



Top items this month

APRIL 2024



New era of pay benchmarking and workforce intelligence



East Midlands Challenge 2024



The risks for employers during negotiations and ballots



The latest National Developments

IMPROVED WORKFORCE AND PAY INTELLIGENCE & BENCHMARKING

EMC have been working with colleagues from other regions and nationally to improve workforce data reporting/benchmarking. Following a procurement process, we are making a system called Infinistats available to all councils via their Regional Employers' Organisation.

Infinistats has been developed specifically for our sector and has operated successfully in London. Users tell us the system is intuitive and simple to use. It enables councils to access and benchmark a whole range of workforce data against other councils, not only within their own region, but also nationally.

One of the most exciting elements of this system is the availability of pay benchmarking. Participating councils will be able to upload their pay data and then have the facility to benchmark against comparable councils. Support can be provided by EMC for those councils who would like additional help/capacity in getting up and running with Infinistats.

To see Infinistats for yourself and get further information you can attend a demonstration session we've arranged with Tess Mappley from London Councils.

This is a virtual session on Thursday 23 May at 2.30pm.

There is an initial £500 set up cost, then the cost per year for the system for EMC member organisations is £1,850 for County Councils, £1,400 for Unitaries and £850 for Districts/Boroughs.

To register your interest in Infinistats and/or book a place at the demo session email Mark

CONTACT MARK

PROJECTS WITH LOCAL AUTHORITIES

During April, EMC has supported councils with:

- Personal Development Planning for Councillors
- Disciplinary investigations
- Restructuring support

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

CONTACT SAM

CONTACT LISA

CONTACT MARK





EAST MIDLANDS CHALLENGE

On Tuesday 23 March 2024, 84 aspiring leaders from across the region took part in the East Midlands Challenge, testing and developing their skills in strategy, prioritisation, and teamwork!

All 14 participating teams showed great enthusiasm and commitment throughout the day, and all should be proud of their achievements!

Throughout the day, the teams are scored on three areas: Behaviours, Leadership, and Communication, and special nominations can be made by assessors for a 'shining star'!

And the winners are...

Best Team: Harborough District Council

Highly Commended:

- Newark and Sherwood District Council
- Rushcliffe Borough Council
- Melton District Council
- South Kesteven District Council

Behaviours Award: Melton Borough Council

Highly Commended:

- Derby City Council
- Harborough District Council

Leadership Award: Rushcliffe Borough Council

Highly Commended:

- Blaby District Council
- Harborough District Council

Communications Award: Harborough District Council

- Newark and Sherwood District Council
- South Kesteven District Council

Shining Star: Charlotte Highcock – Melton Borough Council

Highly Commended:

- Leah Douthwaite – Gedling Borough Council
- Charlotte Christie Smith – Blaby District Council
- Millie Connell – Ashfield District Council
- Tom Delaney – Rutland County Council

Special Mentions:

Best Presentation:

- Rutland County Council

Media Interactions:

- Gedling Borough Council

A huge thank you to everyone who participated in this year's Challenge, including our amazing facilitators and assessors!

A special thank you also goes to our sponsor, Myers Briggs. The East Midlands Challenge is just the start of participants career development, and in the coming weeks teams will receive a report which summarises how they performed against the three criteria of behaviours, leadership and communications.

This report will help participants self-reflect and begin developing their personal leadership objectives. The Myers-Brigg Type Indicator can support individuals and teams on their leadership development journey, and for those interested, EMC can deliver individual and team development using the Myers Briggs type indicator.

EMC is also about to launch a new series of ILM Accredited leadership courses, ranging from Level 2—7. More information about these courses will be announced shortly.

For any further information about how EMC can support your leadership journey, contact Lisa Butterfill:

THE RISKS FOR EMPLOYERS DURING NEGOTIATIONS AND BALLOTS



In the run-up to an industrial action ballot, what steps can the employer take to try and influence the result? Only very careful ones, it would seem, following the Employment Tribunal decision in *Wallace & others v Wiltshire Council* (ET, 8 March 2024).

The council was in dispute with the GMB over the pay of traffic wardens – or, as they are more properly called, “civil enforcement officers” or CEOs. The key issue was over the future of an unsociable hours payment of ten per cent on top of their basic salary. The council was proposing to remove that payment and, after extensive negotiation, the issue boiled down to the duration of the pay protection that would be offered to current staff when the new pay structure was introduced. The GMB union believed that it had secured an informal agreement of lifetime protection for current staff, and were angry when the council denied that any such agreement had been reached, instead offering four years of protection. While other unions accepted the council’s proposals, the GMB rejected them and organised an industrial action ballot.

The council felt that the information that the GMB had given its members about the conduct of the negotiations was misleading. They felt so strongly about it that the Chief Executive decided to send an email directly to the CEOs concerned setting out the council’s position. It was quite a long and detailed email, but towards the end, it said this:

“I believe that the proposals which UNISON and Unite the Union have now accepted meet this need, and that the four-year pay protection offer was one made in good faith to support existing staff through the introduction of these changes. However, should we be unable to reach agreement we will need to review whether this offer remains on the table.”

This was interpreted by some who received it as a veiled threat to reduce the pay protection that was being offered if there was a vote in favour of industrial action. Twenty-one GMB members took the council to an Employment Tribunal, arguing that they had been subjected to an unlawful detriment. Their claim - under S.146 Trade Union and Labour Relations (Consolidation) Act 1992 - was that they had been subjected to a detriment, with the aim of deterring them from taking part in trade union activities – namely voting in favour of industrial action. The council denied that there was anything detrimental about the email but also argued that they were trying to deter staff from taking part in union activities. While they accepted that voting in a strike ballot was a trade union activity, there was no difference between voting for or against strike action. There was no suggestion that the council were seeking to deter them from taking part in the ballot at all.

