

Focus on hazardous working conditions

2023



Netherlands
Court of Audit

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1. About this investigation

Every year, some 200,000 people in the Netherlands have an accident at work. This is about 3% of the working population (CBS, 2023). Every year, about 60 people die as a result of an occupational accident (Netherlands Labour Authority, 2023a). Common risk factors include the hazardous use of machinery and working at height. An estimated 4,000 people die from the consequences of unhealthy work, such as protracted use of hazardous substances (RIVM, 2023). The Netherlands Labour Authority ('the Authority') oversees compliance with the Working Conditions Act. It does so partly on the basis of risk analysis and partly in response to the notifications it receives. Employers are required by law to inform the Authority immediately of accidents that can lead to death, permanent injury or hospital admission. Individuals can also report hazardous or unhealthy working conditions. The Authority decides which notifications it follows up and investigates.

Like the other inspectorates in the Netherlands, the Authority decides how it follows up each notification. We found that it underpinned its decisions with clear criteria. There are 2 obstacles, however, to its effective oversight of occupational health and safety:

1. About half of reportable accidents are not reported to the Authority. The Minister of Social Affairs and Employment (SZW) and the Authority have known this for 20 years. The estimated underreporting of 52% of accidents, however, is a lower limit. Actual underreporting may be considerably higher. The House of Representatives had previously not been aware of this. The Authority therefore

does not have complete oversight of hazardous working conditions and it contributes less to occupational health and safety than it could. Temporary workers and labour migrants are at greater risk of underreporting.

2. The way the Authority records businesses in its inspection system reduces its insight into businesses that repeatedly break the law. As a result, the fines it imposes on repeat offenders are not increased and the Authority is less effective at tackling hazardous working conditions.

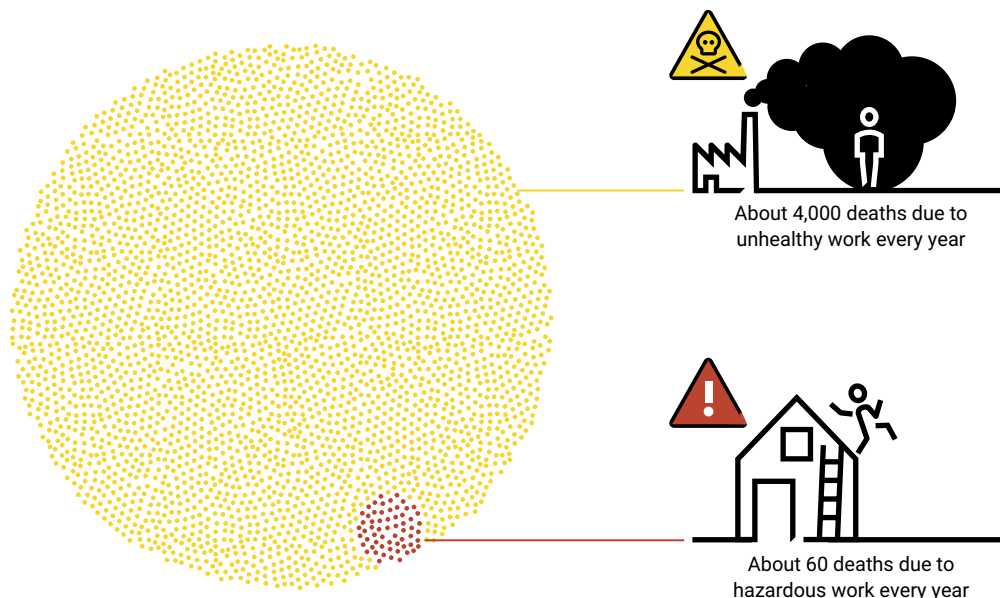
1.1 Reasons for and structure of this investigation

Primary responsibility for safe working conditions lies with employers. The Authority contributes to occupational health and safety by overseeing and enforcing compliance with the Working Conditions Act. We carried out this investigation in light of the many thousands of people who have accidents every year. We had also received credible indications that there was room for improvement, as described below.

Figure 1 shows that every year about 60 people die as a result of occupational accidents and about 4,000 die prematurely from hazardous working conditions.

Figure 1 Number of fatalities per annum due to hazardous and unhealthy work

More fatalities due to unhealthy work than hazardous work



The 4,000 deaths a year reported by the National Institute for Public Health and the Environment (RIVM), however, is not the whole story. 4,000 is the number of premature deaths as a result of unhealthy working conditions, but about 3,000 (75%) of the cases are retired workers who die of cancer. It is difficult to establish a causal relationship between exposure to hazardous substances during a working career and illness and death later in life. The RIVM's number of deaths due to unhealthy working conditions is therefore an estimate. A second cautionary note is that there is a long delay between employers taking measures to improve working conditions (either on their own initiative or at the Authority's instigation) and their impact on the number of fatalities. Benefits are seen in the longer term.

Besides the public interest, we had a specific reason to investigate occupational health and safety. The unhealthy conditions in which baggage handlers worked at Schiphol Airport were the subject of media attention in the summer of 2022. Questions were asked in parliament about the Authority's working methods (I&W, 2022). There was a suspicion that baggage handling at Schiphol had not been inspected. This case was one of the reasons for this focus investigation, in which we take a wider look at how the Authority deals with notifications of hazardous and unhealthy working conditions. The report explains how the Authority deals with notifications and the kind of notifications it receives. It also shows how the Authority assesses the notifications and follows them up.

Our investigation is also financially relevant. The Netherlands Court of Audit carries out several investigations and audits every year on the efficiency and effectiveness of government revenue and expenditure, with specific concern for the implementation and results of government policy. The Authority employs some 1,600 people and has an annual budget of €200 million, rising to €210 million in 2025. These resources are applied not only to oversee health and safety at work but also to oversee fair work. Our investigation did not consider this second element of the Authority's work as we had investigated it in 2021 and concluded in *Offenders scot-free, victims not helped* (Netherlands Court of Audit, 2021a) that only a handful of exploited workers received help. The conclusions we drew from that audit also encouraged us to take a closer look at how the Authority performed its other tasks.

This present investigation looked more closely at businesses that repeatedly offended. In an earlier audit, *Enforcing in the Dark* (Netherlands Court of Audit, 2012b), we had found that some repeat offenders were hard to identify in the Human Environment and Transport Inspectorate's *Inspectieview* system because they had not been given a unique identification number (ID). A relatively small group of businesses was responsible for a large proportion of offences. Besides the fact that this was little known, we also found that repeat offenders were not inspected more frequently.

