



Darren Newman on Fire & Rehire



East Midlands Jobs & Recruitment Advertising Campaign



L&D and Networking



HR-Inform – Regional Deal for Councils in the East Midlands

## CIPD'S HR-INFORM REGIONAL DEAL – DEADLINE 16<sup>TH</sup> DECEMBER 2024

Following significant interest from local authorities in the CIPD's HR-Inform online portal, EMC organised a demonstration and information session on 12th November for people to view the portal and ask questions. The session was very well attended, and we were pleased to be able to confirm a discounted rate to all our member authorities which is significantly lower than the current Brightmine (formerly Xperthr) regional deal. As advised at the meeting, the negotiated discounted rate, is based on us achieving 35 licences collectively across the region. The options for your licence agreement (which would be with Croner-I, the CIPD's partner) are as follows - you can choose whichever term you prefer. The rates below also include the CIPD Employment Law advice line support.

1 or 2 year agreement - £850 per user per annum

3 years - £723 per user per annum

4 years - £680 per user per annum

5 years - £638 per user per annum

Please advise [lisa.butterfill@emcouncils.gov.uk](mailto:lisa.butterfill@emcouncils.gov.uk) by **16<sup>th</sup> December 2024** if you are interested in benefitting from this regional deal. Free of charge periods are also available before the contract starts on 1<sup>st</sup> April 2025 and are dependent upon the length of agreement you request.

## REGIONAL EMPLOYERS' BOARD AND REGIONAL JOINT COUNCIL UPDATE

The Regional Employers' Board and Joint Council met on 28<sup>th</sup> November 2024. There was an update on the roll-out of the recruitment campaign for local government across the region. The Employment Rights Bill was also discussed. The Regional Joint Council agreed to increase Caretakers' letting fees by 2.5% with effect from 1<sup>st</sup> April 2024. EMC will circulate the revised rates to councils imminently. Unions raised the issue of back-pay from pay awards and the impact on Universal Credit, with a view of exploring options to address this.

## PROJECTS WITH LOCAL AUTHORITIES

During November, EMC has supported councils with:

- Assessment centre design and delivery
- Grievance appeal hearing advice
- Disciplinary investigations

Contact Sam or Lisa if you would like any support in your organisation.

CONTACT LISA

CONTACT SAM



## LEARNING & DEVELOPMENT

### VIRTUAL TEAM COACHING SESSION – 4 DECEMBER 10AM – 12.30PM

EMC are providing an opportunity to understand the dynamics of team coaching and the skills and approaches required for an effective team coach. During this 2.5-hour virtual session, there will be input provided by our expert facilitator, an opportunity to interact with fellow coaches through dedicated breakout sessions for discussion and learning and signposting to further learning resources.

The content of this interactive session will include:

- The distinctions between group and team coaching and when each is beneficial
- Approaches to team coaching
- Contracting with a team and practical tips on what to consider
- Attributes of an effective team coach
- Expanding your Team Coaching toolkit – A high level overview of approaches to understanding team dynamics with signposting to resources for further learning, reflection and application.

This event is free to coaches in the regional coaching network but is available to everyone. To view the cost and book on this event please click this link: [Session: Team Coaching – CPD Session for Coaches \(emcouncils.gov.uk\)](https://emcouncils.gov.uk/session/team-coaching-cpd-session-for-coaches)

CONTACT LISA

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### SUPPORTING LEARNING THROUGH NETWORKS AND COLLABORATION

Our virtual **Councillor Development Network** will take place on 4<sup>th</sup> December at 2pm – 3.30pm focusing on the important work around councillor induction. This will be of particular interest and importance to those authorities with elections in 2025. This network offers the chance to informally discuss ideas, share information and work together to make progress on the topics that matter the most. This network is open to both officers and councillors who have an interest/role in councillor development.

