



# HR in the East Midlands

February 2024

We are looking forward to Darren Newman's Employment Law update next week – see below for the details. If you can't wait that long for Darren's insights, see his article which this month looks at employment tribunal fees. The L&D section gives an update from the L&D/OD network and details of the Teams Channel for network members to share information. The Leadership Challenge is also featured in that section, and the early bird discount remains available until 8<sup>th</sup> March. The national news section includes details of the Apprentice of the Year event for 2024 – another great development opportunity tailored for apprentices.

## Still time to book: Employment Law Update with Darren Newman – 5<sup>th</sup> March 2024

Darren's updates are always popular, as he tailors the content for our sector and offers pragmatic advice on employment law issues. With employment law changes coming in and an increase in focus on equal pay, the update will be particularly useful and is virtual to fit with busy diaries.

It is on 5<sup>th</sup> March from 10.00-12.15 and costs £65 per delegate for member organisations. We are offering an additional place at half-price for every place booked.

To book, please email Mila at [mila.pereira@emcouncils.gov.uk](mailto:mila.pereira@emcouncils.gov.uk)

## Regional Pay Briefing

A reminder that EMC is hosting the regional pay briefing on **Tuesday 26<sup>th</sup> March** on the national negotiations for 2024. The briefing provides an opportunity for senior officers, particularly Finance and HR Directors, and lead Members to discuss the claims from the joint trade unions with the national negotiators to inform the Employers' response. In advance of the meeting, we'll be circulating some questions on pay as part of the consultations. We will collate your responses to provide a regional response to send to the national negotiators.

The briefing will be virtual, from 10.00am -12.00 noon. To book a place please email Mila at [mila.pereira@emcouncils.gov.uk](mailto:mila.pereira@emcouncils.gov.uk)

## Projects with Local Authorities

During February, EMC has supported councils with:-

- TUPE transfer support
- HR Policy Development
- Mediation facilitation

**To find out how EMC could support an area of work for you, then please contact Sam, Lisa, or Mark.**

[Sam.Maher@emcouncils.gov.uk](mailto:Sam.Maher@emcouncils.gov.uk)

[Lisa.Butterfill@emcouncils.gov.uk](mailto:Lisa.Butterfill@emcouncils.gov.uk)

[Mark.pinchen@emcouncils.gov.uk](mailto:Mark.pinchen@emcouncils.gov.uk)

# Learning & Development

## East Midlands Leadership Challenge – enter a joint team, reduce the costs and keep the benefits!

There is so much our EM Leadership Challenge has to offer those authorities and teams participating.

**Entering a joint team with other local authorities means you can reduce the costs but still reap the benefits.** We've also extended our early bird offer too, until 8 March 2024.

Whether this is supporting development and succession planning, rewarding performance, promoting inclusion and talent management – it all leads to development and morale benefits for the individuals, teams and a motivated and retained workforce.

Our Shining Star Award winner, Shanice Senghor from Blaby District Council, sums it up perfectly...

"I joined the enrolment for the event as a late participant and I truly didn't know what to expect, I feel like the challenge tested me in ways that I haven't been before, and the execution was perfect in making you feel like this was "real life".

I was honoured to receive the award of Shining Star and the feedback was one of a kind, a position for service manager came up within our organisation and with the confidence from winning the award and participating in the challenge I put myself forward and was successful in role. Honestly, it was an amazing experience and one I would recommend in the future".

Another delegate cited the challenge as a "great opportunity to gain exposure on what it's like to be a member of SLT... in a challenging but safe environment". It was an amazing experience that will stay with me for a very long time - the learning I will take from it will make a real difference to me".

You can also hear feedback from Newark and Sherwood Challenge Team Members here

<https://youtu.be/xUrbQ4X7WM8?si=CI2NPkYpTcmvW5WY>

The event provides an opportunity for a team to gain a taste of life as a senior management team for the day. At this fast-paced day, teams from across the public sector face competing pressures, identify priorities, and manage politically sensitive issues, while maintaining a focus on how to give the public excellent customer service with limited resources. The day culminates in a dinner and awards ceremony.

### Key Information and How to Book:

- **Date** – 23 April 2024
- **Time** – 9:00 – 20:00
- **Venue** – Leicester Racecourse
- **\*Cost** – early bird rate of £1750 before 8 March 2024 then £1995 (subject to VAT) until the closing date on 22<sup>nd</sup> March 2024.

**For more information about the 2024 East Midlands Challenge and to book your team place, please email [lisa.butterfill@emcouncils.gov.uk](mailto:lisa.butterfill@emcouncils.gov.uk)**

## Regional L&D/OD Network Meeting

At our February Learning and OD Network authorities actively engaged in sharing their learning and development activities and priorities and discussed how to engage with those workers not "connected to" systems. The network is an extremely helpful way of connecting with others, sharing information and expertise and making progress on your areas of work.

