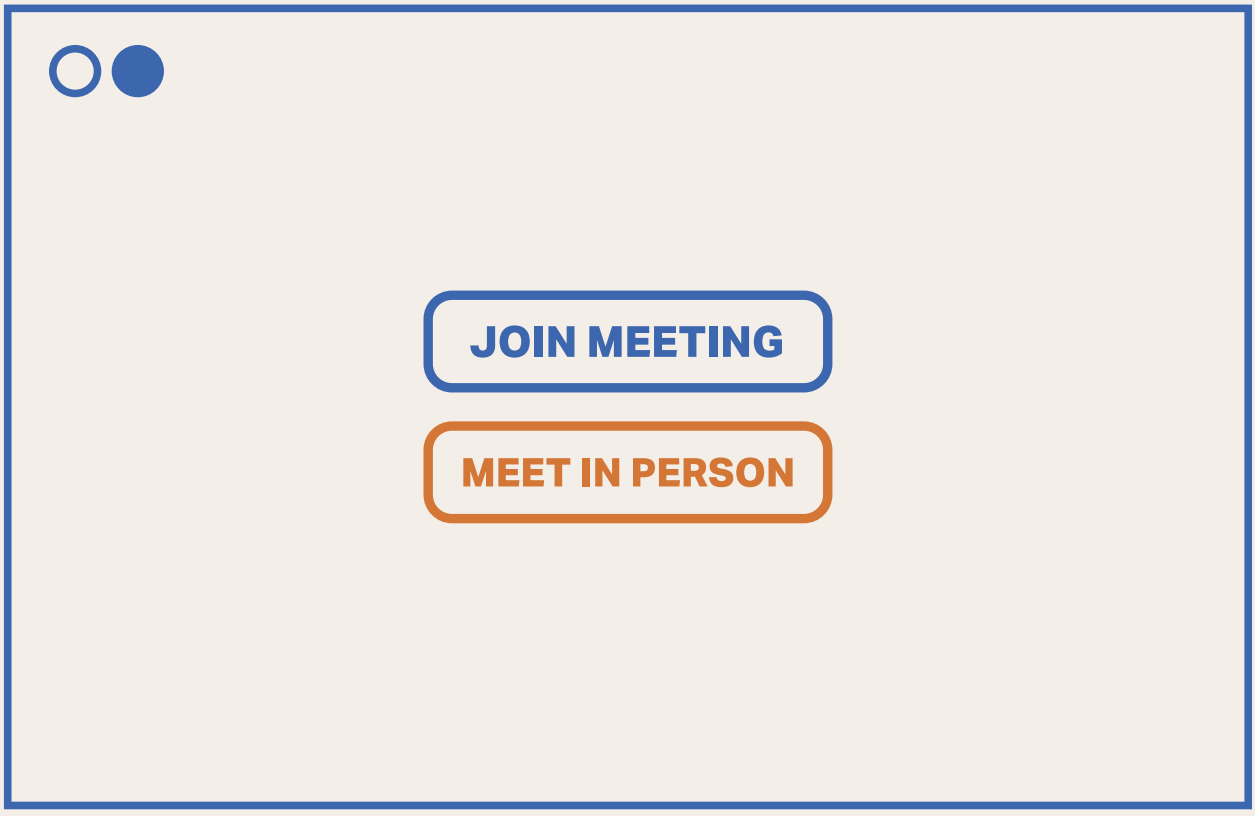
Regulating the future workplace

what businesses want from policymakers in the changing world of work



May 2022

Global Counsel

About this Report

Regulating the future workplace is Global Counsel's new report on the future of employment regulation. The study is based on an original survey of close to 200 business leaders, examining the impact of technology on our workplaces and considering the views of businesses on the need for new regulation

Interviews were conducted and the survey distributed to the Global Counsel network between November 2021 and January 2022. For more information on the report, contact Max von Thun at M.vonThun@global-counsel.com or Global Counsel at info@global-counsel.com.

Authors

Max von Thun, Senior Associate, Technology, Media and Telecoms practice

Stephen Adams, Senior Director

Foreword

Over the past two years, our lives have changed immeasurably as more activity has shifted online in response to the covid-19 pandemic. This has been particularly true of the world of work, where countless meetings now take place over Zoom, business travel has become something of a luxury and commuting has become more of a choice than a necessity. Yet the transformation of the workplace is not just about remote working or the pandemic. It is about how new technologies are shaping the nature of - and our experience of - work as a whole, from new tools which enable employers to monitor productivity while creating privacy concerns, to robots which perform tasks better than humans but raise the spectre of mass unemployment.

At Global Counsel (GC), we advise many of the world's leading businesses on the policy challenges and opportunities arising from the future workplace. The role of the private sector in determining what work looks like in the future will undoubtedly be critical. Not only will businesses need to comply with new regulations targeted at (for example) remote work and the use of algorithms in managing employees, but many – from co-working hubs to freelancer marketplaces – will be instrumental in facilitating the transition to a more flexible and agile world of work.

GC's report sits precisely at this intersection of public policy and the private sector. While much has been said and written about the future of work from both a policy and business perspective, there is less research when it comes to how companies themselves view the prospect of future employment regulation. *Regulating the future workplace* is an attempt to fill this gap, based on original survey and interview data collected from hundreds of business leaders based around the world and from across different sectors. It focuses on three core areas in which technology is transforming how we work: remote working; digital monitoring and automated decision-making; and automation.

