

ACAS 108/2017

ADVISORY, CONCILIATION AND ARBITRATION SERVICE

MEDIATION IN THE DIFFERENCE BETWEEN

ROYAL MAIL

AND

CWU

MEDIATOR: PROFESSOR LYNETTE HARRIS

Date of appointment: 24 October 2017

ADVISORY, CONCILIATION AND ARBITRATION SERVICE

Mediator's Report

Parties: Royal Mail
CWU

Mediator: Professor Lynette Harris

1. By a Minute of Appointment dated 24 October 2017, I was appointed by the Advisory, Conciliation and Arbitration Service as the mediator to settle a dispute between the parties on the following national issues;
 - Pensions
 - Pipeline changes
 - Shorter working week
 - Agenda for Growth Agreement Review
 - Pay Issues
2. The mediation was undertaken in accordance with the Schedule 3 of the Dispute Resolution Procedures set out in the parties' legally binding collective bargaining agreement dated 27 May 2014. Par 4.2 of the Schedule provides for 'the parties to instruct the external mediator to attempt to facilitate agreement between the parties on the issues in dispute.'
3. This report sets out the outcomes of meetings held with the parties on 26 October, 7,9,10,13,14,15,16 and 17 November 2017. These took place variously at the Royal College of GPs, Euston Square, Acas Euston Tower and The Melia White House Hotel, Albany St, London NW1 3UP. Due to the range of matters addressed at different meetings the composition of those in attendance varied. The Pensions Advisers/ Actuaries acting for the Royal Mail and the CWU attended the meetings held on 9, 13 and 16 November. In addition, there was a meeting between the mediator and the parties' nominated pensions advisers on 1 November 2017 at the First Actuarial Offices, Trafford House, Manchester, M32 0RS.

4. In attendance on behalf of Royal Mail were

Moya Greene - Chief Executive Officer
Jon Millidge – Group HR Director
Sue Whalley – Managing Director, Letters and Network
Mick Jeavons – Chief of Staff to the CEO
Mike Newby- ER/IR Director
Anton Harding - Director Delivery Excellence
Paul Hampson- Head of Network Optimisation and Logistics (17 November)
Simon Barker – Director of Processing and Collections (17 November)

5. In attendance on behalf of the Union were

Terry Pullinger, Deputy General Secretary (Postal)
Ray Ellis, Assistant Secretary (represented by Carl Maden, Sub Assistant Secretary on 26 October 2017)
Andy Furey, Assistant Secretary
Mark Baulch, Assistant Secretary
Davie Robertson, Assistant Secretary
Jeremy Baugh, Senior Policy Adviser

6. In attendance to provide specialist pensions advice were

Hilary Salt, First Actuarial - on behalf of the CWU (1, 9, 13 and 16 November)
Gareth Boyd, Willis Towers Watson – on behalf of the Royal Mail (1 and 9 November)
Simon Eagle, Willis Towers Watson (13 and 16 November)

7. The mediation began with an initial meeting with the parties to establish the core issues, identify what further information was required in addition to the written submissions already provided to the mediator which were also exchanged between the parties and consider how to involve pensions experts to provide specialist advice.

8. As one of the areas of dispute between the parties concerned pension provision, it was jointly acknowledged that specialist pensions advice would be required during the mediation. It was agreed that the mediator would contact the pensions advisers nominated by each party and, as a result, I met with the two advisors on 1 November 2017 to develop an understanding of the pensions issues that were central to the dispute.

9. The dispute between the parties covered a range of national issues which had been the subject of talks between the Employer and the Union over a period of some 18 months resulting in a number of these being resolved or partially agreed prior to the mediation as identified in the summary provided by the Employer in its written submission. The Union had held a ballot for industrial

action over matters relating to pensions, pay, a shorter working week, changes to delivery methods, the Royal Mail's pipeline (which is how its production line is referred to) and the legally binding agreement between the parties. 74% of those eligible to vote participated. The Ballot result announced on 3 October 2017 was 89% in favour of taking strike action.

10. These matters were reflected in the terms of reference for the external mediation and I was appointed as the mediator on 24 October 2017. During the ensuing 4 week period provided for the mediation talks, very considerable progress was made but there was no overall concluding agreement. Schedule 3, Para 4.2 of the parties' agreement requires the external Mediator 'if agreement cannot be reached within four weeks (or a longer period if the parties agree to extend this period)' to provide a statement which addresses the following points:
 - a) A summary of the final positions of the parties at the conclusion of the mediation
 - b) the external Mediator's conclusions regarding any disputed points of fact that have emerged during the external mediation process and
 - c) the External Mediator's recommended solution to the matter or matters of dispute or disagreement between the parties.
11. The first part of this report identifies the issues and final positions of the parties, any areas of disputed facts and my conclusions on these; the second part sets out my recommendations. The wide ranging and frequently interrelated nature of the issues presented for mediation presented a challenge in terms of providing a report which deals comprehensively with one matter before turning to another. This has, at times, necessitated an element of cross referencing in the report.
12. It is recognised that it is not possible within this 'statement,' and the time scale for its production, to fully reflect and do justice to the range, depth and detail of many of the discussions that took place between the parties during the mediation, for example on the Company's strategic direction, its future growth or the impact of changes to core processes and products of Royal Mail. What was apparent from the process was the importance of there being a continuing dialogue between the parties and the value of an approach based on finding joint solutions in the interests of the business and its workforce. As a result, whilst I am required to address the summary positions of the parties upon specific matters in my report, my final recommendations have also considered the wider issue of joint working.

Pensions

Pension Provision

13. The Royal Mail currently has two pension schemes in operation for its workforce, a Defined Benefit (DB) Scheme which will close on 31 March 2018

and a Defined Contribution (DC) Scheme which employees have joined after the DB scheme was closed to new members in 2008. There are 85,000 active members in Royal Mail's DB scheme and 45,000 in its DC scheme. New starters are placed in what is referred to as the 'nursery' section and require a year's service in the nursery section before joining the standard section of the Defined Contribution Scheme.

