



Darren Newman: Impact of
Human Rights Law on
religion/belief discrimination



EMC Membership Survey



EM Challenge 2026 – Save
the Date!



National Pay Developments
& Other National Updates

EMPLOYMENT LAW UPDATE – 5TH NOVEMBER 2025

EMC's popular Employment Law Update facilitated by Darren Newman will take place on 5th November 2025. In this session we will look at the latest employment law developments affecting local government and an update on consultations around the Employment Rights Bill.

Date and Timings: 5th Nov 2025, 10.00am-12.30pm. The event will be held virtually using MS Teams

Costs: Places will be available at a cost of £75 per delegate. We are also offering a discount for multiple bookings – so you will be able to BUY ONE PLACE, GET ONE HALF PRICE. **Please note this offer is only available to member organisations.**

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FEEDBACK ON EMC'S MEMBERSHIP SURVEY

East Midlands Councils is keen to hear from you to help inform our future services, events and support. Your feedback is key to ensuring that our work is tailored to your priorities sector and brings value to EMC membership. We would really appreciate hearing from you about what support, networks and events you find useful, as well anything you'd like us to add, do differently or discontinue.

This survey should take no more than five minutes to complete, and the feedback will help to inform the scope of our services and wider support provided to our membership over the coming year.

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PROJECTS WITH LOCAL AUTHORITIES

During September EMC has supported authorities with:

- Chief Executive appraisal facilitation
- Disciplinary investigation
- Grievance investigation

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

[CONTACT SAM](#)

[CONTACT LISA](#)



The East Midlands Challenge is back on 29 April 2026!



Back by popular demand, we are delighted to announce that East Midlands Councils will host the East Midlands Challenge event on 29 April 2026 from 9am-8pm (approx). We will be confirming the venue shortly.

All you need to do at this stage is register your intent to take part.

The Challenge offers a fantastic opportunity for aspiring leaders to gain exposure to issues outside of their normal work, giving them a taste of what senior management is really like and testing their skills in running a Unitary council.

To complete the challenge, teams must work with neighbouring stakeholders and partners to deliver a new strategy for their organisation. They'll have to identify which areas to prioritise, deal with politically sensitive issues and maintain customer focus when determining how to provide the public with the best services possible despite limited resources. Previous participants enthused about the value this event brought to their personal development.

The East Midlands Challenge gives aspiring senior leaders of the future an opportunity to test their ever-developing skills in a real life but safe environment. Taking on the role of senior management, teams of 6 people are required to prioritise a series of challenges, gaining exposure to issues outside of their normal work and expanding their skill set in the process.

Who can enter?

The Challenge has been developed so that teams of 6 people from the public, private and voluntary sectors can compete against each other on a level playing field so please feel free to share with other partner organisations, e.g., Health and Emergency Services in particular, who you think may enjoy and benefit from the challenge.

Cost

We are offering an early bird rate of £1850 + VAT to EMC members only if booked before 16th January 2026. The price will then increase to £2250 + VAT until the closing date on 25th March 2026.

[READ MORE](#)



IN DEEP WITH DARREN

EMPLOYMENT LAW UPDATE FROM DARREN NEWMAN

The Influence of Human Rights Law on Religion and Belief Discrimination

What is the point of having the right to hold a belief if you don't have the right to express it?

That is the question lying behind one of the most significant developments in discrimination law in recent years - the growing influence of human rights law in relation to religion and belief discrimination. Article 9(1) of the European Convention on Human Rights says that everyone has the right to freedom of thought, conscience and religion and that they have the right to manifest their belief 'in worship, teaching, practice and observance'.

The courts have taken a rather wide view of what manifesting your belief involves. It is not limited to practices that are required by your belief system. What matters is that there is a sufficient link between the belief and the 'manifestation' in question. Expressing your belief either in private or in the workplace can certainly amount to a manifestation of it.

Article 9(2) does allow some interference in the manifestation of a belief but only when that is 'necessary' in a democratic society "in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others".

