduction
- None of the above
- Don't know
- Other (please specify): Not responding as an individual. Employers will use different methods of communication with staff. They will all have data protection policies and procedures.

Question 11. How was this information communicated? (select all that apply)

- Data Protection Privacy Notice
- Staff handbook or policy documents
- Intranet or internal website
- Email communications

- Team meetings or briefings
- Signage or notices in the workplace
- Training sessions
- Don't know
- Other (please specify): All will have data protection policies, but other communication routes vary by employer. Sometimes employers discuss call monitoring with candidates in job interviews.

Question 12. How well does the information provided by your employer about WMT enable you to understand what monitoring is taking place?

- Very well
- Fairly well
- Not very well
- Not at all
- Not applicable

Question 13. How well does the information provided by your employer about WMT enable you to understand how your data is used and how it may affect decisions about you?

- Very well
- Fairly well
- Not very well
- Not at all
- Not applicable

Question 14. Do you believe workers in your organisation have a meaningful ability to shape, question or challenge decisions using WMT?

- Yes
- No
- Don't know

Not applicable.

Question 15. If yes, what form does this take?

Some employers will use staff forums or representatives; online engagement tools or surveys, or discuss developments in team meetings. This varies by employer, and the type of consultation used depends on the employer's size.

Question 16. Which of the potential benefits of WMT are most relevant to your sector/ experience (select all that apply)

- Enhanced worker productivity
- Increased service efficiency or quality
- Reduced non-work activity
- Improved regulatory compliance
- Improved security or theft prevention
- Improved Health and Safety

- Better performance measurement and feedback
- Enhanced employee wellbeing or support
- Improved trust between workers and employers about decisions
- Other (please specify) ECM is required by local authorities
- None

Question 17. Please explain your reasons for selecting any of the above options. Do you have any evidence related to the options selected you would like to share?

Our concern is not with the legitimate use of ECM and related digital systems for safety, quality assurance, or service management. It is with the use of ECM data to drive by-the-minute billing in ways that can create pressure on care quality and careworker wellbeing. Cost control for commissioners should not be treated as an unqualified benefit where the payment model creates wider workforce or service risks.

However, homecare providers do use monitoring technologies and care recording systems for several critical purposes, grounded in regulatory requirements and service delivery needs. These include:

- **Care planning** – ECM records can help to flag if someone consistently needs more time than planned for and can help to prompt a review of whether the support offered to them is appropriate for their needs. This feeds into care planning and rota planning, but should have human oversight (so it is not automatic).
- **Lone worker safety** - real-time information about the whereabouts of careworkers in the field enables systems to flag when things are not going to plan. DHSC research suggests that 41% of careworkers have experienced physical violence at work in the last year[2], and systems that allow careworkers to flag safety issues and employers to respond quickly if something is amiss are crucial for worker wellbeing.
- **Rapid response for safety of care recipients** – electronic medication administration records and care planning can allow for rapid response by flagging issues urgently if a worker misses something accidentally; which can reduce medication-related harm. In some ways, this is monitoring activity or performance, but the purpose is the well-being of people being supported. Care providers would need to do this on paper if they could not do it electronically. Under the consultation's broad definition, such a system could fall within WMT even though its primary purpose is safe care delivery. Guidance should therefore distinguish between the purpose of the system and any later use of its data for employment decisions.
- **Regulatory compliance** - Providers must maintain accurate care records and deliver safe care and medicines support. Electronic care and medication records can help providers evidence compliance with CQC regulatory requirements and its current assessment framework. CQC does not require

[2] DHSC (2026) Work-related quality of life of the ASC workforce in England in 2025

ECM or another particular technology; ECM may form part of the evidence available to managers and inspectors where it is used.

- **Quality assurance** – information on visit length and timing can help to monitor quality assurance and spot when things are going wrong so that office staff can review scheduling (if, for example, the worker needs more travel time) and managers can find out further information about why visit timings are significantly different from expected. This can help to safeguard the people being supported. This will be one factor looked at alongside many others when it comes to performance management and supervision.

Our experience is that the best care providers build trust, not necessarily through formal one-off consultation processes, but through how office staff and careworkers interact on a day-to-day basis to support a shared aspiration to deliver high-quality care and keep everyone safe.

