



HM Revenue  
& Customs

Janet Alexander  
Director  
Individuals and Small Business Compliance

[Redacted]

Mary Creagh MP  
Chair of the Environmental Audit Committee  
House of Commons  
London  
SW1A 0AA

[Redacted]

[www.gov.uk](http://www.gov.uk)

14 January 2019

Dear Ms Creagh

Thank you for inviting me to give evidence at the final session of the Environmental Audit Committee's inquiry into the textile industry.

At the session you asked for some additional information on HMRC's textile industry casework; our penalty regime; and approach to identifying non-compliance - which I have included below:

Year	No. of investigations into	No. of cases where arrears identified	Amount of arrears	Number of workers
2012/2013	16	2	£2,758	22
2013/2014	11	3	£4,280	4
2014/2015	8	4	£23,450	47
2015/2016	21	6	£8,140	6
2016/2017	16	4	£5,743	4
2017/2018	21	5	£42,787	43
<b>Total</b>	<b>93</b>	<b>24</b>	<b>£87,158</b>	<b>126</b>

**NMW Investigations into the Textile Industry**

Since 2012/13 we have opened 93 cases into textile industry employers. These investigations have been a combination of complaint-led and intelligence led (derived from our risking tools



in HMRC and third party information); and roughly one in every 4 investigations opened has identified NMW non-compliance.

Of the 24 cases where arrears were identified, the total value of the penalties levied was £82,664. Of the 24, six had a Leicester postcode (although I should highlight that HMRC only records the registered address, so it is possible that the business could be trading elsewhere).

None of these cases qualified for criminal prosecution, reflecting that a majority of NMW breaches are civil offences under the National Minimum Wage Act. The civil consequences for being found to have breached NMW regulations are having to repay wage arrears back to workers (with these arrears uplifted to reflect the current NMW rate); penalties of up to 200% of the arrears; and public naming .

### **NMW Penalty Regime**

There are currently four penalty regimes in operation across NMW enforcement (reflecting changes in enforcement policy and legislation, as defined by the Department for Business, Enterprise and Industrial Strategy):

<b>Time of pay reference period for which NoU is issued</b>	<b>Penalty as a percentage of arrears</b>	<b>Penalty cap</b>
Pre 7 March 2014	50%	£5,000 per employer
Between 7 March 2014 and 25 May 2015	100%	£20,000 per worker (implemented through HMRC issuing multiple NoUs)
Between 26 May 2015 and 1 April 2016	100%	£20,000 per worker
Post 1 April 2016	200%	£20,000 per worker

The impact of this means that non-compliant employers could face penalties across all four regimes depending on the period over which HMRC establishes an NMW underpayment, rather than simply receiving a penalty of 200% for the whole amount.

### **HMRC NMW Risking**

HMRC's approach to enforcement – for cases which are not the result of a complaint – is fully risk based: drawing on a range of data sources to identify employers, sectors or locations of particular risk which we can then target. Roughly half of all the cases we undertake are generated from risk assessed intelligence.

By adopting a risk-based approach we focus our investigations and resources on the suspected non-compliant population who represent a very small proportion of businesses operating in the UK. So whilst I understand, and it was mentioned during the evidence session, that the Director of Labour Market Enforcement has estimated that HMRC's NMW coverage means that employers will, on average, expect an inspection every 500 years, this is not a fair reflection of the reality: If you are a non-compliant employer then it is highly likely that you will be subject to HMRC proceedings (taking account of our risking capabilities and complaints model), whilst the compliant majority are unlikely (and do not need) to be party to an investigation.

The other half of our cases are generated from complaints via Acas. Some of the examples of labour exploitation you mentioned during the course of your inquiry appear very concerning; and I would be grateful if you could highlight to the individuals who provided this evidence that if they have any information about NMW abuses to please report them via our established channels:

- by phoning Acas on 0300 123 1100, or
- submit a query online at [www.gov.uk](http://www.gov.uk)
- <https://www.gov.uk/government/publications/pay-and-work-rights-complaints>.

I hope that this provides you with the information you need in order to conclude your inquiry.

Yours sincerely,

**Janet Alexander**  
**Director of Individuals and Small Business Compliance**