



Department  
for Business  
Innovation & Skills

**NATIONAL MINIMUM WAGE COMPLIANCE  
& ENFORCEMENT :**

**Report for 18 months to 30 September 2012**

**IN ASSOCIATION WITH**

**JANUARY 2013**



# **Delivering Results**

**National Minimum Wage Compliance  
& Enforcement**

**Report for 18 month period to 30 September 2012**

# 1 Working with others to achieve our vision

BIS own the policy for the NMW

HMRC enforce it

## NATIONAL MINIMUM WAGE (NMW) – WHO DOES WHAT?

The Department for Business, Innovation and Skills (BIS) is responsible for NMW policy, including the policy on compliance and enforcement. HM Revenue and Customs (HMRC) enforce the NMW on BIS' behalf. Both Departments work closely together to ensure that BIS' policy on compliance and enforcement and HMRC's delivery strategy are informed by their respective experience of the NMW and intelligence obtained by them. Our work is also informed by the independent Low Pay Commission (LPC) which reviews NMW rates and other aspects of NMW policy each year and makes recommendations to Government. BIS and HMRC also work with unions, business representatives and others to ensure that the NMW Compliance Strategy and the implementation of this is informed by their knowledge of what is happening in the workplace.

The Government is committed to increasing compliance with the national minimum wage (NMW) and effectively enforcing it. Our vision is clear- everyone who is entitled to the NMW should receive it. In 2011/12 we identified £3.6 million in arrears of wages for 17,000 workers and in the 6 months to the end of September 2012 we have identified £2.6m in arrears for 19,000 workers.

Non-compliant employers need to believe that there is a real risk that they will be investigated and workers need to believe that it is better to work within the system. In the period covered by this report we therefore, collaborated with a range of enforcement bodies and stakeholders to maximise impact and tackle systemic abuse in 'at risk' sectors.

We have continued to build on the links that we have with other enforcement bodies, for example Employment Agency Standards inspectorate (EAS), UK Borders Agency (UKBA), the Department for Work and Pensions (DWP), the Police, Local Authorities, the Health and Safety Executive (HSE) and Trading Standards. This has facilitated sharing best practice and intelligence and enhanced our ability to identify employers who are 'at risk' of not paying the NMW and workers who are 'at risk' of being underpaid.

In response to a Channel 4 documentary highlighting illegal activities in the clothing and textile industry HMRC's NMW team co-ordinated a large and complex operation involving officers from HMRC's NMW and Hidden Economy Teams, UKBA, the Police and Trading Standards. The operation involved unannounced visits and was successful in both identifying arrears of the NMW and disrupting the use of illegal immigrants.

**CASE STUDY:** Officers from the Exeter NMW team carried out 29 joint visits on a number of employment agencies with Employment Agency Standards. Failures to pay the NMW were identified, including arrears of wages for training which took place before the worker(s) was formally employed. One well known high street employment agency is being investigated by colleagues from HMRC's Large Business Service and NMW Compliance Officers.

London Fashion Week campaign features in national press

HMRC's first 'tweet' - October 2011

## 2 Raising the profile of NMW enforcement

**CASE STUDY:** The targeted enforcement campaign in the fashion sector was covered by the national press and Vogue and Elle magazines. The campaign, which generated around 500 Google references in 48 hours, focussed on interns working in the fashion sector.

A priority this year has been raising the profile of NMW enforcement to ensure that workers and employers are aware of their rights and obligations under NMW legislation.

We have used innovative methods to raise the profile of NMW enforcement, ranging from working with stakeholders to get them to promote the work we do- to tweeting. In March 2012 we started to publicise the decisions of Employment Tribunals in cases where an employer has unsuccessfully appealed against a Notice of Underpayment (the formal notice requiring employers to pay arrears of wages). Over 90% of such appeals are dismissed by Employment Tribunals and an increasing number of employers are being required to pay HMRC's costs where they lose their appeal. We have also started to publicise county court judgments and other orders made against employers who HMRC have had to take to court to recover arrears of wages for workers. This type of publicity tends to be picked up by local and trade press – where it is likely to have the most impact. With a view to reaching younger audiences, HMRC have also been 'tweeting' since October 2011.

Looking forward we will make use of other publicity channels, e.g. Facebook – see [www.facebook.com/nmwage](http://www.facebook.com/nmwage) and are piloting a text messaging service aimed at people who contact the Pay and Work Rights Helpline for advice.

### CASE STUDY

We are working with other government departments, research groups and employer and worker representative bodies to better understand what drives employer behaviour in the care sector. To raise awareness of the NMW rules that are particularly relevant to this sector and NMW enforcement, we have produced articles for others to use on their websites and other forms of communication.

### CASE STUDY

We have worked with the Central Institute of Payroll Providers (CIPP) to raise awareness of NMW compliance amongst payroll specialists and gave a presentation to around 400 of their members. We have also provided text on common NMW mistakes made by employers and how to avoid these for CIPP's website.

### 3

## Understanding what drives employers' and workers' behaviour

"I think my employees do other unskilled cash in hand work. Some of them claim benefits like JSA and housing benefit." – male, Indian takeaway, Nottingham

"One of my staff told me there is a minimum wage I should be paying them... they didn't come back to work" – male greengrocer, London

We are working with others, e.g. local authorities, researchers, unions, wider HMRC and other enforcers to better understand what drives employer and worker behaviour. Understanding our customers enables us to select the right compliance and enforcement tool for the job and focus resources where they will have the most impact.