14. The present DC scheme has three contribution tiers. Employees individually select the level of contribution they wish to make. For members who choose a highest contribution rate of 6% the Company contributes 9%, for those who contribute 5% it contributes 8% and for those contributing 4% it contributes 7%. Prior to the mediation, Royal Mail had offered an increase in its contribution rate of 1% across all three tiers resulting in the Company's maximum contribution rate increasing to 10% from 1 April 2018.
15. The pensions issues presented for mediation stemmed from the closure of Royal Mail's defined benefits scheme to future benefit accrual on 31 March 2018. This resulted in a period of formal consultation with the Union about the future pension provision for those in the closing DB scheme. These discussions led to a proposal from the Union of an alternative single scheme to take the place of the closing DB scheme and the present DC scheme which it saw as providing inadequate outcomes for its members upon retirement.
16. The Union's position throughout has been that there should to be a single pension scheme for CWU grades which offers a 'wage in retirement'. With this mind, it put forward to the Employer a proposal for an alternative pension scheme for all employees known as WinRS. Under current legislation this type of scheme would fit within the legislative framework and regulatory rules applicable to defined benefit schemes. This WinRS scheme was recognised by the Employer to be an innovative proposal and, as a result, it reported investing considerable time exploring its viability. Unfortunately, it was identified that as a large defined benefit scheme WinRS would be vulnerable to volatility which would impact on the funding of the scheme and, under current accountancy regulations, the Company would quickly be shown as technically insolvent on its balance sheets.
17. It was established during the mediation that Employer supported the principle of a single pension scheme for all employees which would provide a wage in retirement and gave a commitment that it would work together with the Union in the development of a scheme that could be categorized as a collective contribution scheme (CDC/Defined ambition) once the necessary regulations were enacted. Such a scheme would offer better pension provision to its members but not present the risks to organisational viability of a defined benefit scheme under current legislation.

18. A major constraint facing the parties in developing a new scheme is that, at the present time, the regulations supporting the Pensions Act 2015 which would enable the development of Collective Contribution schemes, have not yet been implemented. These regulations would, if drafted appropriately, remove the key barriers for organisations in the adoption of such schemes. There was a commitment from both the Union and the Employer of the need to work together and to seek the involvement of a broad coalition to include other employers, pensions experts and the TUC to lobby government for the enactment of these regulations as a matter of urgency.
19. Discussions and joint working between the parties, which included the respective pensions advisers, led to the Employer putting forward a proposal, subject to the appropriate regulatory framework being in place, for a single pension scheme. The Company's proposed scheme would combine a collective defined contribution scheme with a defined benefit cash balance lump sum, a scheme which could best be described as a 'DC scheme plus' in that it would provide income during retirement but also a lump sum. Royal Mail's proposed single pension scheme solution as put to the Union during the mediation process is set out in Appendix A. The Union's response to this proposal was that an agreement was in 'touching distance' but more time needed to be spent on it.

Transitional arrangements

20. Prior to the mediation the Employer had put forward a proposal for a Defined Benefit Cash Balance Scheme (DBCBS) for members currently in Royal Mail's closing defined benefits scheme who would have the option of joining this or the existing Defined Contribution Scheme following the closure of the DB scheme. The DBCBS scheme would allow past DB members to build up a guaranteed lump sum that could be taken as part of the RMPP arrangement. A limitation of this proposal for was that, for the reasons of funding risk and the critical accounting problem already referred to, the size of the scheme was critical and it would only be available to those who were in membership of the closing RMPP scheme.
21. As the principle of having one scheme which offered retirement income was agreed and a proposed scheme was on the table for further discussion, the issue of transitional arrangements until such single scheme could be implemented was then considered. As part of these discussions the adoption of the cash balance scheme proposal as a transitional option was revisited. A possible alternative approach was suggested for exploration by the First

Actuarial adviser but, after due consideration by the pensions advisers, it was reported that this was not a viable option.

22. The Employer's proposed transitional arrangement, while a new single pension scheme was being developed and the necessary regulations implemented, is attached as Appendix B. This provides for those employees who met the qualifying period to have the option of joining the proposed DB Cash Balance Scheme. This option would be available to all RMPP members and employees who had completed 5 years in the DC scheme. In addition, it was proposed that all employees with 12 months service would be auto-enrolled onto the top contribution tier of the DC scheme at the proposed employer contribution rate of 10% of pensionable pay. It is noted that this could develop into a large scheme which could lead to the same problems occurring under the present regulatory framework as identified earlier in this report. This is identified as a driver for lobbying government for the regulations to enable the provisions of the 2015 Pensions Act to be put in place as quickly as possible.

Summary position

23. The parties agreed that
 - a) the employer's pension proposal, detailed in Appendix A, reflected the parties' shared goal of one scheme for all and a wage in retirement but agreed that more time needed to be spent on this with the assistance of pensions experts,
 - b) the Employer and Union would work together to lobby government to enact the regulations to support the adoption of collective contribution pension schemes (CDC/Defined Ambition),
 - c) the transition arrangements set out in Appendix B to be the subject of further discussion between the parties.

Pipeline and Delivery Methods

24. The written submissions made by the parties on pipeline changes are multi-faceted and frequently linked with other issues presented in the mediator's terms of reference. The changes and the pace of change in Royal Mail's delivery methods and pipeline are driven by a range of factors but are particularly those of technology, the market (specifically the significant decline in letters and growth of parcels) and customers' increased expectations of delivery services.
25. The parties agreed on the need for greater flexibility in delivery and collection to meet changing customer demand but there are differences between the parties as to the best means of achieving this, a major challenge being how to balance what needs to be done to sustain the business in an affordable and efficient way with the workforce's desire for stability in their pay and hours of work.

