

## **Great Western Railway - Holiday Pay Calculations – Proposal June 2016**

Recent legislation has ruled that compulsory overtime and other “normal remuneration” should form part of an employee’s holiday pay calculation. This applies to the 4 weeks leave granted under the Working Time Directive (EU Law), not the additional 1.6 weeks under the Working Time Regulations (UK Law).

As a result of these legislation changes and recent case law, Great Western Railway (GWR) proposes to include overtime commission and other regular payments as part of the Holiday Pay Calculations.

It should be noted that any further change in legislation which impacts on the way Holiday Pay is calculated could require GWR to bring forward further proposals on this subject to reflect the legal position.

The principles of the implementation of the new holiday pay calculation are as follows:

- Proposed implementation date of 1 January 2015.
  
- One payment to be made every 12 months –The first payment will be from 01 January 2015 to 31 March 2016 and in subsequent years a payment will be made to cover the financial year period (1 April to 31 March) The first payment will cover a period of 15 months to take into account the position from, which the pay is backdated.
  
- The reference period for the calculation will be the financial year (1 April to 31 March ). The figures will exclude any bonuses.
  
- The calculation for the year 2015/16 will be payable no later than the second pay period following formal notification of this agreement (subject to confirmation that this timing is possible in practice).
  
- In subsequent years the payment will be payable no later than 12 weeks after the first pay day of the new financial year.
  
- Payment will be made as a lump sum and will be subject to normal statutory deductions, i.e. National Insurance. The payment is non pensionable.
  
- The first payment made will be calculated from 1 January 2015 and therefore this settlement waives the opportunity for any further collective claims for back pay.
  
- This arrangement will not supersede the present agreement relating to Annual Leave Premium for unstructured grade groups. For those colleagues who have received Annual Leave Premium and would have earned more under the Holiday Pay scheme, an exercise will be undertaken at the end of each financial year to administer any extra payments to those colleagues who would be entitled under the Holiday Pay scheme (for clarity the difference between the Annual Leave Premium paid and the Holiday Pay calculation will be paid). Where a colleague has received the Annual Leave Premium throughout the year and the Holiday Pay calculation equals or is less than the Annual Leave Premium then no extra payment will be administered.

### 1. Calculation formula

Relevant Pay has been calculated as:

*The total of payments made on the included list detailed below in Table A, for financial year 2015/2016 (full year) divided by 52.167 to give a "per week" amount, then multiplied by 4'*

This calculation will account for all colleagues irrespective of days in the working week, this also includes any colleagues who undertake part-time work.

The table below details the payments included and excluded when calculating holiday pay

**Table A:**

<b>Included</b>	<b>Excluded</b>
Overtime	Basic and adjustments to basic including SSP, SMP
Rest Days	Bonus/Ex Grata payments
Sundays	Incentive schemes including DAS, Bullseye
Additional Hours (this is hours promised)	Allowances including on call, Staff food compensation
Bank Holiday, Christmas, New Year and Easter enhanced payment	Share Payments
Commissions	Redundancy travel
IUP and Night Allowance	Expenses
Out of Grade Payments	

## 2. New starters/Leavers

New starters and leavers will have the same formula applied pro-rata to reflect the number of weeks completed during the reference period subject to their eligibility to have taken 4 weeks statutory annual leave.

As this enhancement to holiday pay is applicable only to the 4 weeks of statutory leave under the Working Time Regulations, if an individual at the point of leaving the business has been entitled to, and has taken their 4 weeks of statutory annual leave entitlement then the formula will be applied and a one off payment made.

## 3. Leave carried over into a subsequent leave year

For the avoidance of doubt any leave carried over from one leave year to the next will not count towards the 4 weeks of statutory leave entitlement in the following year.

## 4. Changes to Employment law

With effect from 1 January 2015 the Company will calculate holiday pay to include elements of variable pay (excluding the defined exceptions). The Company and its recognised unions understand the background to this change i.e. that the prevailing law may currently require this basis of calculation for holiday pay. Should the law change in future and it allows for holiday pay to exclude one or more of these elements of variable pay which are to be included in holiday pay then the Company and the recognised unions agree that the Company is entitled to cease to include any such element(s) in its calculation of holiday pay on four weeks written notice from the Company to the affected employees. It should also be recognised that all voluntary overtime has been included as an element of holiday pay within this agreement. It has not been confirmed through legislation that voluntary overtime should be included in any holiday pay calculation therefore, should the legislation confirm that voluntary overtime can be excluded the Company has the right to remove this element from the holiday pay calculation.