Focus investigation

This report presents the findings of a focus investigation carried out by the Netherlands Court of Audit. A focus investigation differs from an audit in that it is carried out in a considerably shorter period of time, looks at current events and answers specific, well-defined questions. A focus investigation culminates in a clear, concise report without opinions or recommendations.

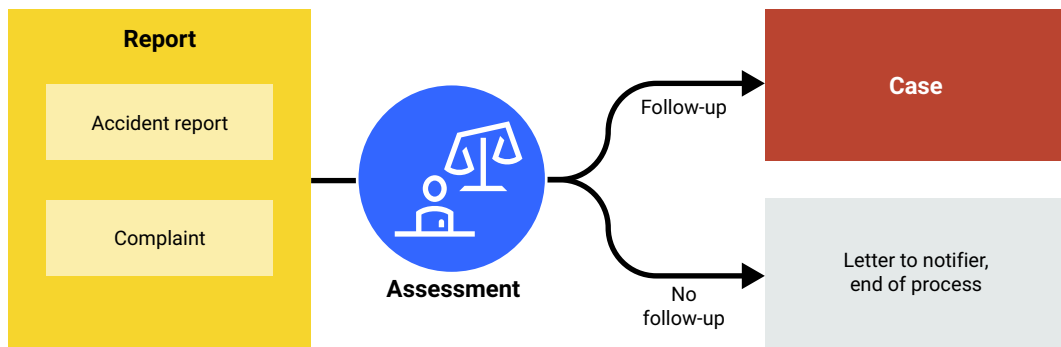
See <https://english.rekenkamer.nl/about-the-netherlands-court-of-audit/whatwedo/innovation-in-audit/focus-investigations>.

1.2 Notifications of hazardous and unhealthy work

We analysed the notifications of hazardous and unhealthy working conditions received by the Authority. We made a distinction between accident reports and notifications of possible breaches of the Working Conditions Act (complaints). The Authority assessed all notifications and followed up about half by opening up a case file in its iNet digital inspection system and entering all relevant information, as shown in figure 2. The Authority's risk-based approach (active oversight) is summarised in chapter 3 but is not the main focus of this investigation. This investigation concentrates on the notifications, reactive oversight. We did examine, however, how information in the notifications was used in risk-based oversight.

Figure 2 Key terms in the notification process

From report to case

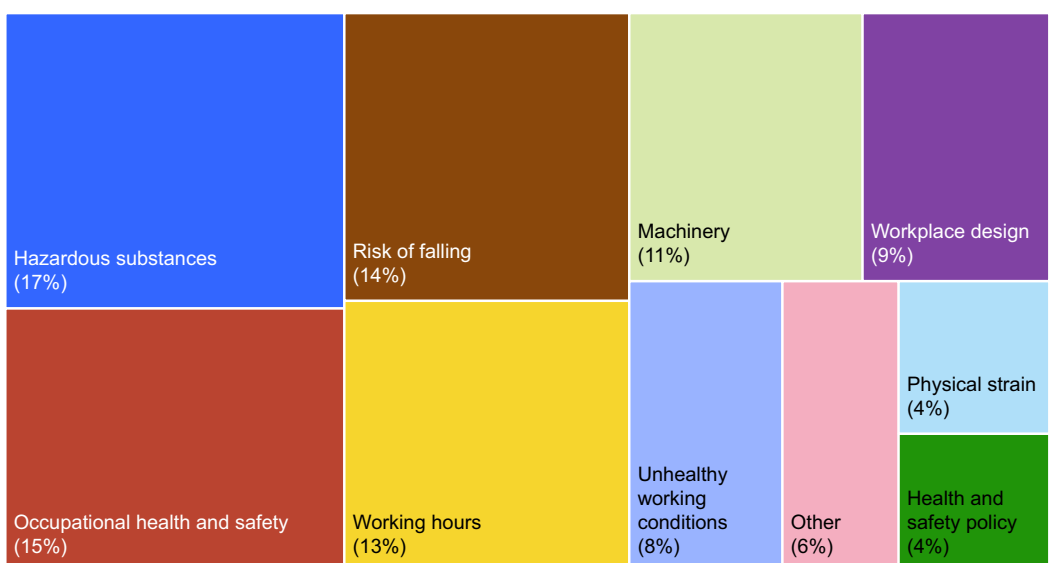


What is in a notification?

Between 2016 and 2022, the Netherlands Labour Authority received about 60,000 notifications: 47% were accident reports and 53% complaints. The causes of the accidents are reported in the annual *Monitor of occupational accidents* (Netherlands Labour Authority, 2022b). The most frequent accidents involve falls and contact with machinery. In relative terms, most accidents take place in the waste management, construction and manufacturing industries. Complaints relate chiefly to hazardous substances, occupational health and safety, and the risk of falling (see figure 3).

Figure 3 Most common complaints

Most complaints relate to hazardous substances, occupational health and safety and the risk of falling



Number of complaints: 21,071

Complaints concerning non-compliance with COVID-19 measures are not included in the figure

From notification to follow-up

Figure 4 shows how the Authority deals with notifications of hazardous and unhealthy working conditions. Staff in the Notifications department record all incoming accident reports and complaints. A member of the Notifications department assesses the notifications against a set of criteria such as the seriousness of the offence and the notifier. Notifications that should be followed up are passed on to an inspector and entered as a case in the inspection system. The case file contains relevant information for the inspector to decide how the notification should be investigated. The inspector can carry out a physical inspection at the business concerned, a remote inspection or, more often, a combination of the two. Urgent cases and serious accidents are dealt with first, with the inspector being on site within 2 hours. Since 2023, employers have been allowed to investigate some less serious accidents and prepare an improvement plan themselves (SZW, 2022). The Authority assesses the employer's investigation report and the improvement plan and checks whether the plan is actually implemented. This new procedure was not covered by our investigation. The risks we detected in the notification process are shown in the red blocks in figure 4. We will return to them later in the report.