26. The CWU is critical of what it describes as a cost cutting strategy by the Company of meeting market demands by delaying RM's operations to a later acceptance time and delivery time for both letters and parcels and believes that the business should extend the current delivery window by creating a 7 am to 7pm model of operations whilst also defining the combined USO core delivery, the issue for RM is how such a model could be affordably resourced. Royal Mail seeks to ensure that it uses every opportunity to combine parcel and letters deliveries as it is the 'once up the path' delivery mode that is its advantage and enables the Company to compete.
27. There were extensive discussions during the mediation regarding the Employer's plan to adjust core working hours to enable a later letter delivery time to provide more opportunity for profitable traffic to come into its network up to 1.30.am This was identified in the Employer's submission as providing an opportunity to gain at least £45 million and to remove, predominantly, third party costs in the region of £20 million. The latest delivery time is at present 15.00 hours and 16.00 hours in rural areas. Royal Mail's initial proposal was for a latest delivery time of 17.00 hours but, as a result of the parties' discussions prior to the mediation, this had moved to a last delivery time of 15.30.
28. The Employer explained how the starting time at an individual delivery office to achieve this half hour later delivery time is dependent on its proximity to the Mail Centre. This was the factor that would determine when the starting time would be and when the half hour later letter delivery time was introduced. The Employer's explained that, in many instances the change would be a notional one but the difficulty is that delivery offices currently have different start and finish times. These have historically not been determined by their geographical proximity to the Mail Centre but by the individual Delivery Office so the extent of adjustment will vary. The impact of the half hour last letter delivery across delivery offices is currently being analysed and this data should be available to share with the Union by mid-January 2018. Three worked examples at three areas were provided during the discussions which revealed the anticipated variety of outcomes.

Summary position

29. The parties agreed that in many instances the change to a last delivery time of 3.30 pm would be notional but that the adjustment in the starting time at some delivery offices will be greater than at others. Whilst there was an understanding in principle of the half hour adjustment to the last delivery time, the position agreed by the parties was that full discussions on the implementation of the half an hour later last letter delivery would only be possible once the information on its impact across mail centres was available in mid-January. In the meantime, the parties' talks are continuing this issue.
30. It was further agreed that there would need to be a consideration of the impact of the last delivery time on other parts of the pipeline.

31. The Employer's proposal to reduce the full time working week from October 2018 by one hour is subject to the deployment of the latest letter time of 15:30 (16:30 rural).

Trials

Automated Hours Data Capture

32. The Employer is seeking to introduce Automated Hours Data Capture (AHDC) technology to accurately record the hours of work undertaken which will enable the identification of the correct hours for the workload. Its submission is that it is necessary to have an accurate measure of hours to correctly resource areas of work which is an area of scrutiny by the Ofcom regulator, to comply with health and safety legislation and the Working Time Directive. The Company is seeking to conduct trials of AHDC technology, to test different technologies so they can figure out what is best to roll out after the four pilot sites which include a Mail Centre, 2 delivery offices and a regional distribution centre. It reported that a small trial at a Mail Centre just involving managers was currently underway. The concern of the Union is that the information gathered by the technology will be used by managers for matters relating to individual performance and conduct.
33. The Employer gave an assurance that it was not the intention that AHDC technology would be used as a disciplinary tool. It acknowledged the sensitivities surrounding the introduction of a technology the Company saw as essential for correct resource allocation but would lead to greater visibility of what employees were doing throughout the working day. The parties agreed there needed to be a shared understanding and agreement of how this technology would be used and that this would need to be communicated to line management. It was pointed out by the Union that other agreements within other areas of the Company had already addressed the issue of introducing automated data capture which could be used as a disciplinary tool. It provided the example of the wording in the Telemetry Agreement for Drivers which stated that *'it is agreed that this technology is not being deployed for, or will be used as, a disciplinary tool. As such it will not enhance the ability of managers, or the evidence available, to take disciplinary action.'*

Trials on a new labour model

34. In addition to the delivery trial of AHDC addressed above the employer is proposing to conduct trials on a new labour model to reduce the number of walks when traffic is light and on methods to avoid what was described by the Employer as 'prepping already prepped mail' and to conduct trials. These are considered in turn.

35. The Employer was seeking to trial ways of introducing greater certainty for employees and more ownership of the routes they completed each day. Royal Mail's position was that work patterns could be developed that better reflected the forecast level of traffic on each day and help to address the issue of 'lapsing' when covering for absent colleagues which was disliked by the workforce. Its position was that a new model underpinned by data would ensure greater fairness in the allocation of work and improve productivity. The Union did not believe there was an issue regarding the trials. It thought these were already agreed pointing to the two paragraphs at the top page 10 of a joint Statement of Intent (draft 26) drawn up in September 2017, referred to by the Union as 'The Accord' and was attached as Appendix 1 of its Union's submission.

36. For the purposes of clarity, it is deemed worthwhile to reproduce the relevant section on page 10 of the Accord here;

'Both parties agree to jointly undertake multiple delivery office visits and conduct listening sessions with frontline staff to examine, trial and evaluate both job design and how new and improved ways of resourcing workload can be developed. This will balance the needs of the customer and maintaining service provision, alongside the needs of employees and the business.'

This dialogue will form part of the Future Job Design/ Methods and agreement, which will include but is not exclusive to the exploring fair and manageable workloads, reducing lapsing and absorption, seeking to achieve the best possible earning opportunities, providing excellent customer service, customer and operational route certainty and consistency, annual leave arrangements, compliance to standards and variance between weekly and seasonal hours through different duty sets.'

