



Darren Newman on
Protected Beliefs and
Discrimination



Update on the Recruitment
Advertising Campaign



L&D and
Networking



National Pay Claims and
Regional Pay Briefing on 13th
February 2025

INFINISTATS AND WORKFORCE CAPACITY DATA

As councils plan for Local Government Reform, having access to workforce data and the ability to benchmark pay, terms and conditions and employment policies is critical. Ahead of the next round of surveys opening, the timing is right to sign up to the Infinistats full subscription offer or use part of the system that is focused on workforce capacity data which is free (EMC are paying for the cost on behalf of Councils for that level of access).

Infinistats is a secure system, providing an efficient way to collect and access accurate data collection, benchmarking and reporting. You can instantly benchmark against a wide range of councils across the UK on key workforce data, salaries and policies, terms and conditions. It is specifically designed for local government. Benefits to your authority:

- Readily available workforce data
- One-click report and scorecard creation, with reports tailored to your council's branding and logo
- The ability to produce meaningful reports about your own organisation and workforce
- Simple access – can be accessed through any web browser, requires no installation and fully platform independent

For further information or to see a live demo, you can contact Suzanne at suzanne.boultyby@emcouncils.gov.uk

EAST MIDLANDS JOBS

EMC has been offering free access to East Midlands Jobs until the end of March to support the roll-out of the national advertising campaign. Feedback on the platform has been very positive, and it offers the ability to automatically upload your vacancies from your Council's website - saving time and resources. If you would like to continue to use East Midlands Jobs from 1st April 2025 there will be a small annual fee to enable us to continue to improve the site and make it even better! Member councils are charged £295 (district/boroughs) and £495 (counties/unitaries).

PROJECTS WITH LOCAL AUTHORITIES

During February, EMC has supported councils with:

- Chief Executive appraisal facilitation
- Grievance investigation
- Psychometric testing

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

CONTACT LISA

CONTACT SAM



DELIVERING COACHING AND MENTORING TO MEET THE CHALLENGES AHEAD

Coaching and Mentoring play a pivotal role in supporting individuals and organisations to navigate the ever-evolving world of work. The East Midlands Regional Coaching and Mentoring Network plays a vital role in providing access to quality coaches and mentors through an online coaching platform that can track, record and evaluate coaching and mentoring activity in your organisation.

The network is supportive and collaborative, bringing together coaching champions from organisations across the region to share knowledge and practice as well as benefit from external expertise in topics such as developing a coaching culture and strategy.

The coaches in the network are supported through attending Coaching CPD and Supervision sessions throughout the year; this year coaching topics will include Mental Health in Coaching; Coaching for Neurodiversity; Coaching through Change and Career Coaching. Coaches also have access to a range of coaching tools, guides, diagnostics and exercises.

This year we will also be focusing on the provision of a mentoring skills training programme to complement our coaching and mentoring programmes already on offer below.

For further information on the benefits and opportunities being part of this regional coaching and mentoring network brings, please contact Lisa Butterfill.

[CONTACT LISA](#)

QUALITY LEADERSHIP AND COACHING TRAINING DISCOUNTED FOR EMC AUTHORITIES

East Midlands Councils continues to work with Challenge Consulting due to the positive feedback received, to provide a quality learning and development offer for EMC members to attend at discounted rates only when booking through ourselves. Below is just a snapshot of the training available to support leadership and coaching development:

- ILM 5 Certificate in Leadership and Management (9 days starting on 24th April 2025)
- ILM 3 Award in Effective Coaching (5 days starting on 28th April 2025)
- ILM 3 Award in Leadership & Management (6 days starting on 30th April 2025)
- ILM 2 Award in Leadership & Team Skills (4 days starting on 13th May 2025)

Full information on the content, dates, venue and booking process can be found on our website along with other leadership and coaching courses later in the year.

[READ MORE](#)



IN DEEP WITH DARREN

DARREN NEWMAN'S INSIGHTS ON THE BALANCING ACT OF PROTECTED BELIEFS, DISCRIMINATION AND HUMAN RIGHTS

In the recent decision in *Higgs v Farmor's School* we saw the Court of Appeal confirm that the expression of a controversial religious or philosophical belief can be protected by the Equality Act - so that a school was acting unlawfully when it dismissed the employee out of fears that her continued employment would damage their reputation with parents. The employee had commented on and reposted material on her personal Facebook account – which made no mention of her employment with a local secondary school – that expressed in provocative and trenchant terms her opposition to the way on which children were being educated about issues such as gender identity and same sex relationships. These beliefs were protected under the Equality Act and dismissing her for expressing them as she did was an act of direct discrimination.

It is now well established that, at least to some extent, employers have to tolerate employees expressing beliefs that others may find offensive. But how offensive? Is there a line to be drawn somewhere? In deciding what beliefs are protected under the Equality Act we actually have to look at the European Convention on Human Rights. The courts will apply the same tests in deciding whether someone has a religious or philosophical belief as would apply when asking whether a belief was protected under Article 9 of the European Convention. This is reflected in the 'Grainger Criteria' set out in the 2010 case of *Grainger plc v Nicholson*. The fifth criterion set out in that case is that the belief in question must be "be worthy of respect in a democratic society, be not incompatible with human dignity and not conflict with the fundamental rights of others". That sounds like a pretty woolly formulation, but it is taken from decisions of the European Court of Human Rights. In the UK case of *Forstater v CGD Europe* the EAT looked at those cases and concluded that the bar was set very high for excluding a case for failing this test – only the most extreme beliefs would do so. In fact that EAT said that this test would only exclude "those beliefs that would be an affront to Convention principles in a manner akin to that of pursuing totalitarianism, or advocating Nazism, or espousing violence and hatred in the gravest of forms". *Forstater's* gender critical beliefs came nowhere near this threshold, so it was held that her beliefs were protected. But that left us with not much idea of where the line could actually be drawn.