We find that business leaders hold a variety of views when it comes to whether new regulation is needed in response to the changing workplace. Nevertheless, a number of clear trends emerge from the data. While a majority of survey respondents were supportive of policy intervention in general, there was far less agreement when it came to specific policy measures. They were optimistic about the shift to hybrid working and the impact of automation, and believed government should soften the transition without attempting to steer the process. There was markedly less enthusiasm for the use of technology - and artificial intelligence in particular - to monitor employees or make decisions affecting them, with most business leaders in favour of strong safeguards to prevent abuse.

The report concludes by looking towards the future, considering how a confluence of market forces, self-regulation by industry and government intervention will interact to shape the future of work. While our precise destination may be uncertain, it is clear that policy reform will only be successful if it is informed by both developments in the real economy and the independent efforts of businesses to create a conducive working environment. Global Counsel looks forward to working closely with policymakers and businesses as this process unfolds in the years to come.

Lord Mandelson, Co-founder and Chairman of Global Counsel

Table of Contents

Ten key conclusions

Our survey of business leaders found that:

1	A majority support the need to regulate the future of work in principle, but have reservations about specific policy measures and their implementation.
2	A majority believe the future of work should be hybrid, while recognising the potential downsides in terms of equality, mental health and collaboration.
3	Most want the market to determine the balance between in-person and remote working, and see the primary role of governments as enabling this transition by removing regulatory barriers.
4	They are concerned about the ethical implications of deploying digital monitoring and automated decision-making in the workplace, while acknowledging potential benefits in terms of faster and more objective decision-making.
5	They strongly support regulation of digital monitoring and automated decision-making, which they believe should take the form of safeguards to prevent abuses – but have concerns about the unintended consequences of poorly designed rules.

6 They are broadly optimistic about the impact of automation on employment, both now and in the future, although they acknowledge the greater vulnerability of specific roles and industries.

7 They want governments to focus on providing workers with the skills they need to adapt to automation, and are largely opposed to more radical measures, such as taxing robots or guaranteed public sector employment.

Looking to the future, we conclude that:

8 Market forces will play a central role in determining the future of work but could provoke a social, political and regulatory backlash depending on the extent of the disruption they cause.

9 While self-regulation by businesses will be important in ensuring a smooth transition to the future workplace, on its own it is unlikely to provide the scale, consistency and legal certainty required.

10 Government intervention will be influential, although its scale will depend on the extent of disruption. An initial focus on measures to soften the transition could be replaced by more radical policies in the face of widespread unemployment or workplace exploitation.

Ten key statistics

178
business leaders surveyed in 33 countries

57%
believe government intervention is needed to mitigate the downsides of automation

92%
support transparency for staff on fully or partially automated decisions

20%
support a legal right to "switch off" outside of working hours

90%
consider hybrid working the right approach for the future

71%
support government regulation of technology/AI in the workplace

83%
support greater investment in retraining, skills and education in response to automation

28%
believe it is appropriate to use technology/ AI to monitor employees

47%
support new international agreements on cross-border working

8%
support a tax on automation

Regulation and the future of work
the state of play

Policymakers have long been concerned about the impact of technological change on employment. But while the automation of jobs is not a new preoccupation, recent leaps forward in digitising the workplace have magnified existing concerns while creating new ones related to more recent phenomena, in particular mass remote working and the digital monitoring of employees.

In this section of the report, we review the current policy debate around the future of work, finding that efforts to regulate - and views on what and how to regulate - remain at an early stage.

Businesses are moving towards a hybrid future, and policymakers are not standing in their way

Remote working is not a new phenomenon. It has existed in some shape or form for as long as the internet itself and even prior to it, although recent technological developments - in particular much-improved broadband connectivity - have greatly facilitated its penetration. But the practice was given a huge boost by the covid-19 pandemic and the subsequent shift to mass home working, driven by social distancing requirements and workplace closures. What the experience of the pandemic demonstrated is that while the technologies - videoconferencing, instant messaging, email – to enable remote working already existed, workplace culture in most companies was not able or willing to accommodate it.

Despite clear challenges, the apparent success of this unprecedented experiment in mass remote working has led to a global debate on how and where work should be done in future. While prior to the pandemic concerns about productivity and efficiency would have dominated any discussion about remote working, the ability of most companies to maintain - if not improve – productivity despite offices being closed has shifted the terms of the debate. Most employers and employees have come to accept that the future will be a 'hybrid' one involving a mixture of remote and in-person working, as surveys conducted by both GC and other organisations demonstrate.[1]

Instead of questioning whether remote working itself is feasible or desirable, the debate has largely moved on to a more nuanced discussion about the right balance between in-person and remote working. While most now accept that work can be carried out efficiently remotely at least part of the time, there is growing evidence that extended remote working can lead to feelings of isolation, burnout and detachment, and that in-person working can provide certain benefits – when it comes to mentoring, training, team bonding and innovating, for example - that are difficult to replicate virtually.[2] The prospect of long-term remote or hybrid working also raises broader questions of equity and fairness, given that jobs that can be performed remotely tend to be highly-skilled and well-compensated, as well as being potentially more vulnerable to being offshored.[3]

As companies and their employees attempt to strike the right balance in the post-pandemic era, the question has arisen of how - and whether - governments should be involved. Calls for policy intervention can be situated along a spectrum, from those that want governments themselves to play a role in determining how much work is performed remotely, and under what conditions, to others who see policymakers' proper role as removing regulatory obstacles while leaving it to the market to decide where and how work is performed.