37. The discussions on this issue revealed a considerable difference of opinion concerning the state of employee relations and morale at delivery offices. The Union's view was that morale was low, OPGs recruited on part time contracts were being required to work significant additional hours whether they wished to or not, a bullying culture developed as managers struggle to meet performance targets and passed this pressure on to employees and that managers were increasingly making deliveries themselves. The Employer did not accept that these were wide spread issues and pointed out that this was not the situation revealed by the results of the latest Employee Opinion Survey undertaken by IPSOS/MORI in February / March 2017.

38. Whilst the parties did not agree about the extent of the issues at delivery offices they did agree that how well resourcing was addressed was the critical issue. Resourcing could be a source of friction and it was recognised that there were considerable differences between delivery offices in the extent to which the RM/CWU resourcing model was followed. This model was for a sequence of discussions between the Delivery Office Manager and the local Union

representative at 12 weeks, two weeks and one week. It was not possible to establish the scale of some of the problems identified at delivery offices by the Union. Notwithstanding, it was proposed by the Employer that these should be addressed by a series of proposed interventions, set out in Appendix C, being undertaken jointly by the Employer and the CWU. It was also suggested by the Union that a similar approach be adopted, as required, for the upstream part of the RM's pipeline.

Delivery Methods to avoid the manual sortation of sequenced mail

39. Royal Mail is seeking to improve efficiency by avoiding the manual sortation of mail that has already been sequenced or, put another way, 'the prepping of already prepped mail'. How this can be achieved was a source of difference between the parties. There was considerable discussion between the parties about the methods used to address this in mail delivery services in a number of other countries, which included a specially designed vest with pockets for different mail bundles to be worn by the OPG, but there were differences between the parties about what was appropriate within Royal Mail. It was noted that the outcomes of a trial already undertaken at Walsall needed to be known and shared so this could input into the design of future trials. It was proposed by Royal Mail that both the Employer and the Union should each contribute 2 to 3 ideas for consideration in the planning of these delivery methods trials to take place in the first few months of next year. It was agreed that these would need to be undertaken in 2/3 delivery offices to include both urban and rural areas.

Summary position

40. It was agreed, in principle, that the trials on AHDC and delivery methods should take place but that discussions would take need to place on the scale, nature and outputs of such trials.
41. It was agreed that prior to the proposed trial and any implementation of AHDC there needed to be an agreed form of words that clarified that AHDC data would not be used for disciplinary purposes.
42. It was agreed that the approach to resourcing at delivery offices and Mailcentres needed to be addressed and that the Director for Delivery Excellence and the National Officer concerned with Delivery should jointly undertake a number of measures to address the issues raised at the earliest opportunity. The joint actions being proposed are attached as Appendix 3.

Shorter working week

43. One of the key strands of the Union's 'Four Pillars of Security' campaign is the reduction of the working week from 39 to 35 hours, the case for this being fully set out in pages 11 to 15 of the Union's written submission to the mediator. A shorter week is a goal shared by both parties, the issue is how to achieve this affordably.

44. The Employer's position is that this would have to be funded through the efficiencies which would follow the introduction of technology and changes in the pipeline. During the mediation, the Employer made the following offer, alongside its pay offer, to reduce the working week for CWU grades by one hour from October 2018:

'From October 2018, a reduction in the working week of one hour for full time employees subject to achieving the following enablers to allow it to happen:-

- *Deployment of the latest letter time of 15:30 (16:30 rural)*
- *National deployment of AHDC, scheduling tool and roll out of hours capture*
- *Conclusion and implementation of the Delivery Methods trials.*
- *Alternative areas where opportunities to deliver time based savings to fund a shorter working week are not practical to achieve, may see other arrangements in lieu of a shorter working week.'*

45. It is noted that the Employer explained that for part timers this would not lead to any adjustment in their hours but there would be adjustment in their hourly rate resulting from a change from a 39 hour to a 38 hour week would apply to part timers on a pro rate basis.

Summary position

46. There is agreement between the parties regarding the principle of a 35 hour week. The issues for the parties are the speed with which this can be achieved and how it can be achieved in an affordable manner and maintain the competitiveness of the Royal Mail. Talks between the parties on how to achieve this are continuing at the time of writing this report.
47. The Employer's proposal to reduce the working week by one hour for full time employees is subject to the
- a) National deployment of AHDC, scheduling tool and roll out of hours capture.
 - b) Conclusion and implementation of the Delivery Methods trials.
 - c) At the time of writing this report it is understood that talks on this issue were continuing to take place between the parties.

Pay

48. The CWU pay claim submitted to the Employer in March 2017 was for a consolidated, inflation plus pay rise for all the grades it represents from 1 April 2017. It identified the rate of inflation as 2.6% in para 9, Section 6 of its written submission at the time of presenting its claim in March 2017. The full range of factors argued by the Union in support of its pay claim are set out in pages 27 to 40 of that submission. It is seeking a pay rise that is consolidated into basic pay and applied to those allowances that would also attract an increase following a rise in pay. It was confirmed by the Employer that these allowances were basic pay supplements, skills and unsocial hours allowances, London Weighting and Scottish Distant Islands Allowance, overtime and scheduled attendance rates.
49. The Union's position is that pay negotiations between the CWU and Royal Mail have traditionally reflected changes in the cost of living and company performance as key factors in reaching a pay settlement but that this year the Employer took a radically different approach with the proposed introduction of performance related pay based on a target of introducing weighted items per gross hour, a target that had never been agreed with the Union. The Employer explained that this was the established measure of productivity used with Ofcom.
50. The Employer's position is that revenues in the UK business are declining and that, in a labour intensive business where a 1% pay increase costs £45 million, profitability would decline unless people costs could be reduced. For that reason, the Employer was seeking, as one of its four initial proposals relating to the pay set out in page 11 of its submission, to link pay to productivity. Its position was that, whilst not always the case, past pay deals had also been about improving productivity as well as being broadly linked to the cost of living.
51. The Employer's revised offer prior to the mediation was for a £375.00 lump sum for 2017/18 consolidated from 1 April 2018 into base pay with a further guaranteed increase of 1.25% in base pay from the same date and productivity linked pay of up to 3.5% dependent on an increase in productivity in the present financial year. Royal Mail's offer being dependent on joint trials taking place to establish the productivity levels that underpins this pay offer.
52. In the context of the discussions between the parties during the mediation about changes to the pipeline, new technology and trials of new methods, a revised pay proposal for CWU grades, was put by the Employer in writing to the Union on 15 November 2017 and is set out in Appendix D. The Employer's proposal is as follows;