People receiving care and support, or their families, may also install technology in the home that operates while careworkers are present, including motion sensors, doorbell cameras and CCTV. Because the consultation definition refers to digital tools used by employers, monitoring installed and controlled solely by the person or family appears to fall outside scope. Guidance should nevertheless clarify the position where an employer receives, accesses or relies on such data in decisions affecting a worker.

Question 18. Which of the potential harms of WMT are most relevant to your sector/ experience (select all that apply)

- Reduced worker productivity
- Reduced service efficiency or quality
- Excessive monitoring (feeling of being watched)
- Personal privacy infringement
- Negative psychological or health impacts
- Worker disempowerment and loss of autonomy Increased risk of bias or discrimination
- Inaccurate or unfair performance measurement
- Negative impacts on worker wellbeing
- Lack of transparency or understanding about employer decisions
- Lack of opportunity to challenge decisions or potential errors
- Other (please specify) ECM by-the-minute billing and its impact on workers
- None

Question 19. Please explain your reasons for selecting any of the above options. Do you have any evidence related to the options selected you would like to share?

Our key concern centres on how local authorities are using ECM data, specifically through by-the-minute billing models. The technology itself is not the primary issue; rather, it is the commissioning practice driving its use that creates problems.

When local authorities mandate by-the-minute billing linked to ECM systems, this creates perverse incentives for careworkers. When used primarily for payment

control, it can focus attention on fixed time allocations that may not reflect people's fluctuating care and support needs.

Research into technology use in homecare has documented that electronic monitoring systems can facilitate payment by-the-minute to reduce costs, creating what academics describe as work intensification[3] as it can mean that pay focuses on contact time only and travel time, record keeping, wait time, training, supervision and other non-billable elements get compressed, underpaid or not paid by the Council; and given the extremely low fee rates that local authorities pay, this can pass on to workers who don't receive pay for all hours worked or whose pay then becomes linked to the number of minutes they are in the person's property. This can severely impact workforce retention in the sector.

Per-minute billing does not necessarily translate into per-minute pay for workers. However, providers offering regular or guaranteed hours need fee rates and commissioning arrangements that cover the full employment cost of delivering care, including travel, waiting time, record-keeping and reasonable variation from planned visit times.

Our research shows that 29% of councils and Health and Social Care (HSC) Trusts pay average rates below the direct employment costs of careworkers at the minimum wage in each UK administration[4] and only one council in the UK pays enough to cover basic operating costs including overheads. ADASS report that average homecare fee rates in 2026/27 stand at £25 per hour[5]; where our Minimum Price for Homecare shows that providers need £34.42 to cover minimum statutory compliance obligations. Under these conditions, it is not surprising that many providers feel forced to compete for work by translating by-the-minute billing into by-the-minute pay for careworkers – which leaves both workers and providers stressed and clock-watching. Additional regulation without commissioning change is likely to just apply further pressure to an already strained sector.

Homecare Voices, an organisation of homecare workers, highlighted earlier this year that homecare workers rated payment for all time worked as the number one issue that needed to be addressed to improve employee retention in the sector[6]. Retention of staff will be vital if the Prime Minister's objectives of reforming the sector, implementing effective neighbourhood health, reducing zero-hour contract use and restricting international recruitment are to be achieved.

Delays to a visit can reduce the number of billable minutes within a fixed schedule, while some commissioning arrangements may not pay providers for time beyond the authorised visit. This can create pressure to keep to the clock even when a person's needs vary, with potential consequences for care quality and worker wellbeing.

Some research has described ECM systems as creating 'barriers to care' as, in the words of Brown and Korczynski: "care work involves a process flow that is far from

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[3] Moore and Hayes (2017) Taking worker productivity to a new level? Electronic Monitoring in homecare—the (re)production of unpaid labour, *New Technology, Work and Employment*
[4] Homecare Association (2025) The Homecare Deficit 2025
[5] ADASS (2026) ADASS Spring Survey 2026
[6] Homecare Voices (2026) Behind closed doors

being measurable and predictable, and real harm may arise to vulnerable human beings when there are reductions in the discretionary "extras" that can constitute important elements in the quality of care"[7]. A person being supported may need a little additional assistance to finish a task at the end of their call time or may benefit from a brief conversation if they are feeling lonely. On other days, someone may wish to get an early night and for the careworker to leave ahead of schedule. ECM systems – when used for billing and cost control – can prohibit this flexibility that humanises care delivery.