The Tribunal disagreed, ruling that voting in favour of strike action was a specific activity distinct from merely participating in the ballot. On that point, I think they must be right. After all, if an employer discovered that a particular employee had voted in favour of strike action and then gave that employee a warning or took some other action against them, it would be surprising if that did not amount to an unlawful detriment.



The council also argued that they were not seeking to dissuade or deter GMB members from voting for strike action – merely setting the record straight about the conduct of the negotiations. The Tribunal dismissed that as implausible. The council obviously wanted the GMB to accept the current offer, and “further industrial action would not be conducive to that aim”. Again, it is difficult to fault the Tribunal’s reasoning on this point.

So, the council sent GMB members an email with the purpose of deterring them from taking part in the union activity of voting in favour of strike action. That in itself, however, is not unlawful. For S.146 to apply, the employer must have subjected the employee to a detriment for that purpose. The key question in this case, therefore, was whether the email sent by the Chief Executive caused a detriment to those who received it – or at least those who brought a claim.

The question of what amounts to a detriment, albeit in the context of discrimination cases, was dealt with by the 2003 House of Lords decision in *Shamoon v Chief Constable of the Royal Ulster Constabulary*. The test is whether “the treatment is of such a kind that a reasonable worker would or might take the view that in all the circumstances it was to his detriment”. This places the focus very much on the perception of the person making the complaint, but there is also an objective element. The House of Lords made it clear in *Shamoon* that “an unjustified sense of grievance” could not amount to a detriment.

There was certainly evidence before the Tribunal that a number of employees were upset by the email and felt stressed and threatened by it. The council argued that any such feelings amounted to an unjustified sense of grievance and that the letter could not be regarded as being to their detriment, but the Tribunal rejected that argument.

There were a number of reasons why the Tribunal found that the email from the Chief Executive could reasonably be regarded as detrimental to those who received it. This was the first time that the Chief Executive had written directly to the particular team. The Tribunal said that “his position of seniority was bound to put additional pressure on the recipients”. Given the implicit threat that the current offer might be withdrawn if the employees voted for strike action, the Tribunal held that it was reasonable of the employees to regard the email as being to their detriment.

I can see why the council in this case might feel hard done by. The tone used by the Chief Executive in his email was noticeably more measured and neutral than the tone used by the GMB in its communications. But while the employer is entitled to be robust in its public communications about ongoing disputes, it must take care when communicating with individual employees. The Tribunal suggested that the employer, in this case, could have corrected the record with a more general communication to the workforce as a whole. It was the sending of an email from the Chief Executive to individual employees that crossed the line.

The case shows the extreme care that must be taken when seeking to bypass the normal channels of negotiation and speak directly to individuals about a dispute rather than their representatives. Employers are, of course, entitled to speak directly to staff, but when it comes to talking about an ongoing dispute or matters that are the subject of union negotiations, then a tone of studied neutrality is called for. Anything that can be interpreted as a threat – however mild – is likely to be pounced on. That can be frustrating for the employer but not as frustrating as losing an Employment Tribunal case.



NATIONAL PAY NEGOTIATIONS

We had a great attendance rate at the regional pay briefing last month. Thank you for sending through responses to the consultation questions that we circulated. These were fed back to the National Employers' Side of the NJC for their initial meeting on 16th April 2024.

The Employers will meet again on 16th May 2024 and we will be letting you know of any developments from that meeting as soon as they arise.

SOULBURY OFFICERS- REVISED VERSION OF THE "BLUE BOOK"

The Soulbury Committee has published a revised version of the National Agreement ('The Blue Book'), which is the terms and conditions handbook for Soulbury Officers.

You can access a copy of here: The "Blue Book"

[READ MORE](#)

YOUTH AND COMMUNITY WORKERS – REVISED VERSION OF THE "PINK BOOK"

The Joint Negotiating Committee for Youth and Community Workers has published a revised version of the National Agreement ('The Pink Book').

You can access a copy through the following link:

[READ MORE](#)

LOCAL GOVERNMENT (PAY ACCOUNTABILITY) BILL

A Private Member's Bill is scheduled to go before Parliament on 22nd May 2024 which would introduce a requirement that full council agrees in advance to the advertisement and appointment of an employee to any role with a salary of £100,000. The requirement would apply to new appointments only.

A Full Council resolution can cover both the advertisement and the appointment to avoid the matter needing to go to Council twice. The approval of a Pay Policy Statement that refers to roles paid at/above £100,000 does not satisfy the requirement proposed within this Bill.

For further information, use the following link:

[READ MORE](#)

LOCAL GOVERNMENT APPRENTICE OF THE YEAR – LAST CHANCE TO BOOK!

This national virtual event is taking place on 21 & 22 May 2024. This is the last call for apprentices from your council to book onto the Local Government Apprentice of the Year Event.

It is open to all level 2 & level 3 apprentices in local government, including those qualified within last year.

The event provides apprentices with a series of challenges and an opportunity for development in a safe space. It also supports our sector by developing a ready-made group of highly motivated ambassadors – who will share the message with other young people that local government is the place to be to make a real difference with their career. Great benefits both individually for apprentices and also for your council.

For more information or to book use the following link:

[READ MORE](#)

COST: £149 per booking (card payment only)

If you have any queries please drop a message to es@eelga.gov.uk and they will get back to you.

LGA APPRENTICESHIP UPDATE APRIL 2024

The April Apprenticeship Newsletter is now available. This month's newsletter features information on the Adult Social Worker Apprenticeship Find, the Levy transfer boost and the LGA Skills Partnership Hub event.

[READ MORE](#)