Crucially, the courts have decided that Article 9 must be applied when deciding cases of direct discrimination brought under the Equality Act 2010. So, when someone claims that they have been discriminated against because of their beliefs, that covers the manifestation of those beliefs as well as the beliefs themselves. This is a challenge for employers because someone's beliefs may be protected even if they are considered offensive by other people and even if they run counter to the employer's own values. An employer has to walk a very careful line between protecting its reputation and its employees' welfare on the one hand and the rights of other employees to express controversial beliefs on the other.

The most definitive statement that we have on the current state of the law is found in the Court of Appeal decision from earlier this year in the case of *Higgs v Farmor's School*.

Ms Higgs was employed in a pastoral care role in a Church of England Secondary School. She herself holds Christian beliefs and the focus in this case was on her belief that marriage is a union between one man and one woman, and an opposition to the idea of gender as being fluid or a matter of how an individual chooses to identify. For her, biological sex is binary. This is not a topic that she is reported as having ever raised at work, but in 2018 she reposted on her Facebook account a number of articles that were critical of Government proposals on how these matters should be addressed in primary schools. Some of the comments she either made or reposted were expressed in quite trenchant terms – referring to 'brainwashing' and the 'LGBT crowd'.



There was nothing on her Facebook page to link her to her employer. Even the name on her account was different, Higgs being her married name and not the one she used on Facebook. Her posts were nevertheless seen by a parent of one of the school's pupils who reported the matter to her employer, expressing concern that someone with views they described as 'homophobic and prejudiced' should be employed in a position where she would need to interact with and support pupils who were either gay or transgender.

The school suspended her and launched a formal investigation based on allegations of bringing the school into disrepute. She accepted that her posts might have offended some people but insisted that her concern was for primary school education policy. This did not affect the performance of her duties for Farmor's School and there were no allegations that she had ever treated school pupils in a discriminatory or inappropriate way. She was nevertheless dismissed for gross misconduct and claimed that this amounted to discrimination based on her religious beliefs.

She lost at the Tribunal because the Tribunal accepted that the employer did not dismiss her because of her beliefs, but because of its concern that parents would think that she was homophobic or transphobic. It's important to bear in mind that there was no claim of unfair dismissal here – if there was, it was settled before the case came to a hearing – so the only question for the Tribunal is whether the dismissal was discriminatory. The reasonableness of the dismissal was not the issue.

Ms Higgs successfully appealed to the EAT, which ruled that the Tribunal had failed to take account of the fact that her Facebook posts were a manifestation of her religious beliefs. IF she was dismissed because of those posts – whatever the employer's motivation – then that would amount to discrimination unless it fell within the exception in Article 9(2) as being necessary to protect the rights and freedoms of others. The EAT sent the case back to the Tribunal to decide the issue.

Despite winning her appeal, Ms Higgs appealed again, claiming that the EAT did not go far enough and that it should have simply found in her favour. The Court of Appeal agreed. In its decision it sought to explain how the exception in Article 9(2) applied in the context of a discrimination claim. It held that the dismissal of an employee merely because they have expressed a religious belief to which the employer objects would amount to discrimination.

However, if the employer was motivated not by the belief itself but by 'something objectionable in the way in which it was expressed' then that could be lawful if the employer's actions were a proportionate response to the objectionable feature. This would mean, for example, that if the expression of the employee's belief entailed harassing a colleague or discriminating against a pupil of the school, then dismissal could be justified. In this case, however, the best the school could do was argue that the Facebook posts were 'intemperately expressed' and could potentially damage the school's reputation.



The Court held that neither the language of the posts nor the risk of reputational damage were capable of justifying the Claimant's dismissal in circumstances where she had not said anything of the kind at work or displayed any discriminatory attitudes in her treatment of pupils. There was no need to send the matter back to the Tribunal.

Leave to appeal to the Supreme Court has now been refused and so the long-running saga of this case is over. We have a slightly better idea of when an interference in the manifestation of a belief might be justified than we did when the matter was considered by the EAT.