Real-world commissioning practice illustrates these concerns starkly. In a recent case, Redcar and Cleveland Council moved to paying exclusively for electronically recorded actual minutes delivered. Careworkers reported feeling pressured when service users answered the door slowly or needed a moment of reassurance – ordinary human moments integral to good care, which became inefficiencies to be priced out. Preventative care became a revenue loss: anything a provider did to keep a person well and independent could reduce the recorded minutes in the long-term as the person needs less support, and therefore loses time and income. The payment model penalises exactly the preventative practice on which health strategies depend. Rather than reducing the administrative burden as intended, the change forced providers to recruit additional staff to review every call, investigate variances, and manage payment disputes. It is also not more efficient at a whole system level; one large provider delivering thousands of calls weekly needed to hire an additional full-time staff member (around 30 hours per week) solely for the purpose of reconciling variances in call time from planned delivery.

Careworkers in these settings report feeling that the systems are monitoring them to justify cost-cutting by councils, not to improve service delivery or support their work. This erodes trust and creates anxiety. The tension is particularly acute because individual providers have limited ability to challenge or change commissioning requirements imposed by their local authority contracts.

This is fundamentally a commissioning policy issue that requires action from central government and local authorities – not from providers or careworkers. A statutory framework regulating employers will not address this commissioning-driven problem and this is one of the most acute monitoring-related problems identified by our members in homecare. We urge the Government to engage with our recent discussion paper on commissioning practices[8] and end the use of by-the-minute billing.

Question 20. Are you aware of WMT being used to meet existing legal or regulatory requirements (for example in relation to fraud prevention or anti-corruption)? If yes, please provide examples.

- Yes (Please provide more information)
- No

[7] Brown and Korczynski (2010) When Caring and Surveillance Technology Meet: Organizational Commitment and Discretionary Effort in Home Care Work
[8]Homecare Association (2026) Homecare: commissioning is the key to quality, fair work and better outcomes

- Don’t know

Yes, though it is important to distinguish contractual requirements from legal or regulatory duties. Local authority contracts commonly require providers to use ECM for billing, attendance verification and contract monitoring. Separately, providers are legally required to keep accurate records and deliver safe care and medicines support, and digital systems are commonly used to help meet those duties; the law and CQC do not require a particular technology such as ECM.

- Billing driven by local authorities: Many public sector homecare contracts require ECM or equivalent electronic verification as part of billing, attendance verification or contract monitoring. Where this is a contractual condition, providers cannot simply opt out without affecting their ability to deliver the contract. The commissioning practices of local authorities are the primary driver of ECM adoption in the sector. This is a key point that the consultation does not adequately address. While local authorities could use ECM solely as an anti-fraud and quality assurance measure to address call-clipping; its use for cost control and by-the-minute billing goes far beyond this and creates genuine issues for the sector that affect relationships and care quality.
- Anti-fraud - Employers might also use ECM for anti-fraud measures to check that workers do not bill for calls that they do not deliver and to ensure people being supported get the support that they need. ECM data should only be one variable amongst many other factors reviewed to ensure care safety and work performance.
- CQC requirements: ECM systems, care and medication records are part of the evidence base for demonstrating compliance with CQC's quality statements under its Single Assessment Framework, particularly around medication management, responsiveness and caring. CQC does not, however, require ECM or any particular technology; digital care planning and medication systems are widely used to support safe practice, but paper systems can meet the same duties. Care planning and medication management software are essential systems for maintaining accurate care records and demonstrating safe practice. ECM can form part of the information care managers have to manage real-time delivery around people’s fluctuating needs and unpredictable eventualities (such as weather and travel disruption). The CQC will look at how providers use ECM to ensure they maintain care quality and safety.
- Safeguarding: Record-keeping systems that track worker activity and record service user support needs are required to evidence care delivery, and officials can use these in safeguarding, coroner’s or other investigations. Care and medication records serve essential care delivery and clinical functions.

Questions on principles for responsible use of WMT which supports good industrial relations

Question 21. To what extent are the above 8 principles regarding WMT demonstrated in your workplace?

Not applicable – we are an association of care providers not a single organisation.