While implementation of such measures remains at an early stage, some governments have recently taken steps to regulate in response to the exigencies imposed by the pandemic. While such changes are, so far, most common in Europe, policy reform is observable across the world, with countries including Angola, Argentina, Belgium, Chile, Colombia, Luxembourg, Mexico, Portugal, Slovakia, Taiwan and Turkey all recently passing legislation in response to increased remote working.

Thus far, intervention by governments to regulate remote work has focused on mitigating its potential disadvantages and filling regulatory gaps, rather than seeking to increase or decrease its prevalence. Measures taken so far include:

Figure 1: Examples of policy measures introduced in response to increased remote working

- Updating legal definitions of remote work
- Mandatory employer-provided support for remote workers' mental and physical health
- Mandatory employer compensation for remote working-related costs and equipment
- Requiring formal written agreements on remote working between employers and employees
- Aligning the rights and protections of remote and other employees
- Requirements for employees and employers to meet in-person at regular intervals
- Giving remote workers entitlements to "disconnect" outside of working hours

Table 1: Selected examples of recently-introduced remote-working legislation from around the world

Country	Legislation	Key provisions
Argentina	Teleworking law (No. 27555) and Regulatory Decree No. 27/202 (2020)	Written remote working agreement outlining hours and parties' obligations; Equal rights between remote and on-site employees; Right to disconnect after working hours; Employers must provide necessary work tools and cover remote working-related expenses.
Belgium	Circular letter (2020/C/100)	Monthly, employer-paid and tax-free work from home allowance for regular employees.
Portugal	Law No. 83/2021 (2021)	Employers must pay for appropriate remote working-related costs, including electricity and internet; Employers cannot contact employees after office hours, with penalties for non-compliance; Employees required to meet employers in-person every two months; A right to remote working for employees with children under the age of 8.
Taiwan	Occupational Safety and Health References Guidelines on Working from Home (2021)	Employers must provide remote employees with the necessary tools and equipment as well as support the maintenance of that equipment; Employers must provide education and training on mental and physical health for remote employees.
Turkey	Regulation on Remote Working (2021)	Written remote work agreement including details on location, working hours and communication methods; Employer must provide remote workers with necessary tools and equipment; Prohibition of remote working in certain areas, e.g. handling of hazardous chemicals and national security.

Digital monitoring and automated decision-making are increasingly prominent, but regulation has yet to catch up

With people carrying out an ever-greater proportion of their work using computers and online, it has become more straightforward for employers to monitor what their employees are doing. Among the tools that already exist are software that monitors employees' keystrokes and the time they spend on different tasks, programmes that compile lists of visited websites and applications, and cameras that track attentiveness and engagement.[4]

Data gathered through such technologies can subsequently be analysed by artificial intelligence (AI) algorithms to generate insights on employees' productivity, which, in turn, can be used to inform decisions about career progression or even redundancies. Moreover, unlike remote work, digital monitoring is not limited to 'white collar' work; the use of technology to monitor staff working in warehouses for example is a well-documented practice.[5]

The shift to greater working from home during the covid-19 pandemic also increased employers' ability to monitor employees' activity, which some chose to do, leading to growing public and political interest in the issue. While there are potential benefits associated with digital monitoring, including boosting productivity and generating potentially more 'objective' data on individual performance, the practice has raised substantial concerns about the opportunity for abuse, given possible flaws in the technologies themselves and their potential to worsen existing power imbalances between employers and employees.

Another area of the workplace where technology is increasingly being deployed is the hiring process. This involves employers using automated and AI-driven processes to help them sift through job applications and identify candidates for interviews. This typically involves scoring candidates based on criteria seen as relevant to a particular role, such as the degrees an individual has, the educational institutions they attended and their professional experience. Here again, although the potential advantages of such tools for businesses are well-understood, critics have expressed concerns about potential harmful effects - such as the risk of biased algorithms resulting in less diverse recruitment.[6]

In the UK, recent research has criticised digital monitoring and proposed regulatory intervention in response, including formal rights to human oversight and consultation over automated decision-making, and mandatory 'algorithmic impact assessments' for public sector and private sector employers. In the EU, experts have called for clear governance frameworks and mandatory employee consultation with regards to digital monitoring, as well as an EU-wide right to disconnect. Similar studies calling for legislative reform to protect workers from invasive monitoring have also recently been published in the US.[7]

Regulatory intervention in response to increased digital monitoring and automated decision-making has so far been limited. The EU has been the most active regulator so far; its General Data Protection Regulation (GDPR) gives individuals the right to challenge fully automated decisions, while the bloc's forthcoming AI regulation is set to impose transparency and due diligence requirements on AI used in relation to employment.

Another upcoming EU initiative, the Platform Workers Regulation, will give individuals working for digital 'gig economy' platforms more information over algorithmic decision-making. A small number of individual countries have also recently introduced limited safeguards, such as Spain's "rider law" endowing food delivery couriers with rights to transparency over automated decisions, and Portugal's remote working law prohibiting digital "means of control" that risk violating an employee's right to privacy.[8] But in most places, governments have yet to act.

