EVIDENCE SUBMITTED BY PRIVACY INTERNATIONAL TO THE JUSTICE AND HOME AFFAIRS COMMITTEE ON THE ELECTRONIC MONITORING OF MIGRANTS

8 September 2025

About Privacy International

1. Privacy International ("PI") is a non-profit, non-governmental organisation based in London, that works globally at the intersection of modern technologies and rights. Established in 1990, PI undertakes research, litigation and advocacy to build a better future where technologies, laws and policies contain modern safeguards to protect people and their data from exploitation. As such, PI has statutory objectives which are in the public interest and is active in the field of the protection of data subjects' rights and freedoms.
2. PI has specific expertise in the defence of privacy rights in migrant communities. It has been investigating, analysing and challenging the exploitation of data and new technologies as it relates to the rights of migrants in the UK and abroad, including electronic monitoring. More information about PI's work with migrant communities is attached at Annex I.
3. This submission focuses on the myriad issues concerning the efficacy, ethics, necessity, proportionality, and legality of the UK's use of electronic monitoring (EM).

I. What is the evidence base for the use of electronic monitoring? Does it actually work, and how is this measured (both whilst subject to electronic monitoring and afterwards)?

4. Regardless of the efficacy of EM we believe that its use is a dehumanising and invasive method of control that surpasses the aims of legislation, and what is necessary to prevent absconding. We believe that it should not be used in the context of immigration enforcement,[1] and urge the UK government to reconsider its use of EM given the concerns outlined in this submission.
5. Since 31 August 2021, the Home Office (HO) has been obliged to electronically monitor everyone who was released on immigration bail who is subject to deportation proceedings or a deportation order.[2] The HO has used both GPS tags as well as non-fitted devices.[3] Proponents of EM argue that it is a less restrictive and more efficient way to monitor immigration detainees, and that it leads to a reduction in absconding.[4] But in 2024, following a 2022 pilot that expanded EM to those arriving via "unnecessary and dangerous" routes (i.e. small boats), the HO found that tagging did not improve compliance behaviours and did not result in increased efficiency.[5]

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[1] *See* Privacy International, Stop GPS Tagging migrants.
[2] Home Office, Immigration Bail, 12 July 2025, p. 29 (Immigration Bail); Schedule 10, Immigration Act 2016.
[3] Privacy International, Non-Fitted Devices in the Home Office's Surveillance Arsenal: Investigating the technology behind GPS Fingerprint Scanners, 29 October 2024.
[4] Information Commissioner's Office, ICO finds the Home Office's pilot of GPS electronic monitoring of migrants breached UK data protection law, 1 March 2024 (ICO Decision).
[5] Home Office, Research and Analysis, GPS expansion pilot evaluation, 13 January 2025. The Home Office tracked the behaviours of approximately 500 tagged and not-tagged individuals from June 2022-October 2023. In both groups, approximately 66% of persons failed to comply with the conditions of their immigration bail.

6. These issues with EM echo PI's findings in a 2023 study testing GPS ankle tags similar to those used to tag migrants.[6] PI identified instances where the location recorded was inaccurate, with the wearer marked in a different street than their actual location.[7] The technology, at times inaccurate, produces data that requires interpretation by human officers who are likely to make differing and subjective inferences.[8]

II. What is the impact of electronic monitoring on the individual, their family, and (where applicable) victims? How is this considered, and how is this assessed? To what extent is informed consent being gained from those subject to electronic monitoring (particularly with reference to those on immigration bail)?

7. EM can severely impact the wellbeing of individuals and those around them. After surveying wearers of GPS Tags, Bail for Immigration Detainees found that they experience anxiety, stress, and pain; have increased feelings of social stigma and avoid public spaces and activities; and that GPS tags affect every aspect of their daily lives, including the abilities to exercise, sleep, work, and care for children.[9] GPS tagging resulted in re-traumatization, and impeded recovery from existing physical and mental health conditions.[10]
8. The HO has laid out conditions where officers should reconsider the use of EM,[11] but the onus is on the individual officer, likely unqualified to assess medical conditions, to determine that EM is not appropriate.[12] Although individuals do have the opportunity to challenge EM, there is a high procedural barrier: it requires a written submission to the HO and supporting medical evidence when health is implicated.[13] In addition to being inaccessible, individuals are often not told they are allowed to challenge EM.[14] The Independent Chief Inspector of Borders and Immigration (ICIBI) reported that those who do challenge their tags are exceptionally unlikely to succeed.[15]
9. Before tags are placed, individuals are asked to consent to EM, but they are not provided with crucial information including: that the tag may be fitted indefinitely, that personal locational data is being collected, and that the government might access and use that data against them.[16] Most individuals are faced with the choice between 'consenting' to the tag, or remaining in prison.[17] After they are fitted, many individuals