	Always	Mostly	Sometimes	Never
Purpose and rationale				
Transparency and understanding				
Worker engagement and voice				
Fairness and equality				
Necessity, Proportionality and Privacy				
Human Oversight and Accountability				
Dignity and Wellbeing				
Accuracy, Reliability and Review				

Question 22. Which of the 8 principles do you think are the most important for employers when introducing and using WMT? Select 2 from the following:

- Purpose and rationale
- Transparency and understanding
- Worker engagement and voice
- Fairness and equality
- Necessity and proportionality
- Human oversight and accountability
- Privacy, dignity and wellbeing
- Accuracy, reliability and review

Question 23. To what extent do you agree that adherence to these principles during the introduction of WMT would improve worker trust and buy-in?

- Strongly disagree
- Disagree
- Agree
- Strongly agree
- Don't know

Question 24. What impact, overall, do you think adopting these principles would have on workplace productivity?

- Very negative impact
- Somewhat negative impact
- No impact
- Somewhat positive impact
- Very positive impact
- Don't know

Question 25. To what extent do you agree that these principles accurately reflect good practice in the use of WMT?

- Strongly disagree
- Disagree
- Agree
- Strongly agree
- Don't know

Question 26. Are there any important elements of good practice missing from these principles?

One key point on the adoption of the principles is that many employers already following good practice will recognise much of this approach, while employers least engaged with responsible practice may be the least likely to change behaviour solely because principles are published. The principles may still be useful as a practical framework, but their effect will depend on how they are communicated, applied and reviewed.

One suggestion for an additional principle: there is a difference between support and surveillance in the use of monitoring technology. Where employers use technology partly for employee safety or for the safety of people being supported by the worker, it is important that there are two-way communication routes included as part of the operational process (whether integrated into the particular system or not). As highlighted previously, careworkers are at relatively high risk working alone, and 41% have experienced violence at work in the last 12 months[9]. Careworkers may also need support from managers to keep the people they are caring for safe, and issues with medication may require contact with a manager and not just an automated record flagging an issue.

Any good care workplace should have good communication systems in place already. Surveillance is not sufficient for safety. The relationship between office staff and front-line workers is key.

Question 27. What challenges, if any, do employers or workers face in applying these principles in practice? (select all that apply)

- Lack of clarity around legal requirements
- Cost/ resource pressures
- Difficulty applying principles consistently

[9] DHSC (2026) Work-related quality of life of the ASC workforce in England in 2025

- Rapid evolution of technology
- Lack of worker trust/confidence
- Limited worker or representative capacity
- Difficulties in smaller organisations
- Data protection/privacy concerns
- No significant challenges
- Other (please specify) Contractual requirements (i.e. local authority ECM) to use the technology may not fit with these principles; software developments may be outside of the employer's control

Questions on worker engagement

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

- Strongly disagree
- Disagree
- Agree
- Strongly agree
- Don't know

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

Meaningful worker engagement in this context means genuine dialogue, clear information and evidence that workers' views have been considered. Workers should understand what is proposed, why it is proposed, what data will be collected, how outputs may be used and what the practical impact may be. Where adoption itself is fixed by a commissioner, regulation or supplier constraint, engagement can still be meaningful if it focuses on matters the employer can influence, such as implementation, safeguards, training, how data are interpreted, routes for challenge and ongoing review. We do not believe that a one-off mandated statutory process is the best way to engage workers meaningfully. There should be regular, structured opportunities for careworkers to provide feedback on how new technology roll-outs are working in practice and raise concerns about unintended consequences or misuse.

Critically, meaningful engagement involves being honest about what can and cannot change. Many providers are operating under local authority commissioning requirements that mandate certain technologies, regulatory requirements, and restrictive supplier contracts, and also severely restrict financial flexibility. Meaningful engagement involves acknowledging these constraints and distinguishing between decisions that providers can influence and those imposed externally.

The form of engagement should reflect the workforce and workplace. Recognised trade unions can play a valuable role where present; where there is no recognised union, direct engagement and elected staff representatives can provide other routes for careworkers' voices to be heard.

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

As explained above, we believe that in the care sector, the most critical issues go beyond decisions made by employers alone. We consider the recent imposition of by-the-minute billing by Redcar and Cleveland Council to be an example of poor engagement. The policy has had significant implications for the workforce and is being progressed without adequate consideration of their views. Employers have little opportunity to influence this. We attach our correspondence with them for your information.

Questions about a potential statutory code of practice

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
- No
- Don't know

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

- Very negative
- Somewhat negative
- No impact
- Somewhat positive
- Very positive
- Don't know

Question 33. Please explain your answer

A statutory code of practice may provide some benefit by establishing common standards and reducing inconsistent practice. However, it would not address the fundamental source of monitoring-related tension in homecare: local authority commissioning requirements, particularly by-the-minute billing. Providers and careworkers consider this practice harmful, and an additional employer-focused regulatory framework could distract from the commissioning reform that is actually needed.

