

No. 49/26

13<sup>th</sup> February 2026

Dear Colleague,

## **PURCHASE OF ANNUAL LEAVE (POAL)**

The CWU are aware of the level of confusion and frustration felt by our members and reps alike regarding the loss of access to purchase additional annual leave via salary sacrifice. This LTB sets out to explain the challenges which exist but more importantly the work the CWU is undertaking with Royal Mail to try and resolve the situation.

Within the Way Forward agreement of 2000, the CWU and Royal Mail agreed that individuals should have the opportunity to be able purchase annual leave of up to six weeks. The CWU also secured the added benefit that members could pay for the additional annual leave using salary sacrifice and therefore not pay national insurance or tax costs. This had worked well and with no issues regarding the national minimum wage.

However, since 2022 the national minimum wage has increased by 28.5%, from £9.50 to £12.21 per hour and will go up by a further 4.1% in April this year to £12.71. This rise in the minimum wage has led to lots of companies being fined for breaching the minimum wage law as a result of use of salary sacrifice arrangements. This is because the HMRC (who audit companies to see if they are breaching the minimum wage law) only count gross hours pay following deductions by way of salary sacrifice, such as pension contributions, purchase of annual leave or any other My Bundle purchases.

Colleagues will recall that back in March 2025 Royal Mail stepped in and took over all individuals' payments for POAL and My Bundle. They did this because they had a genuine fear that the HMRC could find them liable for breaching the minimum wage law due to the continued use of salary sacrifice. This would have resulted in a significant fine and damage to their reputation, at a time when they were calling out other courier companies for using the self-bogus employment model to undercut Royal Mail in the parcels market. At that point Royal Mail had a 7% buffer in operation to determine whether individuals would qualify for salary sacrifice. This buffer is now set at 20% - which I will address later in this communication.

Royal Mail will continue to pay for the cost of both POAL and My Bundle until April and individuals will not have to pay back any monies for the financial year of 2025/2026. This decision was not taken lightly for a couple of reasons; the total cost which has been more than £13 million and the fact that they're not paying this amount of money to all staff, only those who had voluntarily opted to purchase either annual leave or My Bundle items.

## What has the CWU agreed with the business?

First and foremost our priority was to stop Royal Mail from removing the ability for those individuals with less than 20 years' service to purchase additional annual leave. This would have been the easiest way for the company to mitigate this risk and ensure compliance, but we have worked with the company to ensure this was not the route they have gone down.

Last year over 63,051 employees were written to allowing them to purchase additional leave, with 21,255 individuals choosing to do so. It was therefore essential for us that this remained an option for all individuals, including those with less than 20 years of service.

We have also ensured that salary sacrifice is available for individuals to use subject to the qualifying criteria. Even with the 20% buffer, 3391 individuals will still be able to continue to purchase annual leave via salary sacrifice.

The CWU have also agreed that all individuals who want to purchase annual leave but do not qualify for salary sacrifice can still purchase additional annual leave at the same cost as POAL. The new system is called Additional Leave Unpaid (ALU).

We are in talks with the company to give individuals the opportunity to spread this payment for leave over the course of the year via net pay, in the same way as union deductions and other voluntary payments are paid. There are some legalities with this proposal, but we believe this should be a way to help members spread the cost of the purchase of additional leave. If we achieve this option, then someone on the lowest 0.6% purchase of annual leave will pay less than £1 more per week for the purchase of additional leave and even those who are at the top and paying 3% to purchase annual leave will only pay £3 extra per week.

We have also ensured that there is a mechanism for new entrants to continue to purchase additional annual leave, this was a real problem due to their lower hourly rate. This will kick in from the beginning of the new leave period. Last year over 2000 new entrants purchased additional leave.

There was one issue which was somewhat of a grey area and that was around whether the HMRC would count the functional supplements toward the minimum wage calculation, despite it being a permanent addition to basic pay and that it goes up by the same percentage as a basic pay rise. Having sought advice from our legal advisors and Royal Mail's, it is thought that the safest method is to run the affordability check solely on base pay.

The CWU are doing two things in this area, the first is we have discussed the possibility of consolidating part of all supplements into basic pensionable pay as part of this year's pay rise. This is in line with the CWU conference policy of consolidating the minimum supplement that everyone achieves (which is £11.88) into basic pensionable pay. If this was to be achieved, then this would increase all the old contracts by an additional 32p per hour and would allow a significant number of individuals to be able to use salary sacrifice. This would require Royal Mail to fund the additional 13.6% in pension costs if this was to happen.

In addition, we are using our political influence and seeking that the ministers involved advise the HMRC to accept that the permanent functional supplements count towards the minimum wage calculation.

We have had several discussions with Royal Mail concerning the increase they have made to the buffer they have used over the years. The buffer was always 7% (due to pension contributions) and they have moved it to 20% which has meant a significant number of individuals have not qualified for salary sacrifice.