Figure 4 The notification process and the risks detected

Risks in the Netherlands Labour Authority's notification process



2. Receipt of notifications

About half of reportable accidents are not reported to the Netherlands Labour Authority. The Minister of SZW and the Authority have been aware of this underreporting for the past 20 years. We found that considerably more accidents might go underreported. The Authority and the Minister of SZW have not managed to increase employers' willingness to report accidents. The Authority can fine employers up to €50,000 if they do not fulfil their duty to report accidents. In practice, however, it rarely imposes such high fines (3 times in 7 years). The average fine is €1,500. Not reporting occupational accidents weakens the Authority's oversight of occupational health and safety. It cannot effectively investigate hazardous conditions or contribute in full to a safe working environment. Temporary workers and labour migrants are at increased risk of underreporting. Furthermore, we found that the Authority receives a relatively high, and probably increasing, number of anonymous complaints; it is more difficult for the Authority to investigate anonymous complaints.

2.1 Most accidents not reported

Under section 9 of the Working Conditions Act, employers are required to report occupational accident immediately to the Authority if they lead to death, permanent injury or hospital admission. To calculate how many accidents are not reported (the level of underreporting), in 2021 the Authority compared the number of accidents reported to the number of serious occupational accident recorded by hospitals (some of which will be reportable). It found that about 52% of reportable accidents were not reported to it. The report was made public following a freedom of information

request (Netherlands Labour Authority, 2021). In its annual report for 2021, the Authority referred to underreporting of 'slightly more than 50%'.

Knowing how many accidents are underreported helps improve insight into the level of the problem, its causes and possible solutions. We found that the number of unreported accidents could be considerably higher than the 52% calculated by the Authority. We explain why below.

To compare the reports received with the hospital records, the Authority has to make several decisions and assumptions. It must first decide which accidents have to be reported according to the law and which accidents don't. The annual numbers are roughly as follows (VeiligheidNL, 2019):

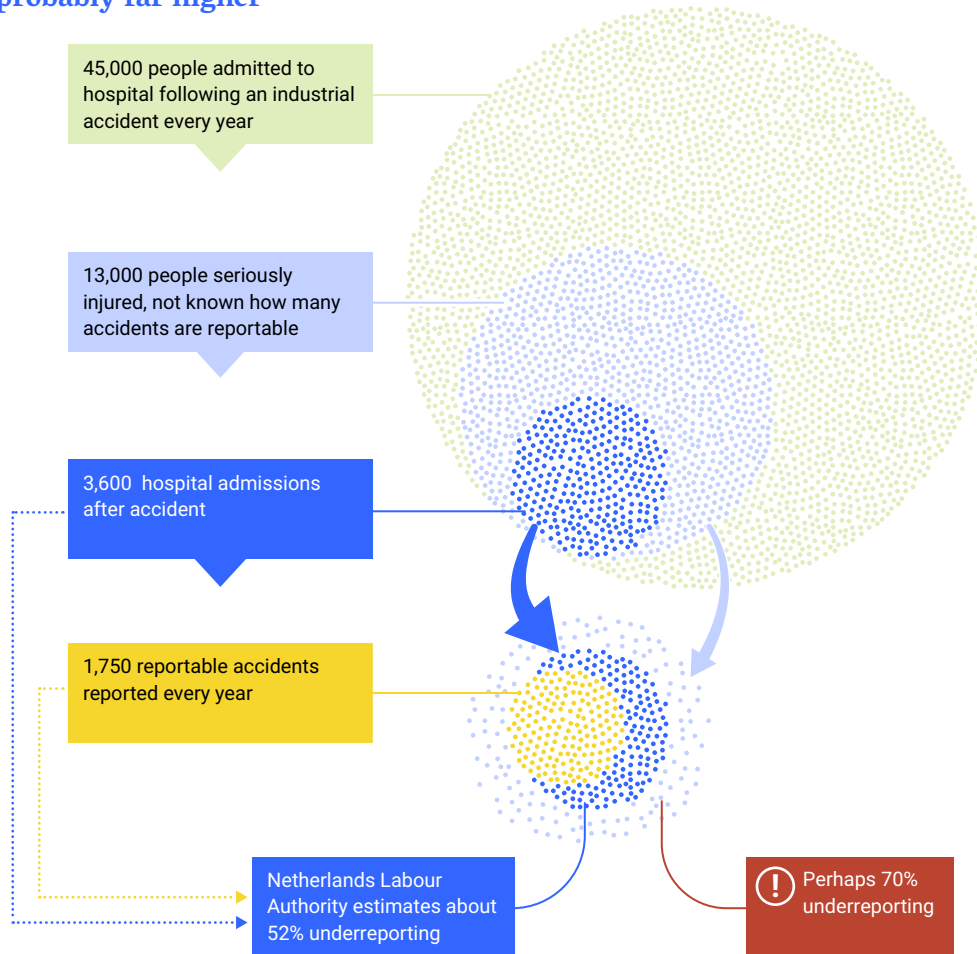
- 45,000 people are taken to accident and emergency departments following an occupational accident;
- 13,000 of them are seriously injured (e.g. concussion or broken limb);
- 3,500 people are admitted to hospital.

Accidents in the third category – people admitted to hospital – plus amputees are reportable. The Authority used this group to calculate underreporting. However, some people are not admitted to hospital and are not amputees but suffer a permanent injury and have thus had a reportable accident. The Authority did not include these people in its calculation and their number is not known.

Every year, about 9,500 people with a serious injury are not admitted to hospital (13,000 people who are seriously injured minus the 3,500 who are admitted to hospital). It is not known how many are permanently injured. Hospitals record many serious injuries that are not reportable and some that may be. How many is not known. The Authority thinks their number is relatively small. This calculation problem is shown in figure 5 below.

Figure 5 Problem calculating the number of unreported accidents

Netherlands Labour Authority's uncertain calculation: underreporting probably far higher



The Authority had to make methodological decisions in order to compare reporting data with the hospital data. Not all variables relating to reportable accidents could be included in the calculation. The estimated 52% underreporting could therefore be a lower limit. Actual underreporting could be considerably higher. It is not known by how much.

The Authority's calculation must also take the following into account:

- The Authority corrected its calculation for the self-employed. There were 1.2 million self-employed people in the Netherlands in 2023. The self-employed must report accidents only if they are in an employment relationship at the time. This cannot be determined from the hospital data.
- The Authority did not include occupational accident suffered by trainees and students in its calculation.

In the methodological appendix to its 2021 report, the Authority explained how it verified the level of underreporting.

The appendix was not made public and was not referred to in the report.
The Authority claims this was because the verification was too unreliable.