A structural mismatch with the Employment Rights Act 2025 compounds the problem. Employers will be required to offer guaranteed hours to qualifying workers and compensate them for shifts cancelled or curtailed at short notice, while local authorities may commission care by the recorded minute without guaranteeing volume or payment. Providers cannot guarantee a careworker's shifts or pay when the council does not guarantee payment of minutes, even for visits it has commissioned. A code of practice cannot resolve that contradiction.

There is also a genuine risk that a statutory code or associated consultation expectations would worsen industrial relations by suggesting that workers can influence decisions that employers cannot change. A recent local authority move to minute-by-minute payment proceeded despite documented concerns about its effects on workers' earnings and working arrangements. In reality, the commissioning decision and payment methodology were not negotiable, making any engagement around the decision appear tokenistic. The Homecare Association therefore doubts that a statutory code would add significant value beyond existing employment law. Government should instead reform local authority commissioning, remove perverse incentives around by-the-minute billing, and encourage honest, ongoing employer-worker dialogue about the implementation and use of systems within the constraints that providers face.

Even if the consultation requirement focused on how the employer applied the technology rather than its required use; there is a significant risk that employees would expect a wider range of possible outcomes than are feasible due to contractual, regulatory, financial, and supply constraints and that discussion of the issues could heighten existing frustrations with billing arrangements.

Question 34. What impact would this 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

Question 35. Please explain your answer

A statutory code would not significantly affect the adoption and use of ECM systems in homecare because, in many cases, adoption is driven by contractual requirements in local authority commissioning arrangements rather than by a discretionary employer decision.

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

The consultation states that a statutory code would not create new standalone legal duties, but it would add another source of expectations that employers, workers and representatives would need to understand. Potential costs include staff time to review existing systems and policies, additional documentation and training, and costs where suppliers cannot readily support practices contemplated by the code. The proposed section 207A compensation adjustment would also give compliance with the code potential consequences in relevant tribunal claims. Practical challenges include applying worker-engagement expectations where the underlying system is contractually required by a local authority; distinguishing significant changes in monitoring purpose or use from routine supplier updates; and ensuring that small and medium-sized providers with limited HR capacity can understand and apply the code

proportionately. System suppliers may also be unable or unwilling to make bespoke changes requested by individual providers.

A potential benefit would be clearer and more consistent expectations about responsible use of WMT. In our view, however, much of that benefit could be delivered through flexible, sector-specific non-statutory guidance without adding a further statutory layer.

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

- Improving transparency about WMT
- Reducing or resolving disputes around WMT
- Clarifying expectations under existing law
- Supporting responsible technology adoption
- Other - Would prefer not to have a statutory code of practice

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?

- Yes
- No
- Don't know

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

- Yes
- No
- Don't know

Questions about a potential legislative requirement to consult on WMT.

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?

- Yes
- No
- Don't know

Question 41. Please explain your answer

No. As explained in our response to Question 33, local authority contracts may require providers to use particular systems, so workers cannot meaningfully object to their introduction and employers cannot offer non-adoption as an outcome. A legislative consultation requirement would therefore create false expectations and place employers in an impossible position.

Two other significant risks include:

- An expectation that employers consult when there are routine or supplier-led software updates that do not materially change the purpose or use of monitoring.
- The broad WMT definition may capture care, medication and rota systems that record worker activity even where worker monitoring is not their primary purpose, unless the framework distinguishes the system's purpose from particular uses of its data.

If the duty is drafted too broadly, it could generate repeated or box-ticking processes, disproportionate administrative cost and delays to technology changes, including changes needed for care quality or safety. This is particularly relevant in a sector dominated by smaller providers and reliant on third-party software products that evolve iteratively. The Homecare Association believes it is more productive to focus on strengthening employer-worker dialogue and trust relating to day-to-day interaction between office and front-line staff than focusing on legislating particular requirements on one-off consultations on the technicalities of systems.

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

- Very negative
- Somewhat negative
- No impact
- Somewhat positive
- Very positive
- Don’t know

Question 43. Please explain your answer

Please see our responses to Questions 35, 41 and 45. Employer-focused requirements may worsen industrial relations if workers are led to expect that consultation can change a monitoring or payment requirement imposed through a commissioning contract, when the provider has no power to change it.

