



Improved Opportunities for Benchmarking



Darren Newman's advice on working arrangements and Indirect Discrimination



Developing Coaching & Mentoring Skills & EDI Network Update



National Developments

INDUSTRIAL ACTION BALLOT NOTICES

Some councils will have received notice of ballots for industrial action from **Unison**. Please would you email Sam, including a copy of the ballot notice if your council has received the notification. EMC is monitoring which councils are being targeted and the potential impact - gathering information to provide a regional and national picture. This will also help us to share information with councils that may be affected by industrial action. **Unite** has confirmed its strike ballots will run from 13 July to 17 August. It has not identified which councils will be targeted and we will adopt the same approach for these ballots, so please email Sam with a copy of the notice if you receive one in your council.

[CONTACT SAM](#)

MAKING IT EASIER TO BENCHMARK PAY, POLICIES AND WORKFORCE DATA

New features and improvements have been made to Infinistats, the online benchmarking system for Local Government that enables users to benchmark HR metrics, pay and other terms and conditions.

Improvements have been made to support LGR preparation, such as a feature that enables users to identify and benchmark against similar or nearby councils, and a feature that targets survey information requests, with the option to send them only to similar councils so they reach the right audience. Other changes give faster access to data, survey functions and reports and there is a new Chat icon that allows users to ask each other questions about their data, from a quick metric check against neighbours to a full report on a topic.

You can see the system and new developments in action at a demonstration session on MSTeams that we've arranged on **23rd July 2026** at 10.00am. If you are interested in Infinistats or would like to attend the session, contact Suzanne at suzanne.boultyby@emcouncils.gov.uk

PROJECTS WITH LOCAL AUTHORITIES

During June EMC has supported authorities with:

- In-house development for Change Champions
- Mediation
- Job evaluation and pay benchmarking

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

[CONTACT LISA](#)

[CONTACT SAM](#)



COACHING AND MENTORING DEVELOPMENT OPPORTUNITIES

In last month's bulletin we provided an overview of all the support EMC provides to enable councils to benefit from coaching and mentoring, and access support and resources in a cost-effective way, which also reflects good practice. This month, we are highlighting two short sessions taking place in July.

9th July - Coaching for the Next Role/Career Journey – a Virtual 2.5-Hour Skills Session for Coaches

Supporting employees with their career development is always important as a positive way of managing talent, but is coming into greater focus as organisations seek to assist employees ahead of significant changes and re-organisations, particularly on the scale of Local Government Reform. This session will assist coaches in providing effective coaching to prepare coachees for their next role and progress their careers. It is free for members of the coaching network, but additional places are available at £85 per person for all other EMC member authorities.

Please contact Lisa Butterfill if you would like to book.

[CONTACT LISA](#)

15th July - Mentoring Workshop: How to Get the Most from a Mentoring Relationship – a 4-hour virtual session 9am - 1pm

It is becoming more common for managers and professionals to act as mentors, and we are providing this practical workshop to enable mentors to build skills and confidence to support effective mentoring relationships. It will cover the essentials, such as the role of the mentor, ethical boundaries, and develop skills and confidence. The aims of the session are to help delegates feel able and equipped to take on the role of mentor and understand how mentoring will work in practice. For further information and to book please see below.

[READ MORE](#)

LEARNING & DEVELOPMENT THROUGH NETWORKING – AN UPDATE FROM THE REGIONAL EQUALITY, DIVERSITY AND INCLUSION (EDI) NETWORK

On 18 June, more than 25 members of the EDI Network met virtually to share and discuss issues that matter to them and their local authorities. The network also provides an opportunity for members to share good practice and hear from guest speakers.

Colleagues from the LGA attended and shared key themes from their recent roundtable events on the Equality (Race and Disability) Bill. An update was also provided on equality law changes that have been proposed or introduced by Government, covering actions authorities may wish to consider ahead of the proposed changes.

The network also focused on the draft Code of Practice that the Equality and Human Rights Commission has submitted to Government which is currently awaiting parliamentary approval. The group shared practical changes their authorities have introduced following publication of the draft Code.

The next EDI Network meeting will take place on 15 September. If you are not already on the network's distribution or membership list and would like to join, please contact Suzanne at suzanne.boulty@emcouncils.gov.uk.