'Pay proposal for CWU Grades in Royal Mail Group

Without prejudice offer, 15th November 2017

The business has reflected on the previous offers made to CWU and the responses made in return. Over the last few days discussions with CWU over a number of areas for change in the business and concerns for the claims of CWU has lead us to make the following offer: -

- *The offer a lump sum payment of £550, pro-rata on worked hours for part-timers, payable to all CWU represented grades employed in Royal Mail on the date of the agreement, in recompense for the pay year 2017/18.*
- *An adjustment to base pay only from 2nd April 2018 of 2% which is in effect a consolidation of the equivalent to the lump sum payment.*
- *For the pay year 2018/19 an increase to base pay of 2% from 2nd April 2018.*
- *From October 2018, a reduction in the working week of one hour for full time employees subject to achieving the following enablers to allow it to happen: -*
 - a) *Deployment of the latest letter time of 15:30 (16:30 rural)*
 - b) *National deployment of AHDC, scheduling tool and roll out of hours capture*
 - c) *Conclusion and implementation of the Delivery Methods trials*

Alternative areas where opportunities to deliver time based savings to fund a shorter working week are not practical to achieve, may see other arrangements in lieu of a shorter working week.

By offering a lump sum payment as soon as a deal is agreed we are both able to ensure we have maximised cash into the hand of our people this year. As an overall lump sum for the year it is equivalent to getting the years increase in one payment, whilst still benefiting from an increase to base pay from April 2018.'

53. The calculation of holiday for part time employees who work hours above their contractual hours was raised by the Union. The issue of holiday pay and part time employees was not identified in my terms of reference for the mediation and, regrettably, it was not possible to do so in the time available. It is, however, noted, that although this matter is currently the subject of wider litigation, the employer has put a proposal to the Union to address this issue in

respect of part time employees who routinely work additional hours over an extended period.

Summary position

54. The Union's response that whilst this was a considerable improvement it rejected the offer. Its expressed concern was that the pay rise from April 2017 was in the form of a lump sum and the Union had sought a consolidated pay increase which applied to all allowances and reflected the rise in the cost of living. Both parties agreed that further discussions were needed and it was anticipated that further talks would take place.

The proposal for a one hour reduction in the full time working week from October 2018 was made as part of the pay offer for full time employees. This issue has already been considered in Paras. 44- 47.

Agenda for Growth Agreement Review

55. Although the Agenda for Growth agreement was the overarching context for most of the discussions that took place throughout the mediation, it is acknowledged that the scale and complexity of other matters and the time allocated for the mediation talks left little time to address the issue of the review of the Agenda for Growth Agreement.
56. The situation is that there is provision (Para 5) in the legally binding agreement between the Royal Mail and the CWU for the first scheduled review of the 'Protections' provided by the Agenda for Growth agreement to be undertaken after a period of five years which means that this is due in 2019. The review is specified to commence in January 2019 and to conclude no later 31 March 2019. As part of that review, the Company and the CWU are required to agree the schedule of reviews thereafter, (see Section 5, Scheduled Reviews).

Summary position

57. The position of the parties is that the Union has proposed an extension of the current protections provided by the Agenda for Growth agreement to be extended from 2019 to 2022. This would have the effect of deferring the review of these Protections, set out in section 3 of the agreement, until 2022.
58. The Company's position is that greater progress is required in its change initiatives to meet customer demands which it sees as essential to its ability to offer affordable protections. Progress in this respect would give confidence that a review could be considered for a move of date.

Recommendations

59. In making my recommendations I am conscious of the context and background to the mediation. In forming these recommendations, the following factors have particularly been considered;
60. The Company is competing for business in an industry undergoing rapid change and one that is characterised by considerably lower cost and low standards of employment, for example minimum wage and zero hours contract, than those provided by Royal Mail. The result is that the competition operates on a lower cost basis than the Royal Mail which, as an employer is striving to maintain good standards of employment and stated its opposition to such labour practices throughout the mediation talks.
61. Furthermore, Royal Mail has a Universal Service Obligation (USO) which is regulated by Ofcom who license this obligation whereas its competitors are unregulated. It is a major challenge for a regulated, unionised business to compete with providers who operate with minimum or exploitative employment practices while any increases in labour costs of Royal Mail are scrutinised by the regulator who looks for accompanying increases in productivity
62. The context for the mediation is the parties' Agenda for Growth, Stability and Long Term Success Agreement agreed in 2013/14 at the time of the privatisation of the Company. The legally binding collective agreement signed in May 2014 reflects an ethos of the Union and Company working together in good faith and states a joint commitment to follow and exhaust dispute procedures without recourse to unilateral management action or CWU industrial action.
63. This agreement was reported by the parties to have worked well in its initial years but both identified that the joint working, which had been such a productive feature of those early years, had reduced, become less effective and even ceased in some areas around 2 years to 15 months ago. The parties had different explanations for this but one explanation provided by the Union was that the current climate for business was more difficult which would suggest that working together to find ways forward was even more critical in today's environment.
64. Many of the joint discussions that took place during the mediation, particularly on issues of the pipeline and pensions, revealed that these are parties who can work effectively together and have a very considerable experience of doing so. The focus in my recommendations is, therefore, to encourage such discussions and the sharing of ideas to find workable solutions which try to balance what needs to be done to sustain the business in an affordable and efficient way with the workforce's desire for stability in pay and working arrangements.
65. It has been noted that, in addition to the Agenda for Growth, the parties have many other agreements in place which can have a bearing upon their

discussions, for example BT 2010 and the National Statement of Growth, Efficiency and Incentives.