Question 44. Would impact would this 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

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

As explained in our response to Question 35, a legislative consultation requirement may have limited effect on adoption where ECM is driven by local authority contracts,

while other digital care systems are used to support regulatory, record-keeping and operational requirements. The main effect may therefore be on the process and cost of implementation rather than on whether systems are adopted. However, this would increase administrative costs and risk increased legal liability for employers. Providers would face exposure to legal claims if workers or unions argued that they had not undertaken consultation properly.

This creates a perverse and unjust situation where: providers are legally required to use systems by councils; providers would be legally required to consult workers about those same systems; workers may take legal action if they feel consultation was inadequate; yet providers cannot ultimately offer workers the option of not using the system.

This would further escalate tensions already developing with the Employment Rights Act 2025, as explained in Question 33.

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

- Duty to consult and negotiate with a view to agreement before WMT is introduced or changed
- Duty to provide information and consider worker views
- Request-based model, triggered by specific threshold of workers or representatives
- Duty only applying where there is a recognised trade union
- No legislative requirement is appropriate
- Don't know

Question 47. Please explain your answer

As outlined in the introduction to our response, there are intersecting risks:

- The risk that the broad WMT definition captures care management, rota, medication and other systems because they record worker activity, even when worker monitoring is not their primary purpose. The risk that employers must consult on systems that are mandatory for regulatory purposes or contract compliance, with no real option for the employer to not implement the system, creating staff frustration with the employer.
- The risk that routine supplier-led updates trigger repeated consultation even when they do not materially change the purpose or use of monitoring and are outside the employer's control. Consultation requirements that are too wide in scope could worsen industrial relations, be costly and cause implementation and operational delays.

Employers need to make decisions about which software and systems to use based on operational needs and system capability.

It is questionable whether formal one-off consultations are the best way to navigate implementation rather than an ongoing dialogue between employees and managers as the organisation tries out systems. Organisation leaders know what will work within their organisational culture; legislation may not help with this.

We therefore recommend non-statutory guidance.

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

- Introduction of any new WMT system
- Introduction of high-risk WMT only (e.g. systems involving continuous/real-time monitoring or biometric or sensitive data)
- Significant changes to existing WMT, such as a system's purpose or how outputs are used
- Use of WMT in assessing performance, discipline, pay or dismissal
- A request from a set threshold of workers or their representatives
- Other We think existing employment legislation should already protect employees against the most serious unfair use of WMT in assessing performance etc.

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

- No time limit
- Up to 1 month
- Up to 3 months
- Up to 6 months
- Unspecified, 'within reasonable notice'.

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

- Yes
- No
- Don't know

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

- Employer may proceed after considering and discussing concerns
- Employer may proceed only after providing written response to concerns
- An employer should pause implementation and set out alternative proposals
- An employer should seek external mediation (for example, through Acas or another independent body) to help resolve the disagreement before proceeding.
- Employer should not proceed without agreement, in specified high-risk cases
- Other (please specify) This question assumes that the employer can continue without the technology

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

- Employees only

- Employees and limb-b workers
- All non-self-employed individuals exposed to WMT, regardless of employment status
- Don't know

Question 53. Please explain your answer.

If the Department introduces legislation despite our objections, it should cover employees and limb-b workers consistently. However, where a system is mandated by a commissioner or is necessary to meet regulatory or operational requirements, the duty should focus on matters workers can genuinely influence, such as implementation, safeguards, data use, routes for challenge and review.

Question 54. In which circumstances should enforcement action be available where a WMT consultation process has not been followed? (select all that apply)

- Where no consultation process was undertaken
- Where a consultation process was undertaken but did not meet minimum procedural requirements (e.g. insufficient information, inadequate timeframes, or lack of meaningful engagement)
- Where consultation did not provide a genuine opportunity for workers or their representatives to influence outcomes
- Other (please specify) Where adoption is externally mandated, enforcement should focus on failures to consult about matters within the employer's control, rather than on the employer's inability to change the adoption decision.
- Don't know

Question 55. What remedies should be available in response to the circumstances you selected in the previous answer (select all that apply)

- 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
- Financial penalties or compensation awards
- Referral to relevant regulators where breaches of data protection or other legal obligations are identified
- Other (please specify) Remedies should be proportionate and should not require suspension of a system needed for safe care, regulatory compliance or delivery of a commissioned service where the employer cannot lawfully or contractually stop using it.