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[6] Privacy International, Life under 24/7 GPS surveillance – A GPS ankle tag experiment, 5 May 2023.
[7] *Id.*
[8] Privacy International, 2022.08.17 - Privacy International complaint against Home Office use of GPS Ankle Tags [public version], para. 51 (ICO Complaint I).
[9] Bail for Immigration Detainees (BID) et. al., Every Move you Make: The Human Cost of GPS Tagging in the Immigration System, October 2022, p. 17 (BID Report).
[10] *Id.* pp. 19-21.
[11] EM cannot be imposed on a person under the age of 18 or following detention under Sections 37 or 41 of the Mental Health Act 1983 where the person remains subject to a supervision order. Otherwise, the officer must decide whether to impose EM when an individual is vulnerable or has a health condition. Immigration Bail, *supra* note 2, p. 13.
[12] BID found that immigration officers often failed to assess physical and mental health conditions, or flat out ignored conditions when they were directly raised. The ICIBI found that staff have not received training in assessing medical conditions. BID Report, *supra* note 9, pp. 28, 35.
[13] *Id.* p. 33.
[14] *Id.*
[15] Between August 2021 and March 22, EM ceased for only 2 out of 73 representations made for the removal of the bail condition. *Id.* p. 35.
[16] *Id.* pp. 33-39.
[17] *Id.*

fear that exercising their rights to challenge the tag might result in re-imprisonment.[18] Informed, freely given and unambiguous consent, as required by the UK GDPR and DPA 2018, cannot be given under these conditions, when the government withholds information, and individuals must 'consent' or remain in detention.

III. What are the data protection and privacy concerns around the use of electronic monitoring?[19]

10. EM implicates the human rights of migrants. The ICO[20] and UK Courts,[21] have raised concerns regarding the legality of EM and its compliance with UK GDPR and UK DPA 2018.[22] Below we outline key data protection and privacy concerns, but this is not an exhaustive list:
11. **The intrusive nature is unnecessary and disproportionate:** GPS tagging is highly intrusive[23] and allows the HO to record someone's movement 24 hours a day. This data, called "trail data" is immense, resulting in thousands of pages of data for every individual. The data provides deep insight into an individual's habits, hobbies, social relationships, political and religious affiliations, and health concerns.[24] PI submits that trail data amounts to "special category" data as defined by Article 9(1) of UK GDPR, requiring the HO to exercise heightened protection.[25] Although the HO does not have direct access to the trail data collected by GPS tags, it can access it when a breach of bail conditions occurs,[26] or when someone makes a representation under Article 8 of ECHR.[27] New proposed legislation seeks to expand the use of EM to those involved in a "serious crime."[28]
12. **Legality:** A recurring concern is that EM is not being undertaken in accordance with the law, and without robust guidance and procedures - existing safeguards are insufficient. For example, although the HO is supposed to undertake a quarterly review analysing whether EM continues to be appropriate, these reviews do not always take place.[29] These concerns were highlighted in two recent UK cases: In *Nelson v Secretary of Home*

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[18] *Id.*

[19] The Home Office conducted a Data Privacy Impact Assessment in 2021 acknowledging that the UK GDPR and Parts 2 and 3 of the 2018 Data Protection Act apply to the processing of EM data.

[20] ICO Decision, *supra* note 4.

[21] *See* Privacy International, UK GPS Tracking Challenges.

[22] Privacy International, Two court judgements, one regulatory decision – Bricks fall around UK's GPS tagging of migrants, 16 May 2024.

[23] Privacy International, Electronic monitoring using GPS tags: a tech primer, 9 February 2022.

[24] The Intrusiveness of trail data has been reaffirmed in multiple Court proceedings. *See, e.g., United States v. Jones*; *La Quadranture du Net and Others v Premier minister and Others*.

[25] ICO Complaint I, *supra* note 8, para. 48.

[26] The 2021 DPIA states that when breach of bail conditions occur, officers should perform a review of full trail data to inform a review of the breach. If this review reveals a further breach, trail data is shared with the HO for investigation. Beyond the privacy concerns involved with the HO accessing trail data, this exercise might reveal prior breaches that the individual was not given a timely opportunity to respond to and might reveal unlawful activity. *Id.* para. 100.

[27] The review of trail data when an individual raises an Article 8 ECHR concern is particularly concerning, as the raising of a privacy complaint leads to a review of trail data, therefore worsening the basis for the privacy complaint. *Id.* paras. 83, 95.

[28] Joint Committee on Human Rights, Legislative Scrutiny: Border Security, Asylum, and Immigration Bail, pp. 3, 57-59.

[29] *See infra* notes 30-31, where plaintiffs EM conditions were not adequately assessed in compliance with quarterly reporting requirements.