66. Having sought clarification, I have been made aware that the outcomes of this mediation will not only apply to the Company's Core Operations but, in different ways and varying degrees to Logistics, Engineers, Fleet Maintenance Services, RMSS, Parcelforce, Central Functions and Royal Mail International Areas of Royal Mail Group. Changes to pensions and pay will apply across the whole population but in the case of any pay settlement the agreement is for this to be mirrored by reciprocal arrangements of equal value in those Royal Mail Group Business units covered by the Agenda for Growth Agreement, in particular, Fleet and Parcelforce.
67. Turning to the specific issues referred for mediation it is recommended that;

Pensions

68. Royal Mail and CWU work together with the support of their respective pensions advisers to develop the single pension scheme for all employees which offers a wage in retirement put forward during the mediation as set out in Appendix A of this report. The aim being to provide a scheme as quickly as possible, subject to the enabling statutory regulations being in place, to replace the RMDB scheme that is closing at the end of March 2018.
69. The governance of the new pension scheme to be part of those discussions.
70. The parties work together to lobby government, if possible with other interested parties, to have the statutory regulations, required to support the Pensions Act 2015 provisions on collective contribution pension schemes, enacted as quickly as possible.
71. With these tasks in mind, a Pensions Forum is established forthwith (or is developed from the existing Pension Policy Group) to address the tasks set out in the above three recommendations in respect of pensions. The independent pensions advisors to be part of the forum.
72. Until the single pension scheme referred to above can be put in place, it is recognised that there will need to be transitional arrangements from 1st April 2018 for those employees who were in Royal Mail's Defined Benefits Scheme and that this is a matter for urgent resolution. It is recommended that, as an interim measure, these employees are transferred into the Employer's proposed Defined Benefit Cash Balance Scheme (DBCBS) scheme as this appears to be the best available alternative at the present time. It is understood there will be the option for these employees to join the Defined Contribution (DC) Scheme should they elect to do so.

73. Turning to the DC scheme, Union's concerns about the outcomes in retirement for members of this scheme are understood. It is, therefore, recommended that the Employer's proposed auto-enrolment of all members into the highest contribution tier of the Defined Contributions Scheme, as set out in Appendix B, is adopted once the required 12 months service in the 'nursery scheme' is completed. The decision to opt out of this tier and to contribute at a lower rate is a matter of individual choice.
74. It is further recommended that the second element of the Employer's proposal to provide those employees with the required service to have the option of joining the Defined Benefit Cash Balance Scheme is adopted as an interim measure until the new single scheme under can be put in place. This will mean employees who have completed 5 years contributions to the DC scheme, following elevation from the nursery scheme, will have the option to join the DBCBS scheme.

Shorter Working Week

75. It is recommended that discussions between the parties continue with a view to achieving the one hour reduction in the full time working week with effect from October 2018 subject to the adoption of AHDC, the last letter time of 15.30 (16.30 in rural areas) and the conclusion and implementation of the identified delivery methods trials. A pro rata adjustment to the hourly rate of pay for part time staff to apply when the one hour reduction in the full-time week is implemented.
76. Recognising the parties' shared goal of a shorter full time working week in the longer term, it is recommended that a dialogue continues between the parties with the aim of achieving further reductions in the working week in the future.

Trials

77. It is recommended that form of words is agreed between the parties that the data stemming from the deployment of AHDC technology will not be used for disciplinary purposes before this technology is adopted.
78. The implementation of AHDC to be accompanied by training of supervisory managers about its application to ensure a commonality of approach and to address the Union's concern addressed in the above recommendation.
79. A matter that emerged during the mediation as part of the discussion on the trial of the new labour model was the issue of friction occurring over resourcing at delivery offices and Mailcentres. Whilst the parties had different views on the extent of these issues I am persuaded that it is a cause of conflict that needed to be addressed even if the scale of the problem could not be established. It is, therefore, recommended that the interventions set out in Appendix C (Royal Mail Draft) of this report begin as soon as possible, but no later than the beginning of February, and that delivery offices are sent a joint written reminder of the importance of following the agreed CWU/RM resourcing model

of meetings to ensure that there is a consistency of standards across delivery offices.

80. It is further recommended that the issue of resourcing forms part of any training provided in due course to DO and Mailcentre Managers and local CWU representatives on new ways of working and AHDC at the stage of implementation following the trials that are taking place in these areas. A similar approach to be adopted if the parties identify this is required in the 'upstream part of the Royal Mail's operations.

Pay

81. It is recommended that the pay rise for all CWU grades for the pay year 2017/18 commencing on the due date in April 2017 is a 2.6% consolidated pay rise applicable to those allowances which are adjusted following any increase in base pay. Part timers to receive a pro rata increase on worked hours. The scope of application of this pay rise to be as set out in para 66.
82. In view of the increased costs arising from the Company's proposed improvements in pension for DC members from 1 April 2018, set out in Appendix B, the pay rise for the pay year 2018/19 is the Employer's offer of a 2% increase in base pay only from the due date in April 2018. Part timers to receive a pro rata increase on worked hours. The proposed one hour reduction in the full time working week from October 2018 that was included in the pay offer set out in Appendix D has been addressed in para 75.