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?

The consultation expressly states that no intervention remains a legitimate outcome if the evidence does not demonstrate a clear problem, and that the options presented do not indicate a settled government preference. We welcome that framing. We feel the consultation does not establish an evidence base for why new regulation is necessary beyond existing employment law.

We have several concerns:

Definition of WMT is too broad: the consultation defines workplace monitoring technologies very broadly, and the definition does not distinguish monitoring systems from essential care-delivery systems. Without a clearer distinction, it is difficult to understand what the proposed regulation would or would not cover. This creates a critical risk that the legislation could capture essential care planning and medication management systems inadvertently.

Commissioning requirement is the actual driver: As argued above, the real issue in homecare is not the technology itself, but how local authorities have mandated particular monitoring approaches (particularly by-the-minute billing).

Current employment law provides protection: Existing law already provides important protections: The consultation itself identifies data protection, employment and equality law requirements relevant to WMT, including transparency, proportionality, safeguards around solely automated decision-making, fairness and non-discrimination. The Department should identify the specific gap that any new statutory framework is intended to fill and demonstrate why existing routes are insufficient.

Contractual constraint and box-ticking risk: If a local authority contract requires a provider to use a monitoring system, the provider may have no power to reverse the adoption decision. Enforcement should therefore focus on genuine procedural failures concerning matters within the employer's control, rather than assuming that consultation can alter an externally imposed contractual requirement.

Questions about potential non-statutory guidance

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
- No
- Don’t know

Question 58. Please explain your answer

Non-statutory guidance could provide some benefit, particularly in an emerging policy area. Guidance would provide employers with flexibility to understand their specific circumstances and context, rather than imposing a one-size-fits-all regulatory approach.

Existing employment law already provides significant protection for workers from discriminatory and unfair use of automated systems.

The key advantage of guidance over legislation would be that it could acknowledge sectoral differences – particularly the reality of commissioning requirements in the homecare sector – without creating regulatory obligations that employers cannot meaningfully discharge. Any guidance should explain how the consultation's broad

definition of WMT applies to mixed-purpose care systems and distinguish the introduction of a system from later uses of its data for employment decisions.

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

- Very negative
- Somewhat negative
- No impact
- Somewhat positive
- Very positive
- Don't know

Question 60. Please explain your answer

Non-statutory guidance could have a somewhat positive effect on industrial relations by giving employers and workers a shared explanation of how the WMT definition applies in practice and how existing employment law applies. Its value would depend on recognising sectoral variation, local authority commissioning requirements and the distinction between monitoring technologies and essential care-delivery systems; otherwise, it could create inappropriate expectations.

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

Question 62. Please explain your answer

We believe that the driver for uptake of ECM technology has largely been local authority contractual processes. Guidance on WMT is unlikely to affect this.

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

The potential benefits of non-statutory guidance include increased clarity about the practical scope of the consultation's WMT definition and where existing employment law applies (assuming clear definitions of WMT); consistency in approach to good practice across employers; and support for smaller providers in understanding their obligations.

The main risks include:

- if drafted without adequate attention to sectoral variation, guidance could set expectations that do not match commissioning (or software supply) reality;
- risk that regulators treat guidance as a regulatory requirement, reducing flexibility for employers to adapt approaches to their specific context;

- if guidance does not explain how mixed-purpose care systems fall within scope, it could create disproportionate expectations around essential care-delivery systems; and
- if guidance focuses solely on the employer-worker relationship without acknowledging commissioning drivers, it may offer limited practical help to homecare providers.

Effective guidance would need to be developed with sector representatives; explain how the consultation's definition of WMT applies to mixed-purpose systems; distinguish care planning and medication systems from monitoring whose primary purpose is worker oversight, while recognising that employment-related use of data may still engage WMT safeguards; identify where commissioning practice rather than employer choice drives monitoring; and recognise the practical constraints created by local authority contracts and third-party software suppliers.

