

Compliance reviews

The HMRC might come knocking on your door, warns Dawn Foden-Smith.



• An unwelcome sight...HMRC might visit your practice without prior notice if you have been uncooperative in arranging a date for the visit.

HM Revenue and Customs carries out most employer compliance checks because it has identified a specific risk or because its automated risk assessment produces a score

above a set limit. The purpose of the compliance check is to address the risks, identify inaccuracies and collect any additional liabilities.

It is known that HMRC are currently targeting dental professionals because of

specific risks they have identified within the industry. Other employers are selected for compliance checks entirely at random. The review carried out by HMRC covers the range of employer obligations, procedures,

payroll operations and items appropriate for inclusion on forms P11D, returns of expenses payments and benefits. It will also include a

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detailed check of the employment status of any self-employed workers and this is particularly relevant

with regard to locum work and dental hygienists.

An HMRC visit

Most employer compliance reviews consist of a prearranged visit ➔



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From HMRC officers to see how a business operates, talk to the relevant people and examine the business records. Relevant people would include a director/the owner or partners and other staff involved with payroll and employer processes.

HMRC would prefer the review to take place at your business premises. However, if your business records were kept elsewhere, for example, at your accountant's office, then it would be fine for the review to take place wherever your business records are normally kept. HMRC must not visit a person's home unless they are invited, or if the home (or parts of it) is also the business premises.

If HMRC suspects that you are not dealing with a particular aspect accurately, they may carry out an 'intervention' rather than a full employer compliance review. In this case, they may handle the matter by correspondence.

Sometimes HMRC feels it is necessary to carry out an inspection without prior notice. This could happen if you have been uncooperative in arranging a date for the visit or if they believe that prior notice might result in the concealment of records, assets or business activity.

HMRC conduct most compliance checks in an informal way, but they would use their legal information and inspection powers if you were uncooperative with their review or caused unreasonable delay.

Joint reviews and inspections

In the past, HMRC conducted employer compliance reviews in isolation and normally only two of their officers would carry out the review. However, more recently, HMRC has started to carry out joint inspections. For example, both a VAT and an employment taxes inspector may visit at the same time to carry out a joint review. Although HMRC must make it quite clear to

you at the start if a joint inspection is to take place, it can be a frightening experience to have several HMRC officers from various disciplines descending on your business premises.

What's expected by HMRC? If you use a computer payroll package, HMRC may ask for copies of those records on disc in advance of a meeting. They would carry out sample checks of those records prior to seeing you.

At the visit, HMRC officers would talk to relevant staff and then examine

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the business records to check they are accurate and comply with obligations. They would then talk to relevant staff again to discuss their findings. We are aware that specific risks identified by HMRC with regard to dental practices are as follows:

- Employment status of locums and hygienists engaged as self-employed.
- Travel and subsistence expenses.
- Free dental treatment for staff.
- Cosmetic work and VAT implications.
- Nurses' General Dental Council subscription fees and form P11D entries.

HMRC officers might also ask for a brief tour of the business premises and assets, which you may refuse, particularly if it would disrupt business operations at the time.

If additional liabilities result from inaccuracies, HMRC may ask for a payment on account of the liabilities on the day of the review but they would calculate the full liabilities on their return to the office.

What happens next? HMRC would send you a letter detailing any inaccuracies they found and enclosing calculations of any additional liabilities to tax and NIC. They would ask for

your agreement to their figures.

It is important to understand that HMRC holds the employer responsible for the additional liabilities even though they may relate to individual employees. The fact that the employer would be paying employees' liability is an employee benefit and taxable in its own right. For this reason, some of the liabilities would be 'grossed up' to account for the liability on this additional benefit.

Once you have agreed their calculations of the additional liabilities, HMRC will calculate statutory interest due and consider the imposition of a penalty. HMRC could impose a penalty of up to 100 per cent of the additional liabilities. The penalty applied depends on the 'behaviour' that caused the inaccuracy. This ranges from an inaccuracy despite taking reasonable care, for example, simple human error (no penalty) to deliberate inaccuracy with concealment, for example, potential fraud. You would have the right to appeal against the penalty if you considered it harsh.

Once everything was agreed, HMRC would send you a 'letter of offer' inviting you to make an offer in settlement of the enquiry. HMRC normally indicates the total amount required in settlement.

Assuming the 'letter of offer' is agreed, HMRC would send you a 'letter of acceptance' and notification that they had closed their review. The offer and acceptance by HMRC would form a legal contract between HMRC and the employer. You would normally have 30 days from the date of the letter of acceptance to settle the outstanding amount. HMRC may agree a longer period dependent on your business' financial circumstances. ■

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