In the verification, the Authority put the level of underreporting at 66%, with a lower limit of 58% and an upper limit of 71% and with a confidence margin of 95%. According to the Authority, the percentage of underreporting could in reality be higher than 66%. The Authority concluded, *'On the basis of this comparison (...) we can say with 95% certainty that at least 58% is underreported'*.

Causes of underreporting

According to the Authority, accidents are not reported because of:

- circumstances within the business
- lack of awareness about the reporting duty
- lack of awareness about specific reporting requirements or the reporting procedure
- lack of awareness about the rules applying to temporary workers
- lack of awareness about how serious an injury is
- fear of disputes or litigation
- fear of higher insurance premiums
- fear of negative publicity

What is the Netherlands Labour Authority's response?

In 2005, the Minister of SZW had made a similar calculation of underreporting. Its findings were virtually the same as the Authority's in 2021: about half of occupational accident are incorrectly not reported. The Minister of SZW and the Authority have therefore known for nearly 20 years that 50% of occupational accident are not reported. However, they have not managed to reduce underreporting. Further to its 2021 report, the Authority drew up a list of possible measures to combat underreporting. They included making businesses more aware of the rules, increasing medical officers' familiarity with the reporting procedure, improving the reporting chain from and to other organisations and introducing a double reporting duty for temporary workers (see elsewhere in this section).

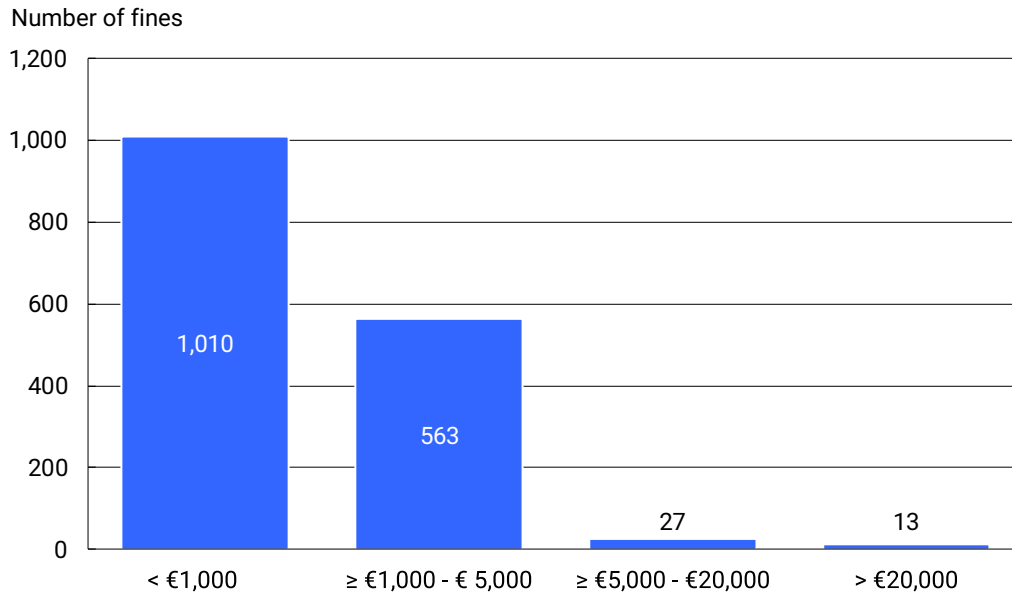
Netherlands Labour Authority's fines for late or non-reporting

The Authority can fine employers if they report occupational accidents late or fail to report them at all. The maximum fine since 2013 has been €50,000. Before 2013, the maximum had been €4,500. Most occupational accidents are due to serious breaches of health and safety regulations. Until 2013, it was more advantageous for employers to pay the €4,500 fine than to report an accident. To counter this, the Minister of SZW raised the maximum fine to €50,000. Figure 6 shows that the fines

actually imposed by the Authority tend to be considerably lower than the legal maximum of €50,000. Since 2016, the Authority has imposed the maximum fine on just 3 occasions.

Figure 6 *Fines for late or non-reporting in 2016-2022*

Fines for late or non-reporting rarely approach €50,000



Temporary workers and labour migrants at increased risk of underreporting

Temporary workers, including many labour migrants, have relatively many reportable accidents (Netherlands Labour Authority, 2022b). Hired and independent workers account for 1 in 5 recorded occupational accidents. An investigation by the Authority (Netherlands Labour Authority, 2021) found that temporary workers were victims of about a quarter of underreported accidents. One of the main causes of this is that the hiring business is not aware of the reporting requirements. At present, only the hiring business has a duty to report accidents involving a temporary worker. A double reporting duty will be introduced in 2024. Both the hiring business and the employment agency will then be required to report accidents to the Authority. This measure implements a recommendation made by the Task Force for the Protection of Migrant Workers to reduce underreporting of temporary workers and labour migrants.

2.2 Many anonymous notifications

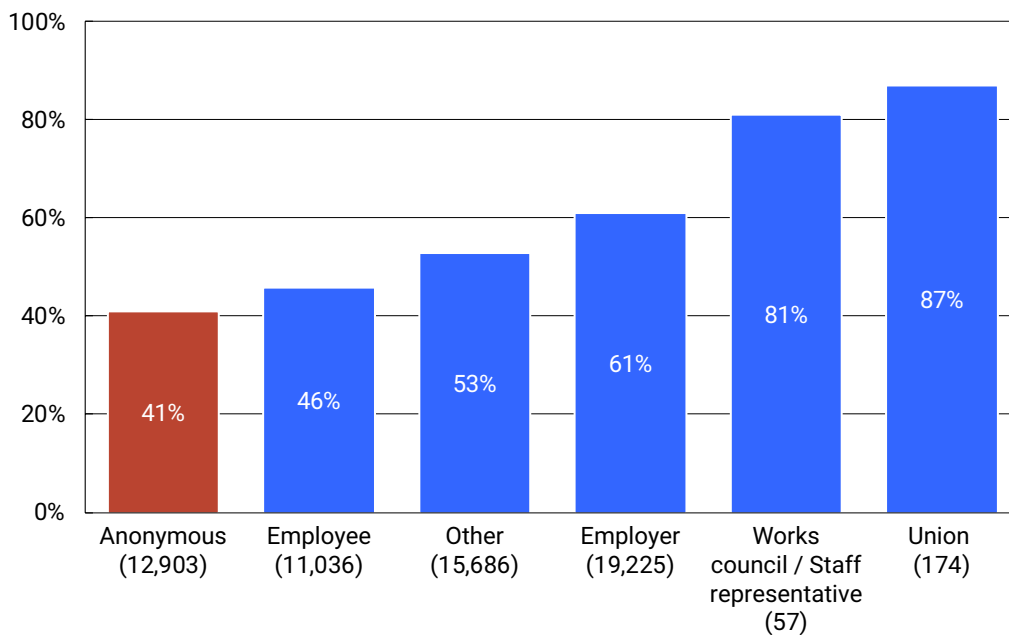
The Authority receives a relatively high number of anonymous complaints. The number has probably increased in recent years. We say 'probably' because the data are ambiguous (see Methodology in appendix 2).

