



Darren Newman on the Supreme Court's ruling on definition of "Woman"



HR Metrics Infinistats



EMC Leadership and Coaching Opportunities



National Pay Negotiations Update

HR METRICS - INFINISTATS

Now is the ideal time to get on board with Infinistats. This is a national database that enables councils to share and benchmark workforce related information. High quality reports are easy to produce and are tailored to reflect each Council's logos. It provides the ability to benchmark with over 100 councils on:-

- workforce capacity data such as sickness absence, agency use, management team ratios
- the profile of the workforce
- terms and conditions
- pay benchmarking

You can also set up quick pulse surveys to gather information from other councils on key issues.

In preparation for LGR, being able to collect, share and benchmark workforce data will be a priority and Infinistats will provide a means of doing this easily and in a consistent way to provide assurance on the quality of information.

For more information on how to subscribe or to arrange a demo of the system, contact Suzanne Boulton – suzanne.boulton@emcouncils.gov.uk

HOLD THE DATE!! RECRUITMENT CAMPAIGN 2025 EVENT 9TH JULY 2025

Following the success of the regional roll-out of the national recruitment campaign, EMC is pleased to be working jointly again with the LGA to support a funded campaign for the coming year. We will be hosting an event to discuss the campaign and discuss how we can keep the momentum going to improve recruitment and raise the profile of local government to attract our future workforce.

Feedback from the event held last summer was very positive and we will therefore be returning to the King Power Stadium in Leicester to bring HR and Communications colleagues together to help shape the new campaign.

PROJECTS WITH LOCAL AUTHORITIES

During April, EMC has supported councils with:

- Mediation
- Grievance investigations
- Facilitation of chief executive appraisals

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

CONTACT LISA

CONTACT SAM



LEARNING & DEVELOPMENT

DEVELOPING SENIOR LEADERSHIP TEAMS AND INDIVIDUALS FOR THE FUTURE – EMC OFFER

East Midlands Councils has created a range of development interventions to support senior leadership teams to better position themselves and their extended teams to lead through transformation, change and uncertainty. Given the direction and pace of Local Government Reform, this is a timely opportunity to understand and develop strategic decision making focused on achieving outcomes for communities in this changing landscape.

SENIOR LEADERSHIP TEAM DEVELOPMENT

Tailored around the specific needs of each senior leadership team, this facilitated development will support the learning from past change efforts and help gain new insights as well as planning for the future to develop effectiveness in leading together for transformation and change. Frameworks rather than being “content” driven will be used to shape thinking and support new insight providing time and space for reflection, consolidation, new insight discovery and action planning.

This approach has already received positive feedback with one Chief Executive describing how it has helped them to re-evaluate their purpose, review how they operate collectively with their extended leadership team and commit to actions to improve effectiveness. There is flexibility in how this can be delivered. For example, this authority started with a 1 day facilitated session for their SLT which developed into another facilitated session for the ELT and a combined session for both teams will now take place. Equally it could be that the focus on future sessions could be around specific skills needed for the future. To explore how this development can support your specific needs in the context of transformation and change, please contact lisa.butterfill@emcouncils.gov.uk for more detailed information and costings.

MANAGING CHANGE FOR MIDDLE MANAGERS – 1 DAY OR 2 ONLINE MODULES

Managing Change alongside business as usual has become the norm for managers, this 1 day development will help managers effectively implement and embed change, in particular top down change as a result of strategic decision making. This development explores the challenges of delivering change and the approaches and considerations needed to be effective. A key part of this course will focus on bringing the team onboard and the importance of influencing both upwards and downwards. This session can be delivered in-house or as part of a regional event. To discuss further please contact lisa.butterfill@emcouncils.gov.uk

COLLABORATIVE WORKING – GETTING AHEAD OF THE GAME! 1 DAY OR 2 ONLINE MODULES

Increasingly people are working across teams with internal and external stakeholders on multiple projects and tasks. The concept of static teams is giving way to a more collaborative approach and the changing local government landscape will reinforce this further. This session will develop knowledge and understanding of the enablers of collaborative working, building trust and co-operation and mobilising around common goals using collaborative behaviours. This session can be delivered in house or as part of a regional event. To discuss further please contact lisa.butterfill@emcouncils.gov.uk

