



Darren Newman on Equality Act Implications of a recent decision in Scotland



Updates on the Recruitment Advertising Campaign



L&D and Networking



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

CIPD'S HR-INFORM REGIONAL DEAL CONFIRMED – NEXT STEPS

We are pleased to confirm that following the interest we have received from yourselves in signing up to the CIPD's online portal, HR-Inform, the discounted regional deal is able to proceed. Thank you to everyone who has provided feedback so far, there is still time for others to join too!

The regional deal will take effect from 1 April 2025 with free of charge periods available before this time, subject to the number of licences and length of agreement you choose. For those that have confirmed their requirements so far, you will be contacted by Croner-i directly to organise contract and set up details. For questions and/or further information, please contact lisa.butterfill@emcouncils.gov.uk

RECRUITMENT CAMPAIGN ROLL-OUT – UPDATE MEETING ON 15TH JANUARY 2025

Updated resources were circulated earlier this month from the national recruitment campaign. If you have not seen the updated materials, please email Sam at sam.maher@emcouncils.gov.uk.

A virtual update meeting is taking place for HR and Communications leads on 15th January 2025 from 10.00 to 11.00am about the campaign and its roll-out across the East Midlands. Colleagues from the LGA and EMC will provide updates from a national and regional perspective, including latest developments with East Midlands Jobs, the regional jobs portal that you can use free of charge for the duration of the national campaign. The meeting will provide an opportunity for you to share and discuss your approaches and provide feedback on using the materials, and to discuss and agree next steps to ensure we maximise the benefits and impact of the resources.

To book a place, click on the link:

[READ MORE](#)

PROJECTS WITH LOCAL AUTHORITIES

During December, EMC has supported councils with:

- Chief Executive appraisal facilitation
- Psychometric testing
- Job evaluation

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

[CONTACT LISA](#)

[CONTACT SAM](#)



LEARNING & DEVELOPMENT

SUPPORTING PERFORMANCE AND POTENTIAL

EMC has been working with a local authority in the region who were keen to support the personal and career development of identified senior managers using a 360 feedback approach. The senior managers undertook an occupational personality questionnaire to explore their preferred ways of working and also rated their ability against a set of relevant leadership competencies. EMC worked with the authority to understand and suggest the most relevant leadership competencies, relevant to the role. We also ensured that the project ran smoothly by providing information and timely communications to all those selected to be raters for each senior manager and updating the authority on rater completion rates.

Once all ratings were complete, EMC arranged feedback meetings with each of the senior managers providing detailed feedback on the skills, abilities, personal attributes and other job relevant characteristics, as seen from a number of different perspectives: specifically, their own, their manager's, direct reports, colleagues and others (e.g. internal and external clients - selected by each senior manager). This detailed analysis, also provided in a report format, enabled the individuals to achieve new insights into their own strengths, and also alerted them to aspects of their behaviour which potentially could be hampering their success in both the short and longer term.

This increased self-awareness can, in turn, help to maximise effectiveness and support the development of full potential.

One of the senior manager participants commented, "The 360 Feedback process has been invaluable for my own personal development and self-awareness. East Midlands Councils have been really supportive throughout, making the process as simple and understandable as possible. The final feedback session was particularly good, Lisa helped me to understand the results and took plenty of time to go through them with me".

[CONTACT LISA](#)

NETWORK AND LEARNING

On 13th December the regional **Scrutiny** network for councillors and officers met to explore effective scrutiny of external partners and organisations that impact on their areas. We were joined by Mel Stevens, CEX of the Centre for Governance Scrutiny (CfGS) who shared valuable insights and provided some real food for thought!

On 4th December the regional **Councillor** development network for officers and councillors, met to focus on learning and sharing councillor induction programmes and plans for 2025 in anticipation of the various elections taking place. Attendees shared their progress so far with useful information kindly being added to the regional teams channel. For further information on these networks:

[CONTACT LISA](#)

DISABILITY CONFIDENT LEVEL 3 VALIDATION – FREE SUPPORT - 29TH JANUARY 2025

The lead officers for the Disability Confident Framework Special Interest Group (SIG), have organised a virtual briefing session on understanding the expectations of achieving the Level 3 validation service, on 29th January 2025 10.30am – Midday. This is being provided free of charge by Julian John from Delsion who has achieved great success in this area. Julian has also indicated he will provide follow up support to interested authorities free of charge.

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IN DEEP WITH DARREN

FOR WOMEN SCOTLAND – IMPLICATIONS FOR THE INTERPRETATION OF THE EQUALITY ACT

Guidance issued by the Scottish Government on the membership of public bodies may turn out to have major consequences for the interpretation of the Equality Act 2010.

The Gender Representation on Public Boards (Scotland) Act 2018 sets an objective for Scottish public bodies (such as the Highlands and Islands Enterprise Board, the National Library of Scotland or the Scottish Charity Regulator) to have a non-executive board whose membership is 50 per cent women. It is an Act of the Scottish Parliament and the Scottish Government has issued guidance on its application. That guidance states that ‘women’ are defined in accordance with the Equality Act 2010 and goes on to say that a person with a Gender Recognition Certificate (GRC) recognising their gender as female would be a woman under the meaning of that Act.