Royal Mail argues the increase in the buffer is needed to mitigate the various challenges with the minimum wage law. These include that the current PSP system is old and does not cater for a blanket case by case management if an individual is potentially in breach of the minimum wage law. This means that they cannot monitor whether in addition to an individual purchasing annual leave, they may also be purchasing several My Bundle items which would bring them below the minimum wage calculation.

Royal Mail specialist lawyers who advise other companies about being within the law have advised them of the following:

- That they do not believe Royal Mail will be classed as salaried under the different categories which are listed by the HMRC.
- That the national minimum wage audit reference period is the same as a worker's pay frequency i.e. monthly or weekly.
- That minimum wage compliance is calculated based on the average earnings over the reference period divided by the hours worked.

The CWU still believe that the 20% buffer is too high and want this lowered. The 20% buffer means that from April an individual must be earning 20% above the £12.71 minimum wage. This means after POAL, 6% pension, 1% booster that their gross pay is £15.25 per hour and even if it was reduced to 10% it would need to be £13.98 per hour. Our current national rate without salary sacrifice is £14.21 per hour with a wage rise due in April.

It is important that the union criticises and calls out Royal Mail when they are in the wrong as we have done over their USO model (ODM) and their failure to honour the commitment to equalise new entrants' pay, terms and conditions.

However, it is also correct to say in this area we have had productive and open discussions with Royal Mail to try and navigate through these issues in a way which is acceptable and continues to allow all members who want to purchase annual leave up to 6 weeks that opportunity.

The CWU lawyers and Royal Mail Lawyers have met to go through the challenges with the minimum wage law and how the HMRC are potentially interpreting it. Royal Mail's position is that they will not risk their reputation from any audit and are following their lawyer's advice.

The important message is that all individuals who want to purchase annual leave should continue to do so, either by way of POAL (Purchase of Annual Leave) or via ALU (Additional Unpaid Leave). The cost of purchasing leave remains the same.

The CWU remains in discussions with Royal Mail over whether we can get more individuals access to salary sacrifice or whether we can get a weekly payment for ALU which means individuals can spread the payment in a similar way to how POAL is paid.

My message is to encourage those individuals who purchase additional leave to continue to do so, and we will continue to try and improve the repayment plan for this.

Please see attached Annex A which explains in more detail the issues with the minimum wage law.

Any enquiries relating to the content of this LTB should be referred to the DGSP department [hford@cwu.org](mailto:hford@cwu.org).

Yours sincerely,



Martin Walsh  
**Deputy General Secretary (Postal)**

## Annex A - LTB 49/26

### What are Royal Mail's concerns regarding POAL and My Bundle

In October 2025, the Government named and shamed 500 employers who had breached the minimum wage legislation, with a significant number who had breached the law by way of employees having access to salary sacrifice. These included firms such as Centrica, WH Smith, Marks and Spencer, John Lewis and Argos. The penalties can include up to 200% of the underpayment per worker.

The two most common reasons for an employer to fall foul under the minimum wage legislation linked to salary sacrifice are:

- Believing that all workers are salaried.
- HMRC considers post sacrifice pay as what counts for the national minimum wage - so the amount remaining after what has been deducted for purchase of annual leave and My Bundle items.

Royal Mail's legal advice has suggested that due to the complexity of their wage structure, with both pensionable and non-pensionable allowances and supplements, and with many individuals balancing their working hours over a number of weeks (due to longs and shorts and working additional hours in certain weeks to obtain rest weeks or rest days) that the HMRC consider Royal Mail as not salaried. This means that colleagues are 'unmeasured' rather than 'salaried' for this purpose.

If this was the case, then someone on a Wallington duty as a full timer will work 37 hours more across five weeks in order to obtain a week off and would have their gross pay after salary sacrifice deducted and divided by the additional hours. In some cases this would take the individual under the minimum wage. For example, if someone on a Wallington is working 44 hours each of the five weeks to fund the rest of the week it will mean that we need to view the hourly pay rate as actual pay divided by the number of actual hours worked in each week.

To demonstrate the impact, the table below shows how NMW/NLW pay is calculated for a regular duty pattern:

Legacy T&Cs OPG - POAL & Pay Calculator

Service Length	A/L Days Entitlement	POAL Cost for Max. Days	National Basic Pay p/w	Weekly Hours	Hourly Rate	POAL Cost	PSE (6%)	Lump Sum Booster (1%)	Post Sacrifice Hourly Rate
<5 years	22.5	3%	£526.35	37	£14.23	-0.43	-£0.83	-£0.14	£12.83
5-14 years	23.5	2.6%	£526.35	37	£14.23	-0.37	-£0.83	-£0.14	£12.89
15-19 years	26	1.6%	£526.35	37	£14.23	-0.23	-£0.84	-£0.14	£13.02

Noting that the minimum wage is £12.21, rising to £12.71 in April 2026, after sacrifices our legacy T&Cs OPG are slightly above this rate. For those who work non-standard patterns such as the Wallington duties or compressed hours in a particular week, it is likely that the post-sacrifice hourly rate would fall below the minimum.