Anonymous notifications are harder to investigate. The Authority enriches the notifications it receives with additional information in order to assess whether they should be followed up. Enrichment includes contacting the notifier to obtain more information. This is more difficult with anonymous notifications. Figure 7 shows that anonymous complaints are followed up less often than non-anonymous notifications.

figure 7 Proportion of notifications followed up, by type of notifier

Anonymous complaints followed up less often

Follow-up by type of notifier



3. Follow-up on notifications

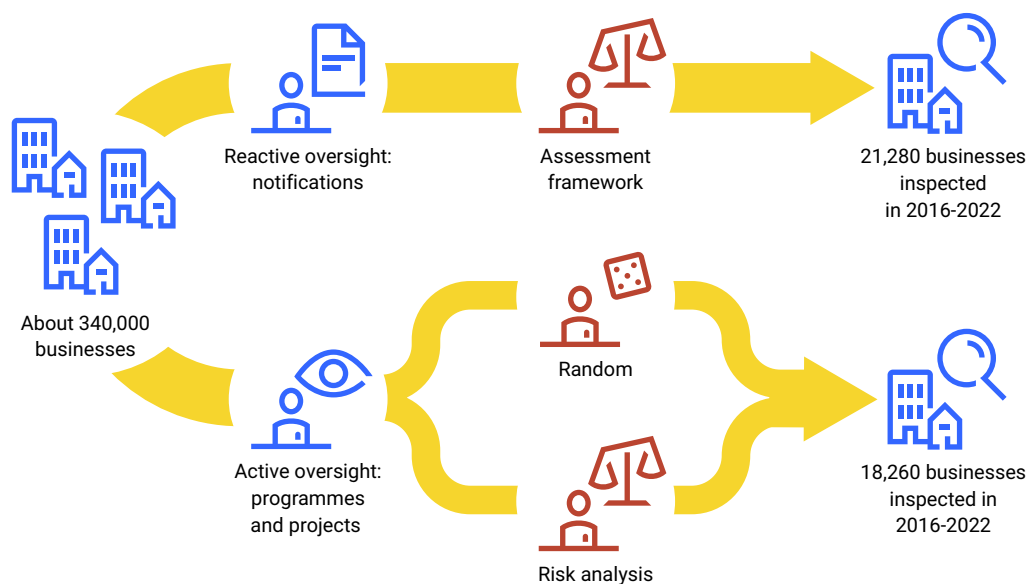
Like all other inspectorates, the Netherlands Labour Authority has to decide which accident reports and complaints it will follow up. We found that the Authority took transparent and reasoned decisions underpinned by clear criteria. We also found that it identifies trends in the notifications and uses them to set priorities and steer its active oversight.

3.1 Distinction between reactive and active oversight

The Authority classifies its work as 'active' and 'reactive' oversight (see figure 8).

Figure 8 Netherlands Labour Authority's selection of cases for inspection

Traceable decision points in active and reactive oversight



The Authority oversees occupational health and safety at the approximately 340,000 businesses active in the Netherlands (Netherlands Labour Authority, 2022a). It exercises both active and reactive oversight. In reactive oversight, a report or complaint is always the starting point for a possible inspection. In active oversight, the Authority selects sectors or risks based in part on the knowledge gained from reactive oversight. Active oversight is organised into multiyear programmes and projects. The 2023-2026 programmes considers, for example, exposure to hazardous substances and to asbestos. Within a programme, the Authority inspects businesses partly on a risk basis, where it suspects there is a high risk of offending, and partly at random.

We discuss our findings on reactive oversight below.

3.2 Clear follow-up criteria

One of the Authority's tasks is to receive, enrich and follow up notifications effectively and efficiently. As a matter of policy, the follow-up decisions must be transparent, reasoned and traceable.

We found that the Authority's reporting process and its decisions and assessments were transparent in most cases. In its digital file system, iNet, cases can be traced from notification to settlement. We found from the cases we sampled in iNet that decisions not to follow up notifications were generally reasoned and understandable.

About half the notifications were assessed by a member of the Notifications department and passed on to an inspector. The 2 examples below show that notifications are not followed up if injuries are minor or if it is clear that the employer is not at fault.

Example 1: Minor injury, no reporting obligation

A small fire broke out when workers were removing roofing material. An employee of the roofing company tried to put the fire out by beating it with his gloved hands. The employer was not wearing appropriate gloves and suffered burns. The employer reported the accident to the Netherlands Labour Authority and the Notifications department assessed the case. The department rang the employer and the employee and found that the employee had suffered only minor burns and was back at work again a week later. The department therefore decided that there had been no obligation to report the accident and an inspection was not necessary: the employee was not permanently injured or admitted to hospital.

Example 2: Unfortunate set of circumstances; no-fault accident

When emptying public litterbins, a municipal employee stumbled on a cycle path. He was taken to hospital by ambulance and diagnosed with a broken kneecap. The employer, the municipality, reported the accident to the Authority. The accident was indeed reportable: the employee was admitted to hospital. The municipality, however, was not at fault; it had not broken the Working Conditions Act. It would therefore be pointless to follow up the report. After contacting the employee, the Notifications department classified the accident as a no-fault unfortunate set of circumstances.

Assessment criteria

The Notifications department assesses notifications against fixed criteria based on the law and the Authority's own policy decisions. The criteria relate to how serious an accident is, likelihood of a successful follow-up, risk of a criminal offence and the person or organisation making the notification. Enough information must be available to start an inspection. If a notification is outside the Authority's mandate, it is referred to the appropriate organisation.