IN DEEP WITH DARREN

CHANGING WORKING ARRANGEMENTS AND INDIRECT DISCRIMINATION

A long-running case involving flexible working and claims of indirect sex discrimination appears to have ended in victory for the employer.

In **Dobson v North Cumbria Integrated Care Foundation Trust**, the employee - who was employed as a community nurse - had particular caring needs that meant that she was unable to work at weekends. She was employed on a previously agreed pattern which involved working on Wednesday and Thursday each week. Then in 2016 the employer sought to introduce a new rota system that would require her to work occasionally on a Saturday or Sunday. She refused to accept any change to her working arrangements and after extensive consultation and efforts to find a compromise she was dismissed.

She claimed unfair dismissal and indirect sex discrimination. The first Tribunal to hear her case dismissed both claims. Their view was that the employer had a genuine business need to make the change and had adopted a fair procedure before dismissing her. As for the indirect discrimination claim, the Tribunal held that there was insufficient evidence that the requirement to work in accordance with the employer's policy put women at a particular disadvantage. The Claimant was the only one on her team who had been unable to adapt to the new rota system.

In 2021 the EAT sent the case back to the Tribunal on the basis that this was the wrong approach. In the first place, the impact of the 'provision criterion or practice' (PCP) that was in issue had to be assessed in terms of its impact on all of those covered by it. That meant that the relevant pool for comparison was not those who worked in the same team as the Claimant but all of those community nurses to whom the employer's policy applied.

Perhaps more significantly, however, the EAT held that in the case of a PCP that required employees to work a flexible rota that might conflict with their caring needs, it was not necessary to conduct a detailed statistical analysis of how many men and how many women would be adversely affected. It was well established that the disparity between men and women in relation to the provision of childcare meant that women were more likely to be disadvantaged by a requirement to work particular hours or changeable hours where that was likely to affect their childcare arrangements.

Nevertheless, when the case returned to the Tribunal in 2022 the Tribunal held that there was no discrimination. Although it had been established - based on the EAT's guidance - that the employer's policy put women at a particular disadvantage compared to men, the employer had established that the policy was justified - it was a "proportionate means of achieving a legitimate aim". The Tribunal also reaffirmed its decision that the dismissal was fair.



In reaching its decision, one of the factors the Tribunal pointed to was that while other community nurses would have been disadvantaged by the employer's policy of operating a flexible rota system, there was no evidence that anyone other than the claimant had been so unable to meet the employer's requirements that they had to leave the role altogether.

In seeking to reach an agreement with the claimant, the employer had explored whether she might be able to work one out of every eight Saturdays. In reply she had said "No, it doesn't matter whether it's every week or once a year its not necessarily something that is going to be manageable for me and my family". The Tribunal found that her position was "intractable" in that she insisted that her working pattern should have stayed in place "forever". Weighing her position against the legitimate need the employer had to modernise its nursing provision and providing a more responsive service to community that was available on a 24/7 basis, the tribunal held that the requirement to work flexibly was justified and her dismissal was fair.

The point of the appeal that followed is almost counterintuitive. The claimant argued that the Tribunal had placed too much emphasis on her own specific circumstances - and the fact that she was "intractable" - rather than on the impact of the policy as a whole. In an indirect discrimination claim the question of justification is based on whether the PCP in issue is a proportionate means of achieving a legitimate aim. In other words, it is the PCP that needs to be justified, rather than the treatment of the individual. The claimant argued that the Tribunal should have weighed the benefits of the policy against its discriminatory impact on community nurses as a whole.

The EAT upheld the Tribunal's ruling. While it is true that the issue was whether the PCP was justified rather than whether the claimant's demands had been reasonable, the Tribunal was entitled to take into account her particular circumstances. Justification in indirect discrimination cases is all about striking a balance between the needs of the employer and the discriminatory impact of the PCP on the group to which it is applied. In this case the claimant was part of that group and the EAT pointed out that very little evidence had been brought by the claimant about the impact of the PCP on the group as a whole.

The Tribunal was furthermore entitled to note that there was no evidence that other nurses suffered a disadvantage to the same extent as the claimant. That was a relevant consideration in assessing the extent to which the employer's policy put the group as a whole at a particular disadvantage and the Tribunal made no error in reflecting that in their findings.