One case that might help is ***Thomas v Surrey and Borders Partnership NHS Foundation Trust***. In that case the claimant described himself as an English Nationalist and claimed that this consisted mainly a love for English culture, language and history, and a sense of pride in England and the English people. When he claimed that he had been discriminated against on the grounds of these beliefs however, it emerged that he had espoused anti-Muslim views and had, on social media, suggested that Islam should be banned that Muslims should be deported. The Tribunal held that his beliefs were not protected by the Equality Act and dismissed his claim.

On Appeal the EAT upheld the Tribunal's finding. The claimant's beliefs about Muslims were 'disdainful and prejudiced'. While they would not have the effect of inciting violence toward Muslims, they were intended to stir up hatred. As such, the language used by the claimant fell within the grave forms of "hate speech" that had been identified by the European Court of Human Rights and which were relied upon in *Forstater*.



IN DEEP WITH DARREN

The EAT's decision involves a lengthy discussion of the case law on religion and belief in the European Court of Human Rights. The conclusion the EAT draws is that the principles that emerge are not quite as clear cut as was perhaps suggested in *Forstater*. As a result, the EAT judge expressed the view that the bar might not need to be set as high as that case suggested.

This is not a binding part of the EAT's decision. Whatever view was taken of the test to apply, the EAT was happy that Mr Thomas's beliefs were beyond the pale and not protected by the Equality Act. But the judge thought that the ruling in *Forstater* may not be 'the last word on the matter'. He suggested that beliefs that advocated intolerance or discrimination might also fall outside of the scope for protection. This is both intriguing and frustrating. It is intriguing because it suggests that employers such as local authorities may have more scope than they thought to insist that employees behave and express themselves in a way that is consistent with their values – particularly on issues of equality and inclusion. It is frustrating because it is clearly leaving the matter to be decided in some future case. No sensible employer will want to be the future case where the question is eventually settled.

DARREN'S ADVICE TO COUNCILS

So in the meantime, it is important that employers accept that not everyone will share their values and that employees are entitled to express their views – particularly outside the workplace. Rather than take a risk on which beliefs might be protected, employers would be better advised to think about what conduct an employee has engaged in and whether that conduct is something to which legitimate objection could be taken.

It was a key feature of the Court of Appeal's decision in *Higgs* that there was no evidence that the employee had ever behaved in an inappropriate way at work and there was no indication that she might treat pupils at the school in a discriminatory manner. The case would have had a different outcome if she had been acting on her beliefs about same sex relationships in her dealings with pupils or colleagues.

While employers are required to accept the right of employees to hold views that may cause offence to others, they are also entitled to ensure that their work is done in accordance with their policies and employees do not have the right to subject colleagues to unlawful harassment even where their conduct is the expression of a protected belief. Determining when behaviour crosses the line from being the legitimate manifestation of a protected belief to something to which objection can reasonably be taken is difficult balancing act that employers will have to perform as best they can. I expect to see more cases on this issue over the next few years.

Don't forget that you can hear directly from Darren and ask him your burning questions at our employment law update on 5th March 2025. Email Mila at mila.pereira@emcouncils.gov.uk



NATIONAL PAY NEGOTIATIONS

Earlier this month, the Craftworkers' unions submitted their claim for 2025. A copy is available through the link below [Craftworkers' Pay Claim 2025](#). In summary it seeks:-

- An increase of at least 9 per cent for craft rates, taking into account NMW rate for Apprentices, differentials and cost of living challenges
- A pro rata increase to all other allowances and plus payments
- A reduction in the working week to 35 hours with no loss of pay
- An additional 2-days of annual leave

This is the last of this year's national pay claims – details of the other claims were featured in last month's HR Bulletin and are all available through the link below.

East Midlands Councils hosted the regional pay consultation briefing on 13th February 2025 and provided the opportunity to discuss the claims with the National Employers' negotiators and to input views to help shape any national response. The National Employers will be meeting in March and again in late April to consider the feedback from the regional consultation briefings and responses from councils to this year's pay survey in support of the consultation process.

Soulbury Officers' Pay Agreement

The Soulbury Committee has reached a [pay settlement for 2024](#). This is a 2.5% increase on all pay points and allowances backdated to 1 September 2024. There will be further Joint Secretarial discussions on reviews of the SPA system and London Area Payments.

[READ MORE](#)

NEW ACAS ADVICE ON NEURODIVERSITY AT WORK

Earlier this month, Acas published new advice on neurodiversity at work to help employers create inclusive organisations and raise awareness. You can read the advice from the link below.

[READ MORE](#)

ICO GUIDANCE ON KEEPING EMPLOYMENT RECORDS

The Information Commissioner's Office (ICO) has published guidance for employers on 'Employment practices and data protection: keeping employment records'. The guidance includes useful checklists on aspects such as collecting and keeping employment records; outsourced employment functions; and equality monitoring.

[READ MORE](#)