

Your Legal Questions

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Q. My employer has told me that it intends to put a radio frequency identification (RFID) chip in my staff uniform. Can it do this?

A. RFID uses tiny computer chips to store and pass information wirelessly. Originally, the information was transferred as the chip passed close to a scanner such as the bar code reader in a supermarket. However, the technology now enables microchips to be read remotely. Some employers see this as an opportunity to monitor employees and to check their work contribution.

Extending RFID to track the movement of workers as well as goods raises serious legal issues. If the information stored on the chip is personal data there could be breaches of the Data Protection Act 1998 if the data is not processed lawfully and fairly, obtained and used only for a specific and legitimate purpose and is relevant and not excessive in relation to the purpose for which it is obtained. While measuring performance may be a legitimate objective, it is arguable that tracking an individual's every movement during the working day is not a proportionate means of achieving it.

Similar considerations apply to possible claims under the Human Rights Act 1998 for violation of the employee's right to respect for privacy. Targeted monitoring for specific periods may be acceptable but a blanket policy could be much harder to justify. It may also be a breach by the employer of the duty of mutual trust and confidence justifying resignation and a claim for constructive dismissal. Alternatively, discrimination claims may arise if tagging is directed towards certain sectors of the workforce in which, for example, one sex or ethnic minority predominates. Compensation could include an award for psychological damage if the effect of tagging results in stress related medical disorders.

I recommend that you seek advice from a suitably qualified solicitor.

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