Our next network meeting will be on Thursday 20<sup>th</sup> June at 10am – 11.30am. For a meeting link or calendar invite. Please email

[lisa.butterfill@emcouncils.gov.uk](mailto:lisa.butterfill@emcouncils.gov.uk)

## Teams Channel – sharing L&OD Information

We appreciate the value of being able to discuss and share information with each other in a timely way and our learning and development teams channel is set up for you to do this. Post questions on there and find the latest responses to the request for sharing One to One Template information. To access the Channel, please email [lisa.butterfill@emcouncils.gov.uk](mailto:lisa.butterfill@emcouncils.gov.uk).



# In Deep with Darren

Darren Newman's article this month looks at the Government's proposal to re-introduce Employment Tribunal fees.

One of the most dramatic and consequential decisions that I can remember in my time as an employment lawyer, is **R (on the application of UNISON) v Lord Chancellor**.

In that 2017 Judgement, the Supreme Court held that the system of Employment Tribunal fees that the Government had introduced in 2013 was unlawful. Not only did Government have to abolish the fees that they had introduced, but it had to reimburse many thousands of claimants for the fees that they had already paid. The Court held that the fees that had been introduced infringed the common law right of all citizens to have access to justice.

In what many lawyers found to be a particularly stirring Judgement, Lord Reed quoted the Magna Carta and the great Seventeenth Century jurist Sir Edward Coke. He was scathing of the suggestion that those who bring claims in the Employment Tribunal are merely users who can be expected to pay for the services they received. The courts do not merely provide a service, he said, they played a fundamental role in upholding the rule of law. Access to the courts – and employment tribunals – was not merely of use to those who brought claims but also those who benefited from the legal rules and principles that those cases upheld. He went on to say:

“People and businesses need to know, on the one hand, that they will be able to enforce their rights if they have to do so, and, on the other hand, that if they fail to meet their obligations, there is likely to be a remedy against them. It is that knowledge which underpins everyday economic and social relations.”

I am not exaggerating when I say that many employment lawyers were genuinely moved by Lord Reed's judgement.

So why, more than five years later, is the Government proposing to reintroduce Tribunal fees? A consultation exercise was launched on 29 January

this year and continues until 25 March. Why does the Government think that, this time, it will be able to make tribunal fees stick?

The answer lies mainly in the level at which the fees will be set. Under the previous scheme the smallest Employment Tribunal claim attracted an initial fee of £160 and a hearing fee of £230. An employee claiming £100 in unpaid holiday pay would therefore have to pay £390 in fees. For more complicated cases such as unfair dismissal and discrimination, the fees totalled £1,200. The fee would be reimbursed by the employer if the claim was successful and there was a complex system of remission, under which the fees would in theory be waived for those who could not afford them. Nevertheless, the fees had a huge impact and the number of Tribunal claims being brought fell by more than a half.

The Government clearly believes that in this new proposal it has learned the lessons of the previous scheme. The new fee is to be set at £55 and will cover all types of claim. Nor will there be any additional fee when the case comes to a hearing. An appeal to the Employment Appeal Tribunal will also cost £55. Fees would not apply to claims being brought in circumstances where the employer is insolvent, and the individual is seeking a payment from the National Insurance Fund. For those who are unable to afford the fee, the Government proposes to extend the Help with Fees scheme that applies in the civil courts to Employment Tribunals.

On the other hand, it seems that the fee will not be recoverable if the employee wins the claim. So to take the example of a failure to pay £100 in wages, a successful claim would only yield the employee £45 once the fee is taken into account.

The Government estimates that the fee system would generate £1.3 million - £1.7 million a year. Given that the direct cost of running the Employment Tribunal system is about £80 million a year, this is not exactly a game-changing sum. But any user of the Tribunal system will have experienced problems arising from a general lack of funding, whether in the state of Tribunal premises or poor administration. Any extra source of revenue for Tribunals will no doubt be welcome.



Many people – particularly those representing claimants – have already indicated their opposition to the Government's proposal. That is a legitimate political position to take, but I think they would struggle to argue that the fees being proposed would be unlawful. Crucially the new fee is just so much lower than the fees struck down by the Supreme Court in 2017. The new system is also much simpler and proportionate to the kind of cases that Tribunals deal with. It is certainly true that the fee will render claims for very low sums effectively pointless, but the Government could address this by requiring employers to reimburse the fee when a claim is successful. Overall, it is clear that the Government has read the Supreme Court's judgement very carefully and attempted to address each of the points it made when striking down the old scheme.

Whether the new fee will ever become a reality is a different question. The consultation closes on 25 March and even if the Government were to prioritise the issue, it would still take several weeks to process the responses and draft a response. Regulations would then have to be laid before Parliament - but the real delay would be in setting up the systems that would allow the Courts and Tribunals Service to process the payments. It is difficult to see how the new system could be up and running before the next election – whenever that turns out to be – and with a Labour Government currently seeming the most likely outcome the whole proposal may well come to nothing.