There is a balance to be struck. An employer should only interfere when it is proportionate to do so, and it needs to be understood that this test will not be easily met. A vague feeling that the employer might be brought into disrepute or that people may be offended by a belief will not be good enough. What is needed is robust evidence of the harm that the employee's behaviour is doing to colleagues or service users.

In particular, when the behaviour the employer is concerned with takes place away from work and there is no evidence that the employee will bring that behaviour into the workplace, it is highly unlikely that a Tribunal would regard any disciplinary action as proportionate.



NATIONAL DEVELOPMENTS

NATIONAL PAY DEVELOPMENTS

Establishing an Adult Social Care Negotiating Body – Consultation Launch on Fair Pay Agreement Process

This morning the DHSC announced the launch of the consultation on the Fair Pay Agreement for adult social care workers. To achieve this the government will establish an Adult Social Care Negotiating Body (ASCNB). Details on the announcement are here: [£500m for first ever Fair Pay Agreement for care workers - GOV.UK](#)

The consultation on a fair pay agreement process in adult social care was launched this afternoon, and closes on 16th January 2026. It can be accessed through the link below.

[READ MORE](#)

Regional briefing on 28th October, 2.30pm EMC is arranging a regional session with the LGA, so that colleagues from across the East Midlands can come together at a virtual meeting to discuss the consultation. Please email Sam Maher if you would like to attend the regional briefing.

[CONTACT SAM](#)

The LGA and ADASS are holding a webinar for council officers to explore the proposals in the consultation on Tuesday 7 October, 10.30am – 12pm. It will include a speaker from the DHSC who will talk through the ASCNB consultation as well as speakers from the LGA and ADASS. To book onto the webinar please use this link: [Local Government Association](#)

Further briefing sessions on the proposals in the consultation will be hosted by the LGA for Council Leaders/Adult Social Care cabinet members, and one for senior officers– these dates will be available soon.

JNC for local authority Craftworkers

There is no further news on agreement being reached for Craftworkers for 2025. Councils are reminded of the advice against imposing the full and final pay offer ahead of a national collective agreement being finalised, not just to protect the unity of the employers' position, and audit implications, but also in light of legal issues, including those arising out of the cases of [Kostal UK Limited v Dunkley](#) and [INEOS Infrastructure Grangemouth Limited v Jones & others](#)

A copy of the Employers' full and final offer for Craftworkers is available at the link below.

[READ MORE](#)



NATIONAL RECRUITMENT CAMPAIGN UPDATE – 29TH OCTOBER

In July we hosted a meeting to review last year's national recruitment campaign and start to input on the campaign for 2025/26. The feedback about last year's campaign and resources was positive and the event gave an opportunity to share how the resources were used in different councils in the region. Participants at the meeting also shared their views on what they are looking for in the campaign resources for the coming year.

On 29th October at 11.00am we are hosting a virtual meeting to provide an update on the development of the new campaign materials and discuss additional actions and initiatives to support recruitment and the promotion of the sector across the region. If you would like to attend please book via our website.

[READ MORE](#)

LGR

Online Event: Creating Change-Ready Organisations For LGR

The LGA and IES (Institute for Employment Studies) are jointly hosting an online event for HR Directors and other senior officers leading on Workforce Change in LGR councils. The event will explore practical tools to build change-ready organisations that can navigate reorganisation with confidence, clarity, and purpose. It is taking place on 16th October from 10.00-11.30am, and you can get information and to sign-up through the following link:

[READ MORE](#)

LGR Workforce Webinar – Slides of Presentation from West Northamptonshire

Earlier this month, the LGA ran a webinar which featured insights and experience of LGR from Anna Earnshaw, Chief Executive, and Becky Hutson, Head of Communications. You can access their presentation through the following link.

[READ MORE](#)

Solace Guide On Setting Up An Effective LGR Implementation Team

Solace have produce a guide and template relating to setting up an implementation team for LGR. It covers primary considerations, key roles and success factors. You can access the guide through the link below.

[READ MORE](#)