Question 64. What content should guidance include to effectively support organisations to adopt and use WMT in a responsible way? (select all that apply)

- 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
- Other (please specify)

Question 65. Who should the guidance be primarily aimed at? (select all that apply)

- Employers
- Workers
- Trade Unions and worker representatives
- HR professionals
- WMT providers and vendors
- Other Commissioners, procurement teams and software suppliers

Question 66. What would make non-statutory guidance more likely to be used in practice? (select all that apply)

- Clear endorsement by regulatory bodies
- Clear practical examples
- Sector specific material
- Simple toolkits tailored for SMEs
- Worker-facing summaries
- Other

Other considerations

Question 67. Apart from options A-C should government consider any other options, including do nothing?

The Homecare Association believes government should consider additional policy options that would address the actual drivers of monitoring concerns in homecare:

Review and reform local authority use of ECM: Government should undertake a review of how local authorities are using ECM systems, particularly in relation to by-the-minute billing models. Academic research demonstrates that commissioning practice (and austerity budgets) can contribute to workplace pressures[10]. Real-world examples show that when councils move to minute-by-minute payment, administrative burden increases rather than decreases, workers experience clock-watching pressure, and preventative care is penalised. Guidance to local authorities about responsible commissioning of monitoring technologies, and elimination of by-the-minute billing incentives, could be more effective than regulation of employers.

Adopt evidence-based alternative commissioning models: Better commissioning approaches already exist and are operating successfully in some regions. Skills for Care has published a neighbourhood prime provider model blueprint[11] (operating in Leeds, Manchester, Bradford and Sheffield) under which employers pay care workers for all time between their first and last call on their round – contact, travel, waiting, and training time – with guaranteed hours. This is possible because commissioning concentrates enough hours with each provider in a compact geographical area to build full, efficient rotas. Before adopting this model, providers found that care workers were spending less than 70% of their paid hours delivering care, with the remainder lost to unpaid travel and scheduling gaps. The transformation reversed this, and independent evaluation found gains in retention, continuity and satisfaction. Importantly, this approach delivers the assurance and value for money councils seek – through transparent data sharing and trusted assessor reviews – without the harms of minute-billing. Government should encourage local authorities to adopt such models rather than pursuing minute-by-minute purchasing. See our recent paper on commissioning for further details[12].

Clarify the scope of 'monitoring technology' with stakeholders: : Rather than implementing a broad regulatory framework, government should work with homecare providers, worker representatives, technology suppliers, and academics to refine and operationalise the consultation's definition, with clear examples of what falls within scope and how mixed-purpose systems should be treated. This would protect essential care systems while addressing genuine monitoring concerns. Without that clarification, care-record systems could be brought within scope because they incidentally record worker activity, even where their primary purpose is care delivery.

Work with software suppliers at sector level: Government could work with major system suppliers to develop sector-specific guidance and standards. This would be more efficient and practical than requiring each employer to implement guidance individually, and would help ensure compatibility and consistency.

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[10] Moore and Hayes (2017) Taking worker productivity to a new level? Electronic Monitoring in homecare—the (re)production of unpaid labour, *New Technology, Work and Employment*
[11] Skills for Care Practical approach: Neighbourhood-based block-pay
[12] Homecare Association (2026) Homecare: commissioning is the key to quality, fair work and better outcomes

Question 68. Are there any other points you would like to raise regarding the content of this consultation?

We have several concerns about the consultation itself:

Breadth of definition: the consultation defines workplace monitoring technologies, but so broadly that the definition does not support consistent responses or implementation. As explained in Questions 56, 60 and 63, this creates a risk that drafting could bring essential care planning and medication management systems could within scope and that routine supplier updates could trigger disproportionate expectations. The Department should address this before government proceeds with any policy option.

Commissioning requirements not adequately addressed: The consultation also treats monitoring principally as an employer-worker issue, although local authority commissioning requirements are a major driver of ECM use in homecare. We set out evidence and practical consequences in our responses to Questions 19, 20 and 67. Unless policy addresses commissioning practice, it will not resolve the most acute monitoring-related issues affecting careworkers.

Preserving the no-intervention option: the consultation expressly states that no intervention remains a legitimate outcome and that the options do not indicate a settled government preference. We welcome this, and ask that, in analysing responses, the Department holds to that test of necessity and proportionality and considers whether sector-specific guidance or action on commissioning would address the issues more directly than a new statutory framework for employers.

Assumption that employers have a breadth of choice: Homecare providers operate under uniquely prescriptive local authority contracting requirements and under severe financial constraints. Local authorities often mandate monitoring technologies from a limited pool of software suppliers. Operating margins, contractual obligations and the supplier market all act to constrain employer choice.