The long-term impact of automation on jobs remains unclear, leaving governments to take a wait-and-see approach

The question of automation - and the policy challenges it raises – long predates the covid-19 era. But over the past decade, the accelerating pace of digitisation, combined with the economic disruption caused by the global financial crash, has led to a new wave of anxiety about automation.

This anxiety has manifested itself through numerous studies seeking to determine the likely impact of future automation on the labour market. Despite many such pieces of work being carried out, there is still no consensus, with studies predicting widely varying degrees of job replacement or even net job creation.[9] Research into the actual impact of automation so far is similarly ambiguous, with studies finding evidence of both net job losses and net job gains depending on the time and place reviewed.[10]

Given this mixed picture, it is unsurprising that examples of government intervention taken directly in response to automation are few and far between. While many mainstream policy measures, from raising business taxation and strengthening employment rights to increasing the generosity of welfare support, can be seen as having an impact on automation itself or on those affected by automation, this is rarely their primary justification.

How do businesses view regulation of the workplace?

While much has been written on how businesses are adapting to the changing world of work, and on how policymakers are or should be responding, less is known about what businesses want to see from policymakers.

To help fill this gap, Global Counsel gathered the views of nearly 200 global business leaders on regulating the future of work through a mixture of surveys and interviews. These focused on three core areas - remote working, automation, and the use of technology to monitor and manage employees – in each instance asking respondents to share their views on recent trends and the need for regulation in response.

Who we spoke to

Between November 2021 and January 2022, 178 business leaders responded to our survey. The sample consisted overwhelmingly of senior representatives within their organisations, with C-suite executives (29%) and business owners (14%) together making up almost half of respondents. The rest of the sample consisted of other senior staff such as directors, managers and vice-presidents.

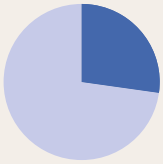
In terms of company size, both small and large businesses were well represented. Over a third (37%) of respondents worked for or were running small businesses (under 50 employees), while a similar proportion belonged to large firms (500 employees and above). The rest of the sample fell somewhere in between.

Respondents came from a wide range of business sectors, albeit with a clear bias towards the services industry. The three largest groups were financial and insurance activities (22%), professional, administrative, scientific and technical activities (17%), and information and communication (11%). Other sizable sectors included health and social care, manufacturing, and non-profits. In terms of geography, although global in reach, three quarters of survey respondents hailed from Europe. The rest of the sample was comprised of respondents from North America, Asia, the Middle East, Africa, Latin America and Australia.

Meanwhile, the 14 individuals interviewed for this report primarily held technology or investment backgrounds, with GC speaking to business leaders in the venture capital, technology and gig economy sectors, among others. In contrast to the surveys exclusive focus on businesses, as part of the interview process GC also spoke to non-private sector stakeholders including former policymakers, trade unionists, trade bodies and think-tanks.

Chart 1: Breakdown of survey respondents by role

27%
Director

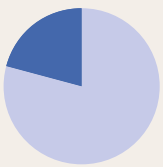


14%
Manager

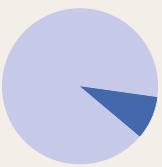
21%
President or CEO

12%
C-suite executive

17%
Owner



9%
Vice President



The future of work might be hybrid, but do we need to regulate it?

Despite the huge, rapid and unexpected shift to mass remote working during the covid-19 pandemic, the survey results suggest that it was a largely positive experience for most businesses. When asked how their business had been affected by the increase in remote working during the pandemic, three quarters of respondents said this had been either "very positive" or "quite positive", while just 16% felt the impact had been negative. Looking ahead, an even greater share felt that hybrid working was the right approach for the future (see **Table 2** below).

Table 2: Response to question: What is the right approach to working practices for the future?

Full-time in the office	6%
Hybrid working	90%
Predominantly/exclusively remote working	4%

> **"We don't need major legislation, just small changes to ensure home workers are no worse off than others"**

Despite this widespread support for hybrid working, several interviewees expressed concerns about the unequal impact it was having and would continue to have. These reservations about inequality touched on several different issues, including the greater ability of white-collar workers to benefit from remote working, the divergent remote working experience of junior staff likely to be working in small spaces and with greater mentoring needs, as well as the impact of remote working on gender equality. One interviewee warned that traditional gender roles risked reasserting themselves where both members of a couple worked from home.

Respondents were less aligned on whether new laws and regulations were needed in response to greater hybrid working, with over half stating that this was "probably" or "definitely" the case (see **Chart 2**). This hesitant consensus is well summarised in comments from a public policy manager at a large American tech firm, who suggested that while we "probably need new laws for remote working… we don't need major legislation, just small changes to ensure home workers are no worse off than others".

Chart 2: Response to question: Do we need new laws and regulations in response to greater remote working?

47%
Probably, yes

28%
Probably not

10%
Definitely, yes

8%
Definitely not

7%
Unsure

Views diverged further when it came to the specific policy interventions that might be introduced to regulate remote working. While 42% of respondents supported giving employees the legal right to request remote working, only 13% were in favour of an automatic right to work remotely (see **Table 4**). Meanwhile, just a fifth of respondents supported a legal requirement for staff to come into the office for a set number of days each week, pointing towards a consensus among businesses that the balance between remote and in-person working should be based on dialogue rather than rigid legal requirements.