Joint working

83. Issues of joint working on pipeline changes and delivery methods, the aimed for reduction in the working week, pension provision and sharing information on the future direction of the business is identified as crucial for the effective delivery of future changes. It was reported during the mediation process that a number of the existing forums for sharing information, ideas and future developments were not working effectively or had not taken place for a period. To address this, it is recommended that a review of the formal meetings that have been established is undertaken to ensure that these are fit for purpose, for example, in terms of their frequency, composition and terms of reference.
84. The most urgent of these meetings for review is identified as the Growth Forum, described on page 5 of the AFG, which provides for senior officers from the Company and the CWU to meet to 'review the competitive landscape' and to 'keep the ongoing Programme of work on track and resolve issues'. It is recommended that a meeting of this forum takes place as quickly as possible to consider how effectively it is operating, whether it is still fit for purpose and, if not, what changes need to be made.

Agenda for Growth Agreement

85. It is recommended that the first scheduled review of the commitments made by the Company under clause 3 (Protections) should take place in January 2019 in accordance with the provisions of Para. 5 of the agreement but that there should be a meeting held in sufficient time prior to this date. The purpose of this meeting would be for the parties to identify any proposed areas for review so that there is a proper allocation of time for any matters identified by either party to be addressed during the specified review process.
86. Finally, it is recommended that Royal Mail and the CWU continue to work together in the spirit and stated joint commitments of their legally binding agreement in the interests of Royal Mail and its workforce.

I should like to thank the parties involved for their considerable assistance, patience and courtesy throughout the mediation.

L. Harris, ACAS Mediator.

28 November 2017

Appendix A

Royal Mail Pension Proposal - the longer term solution

Combining a Collective Defined Contribution (CDC) “Wage in Retirement” Scheme and a Defined Benefit Cash Balance Scheme (DBCBS) lump sum

Key features:

A target career average scheme	
Eligibility	12 months' service
Pensionable pay	Basic pay (actual) plus pensionable allowances
Contributions – members	6% of pensionable pay
Contributions - employer	13.6% of pensionable pay
Target CDC Pension	1/80 th of pensionable pay plus RPI revaluation*
Guaranteed DBCBS Lump Sum	3/80 ^{ths} of pensionable pay, with revaluation to date
Target revaluation before retirement	RPI (pension and lump sum)
Target increases to pensions in payment	RPI
Normal Retirement Age	67 (similar to WinRS, but frozen at 67)
Lump sum on death in service	4 x pensionable pay
Dependants pension	50% of member's pension
Ill-health benefit	50% of pensionable pay, less State benefits, payable for up to 3 years

* assumes asset returns of CPI+3.5% pa

Under this proposal:

- Single scheme for all employees with at least 12 months' service (new employees in an autoenrolment compliant nursery scheme as currently)
- Targeted benefits are very similar to the current Section B design.
- Current Section B members benefit from having pension increases in payment targeted at RPI rather than the current CPI
- Current Section C members benefit from not having the Lower Earnings Deduction applied to their pensionable pay
- Current DC members would benefit from a guaranteed lump sum and a CDC pension expected to be well above DC annuity levels
- Royal Mail bears the risk of guaranteeing the DBCBS lump sum
- Royal Mail's contributions would be £400m in 2018/19 on current projections (if 6,146 members choose to stay in nursery scheme)

Next steps:

As discussed, the above can only be implemented if the appropriate regulatory framework is in place. The Company is willing to commit resources to working jointly with the CWU to achieve this in as short a timeframe as possible. We think this should start with the setting up of a Joint Pensions Forum to initiate a targeted CDC work programme. A possible framework for this could be: Steering Board – high level sponsorship from both Company and CWU

Responsible for:

- I. Setting the remit of the Forum
- II. Monitoring the overall direction and progress of the working groups, and acting as a point of escalation for any issues that cannot be resolved within those groups.
- III. Engaging with like-minded bodies and organisations to encourage them to join in lobbying activities for the passing of legislation/regulations enabling the establishment of collective benefit schemes.
- IV. Monitoring progress of the sub-groups

Scheme Design Group – working group including professional advisors – actuary, investment advisor, accountants etc. Responsible for

- I. The detailed design of the scheme, including the target benefits and governance structure. Legal

Group

Responsible for:

- I. Working with DWP/HMRC and other government departments, as well as other pensions industry bodies, to have the appropriate legislation/regulations put in place; and
- II. Preparing the necessary documentation to set up an RM collective benefits scheme. Lobbying Group

Responsible for:

- I. Engaging with influential bodies/individuals in order to persuade government to put in place the appropriate collective benefits legislation/regulations

Royal Mail Group

17 November 2017

Appendix B

Royal Mail Pension Proposal - the transitional arrangements

From 1 April 2018, a single DB Cash Balance Scheme will be made available to all employees who have worked for Royal Mail for a qualifying period. This is a Collective arrangement with a single asset pool for members. An enhanced DC pension scheme will be provided for employees during the qualification period.

Key features:

