



HR in the East Midlands

June 2019

Our June bulletin will hopefully distract you from this rainy month. Darren Newman's "In Deep with Darren" article focuses on shared Parental Leave. Our L&D section outlines opportunities for councils to address skills shortage areas and apprenticeships, including information from our most recent apprenticeship event.

Regional Employers' Board and Joint Council Meetings

At the Regional Employers' Board held on 11 June 2019, Members were updated on the Exit Pay Cap and the proposals to introduce the cap within the Public Sector. The main concerns of Board Members were the inclusion of pension strain costs, the impact on lower paid staff with long service and shortcomings in how the proposals were drafted.

These concerns were echoed when the proposals were discussed at the **Regional Joint Council** meeting that followed the Board meeting, with the additional concern raised by trade unions about insufficient equality impact assessments of the proposals, particularly related to adverse impact related to age. (See our National News section for more information on the exit pay cap.)

The Regional Joint Council also received a presentation from the LGA's Jamie Sadler on apprenticeships. See further information on developments with apprenticeships nationally and regionally in the Learning & Development section of this Bulletin and on our website: [here](#).

Reminder Alert!

The Government has published revised guidance under the **Trade Union (Facility Time Publication Requirements) Regulations 2017**. The guidance is less detailed than the previous version, but importantly it still contains specific guidance for local authorities, including where they operate a pooled funding arrangement. It confirms that where an organisation receives funding from another party for facility time, it can subtract that funding from its total costs of facility time. The online reporting service has been available from 3 June to enable employers to report their 1 April 2018-31 March 2019 figures by the **31 July 2019 deadline**. Click the following links to the [guidance](#) and the [legislation](#)



Projects with Local Authorities

During June we have provided support to councils on the following projects:-

- Coaching
- Mediation
- Designing and supporting the delivery of an assessment process for a graduate training programme

To find out how EMC could support an area of work for you, then please contact Sam Maher at sam.maher@emcouncils.gov.uk or Lisa Butterfill at lisa.butterfill@emcouncils.gov.uk



Learning & Development

This month, we are featuring the following learning and development opportunities on offer over the coming months:-

Apprenticeships in our Region Event

EMC facilitated an apprenticeships workshop on 11 June 2019 with attendees describing the opportunity to hear the latest apprenticeship update and share and network with colleagues as very useful. The LGA also explained the funding opportunities available to local authorities to support their apprenticeship journey and our colleagues in South West Councils provided information on the End Point Assessment Model that could be offered through EMC and the assessment opportunities in our region for various subject experts, particularly in Revenues and Benefits. Full details from the event are available on our website or click [here](#).

We are also keen to hear from authorities who are interested in collaborating to form a cohort of employees on a particular apprenticeship standard (linked or not to a skills shortage area such as planning). Please contact Lisa Butterfill lisa.butterfill@emcouncils.gov.uk or call 01664 502643 in order that we can understand the levels of interest.

Furthermore we are continuing to work on the opportunities for a **planning degree apprenticeship** in the region and we will provide further information as our discussions progress. The likely start date of the training will be September 2020 if we can achieve a minimum cohort of 15 people.

BSc (Hons) Degree in Urban Planning - Free event facilitated by EMC and Loughborough University for Chief Planning Officers - 18 July

Loughborough University is working to establish an undergraduate planning degree course (starting September 2020) which is the first for some time in the East Midlands. This is important as the East Midlands is currently the only English Region without an RTPI recognised planning school.

From an EMC perspective, we are keen this new academic offer can also support workforce development in local planning authorities across the East Midlands.

EMC has organised a free event jointly with Loughborough University to enable local planning authorities to hear from academic staff first hand and to help inform the emerging proposition. Invites have been sent to your Chief Planning Officers this month as it is recommended that all local planning authorities in the region send a senior representative to this event.

For further information contact:

lois.dale@emcouncils.gov.uk

What's coming up...