The CWU continues to argue that we should be classed as a salaried worker and therefore balancing hours over a course of weeks for the same pay should not be in breach of the law. However Royal Mail have continued to state that they will take a cautious approach as advised by their lawyers, but are not closed to working towards achieving salaried worker status.

For the record Royal Mail have not at any stage made proposals to remove Wallington duties or other improved duties and the Wallington duty option was contained within Royal Mail's DRP process on the USO.

### **Why have Royal Mail introduced a 20% buffer?**

They have applied a 20% buffer to safeguard themselves and colleagues from the variances caused by the working patterns, as detailed above, and they also state their current PSP system is too inflexible to accommodate a nuance approach to the purchase of annual leave and My Bundle items.

This effectively means that any OPG on the national rate is not eligible for salary sacrifice. The union believe this is wrong and Royal Mail are being too inflexible on this issue, especially when on the old contract an individual would still be above the minimum wage, but they have agreed to continue to explore ways to have more flexibility in the future (by improving systems and controls, for example).

### **What about those on new entrant contracts?**

New entrants will not be eligible for salary sacrifice on their current hourly rate as this will drop them below the minimum wage.

They will be able to buy additional annual leave under the new Additional Leave Unpaid system.

For those wishing help to manage finances there will be an additional option of a salary advance scheme planned to launch in April on My Bundle to assist colleagues on new entrant contracts who, for whatever reason, would like additional flexibility to manage their finances.

Please see below proposals put forward by the union and Royal Mail's legal team response:

#### Take the POAL payments from Net Pay

NMW legislation considers all pay in the pay reference period. Regulation 11 National Minimum Wage Regulations 2015 states:

***Regulation 11: Determining the reductions which reduce the worker's remuneration.*** (1) In regulation 8, the reductions in the pay reference period are determined by adding together ***all of the payments or deductions*** treated as reductions in that period in accordance with this Chapter.

All payments and deductions are therefore considered. Whether the deduction is made from net pay or gross pay, is **not** of itself, the question. Any deduction or payment which

is connected to the worker's employment or the employer's use and benefit, will be deemed deductible out of NMW pay, unless we can avail ourselves of one of the exceptions listed in the National Minimum Wage Regulations 2025 which states that the payment/deduction does not reduce pay for NMW purposes. We don't believe any of them are applicable here, sadly.

Treat POAL payments as a repayment of a loan or advance of wages

These types of payments would be exempt under Regulation 12:

***Regulation 12 (1) – Deductions or payments for the employer's own use and benefit***

- (a) ....
- (b) *deductions, or payments, on account of an advance under an agreement for a loan or an advance of wages.*
- (c) *deductions, or payments, as respects an accidental overpayment of wages made by the employer to the worker.*
- (d) ....

However, **Regulation 12 (1) (b)** There must be a 'deduction or payment' for a 'loan agreement or an 'advance of wages.'

The HMRC manual (link below) provides useful examples and is publicly available on the internet.

[NMWM11150 - Deductions and payments from workers: repayment of loan or advance of pay - HMRC internal manual - GOV.UK](#)

The HMRC manual states:

*"It is important to ensure that any arrangement described as a loan or advance **is** actually a loan or advance and to ensure that funds have been provided to the worker to spend as they may choose (although they may choose to ask the employer to pay the amount to a third party)."*

So, to use this exemption:

- There must be a genuine loan or advance.
- There must be a cash benefit.
- The employee must be free to use the cash benefit as they see fit.

This exemption would therefore not apply to employer deductions for POAL. There is no cash benefit, and the employee cannot use it as they see fit.

The CWU remain in talks with the company to try and find a solution to this issue before the beginning of the annual leave year.

## **What is ALU (Additional Leave Unpaid)**

The CWU have ensured the opportunity to purchase additional annual leave remained for individuals who did not qualify for salary sacrifice. The cost of purchasing additional annual leave remains the same as under the salary sacrifice position.

### **Standard on entry: 4 weeks and 2.5 days of contractual annual leave entitlement**

Option 1: top up to 5 weeks' annual leave = 1%  
Option 2: top up to 6 weeks' annual leave = 3%

### **Standard after 5 years' service: 4 weeks and 3.5 days of contractual annual leave entitlement**

Option 3: top up to 5 weeks' annual leave = 0.6%  
Option 4: top up to 6 weeks' annual leave = 2.6%

### **Standard after 15 years' service: 5 weeks and 1 day of contractual annual leave entitlement**

Option 5: top up to 6 weeks' annual leave = 1.6%

The key points of the ALU are:

- It is open to everyone with less than 6 weeks annual leave.
- You can take ALU at any point during the annual leave year subject to the normal process.
- ALU does not reduce your standard annual leave, it is additional to it.
- It is recommended that no more than two days per pay period is taken via ALU.
- If you want a week off, you might book 3 days annual leave and two days ALU.