



# National Minimum Wage (NMW) / National Living Wage (NLW) Inspections

## Are you meeting HMRC's requirements?

HMRC is responsible for ensuring that employers correctly apply the NMW/NLW and they have invested heavily into compliance teams who police the system.

HMRC target employers for inspections based on a number of factors, including projects in specific sectors, but the most common triggers are the calls that they receive via the Employee Hot Line. The Hot Line is freely available to all and the majority of the inspections are initiated by calls from ex-employees, or current employees, claiming that they have been paid below NMW/NLW.

HMRC are required to follow up every call received and, typically this results in a NMW Compliance Inspection for the employer.

## What is the impact of a NMW/NLW Inspection?

Once an inspection has started, even if ultimately no issues are identified, if not managed correctly, the process can be very intrusive and time consuming for the employer. The inspection will cover the whole workforce, not just the complainant, and HMRC will not reveal who the complainant is or the nature of the complaint. If an error is discovered, the employer is required to make payment to the affected employees, using the NMW/NLW rate current at the time of the settlement rather than the rate applicable at the time of the initial underpayment. HMRC also recover a penalty of up to 200% of the underpayment. The minimum penalty is 100% of the underpayment.

In addition, every three months, HMRC 'name and shame' offenders by publishing a list of all, even relatively small, settlements.

# What are the common errors identified by HMRC?

Most employers intend, and believe, that they are paying their employees at least NMW/NLW levels. The vast majority of errors and underpayments arise from misunderstanding the complex rules or keeping inaccurate records. Typical errors include:

- **Not being able to accurately evidence the time worked by employees for NMW/NLW purposes;**
- **The aggregating of overtime and weekend rates when calculating hourly pay rates;**
- **Making certain contractual deductions from an employee's net pay, which reduces pay for NMW/NLW.**

# How can I manage compliance with the NMW/NLW wage rules?

The Employment Tax team at Smith Cooper can help by reviewing your processes and policies to ensure that they are robust and compliant. We can also assist you in the event of an HMRC NMW/NLW inspection. If you have any concerns about NMW/NLW issues, or if you receive notification of an HMRC NMW Inspection, please contact one of Smith Cooper's Employment Tax team for information on how we can assist your business.

## Get in touch

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