Given that outcome, the EAT had no difficulty in also upholding the Tribunal's finding that the dismissal of the claimant was fair. The employer had a clear business need to make the change it did and had engaged in genuine consultations aimed at achieving a compromise solution. The claimant's requirements were so rigid however, that no compromise was possible and the dismissal was fair.

Darren's Advice to Councils

Most people would see this outcome as sensible, given the clear need for the employer to change its rotas in order to provide a better service to the community and the effort it took to reach an accommodation with the only employee who was unable to agree to that change.

What is striking, however, is that when the new rule introduced by the Employment Rights Act 2025 relating to fire and rehire comes into effect in January (on the current timetable) a dismissal in this sort of case would be automatically unfair. The claimant was dismissed, after all, for refusing to agree to a variation of her contract and the Government has made it clear that a variation that requires weekend working would fall within the scope of the new rule. The limited financial difficulties exception set out in the Act would certainly not be applicable in this case.

The lesson seems to be that a change in rota patterns may be a proportionate means of achieving a legitimate aim – but from January, employees will be entitled to stick with their existing contractual terms however strong the employer's business case may be.



NATIONAL DEVELOPMENTS

NATIONAL PAY DEVELOPMENTS

Pay Award Agreed for Chief Officers

On 2nd June agreement was reached on a pay award for Chief Officers for 2026. The award represents a pay increase of 3.3% with effect from 1st April 2026. A copy of the Circular with full details of the pay award can be accessed here:

[READ MORE](#)

Green Book Negotiations – Unions’ Responses and Strike Ballots

Having rejected the National Employers’ full and final 3.30 per cent pay offer, **UNISON** will be conducting strike ballots from 9 July to 6 August in some councils and schools in England and Wales. It has not yet identified which employers will be targeted. The law requires UNISON to provide notice to an employer of an industrial action ballot not later than the seventh day before the opening day of the ballot. See our item on the front page regarding informing EMC if your council has received a notification of the ballot from Unison.

GMB members [voted last month to reject the offer](#). This month, GMB’s national committee met and an announcement was made that “*...further consultation will now take place at local level to determine potential employers and workplaces where GMB can deliver targeted local industrial action.*”

Unite has confirmed its strike ballots will run from 13 July to 17 August. It has not identified which councils will be targeted.

[READ MORE](#)

Craftworkers

There are no further developments with pay negotiations for Craftworkers for 2025. Unite is targeting specific councils for industrial action, none of which are in this region. The Craftworkers’ unions have yet to submit a pay claim for 2026.



GOVERNMENT CONSULTATIONS LAUNCHED THIS MONTH

Zero Hours & Similar Contracts

This consultation relates to measures proposed through the Employment Rights Act 2025 that aim to address the view that there is “one-sided flexibility”. The proposed changes, which are expected to come into effect in 2027, would see:-

- employers being required to offer qualifying workers guaranteed hours that reflect the number of hours worked over a set reference period
- workers being entitled to reasonable notice of shifts, and changes to shifts
- payment when shifts are cancelled, shortened or moved at short notice.

The consultation seeks views on how these new rights should be implemented, including how long the reference period should be that will be used to calculate guaranteed hours - the Government’s preferred option is 12 weeks. The consultation closes on 25th August 2026 and can be accessed through the link below. The proposals are likely to have particular impact on workers such as retained firefighters, and those councils who would be affected are encouraged to respond to the consultation to highlight the issues.

[READ MORE](#)

Employment rights for Parents of Seriously Ill Children and Unpaid carers

This consultation covers adequacy of information and guidance; extending carer’s leave; providing statutory pay for carer’s leave and introducing paid leave for parents of seriously ill children. The consultation closes on 1 September 2026.

[READ MORE](#)

Time Off For Public Duties

This consultation follows on from a review of the list of public duties eligible for time off work under section 50 of the Employment Rights Act 1996, including consideration of special constables. The review aimed to ensure the list remains fit for purpose and continues to support the effective functioning of modern public services.

This consultation covers which public duties should be eligible for time off, proposed additions and removals to the current list of public duties, and how the entitlement works in practice. The Government is proposing that special constables should be entitled to time off under these provisions; people carrying out eligible public duties with a clear local focus should gain the right to reasonable time off; removing the entitlement for those carrying out public duties for national public sector organisations. The consultation closes on 4 September 2026.

[READ MORE](#)