Research into the informal economy, suggests that employers who deliberately operate outside of the system do not believe they will be caught. In response to this, we have collaborated with other enforcement bodies in a number of highly-visible campaigns, ranging from the interns targeted enforcement campaign in the fashion industry that attracted significant media attention, to 'street sweeps'.

**CASE STUDY:** We know that some workers are complicit in not being paid the NMW so that they can continue to claim benefits. In a multi agency operation in Leicester, we collaborated with the Department for Work and Pensions and HMRC Benefits and Credits to ensure that the employers of individuals who were committing benefits fraud were selected for NMW investigations.

# 4

## Transforming the way we work

20 employment agencies visited with the Gangmasters Licensing Authority in North London as part of our pre-Olympics work.

7 multi agency operations in Newham visiting 70 business premises.

We have moved away from resource intensive investigations in every case to a more focussed suite of interventions based on the risk of non-compliance. The interventions range from education, aimed at employers who need help to comply with the legislation, to health checks for those who are at risk of being non-compliant and prosecutions for those who deliberately break the law.

Following on from the 2010/11 pilot into a triage approach to investigations, we have increased the number of interventions carried out by phone in cases where the employer has made an inadvertent mistake or the complaint is unfounded. We are also piloting 'health checks' in targeted enforcement campaigns. These are appropriate where there is a lack of awareness of the risks of non-compliance in a particular sector and the intention is to educate employers and give them an opportunity to self-correct ahead of a full compliance visit.

Looking ahead, we will move to a more targeted, project-based approach to compliance and enforcement. Projects will be identified through our risk assessment process and prioritised through the Risk Governance Board.

### CASE STUDY

Working with Equity we sent letters to London Film Schools advising them about the engagement of actors in student films and the correct operation of NMW.

# 5

## Understanding the risks of non-compliance

*A Risk Ideas Generator* enables HMRC staff to register thoughts on trade sectors or employer-types where they feel there is a high risk on non-compliance.

There are currently 18 risk projects ranging from restaurants through to apprentices in the shipbuilding trade.

All complaints to the Pay and Work Rights Helpline are investigated and a complaint from one worker can lead to thousands of workers receiving arrears of wages as the investigation will look at the employer's pay roll practices across their workforce.

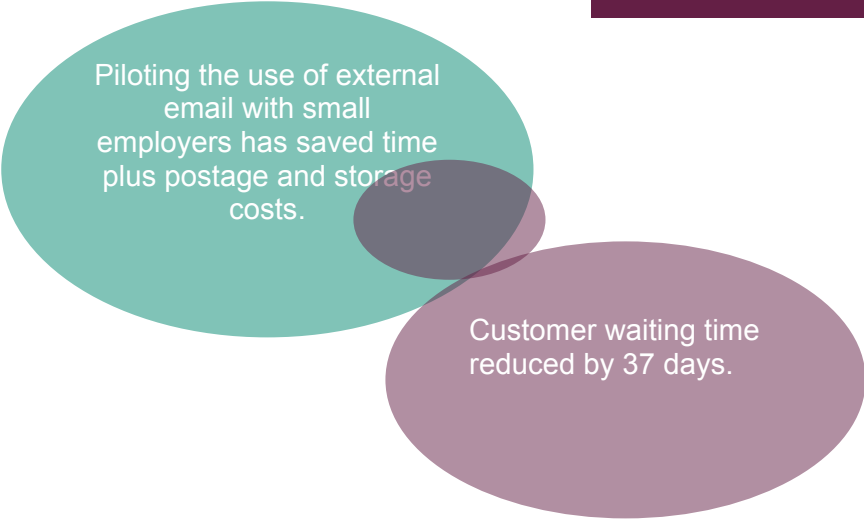
Investigations are also triggered through risk assessment which applies multi-criteria decision making techniques to intelligence and information provided from a variety of sources to identify employers who are at risk of being non-compliant. Intelligence provided by tax and other teams in HMRC plays a crucial role in this process as experience suggests that, for example, employers who fail to pay their taxes are at greater risk of not paying the NMW.

### CASE STUDY

In conjunction with EAS, we conducted a 'street sweep' of employment agencies and businesses in Leicester. This involved short unannounced visits to identifying 'at risk' employers for further investigation. This led to £385,000 in arrears of wages being identified for 3,800 workers. Businesses who were compliant with NMW law found it helpful to discuss their pay practices with an NMW compliance officer who was able to reassure them that they were applying the correct rules.

# 6

## Value for money



Piloting the use of external email with small employers has saved time plus postage and storage costs.

Customer waiting time reduced by 37 days.

We have streamlined our approach to investigations to enable more resources to be applied to front-line compliance work. Thirteen new Compliance Officers were recruited in 2012 and there are plans to take on another 12 officers. Whilst there is a lead-in period of around 12 months before compliance officers are fully effective this will increase NMW coverage and improve effectiveness in the longer-term. We have also reduced customer waiting time by 33 days. This not only benefits employers and workers but frees up compliance officer time to take on new cases; 'up-skill' colleagues and participate in risk based operations.

The introduction of Caseflow (an HMRC-wide case management system) has facilitated new ways of working, such as the triage approach to investigating complaints from workers, because NMW cases can be more easily transferred between NMW compliance offices and worked from any location.

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