This view was confirmed in the interviews, with most interviewees underscoring the importance of letting individual companies – and the market more generally – determine the balance between remote and in-person working. As one senior lawyer at a US-based online marketplace put it, the "war for talent will be won by companies that allow flexible work". Several interviewees also brought up the issue of trust, contending that the degree to which an individual employee can work remotely should depend on whether they have secured the trust of their employer, with one describing remote working as a "perk, not an entitlement".

"Put pressure on employers to respect people's right to switch off, while holding in reserve the threat of regulation if this does not work".

One particularly unpopular measure among respondents was that of a right to 'switch off' from communication outside of regular working hours, as has been introduced in countries such as France, again pointing towards a desire among businesses to avoid rigid rules. Despite this, one company founder and former policymaker was quite sympathetic to the idea, stressing the need to "respect people's desire to have a division between work and life" while admitting it was a rather blunt tool. As a first step, he suggested that governments should "put pressure on employers to respect people's right to switch off, while holding in reserve the threat of regulation if this does not work".

Table 4: Response to question: Which of the following policy measures do you think governments should consider in response to remote working?

A legal right to work remotely	13%
A legal right to request remote working	42%
A legal requirement for staff to come into the office for a minimum number of days	20%
A legal right to "switch off" outside of regular working hours	26%
A legal right to a company allowance for home working equipment	34%
Updated health and safety laws	38%
New international agreements on cross-border working	47%
No measures	15%

> "Avoid ending up in a nightmare situation where it is unclear how staff in different jurisdictions should be paid and how much tax they should be paying"

Though still low, support was greatest for measures intended to smooth the experience of remote working for both employers and employees. Over a third of respondents were in favour of measures such as an employer-provided allowance for home working equipment, updated health and safety laws, and international agreements (for example on tax and residency rules) to facilitate cross-border working. According to one executive at a major UK-based technology company, regulators need to help companies "avoid ending up in a nightmare situation where it is unclear how staff in different jurisdictions should be paid and how much tax they should be paying".

Interviewees held different views on the geographical impact of greater remote working. While one UK-based executive was enthusiastic about the "opportunities to hire people we couldn't before, in countries where we don't have offices", another argued that the shift to hybrid working was disadvantaging businesses based outside of London which "cannot compete with London competitors' salaries", citing tech companies in Cardiff having to raise their wages by 30% to stay competitive.

Are digital monitoring and automated decision-making fair? If not, what should we do about it?

The deployment of digital monitoring and automated decision-making in the workplace remains at an early stage. Nonetheless, respondents to the survey held relatively clear views on the appropriateness of such technologies and the need for policy intervention in response.

Respondents' views on the appropriateness of technology differed widely depending on the specific use-case in question. The use of AI to assist with recruitment was seen as least controversial, but still only supported by half of respondents. A much lower proportion of respondents felt it was acceptable to use technology to monitor the performance of employees – for example by tracking their online activity – or to inform and make decisions about redundancies (see **Table 5** below).

Table 5: Response to question: In which of the following areas is it appropriate to use technology/AI in the workplace?

Recruitment	51%
Performance monitoring/appraisals	28%
Informing firing/redundancy decisions	10%
Monitoring performance of wider business	82%
None of the above	4%

"Surveillance tools should not be used by management to exert power over low-ranking staff"

Several interviewees – including a trade unionist - nonetheless highlighted multiple benefits associated with the use of technology in the workplace, such as better and more objective decision-making and the potential for algorithms to limit human bias. One senior policy manager at a European gig economy platform emphasised AI's ability to make faster decisions in dangerous situations, such as automatically shutting down a workers account if they are suspected of harassing a customer and potentially preventing them from causing further harm.

Yet interviewees were also acutely aware of AI's potential downsides, with one venture capitalist bringing up the detrimental impact that automated monitoring could have on creativity and the risk that AI-driven recruitment results in a "cookie cutter" approach to hiring. Another interviewee from the venture capital sector expressed concerns about the "spectating and controlling of people, particularly when they lack awareness and understanding". These concerns were echoed by the director of a UK-based trade body, who argued that "surveillance tools should not be used by management to exert power over low-ranking staff", while also suggesting that it is "companies' management practices and culture - rather than technology itself" - that are the main issue.

One potential response to these challenges is to provide affected workers with information on the data and parameters informing automated decisions. An overwhelming majority of survey respondents were in favour of such transparency, with over 90% agreeing that employers "definitely" or "probably" have a "responsibility to provide staff with transparency on fully or partially automated decisions made about them".

More generally, respondents were largely supportive of the overall need for policy intervention in this area, with nearly three-quarters (71%) agreeing that governments should attempt to "regulate the use of technology/AI in the workplace" (see **Table 6** below). This is a higher level of support for regulation than that recorded with regards to automation and remote working.

Table 6: Response to question: Should governments regulate the use of technology/AI in the workplace?

Definitely, yes	27%
Probably, yes	44%
Probably not	17%
Definitely not	7%
Unsure	5%

As for specific policy measures, respondents demonstrated a clear preference for safeguards rather than outright bans. While just 2% supported an overall ban of technology and AI in the workplace, (see **Table 7**), over three quarters supported specific regulatory measures, such as requirements to provide transparency, detect and mitigate algorithmic bias, and guarantee human oversight of automated decisions.