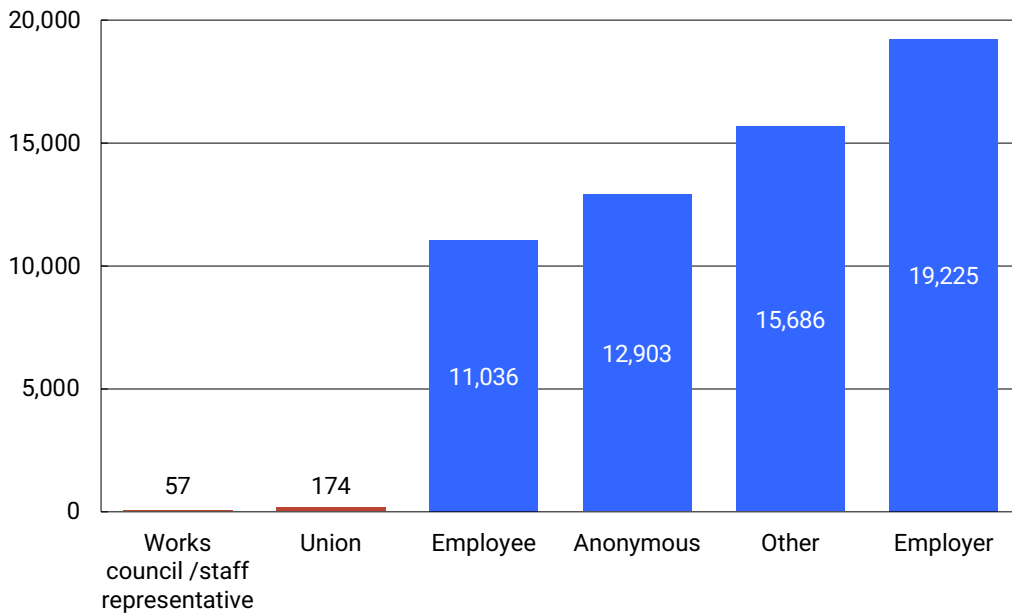
There are several assessment frameworks for the different types of notification. Complaints made by a union, works council or staff representative are always followed up regardless of how serious the incident is. This is a legal requirement (section 24.7 of the Working Conditions Act).

Figure 9 shows that most notifications are made by employers and the least by unions, works councils and staff representatives.

Figure 9 Number of notifications by type of notifier, 2016-2022

Few notifications by works councils, staff representatives and unions

Number of notifications by type of notifier



In the case of the Schiphol baggage handlers, the Authority's decisions were again transparent, reasoned and understandable, as summarised in the box below.

Example: Schiphol baggage handlers

In the summer of 2022, the media spotlight fell on the unhealthy conditions that baggage handlers were working in at Schiphol Airport. Lifting equipment for this physically demanding work was either not present or not used. The physical stress put the handlers' health and safety at risk. Questions were asked in parliament, especially about the Authority's working methods (I&W, 2022). It was suggested that it had not carried out any inspections of baggage handling.

The Authority explained that over 8 years it had received 7 notifications of physical stress at companies at Schiphol (Netherlands Labour Authority, 2023b). Only 2 of them concerned baggage handling. They had not led to inspections because the Authority decided there were no indications of a serious offence. One notifier, for instance, said the handlers 'sometimes had to lift boxes weighing more than 25 kilograms'. The Authority said this was not a serious offence under the policy rule on the imposition of fines laid down in working conditions legislation. Moreover, the notifications were not made by a union. In accordance with its assessment criteria, the Authority therefore did not follow up the notifications.

Another factor in this case was that Schiphol was not the baggage handlers' employer. The 7 notifications were made by employees of different baggage handling companies. They were therefore attributable not to Schiphol but to the individual companies. The Authority nevertheless decided to inspect baggage handling conditions at Schiphol and imposed penalty payments on 6 companies: if they did not provide lifting and other equipment, fines would be imposed of up to €65,000 per month.

3.3 Other steps in the process also traceable

The section above considered how the Authority took traceable and reasoned decisions on its follow-up to notifications. The Authority also took such decisions in the subsequent steps of the process: inspection and enforcement. Examples are given below.

- A sample we took found that notifiers whose notifications were not followed up received a letter from the Authority within 2 weeks explaining why the notification would not be followed up.
- We found that the Authority took enforcement measures where it detected an offence. In a handful of cases, the data suggested it did not, but our file analysis revealed that enforcement measures had been taken.
- We could not determine from the data whether physical inspections took place. From a sample of cases in the iNet file system, however, we established that physical inspections took place in most cases. Furthermore, there were credible explanations for why there had not been a physical inspection. This was the case, for instance, with corona notifications, where employees complained that their employer had not taken appropriate COVID-19 measures. The employers received a letter from the Authority warning them to implement the corona measures.

3.4 Notification system supports the Netherlands Labour Authority's decisions

All notifications are recorded in the iNet inspection system. Inspectors use this information at an individual case level. At an aggregate level, the system reveals trends and risks that can be insightful to identify gaps in the Authority's programmes. We found that the Authority carried out thorough analyses and reported on them. It used the reports to set priorities and make decisions in its programmes.

An example of priority setting is the solar panels project. An analysis by the Authority in 2022 found an increasing number of notifications claiming that solar panel fitters

were working in hazardous conditions. Most of the notifications related to the risk of falling. There had also been several deaths. In light of the figures, the Authority targeted its inspection capacity at the sector. A nationwide inspection day was organised with the risk of falling being inspected at 200 locations. Offences were found at 140 of the 200 locations (70%) (SZW, 2023). Many of the offences related to solar panels. The problem was also brought to the attention of industry organisations and employers in the sector.

4.

Repeat offenders

Businesses that repeatedly breach the Working Conditions Act are not always known to the Netherlands Labour Authority. This is because the Authority sometimes gives more than one identification number (ID) to one and the same business in the iNet system. Oversight of businesses that repeatedly offend is therefore incomplete. This can compromise the Authority's risk-based approach, the organisation of inspections (the inspector may be unaware of previous offences) and decisions on fines (if repeat offenders are not known, fines are not increased).

4.1 Notifications not always linked to the right business

A business is given an ID number in the iNet system when it first comes into contact with the Authority. The ID number is meant to be unique for all the business's entities. To optimise the process, the inspection system is linked directly to the Chamber of Commerce's information system. This prevents registration problems such as typing errors and incorrect address details. In our earlier audit, *Enforcing in the Dark*, (Netherlands Court of Audit, 2021b), we found that the Inspectieview system of the Human Environment and Transport Inspectorate contained a great deal of variety in the names, addresses and Chamber of Commerce registration numbers entered for one and the same business. In our opinion, the registration systems were of poor quality.