EMC COACHING & MENTORING NETWORK CPD EVENTS

To develop coaching skills across the region, our 2-hour virtual coaching CPD events are available. To book any of the events below visit www.emcouncils.gov.uk/events

Mental Health in Coaching Practice – 16th May 2025

Coaching Neurodiversity – 1st July 2025

Coaching through Uncertainty and Change – 10th Sept 2025

Confidence in Coaching Upwards – 26th Nov 2025



IN DEEP WITH DARREN

THE SUPREME COURT'S RULING ON THE DEFINITION OF "WOMAN" AND "SEX" IN THE EQUALITY ACT

The Supreme Court decision in the case of *For Women Scotland v The Scottish Ministers* has made the headlines and caused fierce controversy. The Court ruled that the references in the Equality Act to women, men and sex referred to biological sex and that trans women or trans men who have a gender recognition certificate remain – for the purposes of the Act – defined by their biological sex rather than the sex to which they have transitioned. This is despite the fact that S.9(1) of the Gender Recognition Act 2004 says that when a person obtains a gender recognition certificate their sex becomes “for all purposes” the sex identified on the certificate.

The Supreme Court relied on S.9(3) of the Gender Recognition Act which says that S.9(1) is ‘subject to’ the provisions of other enactments. Nothing in the Equality Act expressly disapplies the Gender Recognition Act, but the Court held that it did so by implication, because anything other than a biological definition of sex would render the Equality Act incoherent and unworkable.

To my mind the Supreme Court was rather easily persuaded of this view and have not given the phrase ‘for all purposes’ as much weight as I had expected. But we are where we are. The law is whatever the Supreme Court says it is and so it is now settled law that a gender recognition certificate does not change the sex of a person for the purposes of the Equality Act.

This at least has the advantage that there is no need when considering the Equality Act to draw a distinction between trans men and women who do and do not have a gender recognition certificate. Their sex does not change for the purposes of the Act, but the circumstances in which it is necessary to determine whether someone is actually a man or a woman in the context of a discrimination claim are limited.

Most direct discrimination is based on the reason for the treatment complained of. That depends on what is going on in the mind of the alleged discriminator rather than the identity of the claimant. If an employer perceives an employee as a woman and treats her less favourably as a result, then that will be direct discrimination even if she is biologically male. And of course, gender reassignment remains a protected characteristic, so any less favourable treatment on the grounds that someone is (or is thought to be) trans would also amount to discrimination.

Where the decision has a clear practical impact is in the provision of same-sex spaces facilities or services. If an employer has a toilet reserved for women, then it will not be gender reassignment discrimination to refuse to allow a trans woman to use it. Even if she has a gender recognition certificate, she will remain a man for the purposes of the Equality Act and so the reason for the exclusion will be her sex. This is of course provided that a trans man would be permitted to use the women’s toilet should he wish to do so. Importantly, this was already acknowledged to be the situation for a trans woman without a gender recognition certificate. The Supreme Court has simply decided that having that certificate does not change the position. In theory, trans women could claim that a rule preventing them from using the women’s toilet would enable them to claim indirect discrimination, but given the overall tenor of the Supreme Court’s ruling I would not expect an employer would face too much difficulty in arguing that the rule was a proportionate means of achieving a legitimate aim.



IN DEEP WITH DARREN

The Equality Commission has just published interim guidance on the Supreme Court's decision which deals with toilet provision. The Guidance states "trans women (biological men) should not be permitted to use the women's facilities and trans men (biological women) should not be permitted to use the men's facilities, as this will mean that they are no longer single-sex facilities and must be open to all users of the opposite sex". The point being made here seems to be that if a toilet facility is not reserved for members of a particular sex, then it has to be open to everyone. So, if you allow trans women to use the women's toilet, then excluding other biological men would be discrimination on the ground of gender reassignment.

That seems to me to be a rather odd way of looking at things. I am not sure that a man (who is not a trans woman) would perceive being refused the use of the women's toilet to be a detriment. I think a more important point may be that employers are required to provide separate toilet facilities for men and women unless facilities are contained in a separate lockable room (See Reg 20 of The Workplace (Health Safety and Welfare) Regulations 1992). In theory, the Supreme Court decision was not concerned with this requirement but again, it is hard to see how it could be held that a gender recognition certificate would make a difference in relation to these Regulations but not in relation to the Equality Act. If an employer did permit trans women to use facilities provided for women would that be a breach of the 1992 Regulations? Could a facility be described as a separate facility for members of one sex if its use is permitted for those of the opposite biological sex who have transitioned to the sex the facilities are reserved for? Again, the approach of the Supreme Court would suggest not.