However, despite seemingly high levels of overall support for regulation, the interviews revealed scepticism as to how effective new rules would be in practice. A senior lawyer at a US-based online marketplace warned that transparency requirements could enable "bad actors to game the system", while a leading tech expert suggested that total transparency would be impractical given the sheer quantity of databases and algorithms. One trade body director questioned whether policymakers knew what exactly they wanted transparency on, as well as their ability to make use of the data should they get access to it. On the other hand, one venture capitalist felt that algorithmic transparency would help employees enforce their existing rights.

Interviewees also identified potential challenges around removing or reducing algorithmic bias. One interviewee suggested that requirements for "unbiased" outcomes would be more effective than measures designed to "de-bias" algorithms themselves, while a leading tech expert referred to a tension between protecting privacy and eliminating bias. As he put it, "if you anonymise data by - for example – removing references to gender, you make it harder to identify bias". A number of interviewees also commented on aspects of the regulatory process itself, such as the risk that new rules are quickly overtaken by technological developments, and the need to prove that existing rules are unfit for purpose before introducing new regulation.

Table 7: Response to question: Which of the following policy measures do you think governments should consider in response to the use of technology/AI in the workplace?

A comprehensive ban on the use of technology/AI in the workplace	2%
A ban on the use of technology/AI in sensitive areas	13%
Regulation of the use of technology/AI in the workplace (e.g., requirements on transparency, bias, human oversight and rights of appeal)	76%
No measures	13%

Do we need to be worried about robots stealing jobs, and how can we prepare ourselves?

Few interviewees felt that automation had had a negative impact on employment to date. One venture capitalist said that there was a need to "challenge the view that tech companies are 'taking' jobs' - a view backed by several tech executives, who argued that automation had so far mostly supplemented – rather than replaced – human labour by "removing a lot of grunt work and potential for error". One senior manager at a European gig economy platform noted apocalyptic warnings over the years which – so far – had not come to pass. Yet several interviewees conceded that certain jobs and industries appeared particularly vulnerable to automation, such as the potential replacement of truck drivers by automated vehicles.

Table 8: Response to question: Are businesses and workers equipped to deal with an increase in automation in the years to come?

Definitely, yes	11%
Probably, yes	40%
Probably not	36%
Definitely not	9%

Table 9: Response to question: Is government intervention needed to mitigate the downsides of automation?

Definitely, yes	16%
Probably, yes	42%
Probably not	27%
Definitely not	9%

Survey responses revealed more mixed opinions regarding the question of whether businesses and workers are equipped to deal with increasing automation in the future (see **Table 8** above). Despite widespread fears amongst the general public that millions of workers are due to be displaced by robots in the decades to come, around half of survey respondents felt that they would be able to weather the storm successfully. Unsurprisingly, a similar share favoured government intervention to mitigate the downsides of automation (see **Table 9** above). Views were much clearer when it came to the specific measures this should entail. There was an overwhelming consensus (83%) among respondents in favour of greater investment in retraining, skills and education, reflecting optimism among business leaders that, with the right skills, displaced or marginalised workers will be able to find new ways of prospering in the future economy (see **Table 10**). There was more debate as to when such training should take place, with a senior policy manager at a leading US tech company arguing that "people should be paid to retrain while they are still in work, rather than once they've lost their job".

"People should be paid to retrain while they are still in work, rather than once they've lost their job"

Other potential policy measures were far less popular, with none of the alternatives winning the support of more than a third of respondents. Least favoured were proposals to tax automation and provide displaced workers with guaranteed public sector employment, despite 'robot taxes' and 'government jobs guarantees' featuring prominently in recent policy debates, particularly in the US.[11] A redistribution of existing working hours was seen as slightly more attractive, perhaps reflecting growing interest in the possibility of a four-day working week.

More generally, interviewees held diverging views on the overall philosophical rationale for intervention, with one stating that governments should "wait until things go wrong before legislating", and another arguing that policy intervention should pre-emptively "address the lag between jobs being automated and new job creation".