Similar problems were present in the iNet system, as unique businesses had several IDs. We found at least 400 cases where the same business had more than one ID in

the iNet system. In the dataset on businesses that had been fined, we found 100 cases of more than one ID being given to one and the same business.

4.2 Consequences of a business having more than one ID

There are 3 possible consequences of a business having more than one ID:

- Repeat offenders are not identified as such and can therefore avoid risk-based inspections.
- Inspectors are unfamiliar with the business's history. Previous offences and warnings can be missed. The system records this information under 'another' business.
- Under section 34.5 of the Working Conditions Act, higher fines are imposed on repeat offenders. The data on fines also show that some businesses have more than one ID. In some cases, this problem is detected and corrected. In others, however, it is not, and the Authority does not increase fines as required by the law.

The example below illustrates a problem due to a business having more than one ID.

Incorrect registration meant fine could not be collected

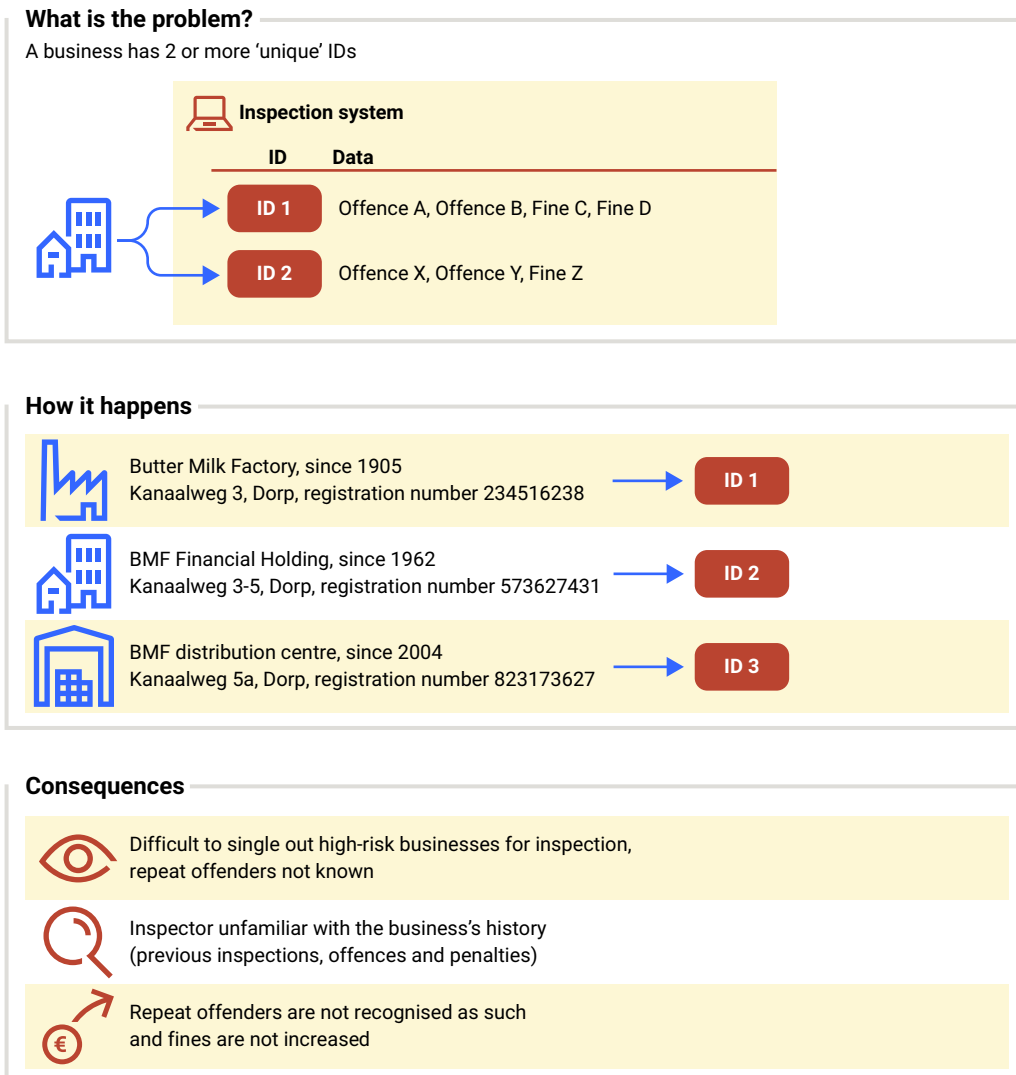
2 businesses with virtually identical names were recorded in iNet at the same address:

- Business X, a factory with 1,000 employees.
- Business Y, a financial holding company with 2 employees.

The Authority's system contains 66 notifications that were followed up, 60 at the factory and 6 at the financial holding company. However, those 6 cases (5 accidents, 1 complaint) had actually happened at the factory, not at the holding company. Hazardous working conditions and accidents at one and the same factory were attributed to 2 different locations/employers. An accident at the factory was entered in the Authority's system as an accident at the financial holding company. It was not until the Authority imposed a fine of €25,000 that it realised the wrong business (the holding company) had been accused of breaking the law. The Authority was unable to collect the fine because of this error.

Figure 10 Problems of several identities

Some businesses entered more than once in the inspection system



4.3 Narrow definition of repeat offenders

Section 34 of the Working Conditions Act provides a definition of repeat offender:

- A previous offence is irrevocable and took place no more than 5 years ago.
- A previous offence was of the same kind.

In such cases, the Authority must increase the fine by 100% and by 200% if the offence is serious. What the Minister of SZW means by 'the same' and 'kind' is worked out in 2 ministerial regulations (the Working Conditions Regulation and the Working Conditions Decree).

The definitions of 'the same' and 'kind' in combination with the problem of more than one ID mean that relatively few cases satisfy the definition of repeat offender and the

Authority does not increase fines. (3% of all fines imposed in 2016-2022 were increased on account of repeat offending).

The example below shows how a business that 'slipped up' several times is not a repeat offender under the laws and regulations applying to the Authority.