For Woman Scotland (FWS) is a group formed in 2018 in response to the Scottish Government’s plans to reform the law on gender recognition to allow ‘self-declaration’ of sex. It takes the position that there are only two sexes, and that a person’s sex cannot be changed. It is therefore challenging the guidance issued by the Scottish Government, arguing that when the Equality Act refers to a woman it is referring to a biological woman and not to someone recognised as female because they hold a GRC. Because of the legal scope of devolution in Scotland, it is accepted that the guidance issued by the Scottish Government must be consistent with the Equality Act. So to succeed, For Women Scotland need to show that the Equality Act, when referring to women, is referring only to biological women and does not include those who are recognised as women as a result of a GRC. The Scottish Court of Session rejected their challenge, holding that the guidance was lawful and set out the correct legal position. The case has now been argued before the Supreme Court.

For some this is an issue of fundamental philosophical importance. But it also raises some very complex legal issues illustrated by the fact that the Supreme Court has heard two days of argument and considered written interventions from a number of groups including the Equality And Human Rights Commission and Amnesty International. Broadly speaking, those challenging the guidance say that defining men and women by reference not just to biology but also by reference to whether or not they have a GRC blurs the distinction between the two groups and creates difficulties in applying discrimination law. Indirect discrimination, for example, requires comparisons between groups of people who share a protected characteristic. That comparison is distorted, the argument goes, if indirect sex discrimination requires a comparison between men and women based not just on biological sex but also the holding of a GRC. In relation to pregnancy discrimination the Equality Act specifically outlaws discrimination against a ‘woman’ in relation to a pregnancy of hers. Suppose the pregnant employee in question was defined as a man as a result of a GRC – could he still claim protection?

Many of the key arguments relate to single sex services outside the scope of employment. For example, the Equality Act allows services to be provided separately when only people of a particular sex have need of the service. If sex is defined both by biology and by possession of a GRC, it is argued that the exception would never in practice apply. Similarly single sex membership organisations – such as a support group for female victims of male domestic violence – may have legitimate concerns about admitting someone who is biologically male. But if the category of women includes those with a GRC then they would be unable to exclude such a person.



IN DEEP WITH DARREN

The problem with most of these arguments is that they are hypothetical. I do not mean that concerns that lie behind them are not real. But the arguments on which they are based have not yet been fully argued in court on the basis of actual rather than hypothetical situations. I am not sure that it is a good idea for the Supreme Court to reach a conclusion about how these complex arguments would play out if an actual case depended on the outcome. After all, what is really at issue here is whether the Scottish Government was wrong to say that someone recognised as a woman as a result of a GRC should be treated as a woman for the purposes of considering the gender representation on the board of a public body.

The position taken by the Scottish Government was not plucked from the air. The Guidance was based on S.9(1) of the Gender Recognition Act 2004 which says that where a full gender recognition certificate is issued to a person, the person's gender becomes 'for all purposes' the acquired gender. It goes on to say that this means that if the acquired gender is female 'the person's sex becomes that of a woman'. There is an exception. S.9(3) says that the general rule is subject to provisions that may be made in other legislation. So the Equality Act 2010 could have said that the definition of sex did not include people with a GRC. The fact that it did not do so is one argument in favour of the guidance being correct. The opposing argument is that applying S.9(1) to the Equality Act would have such absurd or incoherent results that Parliament could not have intended it to apply to the definition of sex.

Which way will the Supreme Court go? I would be surprised but not astonished if the appeal was upheld and the guidance was quashed. After all, the court would not have agreed to hear the case if they did not think that there were potential merits in the argument. But it seems to me that the most straightforward approach for the Court to take is to say that S.9(1) of the Gender Recognition Act is clear and any problems that causes for the interpretation of the Equality Act need to be ironed out by the courts and Parliament when and if they arise.

Either way, we can expect a decision sometime in the New Year. Whatever the outcome everyone with an interest in equality law will be closely examining what the Supreme Court says. How the decision affects the membership of public boards in Scotland will, for most people, be a side issue.

We always have great feedback from you on the employment law webinars we host with Darren Newman. We will be arranging a further update with Darren in Spring, to ensure you can access cost-effective and pragmatic advice that is tailored to our sector. We are sure this will be of benefit as we navigate the raft of employment law changes that are coming our way. We will keep you informed as the arrangements are finalised.



NATIONAL DEVELOPMENTS

UPDATED STATUTORY PAY RATES FROM APRIL 2025

The Government has published the new rates of a number of statutory benefits that will take effect from April 2025. The standard rate of Statutory Adoption Pay, Maternity Pay, Paternity Pay, Shared Parental Pay and Parental Bereavement Pay will be £187.18 (currently the rate is £184.03). Statutory sick pay will rise from £116.75 to £118.75.

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NATIONAL & REGIONAL PAY DEVELOPMENTS

Coroners

Agreement has now been reached for a pay award for Coroners with effect from 1st April 2024. You can access the information through the following link:

[READ MORE](#)

Teachers In Residential Establishments

A pay circular has been issued by the JNC for Teachers in Residential Establishments. It is available here: [JNC TRE pay circular for 2024](#)

Caretakers' Letting Fees

As mentioned in last month's HR Bulletin, the East Midlands Regional Joint Council agreed an uplift of 2.5% to letting fees for caretakers. A copy of the revised rates, which are effective from 1st April 2024 are available here:

[READ MORE](#)

THE NATIONAL LOCAL GOVERNMENT GRADUATE PROGRAMME – IMPACT

The national graduate programme for local government, renamed as Impact, is available for councils to sign up to and recruit a graduate on a placement as part of the development programme.

It is a two-year programme that attracts and develops the future leaders of the sector by placing high-calibre graduates in councils across the country. The LGA conducts a rigorous recruitment on behalf of councils and provides a bespoke CMI-accredited Level 7 qualification for the graduate trainees on the scheme. For more information and to sign up, use the link below.

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