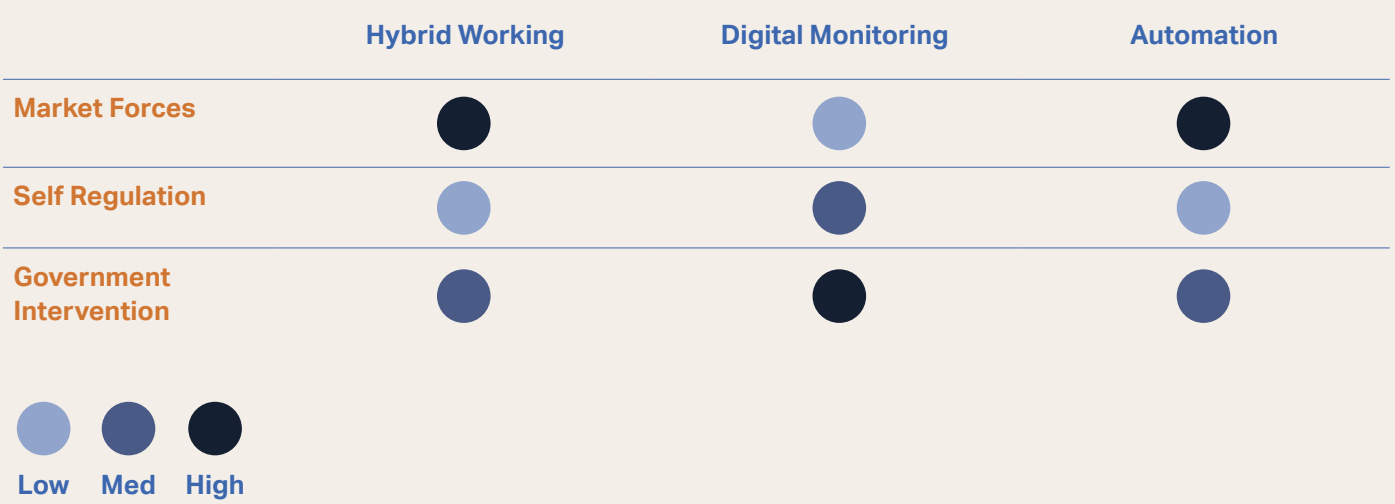
Table 10: Response to question: Which of the following policy measures do you think governments should consider in response to automation?

Greater investment in retraining, skills and education	83%
Greater investment in social security	20%
A universal basic income	20%
Legal requirements to compensate workers affected by automation	16%
A tax on job automation	8%
Guaranteed government/public sector employment	2%
Redistribution of working hours	28%

Three dynamics that will shape the future of work

Several key dynamics – market forces, self-regulation and government intervention - will play a central role in determining the future of the workplace. This section explores how each of these dynamics is likely to shape the future workplace in different and at times competing and contradictory ways.

Figure 3: Relative influence of different dynamics on the future of work



Market forces look set to dominate, but could provoke a regulatory backlash

Market forces – the aggregation of decisions taken by businesses, workers and consumers – will be central in determining what working practices look like in future.

These forces are likely to be particularly influential in determining the balance between in-person and remote working. The strong preference for at least part-time remote working demonstrated by numerous surveys of employees across the world will make it difficult for businesses to force their employees into the office for five days a week. Conversely, a growing appreciation of the benefits of face-to-face contact suggests that most employees would also resist attempts by employers to abandon physical office space. And, as GC's own research demonstrates, most employers value hybrid working and are therefore unlikely to attempt imposing such rules themselves; those that do risk losing employees to competitors and struggling in their recruitment efforts.

The pace and scale of automation is also likely to be largely driven by the market, at least in the short-term. Businesses choose to automate primarily for economic reasons, including the relative cost of labour and capital and the potential benefits of robots in terms of higher productivity and the creation of new products and services. Policymakers' current focus on investing in education and training will not alter this dynamic, and could even accelerate it if it leads to employers and employees feeling more confident about their employability. Yet this assessment is based on the impact of automation so far, which has yet to result in anything close to mass unemployment. Should this begin to change, the scale of regulatory intervention could become much more significant.

Purely commercial considerations may play a smaller role when it comes to the use of digital monitoring and automated decision-making in the workplace. While the use of technology to aid recruitment may prove to be relatively uncontroversial, reluctance on the part of employers to monitor and subject staff to automated decisions appears likely to restrain the adoption of such tools at scale. As with employers that reject hybrid working, companies that make prolific use of such technologies can be expected to face difficulties in both recruiting and retaining staff.

Self-regulation by businesses will play its part, but faces natural limits

While market forces will clearly be influential, GC's research suggests that many business leaders are concerned about the downsides and excesses associated with the technological transformation of the workplace. Although regulatory intervention is one response, in many cases businesses themselves might be expected to take steps to address these issues.

To accommodate the wide range of preferences individual employees have regarding the balance between in-person and remote working, employers will face pressure to create transparent and predictable mechanisms for receiving and handling staff requests for flexible working arrangements.

Businesses that require staff to work from home for at least some of the time will also face demands to compensate them for doing so, for example by paying for equipment and internet costs.

Companies may also feel the need to provide workers with targeted support to address other challenges posed by remote working, including isolation, burnout, and increased exposure to domestic abuse. In other cases, businesses will struggle to provide solutions themselves, such as when it comes to dealing with outdated workplace health and safety regulations or tax laws not compatible with cross-border working.

Some businesses might also opt to voluntarily soften the blow from their decisions to automate specific activities or entire jobs, to make such decisions more palatable for affected workers and minimise potential reputational damage. This support could take various forms, including compensation payments, retraining, and/or redeployment in other roles within the company. Employers could also choose to consult affected workers well in advance of automation to give them more time to prepare. Yet while this might be sufficient in isolated cases, such efforts would likely prove inadequate were large numbers of workers to be displaced in a major wave of automation, either in a specific sector or across the wider economy.

Given the largely sceptical views revealed by survey respondents on the use of digital monitoring and automated decision-making, one might expect self-regulation to play a significant role in this area. In addition to limiting or slowing the take-up of such technologies, particularly in relation to performance monitoring and redundancy decisions, employers that do use them could look to voluntarily introduce safeguards to mitigate their potential negative effects. These could include company policies to provide staff with transparency on automated decisions, as well as the ability to appeal such decisions. However, in the absence of standardised regulatory requirements, such efforts would likely be fragmented, ineffective and superficial.