Labour is however making a number of significant proposals that would inevitably increase the number of Tribunal claims being brought. These include the abolition of the qualifying period for unfair dismissal and the extension of full employment rights to all workers. At some stage, a new government would have to think about how a cash-strapped Courts and Tribunals Service will cope with a big increase in claims.

In the longer term some sort of fee system – perhaps one in which employers also have to chip in - may be unavoidable.

## National Developments

### Green Book Amendments

The National Joint Committee for Local Government Services is in the process of amending part 4.12 of the guidance within the Green Book to reflect changes for term-time workers arising from revised Working Time Regulations relating to annual leave/pay and on the treatment of annual leave during sickness and maternity leave.

### Joint Unions' National Pay Claim

We have today received from the NJC Trade Unions the 2024 pay claim for local government services ('Green Book') employees. Councils will be consulted on the unions' claim (and the other pay claims, for Chief Execs, Chief Officers and Craftworkers) at our on-line regional pay briefing on 26<sup>th</sup> March 2024. A copy of the circular can be found here: [Local Government Services \(emcouncils.gov.uk\)](https://emcouncils.gov.uk)

### Chief Executives' Pay Claim

On 19<sup>th</sup> February, ALACE, the body representing Chief Executives submitted a pay claim for 2024 on behalf of their members. In summary, the claim seeks:

- *"a pay increase for all chief executives in April 2024 and subsequent years that is the same as the percentage increase for the top point on the scale for local government staff covered by the National Joint Council for Local Government Services. (NB: if the pay offer is expressed in £s rather than a percentage for the NJC scale, we are seeking a pay increase for chief executives that is not less than the percentage increase for the top point on the NJC scale. To provide a worked example of what we are seeking: if the pay increase for NJC staff in April 2024 is £1000, it would represent a 1.94% increase for staff on spinal column point 43 (£51,515). In that scenario we would expect the pay offer for chief executives to be 1.94%.*
- *a direct and immutable link for increases for April 2024 onwards, to ensure that chief executives*





would receive the same percentage increase as the top point on the NJC scale.

- the potential need to review the provision that the leave allowance for chief executives is a minimum of 30 days (inclusive of any long service leave, extra statutory and local holidays). If the 2024 pay deal for NJC staff involves any further increase in annual leave, we would expect to see a matching increase in the minimum leave allowance for chief executives.”

You can access a copy of the claim in full here:

[ALACE2024payclaim19Feb24.pdf](#)  
([emcouncils.gov.uk](#))

## Right to Request Flexible Working – ACAS Code of Practice

Darren’s article for last month’s bulletin focused on case law relating to the right to request flexible working. This right will become an entitlement from the first day of employment with effect from April.

ACAS has published a new draft Code of Practice on requests for flexible working. This provides statutory guidance and aims to help employers and employees understand the changes. You can access the code through the following link:

[Code of Practice on requests for flexible working | Acas](#)

## Local Government Pension Scheme (LGPS) Bulletin

The latest LGPS Bulletin has been published and this includes employee pension contribution rates for 2024/25. A copy of the LGPS Bulletin can be accessed here: [LGPS bulletin 246 - January 2024](#) ([lgpslibrary.org](#))

## LGA Apprenticeships Newsletter

Click on the following link to view February’s newsletter [LGA Apprenticeships Newsletter](#)

## LGA T Levels Newsletter

Click on the following link to view February’s T Levels newsletter

[LGA T Levels Newsletter](#)

## Local Government Apprentice of the Year Event 2024



EMC works in partnership with our counterparts in the other regions and the LGA to provide the Local Government Apprentice of the Year event. This is a national event that provides a brilliant development opportunity and recognises the talent of apprentices in our sector. Booking for the Local Government Apprentice of the Year 2024 event is open now – if your Council is ready to sign up your apprentices then book today! A link is here: [Local Government Apprentice of the Year 2024 - EELGA](#)

### Want to ‘find out more’ about the Local Government Apprentice of the Year 2024?

Come along to the ‘find out more’ session over lunchtime on 12 March - book your FREE place now. [Find Out More - Local Government Apprentice of the Year 2024 - EELGA](#)

The find out more session will be useful for :-

- apprentices who think this event could be a great opportunity for you, or
- a line manager to an apprentice who you think could benefit from participating, or
- an HR or L&D professional who is thinking about who to encourage to enter from their Council, or
- a Chief Executive who wants to see the ‘Local Government Apprentice of the Year’ title brought home to their Council...

This ‘Find Out More’ session is aimed at everyone to come and learn about what is in store!



If you have any questions about either the 'find out more' session or the main event, please email [events@eelga.gov.uk](mailto:events@eelga.gov.uk) We hope to see you there!

#LGApprentice2024 **#apprenticeships** **#localgovernment**