Department,[30] and in *ADL and others v SSHD*, GPS tagging was found to be in breach of a right to a private life.[31] Both cases found that the HO did not adequately consider privacy implications, and was not reviewing EM conditions closely enough to prevent harm to tagged individuals and justify intrusions into their private lives.[32]

13. **Individuals are not sufficiently informed:** Tagged individuals are not provided with adequate information about how their data will be processed, who has access to it, or how they themselves can access it.[33] The Home Office does not clearly communicate bail conditions and what actions or inactions might trigger a review of trail data.[34]
14. **Poor or not measures to protect security and integrity of data:** Data may not be stored properly and there is a lack of safeguards protecting it -[35] those laid out in the 2021 DPIA[36] fall far short of both regulations in criminal justice contexts,[37] and the Council of Europe Recommendations to member states on EM.[38]
15. **Automation without adequate human supervision:** An emerging concern is the use of algorithmic tools in the context of EM in immigration. It appears that the HO has been using an automated recommendation tool, called the Electronic Monitoring Review Tool (EMRT) in the context of quarterly EM reviews. It determines first, via an automated harm score, the minimum period an individual will remain subject to EM, and whether an individual should remain subject to an ankle tag or be transitioned to a non-fitted tag.[39] The use of EMRT as a recommendation-making tool only allows a case worker to accept or reject a decision, but not participate in its making.[40] Therefore, it appears that the HO is outsourcing complex decisions with immediate, life-altering implications for migrants, including children, to an opaque tool. We are particularly concerned that the HO is resorting to using algorithmic tools without carrying out a specific DPIA in relation to the EMRT. This tool raises similar data protection issues as those outlined above regarding legality, transparency (individuals are not informed that EMRT is being used), data storage, and trail data raised by EM in general.

IV. What is the approach to procurement and contract management of electronic monitoring providers (both in terms of equipment and service provision)? How is poor or unethical performance of service providers held to account?

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[30] The Upper Tribunal (Immigration and Asylum Chamber) held that the Home Office's failure to comply with their commitment to conduct reviews was not in accordance with the law under Article 8 of ECHR. *Nelson v Secretary of State for the Home Department* [2023] Upper Tribunal (Immigration and Asylum Chamber).

[31] The High Court found that the failure to consider whether the imposition of EM would be contrary to ECHR rights meant that the interference with those rights was not "in accordance with the law" for the purposes of Article 8. *ADL and others v Secretary of State for the Home Department* [2024] EWHC 994 (Admin).

[32] *See id.*

[33] One tagged individual stated: "I am not aware of what will be done with any data that is being collected through the GPS tag. I have not been given any paperwork to explain this that I can remember or am aware of." ICO Complaint I, *supra* note 8, para. 91.

[34] This practice contrasts with practices under the criminal justice system, where authorities are required to provide individuals with an explanation the legal basis for the processing of their personal data. *Id.* para. 97.

[35] *Id.* para. 108.

[36] *Id.* para. 120.

[37] *Id.* para. 154.

[38] *Id.* para. 157.

[39] Privacy International, Complaint against Home Office Algorithmic Tools [public version], 18 August 2025, paras. 134-137.

[40] Disclosure obtained by the Public Law Project indicates that between 22 May 2023 and 14 August 2023, when EMRT was in use, only 16 out of 1768 quarterly EM reviews resulted in the withdrawal of EM. *Id.* para. 240.

16. We are concerned with the lack of robust due diligence and oversight of public-private partnerships regarding the provision of EM tools.[41] The government has an obligation under international law to ensure that third parties, including the private sector, comply with human rights obligations. The HO and companies it contracts with must apply principles outlined in UK GDPR, such as transparency, legality, necessity and proportionality, accountability, oversight, redress and proper procurement standards and procedures.[42] The HO has contracted with Capita (until 2024) and Serco (for a six-year term beginning in May 2024) to fit migrants with EM devices. Both companies have previously been involved in scandals[43] – in 2024, Serco was found to have unlawfully processed the biometric data of more than 2,000 people,[44] and in 2019 was fined £23m as part of a settlement over electronic tagging contracts.[45]

Conclusion and recommendations

17. Privacy International urges the Justice and Home Affairs Committee to consider the disproportionate, invasive and dehumanising nature of EM as well as its lawfulness, fairness, and the efficacy of EM. While EM is touted as a safe, less intrusive way to monitor individuals on immigration bail, it is in fact highly invasive, resource intensive, ineffective, and harmful to people's physical and mental health, and severely impacts their dignity and autonomy.

Annexes:

1. Summary of PI's Expertise in Migration Issues
2. 2022.08.17 - Privacy International complaint against Home Office use of GPS Ankle Tags [public version]
3. 18.08.2025 Privacy International complaint against Home Office algorithmic tools [public version]

[41] *See* Shareholders Show Up.
[42] *See* UN Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework; Privacy International, Public-Private Partnerships.
[43] For example, Capita was repeatedly penalised for failure to deliver the terms of several military contracts between 2012-2017. BID Report, *supra* note 9.
[44] The Guardian, Serco ordered to stop using facial recognition technology to monitor staff, 23 February 2024.
[45] The Guardian, Serco fined £22.9m over electronic tagging scandal, 3 July 2019.