The Supreme Court decision has been praised for providing clarity. Well up to a point. The Commission's interim guidance shows that clarity about the definition of a woman does not necessarily translate into clarity for employers in managing the issues that this definition creates.

The Commission has said that it will consult on the impact of the decision and plans to update its Code of Practice over the summer. That may help. But this is an area where feelings run high on both sides of the debate, and I suspect that we will see further legal challenges as employers struggle to navigate one of the most contentious issues in equality law.

**NATIONAL
DEVELOPMENTS****NATIONAL PAY NEGOTIATION DEVELOPMENTS**

The Employers' Side of the National Joint Negotiating Committee met on Tuesday 22nd April 2025. The National Employers made the following full and final, one-year (1 April 2025 to 31 March 2026) offer:

- With effect from 1 April 2025, an increase of 3.20 per cent to be paid as a consolidated, permanent addition on all NJC pay points 2 to 43 inclusive and on all pay points above the maximum of the pay spine but graded below deputy chief officer (in accordance with Green Book Part 2 Para 5.43)
- With effect from 1 April 2025 an increase of 3.20 per cent on all allowances (as listed in the 2024 NJC pay agreement circular dated 22 October 2024)
- With effect from 1 April 2026, the deletion of pay point 2 from the NJC pay spine.

In response to the offer, [UNISON's NJC committee will be meeting on 8 May](#) to consider its position. GMB will also be considering the offer at its NJC Committee (date to be confirmed) and Unite has announced it will consult its members on the offer with a recommendation to reject it. [Unite response to local government pay offer](#)

Chief Executives and Chief Officers have also been offered an increase of 3.2% with effect from 1st April 2025. ALACE, the representatives of Chief Executives, has welcomed the offer but will not accept it until the main NJC pay award is agreed (in line with its position in recent years).

Craftworkers have also been offered a 3.2% increase and the Employers are proposing to remove reference to Apprentice rates, given the vast majority of councils operating a local arrangement. It should be noted that the current apprentice rate is below the National Minimum Wage level, and so the small number of councils which do refer to the nationally agreed rates should apply at least the statutory minimum rate to ensure they are compliant.

[READ MORE](#)**CORONERS' WITHDRAWAL FROM NATIONAL PAY NEGOTIATIONS**

In last month's Bulletin we shared details of the Representatives of Coroners having withdrawn from the Joint National Committee for Coroners which has been in place to negotiate pay. An updated circular was issued on 24th April to inform that the management side remains committed to a nationally agreed, consistent approach to pay negotiations.

EMC is supporting councils in the region by co-ordinating the sharing of information on current pay levels and approaches being considered. Contact Sam at sam.maher@emcouncils.gov.uk

[READ MORE](#)



PATHWAYS TO PLANNING

The Pathways to Planning initiative provides councils with an opportunity to access a talent pipeline of graduate planners and supports the individuals to kick-start their career in local government. Each graduate place comes with access to the talent pool at no cost to councils, and an educational bursary to fund the graduate's RTPI-accredited study. Councils who are interested in taking part can find out more information on the link below.

[READ MORE](#)

NEONATAL LEAVE AND PAY GUIDANCE

As mentioned in previous HR bulletins, the new right to statutory neonatal leave and pay came into force on 6th April 2025. The Government has now issued guidance on a range of aspects including circumstances that might affect an employee's entitlement, how different employment types affect pay, business changes that might affect pay (transfers and redundancy). The guidance can be accessed here: [Statutory Neonatal Care Pay and Leave: employer guide: Overview - GOV.UK](#)

HMRC has also published guidance and online statutory pay forms, including NE01 which is the form that should be used to inform an employee if they are not eligible. A link to the guidance and forms is here: [SPM167100 - Statutory Neonatal Care Pay \(SNCP\) - general information: What is SNCP? - HMRC internal manual - GOV.UK](#)

ACAS has also issued its guidance on neonatal leave and pay. It can be accessed here: [Pay - Neonatal care leave and pay - Acas](#)