Government intervention will be influential, though its scale will depend on the extent of job disruption

Market forces, coupled with self-regulation by businesses, will shape much of the future working environment. But there are many areas where only government intervention can provide the scale, consistency and legal certainty needed. Businesses themselves seem to agree, with the survey revealing majorities in favour of regulation when it comes to remote working, digital monitoring and automation.

Governments currently display little appetite to regulate the amount of time staff spend in the office. Neither do they appear keen on measures that would take such decisions out of the hands of employers, such as an automatic right for workers to work remotely. As a lighter-touch option, governments could opt to enshrine rights to request remote working (and to justification from employers where this is rejected); such rights already exist in countries including the UK, Portugal and Australia, and are in the process of being introduced in others, such as Ireland.

Policymakers are also likely to continue pursuing reforms that smooth the transition to a world of widespread hybrid working, including new international treaties on cross-border working, updated health and safety regulations, and rights to reimbursement for home working-related costs. Growth in the number of governments introducing rights to "switch off" or "disconnect" also appears set to continue, despite the apparent unpopularity of such measures with businesses indicated in our survey.

Mounting concerns about the use of digital monitoring and automated decision-making in the workplace are also likely to result in legislative measures. These could include laws giving employees greater information and bargaining power over the use of such technologies, including rights to transparency on automated decisions (covering, for example, the parameters and data informing those decisions and the rationale for the use of such systems in the first place).

Employers could also be required to audit for bias in algorithmic systems, and to provide staff with the right to appeal automated decisions. While the survey suggests that businesses would be sympathetic to such reforms in principle, if poorly designed they could create significant technical and administrative challenges without producing much benefit.

In the absence of a significant acceleration in the pace and scale of automation, governments are likely to continue with their emphasis on investment in education and retraining as the best preparation for the future. Should this change, policymakers might at first respond by doubling down on this strategy, increasing the scale of investment and directing this towards the most affected sectors and geographic regions. However, were such an approach to be overwhelmed by the scale of job destruction, policymakers could turn to more radical measures that have so far largely been limited to the realm of policy debates or small-scale pilots.

Some governments could seek to actively stem the tide of automation by taxing robots or penalising companies replacing large numbers of jobs; others might accept the inevitability of automation and high unemployment but attempt to shield those affected through guaranteed public sector employment, reduced working hours and/or a universal basic income. Such measures, while potentially unpopular with businesses, would become more palatable in an era of mass unemployment and social strife.

Conclusion

The future workplace will be familiar in many ways, yet dramatically different in others. While work is unlikely to go fully virtual anytime soon, hybrid work looks set to be the 'new normal' in many sectors as both employers and employees seek to benefit from the greater flexibility it offers. Although the role of technology in managing and monitoring staff could well grow, the innate reservations of many employers will place natural limits on its expansion. And while – at this moment in time at least – automation-induced mass employment does not appear to be on the horizon, the presence of 'robots' in our offices and factories is likely to increase, even if in many instances these will augment – not replace – human labour.

How should policymakers respond to this nuanced picture? Given the rapid pace at which technology evolves, and the need to design laws that reflect actual working practices, effective policymaking will to a large extent consist of being agile in responding to changes in the labour market. Many of the practices examined in this report - from digital monitoring to hybrid working - are relatively new, meaning their ultimate impact on working conditions and employment remains to be seen. Policymakers should therefore avoid intervening prematurely by introducing measures before they are justified by conditions on the ground, and before existing regulation has been rendered unfit for purpose

It will also be important for policymakers to work closely with businesses to ensure that any new rules are workable in practice. After all, it is businesses that write job descriptions, set headcounts, develop talent, adopt new technologies, and determine salaries, working conditions and benefits. Moreover, as our report demonstrates, businesses broadly recognise the need for policy reforms in response to the changing world of work. They just want these to be proportionate, evidence-based, and supportive of – rather than opposed to – changes in technology and working practices.

References

1 For example, see Accenture (2021) and WEF (2021)

2 See OECD (2020) for a useful summary.

3 See McKinsey (2020) for analysis of the impact of remote working on different occupations and countries.

4 Brookings (2021) provide a useful summary of these technologies.

5 See European Commission (2021) for some recent examples.

6 See WSJ (2022) and Harvard Business Review (2019) for further analysis of AI use in recruitment.

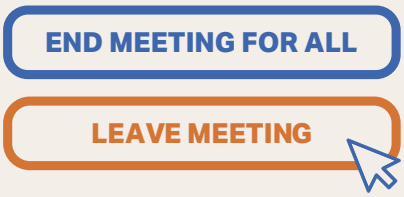
7 See TUC polling (2022), APPG for the Future of Work (2021), Eurofound (2021) and Washington Center for Equitable Growth (2021) for further details.

8 For more information on the Spanish and Portuguese reforms, see here and here.

9 See Frey (2013), McKinsey Global Institute (2017), Arntz (2017) and WEF (2018).

10 See Acemoglu (2020) and Deloitte (2016).

11 See the Future of Work Hub (2019) and The Atlantic (2018) for further discussion of these proposals.



A: 5 Welbeck Street, London, W1G 9YQ
T: +44 [0]20 3667 6500
E: info@global-counsel.com

www.global-counsel.com
@global_counsel