Our virtual **Scrutiny Network** will take place on 13<sup>th</sup> December at 10.00am – 11.30am. We are pleased to be joined by Ian Parry, Director of Governance Services at the Centre for Governance Scrutiny (CfGS) who will be providing expert input regarding the “Scrutiny of Partner and External Organisations”. There will also be the opportunity to provide feedback on the topics you would like to see on our forthcoming Scrutiny Network meetings. Dates will soon be available for your diaries in 2025 including some face to face meetings to make the most of being able to collaborate and network.

If you would like further information on these networks and/or to be added to the distribution list, then please contact [lisa.butterfill@emcouncils.gov.uk](mailto:lisa.butterfill@emcouncils.gov.uk)

CONTACT LISA

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### UPCOMING TRAINING AND DEVELOPMENT EVENTS

In December 2024, we have development opportunities on Team Leading, Assertiveness and Personal Effectiveness and Time Management – all available at discounted rates. Please see our website for dates, costs and further information [Events - East Midlands Councils](https://emcouncils.gov.uk/events).



## IN DEEP WITH DARREN

### FIRE AND REHIRE - EMPLOYMENT RIGHTS BILL

One of the most significant provisions in the Employment Rights Bill is the measure dealing with fire and rehire (or dismissal and reengagement as it used to be known). I was frankly taken by surprise at how draconian it is. In its current form – there may be amendments as the Bill progresses through Parliament – it effectively prevents employers from changing contracts of employment without the express consent of a recognised union or the individual employees concerned.

It does this by making it automatically unfair to dismiss an employee for refusing to agree to a variation of contract proposed by the employer. It will also be automatically unfair to dismiss someone in order to replace them – or re-employ them – under a varied contract of employment.

There is no requirement here that the variation proposed by the employer would have made the employee worse off. If the employer is proposing to decrease sick pay but increase wages generally so that most people are paid more, it will still be automatically unfair to dismiss an employee who refuses to agree to the variation – irrespective of their reason for refusing.

There is an exception – or at least a partial one. The dismissal will not be automatically unfair if the reason for the proposed variation was to mitigate the effects of ‘financial difficulties’ which were likely either at the time of the dismissal or ‘in the immediate future’ to affect the employer’s ability to continue with the business. In other words, the employer must be facing an imminent and existential financial threat.

This is a remarkably limited exception. Even if the variation is really important for the future viability of the business, it will not be permissible if the business would not effectively collapse in the ‘immediate future’ if the change is not made.

And the difficulties must be financial – there is no scope for changes that are dictated by technical or organisational reasons. Suppose for example a council wants to extend the opening hours of one of its services so that employees will need to work over a seven-day roster rather than just Monday to Friday, but to do so it needs to negotiate a change in terms and conditions. If all of the employees agree to the change then there is no problem. But any employee who holds out will be protected from dismissal. No matter how reasonably the employer behaves in trying to agree a way forward, it will be unable to force through the change by dismissing and reengaging the employee on the new terms.

By the same token, contractors may be unable to accommodate any change in service requirements because they cannot persuade all of their employees to accept the new terms that would be needed to implement the change. As a result, the contractor may be unable to bid for the new contract. This would not resolve the problem however, because any new contractor would end up inheriting the same employees under TUPE on protected terms and conditions. The new employer would face exactly the same problem as the old. Unfairly dismissing the employees who don’t agree to the new terms may be their only viable option.



## IN DEEP WITH DARREN

Employers will also be greatly hampered when it comes to redundancy situations. In local authorities redundancies are often part of a restructuring exercise where the offer of alternative work is central. If someone is offered an alternative role – which would certainly count as a proposal to vary a contract – but refused it, what would be the reason for dismissal? Would we just say it was a redundancy or could we argue that the reason the employee was dismissed was that they refused the variation in terms that the alternative role represented? There has to at least be an argument that a dismissal for refusing an alternative role would be automatically unfair. That would have dramatic consequences for the way in which local authorities handle restructuring exercises.

For many employers the new rule will prompt a greater emphasis on variation clauses. If the contract allows for certain terms and conditions to be changed at the discretion of the employer then there is no need for the employee to agree to an individual change. The employer can simply announce the change and impose it. The right to do this subject to the implied term of mutual trust and confidence. Changes could not be made capriciously or wholly without justification, but it seems that subject to that limitation the Courts would be prepared to uphold such variation clauses as valid – as was held by the EAT in the case of *Bateman v Asda Stores Ltd* (2010).