Several offences at solar panel fitting company

A lot went wrong in a very short period of time at a company that fitted solar panels:

- In November 2019, an employee fell off a ladder and suffered several injuries. The company was fined €2,700 in 2021.
- In June 2020, another employee at the same company suffered an electric shock. The nerves in his arm were permanently damaged. The company did not report the accident to the Authority. The employee reported the accident six months later because he was still suffering. The accident could no longer be investigated. The company was fined €15,000 for not reporting it.
- In November 2020, an employee at the same company was blown off a roof when handling a solar panel. He suffered a complex broken leg, probably a permanent injury. The company reported the accident and following an inspection was fined €8,100.

In brief, the company's 16 employees had 3 accidents in 2 years. Several other complaints about the company had also been made to the Authority. According to the Authority, however, the company was not a repeat offender under the law and regulations because the offences were not of the same kind.

5. Follow-up

This investigation shows that the Netherlands Labour Authority makes understandable decisions to exercise oversight. There are 2 risks to its effective oversight of occupational health and safety:

1. Many reportable accidents are not reported.
2. Repeat offenders are not recognised because they have multiple IDs and the legal definition of repeat offender is too narrow.

Our *Report on the Annual Report 2023 of the Ministry of SZW* to be published on 15 May 2024 presents a further investigation of the Netherlands Labour Authority's enforcement of the Working Conditions Act.

Appendices

Methodology

Key question

What notifications of and information on occupational accident and hazardous working conditions does the Netherlands Labour Authority receive (and what does it not receive) and what action does the Netherlands Labour Authority take in response?

Investigation questions

1. What notifications of occupational accident and hazardous working conditions has the Netherlands Labour Authority received?
2. How does the Netherlands Labour Authority use notifications and risk analyses to oversee hazardous working conditions? And how does the Netherlands Labour Authority oversee repeat offenders?
3. What action does the Netherlands Labour Authority take if it suspects that an accident has taken place or working conditions at a business are hazardous?
4. What reportable occupational accident are not reported to the Netherlands Labour Authority? What are the reasons for this and what does the Netherlands Labour Authority do?

How did we carry out our investigation?

Focus investigation

This report presents the findings of a focus investigation carried out by the Netherlands Court of Audit. A focus investigation differs from an audit in that it is carried out in a considerably shorter period of time, looks at current events and answers specific, well-defined questions. A focus investigation culminates in a clear, concise report without opinions or recommendations. See <https://english.rekenkamer.nl/about-the-netherlands-court-of-audit/what-wedo/innovation-in-audit/focus-investigations>.

- Interviews and document analyses gave us an understanding of the *organisation* of the Netherlands Labour Authority's oversight.
- Data analyses and file studies of cases gave us an understanding of the *operation* of oversight.

Cases/file studies

The aim of the case studies was to determine how the reporting procedure and oversight worked in practice. Each case (or group of cases) we studied represented a specific aspect of the oversight. Not every case we selected is referred to in our report. Some of the cases we studied are considered below.

1. *Solar panel sector*. We selected this case to learn about how the Netherlands Labour Authority dealt with a pressing risk and to take a closer look at how the Netherlands Labour Authority dealt with a repeat offender.
2. *Curiosities in the data*. Data are never perfect. Sometimes they include curiosities such as offences that are detected but not enforced. We selected 5 such cases for closer investigation. Using the detailed descriptions in the files, we tried to identify why they had not been enforced. In all cases, the files contained credible reasons for non-enforcement.
3. *Not following up notifications*. We sampled 10 notifications that the Netherlands Labour Authority had not followed up. Again, the information in the files explained why the cases had not been followed up. Plausible and substantiated reasons were given in all cases.
4. *Timely feedback to notifier*. We sampled 8 notifications to see whether the Netherlands Labour Authority had sent a rejection letter to the notifier within 2 weeks (as required by the Netherlands Labour Authority's own standards) to explain why a notification would not be followed up. Letters had been sent in all 8 cases.

5. *Repeat offenders.* We studied several businesses to see how the Netherlands Labour Authority dealt with repeat offenders. Besides smaller businesses, we looked at both large commercial companies and large public sector organisations.
6. *Physical inspections.* We could not determine from the data whether physical inspections had taken place. Based on a sample of 50 cases in the iNet file system, we established that physical inspections took place in most cases. We also found plausible explanations of why physical inspections had not taken place, for instance regarding corona notifications where workers complained that their employer did not implement COVID-19 measures correctly. These employers immediately received a letter from the Netherlands Labour Authority.

Data analysis

We received several data files from the Netherlands Labour Authority:

- Data on all notifications and cases (accidents, complaints and indications) that had been entered in iNet in 2016-2022, enforcement measures and data from employers in iNet. Older information was not available.
- Data on all risk-based inspections (programmes and projects) in 2016-2022.
- Data on fines imposed following both reactive oversight and risk-based oversight in 2016-2022.
- Summary of the data analysis carried out in 2021 to calculate underreporting.

We analysed these data in a variety of ways. On the whole, the quality of the data was sufficient for our investigation. On a number of points, however, they were inadequate and limited our investigation because:

- The inspection data (reactive and risk-based oversight) could not always be linked to the data on fines.
- Not all fields had been completed consistently. Many values were missing.
- The data on underreporting provided too little detail to gain a better understanding of the level of underreporting.
- Businesses in the system are sometimes given more than one ID, as explained in the report.
- The Netherlands Labour Authority could not say with certainty whether the number of anonymous notifications had increased or decreased. One of the entry fields on the digital reporting form remains empty if the notifier is anonymous. However, it can also remain empty for other reasons (for instance, it was simply forgotten). The Netherlands Labour Authority knows that roughly five-sixths of notifications with an empty field are anonymous. But it does not know which cases or the year in question. The data indicate that the field is increasingly being left empty, suggesting there has been an increase in anonymous notifications.

We carried out several analyses, as summarised below.

Check for multiple IDs

We wanted to determine whether businesses were regularly given more than one ID in the system. We analysed the reactive inspection data and the data on fines. We took the following approach:

1. We clustered businesses with identical postcodes.
2. We then assessed the business names by means of fuzzy matching. This is a method to compare 2 texts (or letter combinations) with each other and award a score for their similarity. The matching takes account of the letters used, their sequence, relative distance from each other, etc. using the Levenshtein distance method. The lower the score, the more similar the texts.
3. We then manually analysed the low scores to see whether one and the same business with the same postcode had more than 1 ID in the Netherlands Labour Authority's system.

We found at least 400 cases in the reactive inspection data and 100 cases in the fines data.

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