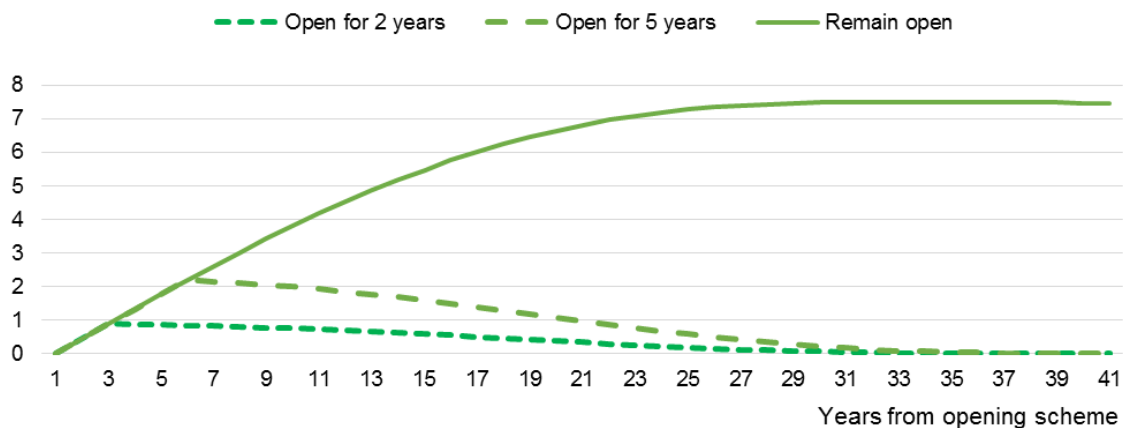
DBCBC lump sum scheme, from 1 April 2018	
Eligibility	RMPP members. Other employees who have completed 5 years contributions to the DC plan following elevation from the nursery scheme will be given the option to join.
Pensionable pay	As for the current RMPP Section C definition, except Section B members will retain their current definition.
Contributions – members	6% of pensionable pay
Contributions - employer	15.6% of pensionable pay
Guaranteed Lump Sum	19.6% of pensionable pay, plus annual revaluations once awarded
Target revaluation before retirement	CPI +2% per annum
Lump sum tax-free subsidy	Scheme would be a section of the RMPP, so that members can take tax-free cash from the DBCB, and avoid commuting existing DB pension
Normal Retirement Age	65, although benefits will be payable from 60 without reduction if taken with existing NRA60 pension benefits
Lump sum on death in service	4 x pensionable pay
Dependants lump sum	Additional 2 x pensionable pay
Ill-health benefit	50% of pensionable pay, less State benefits, payable for up to 3 years
Improved DC scheme, from 1 April 2018	
Eligibility	12 months' service (employees with less than 12 months service are in the nursery section with the statutory level of contribution)
Pensionable pay	Actual basic pay (as for current RMDCP)

Contributions - employee	6% of pensionable pay (members can opt to pay 5% or 4%, with lower employer contribution)
Contributions - employer	10% of pensionable pay (new top tier contribution)
Auto-enrolment	Members will be auto-enrolled at the top contribution tier
Benefit options	Lump sum, flexible drawdown or annuity purchase
Lump sum on death in service	4 x basic pay
Dependants lump sum	Additional 2 x pensionable pay

Under this proposal:

- Royal Mail's total pension contributions, including an allowance for risk benefit costs and expenses, would be £400m in 2018/19 on current projections (if 6,146 members choose to stay in nursery scheme)
- Cash balances would be higher than previously proposed, corresponding to the higher pension spend
- Royal Mail's risk grows over time as more members join the DBCB scheme, leading to a very large scheme if accrual does not cease within five years, as shown in the chart below

Projection of DBCB assets for RMPP and 5 years' service (£bn)



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Appendix C

WE ARE COMMITTED TO WORKING TOGETHER TO ADDRESS ISSUES RELATING TO WORKING TOGETHER AT THE LOCAL LEVEL WITH OUR AGREEMENTS ON RESOURCING

ANTON HARDING AND MARK BAULCH WILL LEAD THIS EFFORT

We will undertake a series of joint regional events one in each region. The audience will be Delivery Leaders and Divisional Representatives.

The purpose of the joint event which will be led by Mark Baulch and Anton Harding is to emphasise the importance of the resourcing process.

We will reset the process of resourcing committing to CWU/ RM joint weekly resourcing meetings being held every week in every unit and this is not an opt out option.

We will go through the relevant agreements and recommend tools and techniques required to have successful weekly resourcing meetings.

We will also discuss the best use of data to enable decisions to be taken including available data on delivery routes.

We will take feedback from Delivery Leaders and Divisional Representatives about how they can resolve any issues associated with resourcing and identifying and resolving issues that prevent successful resourcing in their areas.

Part of the discussion will be how to gain confidence that the weekly resourcing meetings are happening jointly in local offices.

After the joint regional event Delivery Leaders and Divisional Representatives will cascade the workshop to their teams via a workshop or series of workshops which encompass every delivery unit with attendance from the delivery office manager and local representatives, as well as Area Representatives, Performance coaches and Ops Managers.

We will take feedback on which offices have the greatest issue to resolve as well as training needs and refresher material which are required more broadly.

We will agree a programme of support activity that can be deployed into key offices which can include central training support, attendance of performance coaches, local roadshows, Masterclass material and Webinars. In parallel, we will undertake training as needed including through webinars to cover a broader set of units.

Given the importance of the issue we will review progress regularly at POLF.

Appendix D

Pay proposal for CWU Grades in Royal Mail Group

Without prejudice offer, 15th November 2017

The business has reflected on the previous offers made to CWU and the responses made in return. Over the last few days discussions with CWU over a number of areas for change in the business and concerns for the claims of CWU has lead us to make the following offer:-

- The offer a lump sum payment of £550, pro-rata on worked hours for part-timers, payable to all CWU represented grades employed in Royal Mail on the date of the agreement, in recompense for the pay year 2017/18.
- An adjustment to base pay only from 2nd April 2018 of 2% which is in effect a consolidation of the equivalent to the lump sum payment.
- For the pay year 2018/19 an increase to base pay of 2% from 2nd April 2018.
- From October 2018, a reduction in the working week of one hour for full time employees subject to achieving the following enablers to allow it to happen:-
 - a) Deployment of the latest letter time of 15:30 (16:30 rural)
 - b) National deployment of AHDC, scheduling tool and roll out of hours capture
 - c) Conclusion and implementation of the Delivery Methods trials
- Alternative areas where opportunities to deliver time based savings to fund a shorter working week are not practical to achieve, may see other arrangements in lieu of a shorter working week.

By offering a lump sum payment as soon as a deal is agreed we are both able to ensure we have maximised cash into the hand of our people this year. As an overall lump sum for the year it is equivalent to getting the years increase in one payment, whilst still benefiting from an increase to base pay from April 2018.