In local authorities the scope for including such clauses in contracts will be limited. I certainly cannot imagine any trade unions being comfortable with handing so much control to the employer. The result will be that the only effective way of making contractual changes will be through collective bargaining. Changes negotiated through a union can be automatically incorporated into contracts of employment, bypassing the need for individual agreement. However, bargaining in this context will be skewed by the unions knowledge that if they fail to agree the employer will not be able to impose the change on individual employees.

It is important to remember that the Bill is not yet law. There is time for the Government to amend the proposal to give employers more scope to make changes where there is a compelling business reason other than 'financial difficulties'. I have suggested that allowing an exception for 'technical or organisational' reasons would solve many of the problems this provision presents but no doubt other suggestions will be made. As some of the unintended consequences of this reform become clearer, I would expect them to come under considerable political pressure to do extend the basis on which fire and rehire will be permitted.



## NATIONAL DEVELOPMENTS

### NATIONAL PAY DEVELOPMENTS

In early November, agreement was reached for Craftworkers on the pay award for 2024. The agreement was for an increase of £1290 on all pay points, and allowances were increased by 2.5%, with effect from 1<sup>st</sup> April 2024. Copies of all the national pay agreements can be found here: [Local Government Services \(emcouncils.gov.uk\)](https://emcouncils.gov.uk)

There remain two negotiating bodies where negotiations are ongoing. These are for Soulbury (covering employees such as educational psychologists) and Youth and Community Workers. For Soulbury, the National Employers have made an offer of 2.5% on all pay points and allowances which was rejected by the Officers' Side. The Employers reaffirmed the offer, and further discussions are taking place to seek a resolution. For Youth and Community Workers, the National Employers made an offer of £1290 and a response from the Staff Side is awaited. The National Joint Committee met on 22nd November, and we are waiting for an update from that meeting.

[READ MORE](#)

### GUIDANCE ON PREVENTING SEXUAL HARASSMENT

From 26<sup>th</sup> October 2024 employers have a pro-active duty to prevent sexual harassment. The Equality and Human Rights Commission has published a checklist and action plan for employers to help them comply with the duty. It can be accessed here: [Preventing sexual harassment at work: checklist and action plan for employers | EHRC](#) Acas has updated its sexual harassment guide to take into account the new duty to prevent sexual harassment. You can see the ACAS guidance from the link below.

[READ MORE](#)

### ROLL-OUT OF NATIONAL RECRUITMENT CAMPAIGN WITHIN THE REGION

On 4<sup>th</sup> November the national recruitment campaign for local government went live, with councils being able to use and tailor if required the toolkit and resources. In support of the campaign, EMC has updated the functionality of East Midlands Jobs, a regional jobs portal for the sector, and improved the design to reflect the national campaign.

Use of East Midlands Jobs is free for all councils to use for the duration of the campaign- through to February 2024, and feedback from councils is positive. For use of the site beyond the campaign is available for a small annual subscription: £295 (district/boroughs), £495 (county/unitaries), £885 for non-member organisations. The subscriptions cover the costs of the technical maintenance of the site and to provide the facility for jobs to be automatically linked from your Council's website to East Midlands Jobs, saving officer time. To subscribe, please contact Lisa Bushell at [lisa.bushell@emcouncils.gov.uk](mailto:lisa.bushell@emcouncils.gov.uk) If you have any queries about East Midlands Jobs or the advertising campaign, you can contact Sam [sam.maher@emcouncils.gov.uk](mailto:sam.maher@emcouncils.gov.uk) or Rachael at [Rachael.pengelly@emcouncils.gov.uk](mailto:Rachael.pengelly@emcouncils.gov.uk).

In January, EMC will host an update meeting on the recruitment advertising campaign for HR and Communications colleagues in local authorities. Further details on the meeting will be sent out soon.