[Developing a Mentoring and Coaching Strategy Workshop](#) on 19th September 2019 to explore and develop a mentoring and coaching strategy for those authorities interested in setting up their own programmes.

GDPR for HR - Refresher and update, 14 Nov 2019 -

Our annual GDPR for HR half day seminar will provide HR professionals with an opportunity to update their GDPR knowledge. <http://bit.ly/2ZTYNxp>

The Power of Constellations Coaching, 5 Dec 2019 -

In this power-packed workshop we will cover:

- What is Constellations Coaching and how does it work
- How listening differs when you listen with your Constellations ears
- The only way we can really be helpful as a coach and the pitfall you must avoid if you truly want to help your clients
- The 3 forces that govern systems and why you must understand these to be an effective leader and a good coach
- A live demonstration of a Constellations Coaching session: <http://bit.ly/31T3DwS>

Contact Details

For further information about any of our work please contact the Local Government Services Team. Either call 01664 502 620 or email:-

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In Deep with Darren

Darren Newman's in-depth analysis of a topical HR issue and its implications for local authorities.

One of the reasons for the introduction of shared parental leave in 2015 was to encourage a more even distribution of childcare responsibilities between two parents. Rather than assume that a mother would drop out of the workplace for up to a year, with the father taking a couple of weeks off when the child was born, shared parental leave was intended to foster a flexible approach where a total of 52 weeks' leave could be split between the two parents. Take-up, however, has been disappointing with research commissioned by the TUC suggesting that it might be as low as 1 per cent¹. This might be because there is something deep-seated in society that prevents men from taking extended leave for family reasons. It might be because the process for taking shared parental leave is more complicated than it needs to be. But there can be little doubt that at least one reason for the low take up boils down to money.

Shared parental leave may be paid, but the statutory rate is fixed at the lower level of statutory maternity pay – currently £148.68. There is no initial period of 6 weeks at 90 per cent of earnings as there is with maternity pay. What is more, the total amount of pay to be taken over both maternity and shared parental leave is 39 weeks. In effect the pay is simply what is left over after the mother has ended her maternity leave. This means in many cases there is no statutory entitlement to pay left by the time shared parental leave starts.

The difference is even more stark in cases where the employer pays an enhanced rate of maternity pay. The Green Book for example provides for an additional 6 weeks' pay (usually paid at 50 per cent of pay for 12 weeks) after the initial 6 weeks at 90 per cent of earnings. Some employers go even further than this –

but relatively few pay over the statutory minimum for shared parental leave.

Some employers have been worried that paying an enhanced rate for maternity leave, but only the statutory minimum for shared parental leave is discriminatory. The Court of Appeal, however, has just emphatically ruled that it is not. In the case of **Ali v Capita Customer Management and Hextall v Chief Constable of Leicestershire Police** (the two cases were joined together and the Court issued a single judgement) the Court effectively stamps on any argument that an employer might not be permitted to pay someone taking maternity leave more than someone taking shared parental leave.

When it comes to direct sex discrimination the point is quite straightforward. A man taking shared parental leave cannot be compared with a woman taking maternity leave. The Court reaches this conclusion after a lengthy discussion about the Pregnant Workers' Directive and the case law of the European Court of Justice. But it actually boils down to a simple issue. Direct discrimination is less favourable treatment *because of* a protected characteristic. When an employer pays an employee on shared parental leave less than an employee on maternity leave that is not because of sex. A man taking shared parental leave after his wife or partner has taken maternity leave is in the same relevant circumstances as a woman taking shared parental leave after her wife or partner has taken maternity leave. Provided both are treated equally, there is no direct discrimination.

A more difficult issue is indirect discrimination. It seems sensible to suppose that although both women and men take shared parental leave, women are more likely to take it after a period of maternity leave. Does that mean that men are placed at a particular disadvantage when the employer pays maternity leave, but not shared parental leave, at an enhanced rate? No says the Court of Appeal. The pool for comparison – the group you look at to determine relative disadvantage – does not include women who have taken maternity

¹ <https://www.tuc.org.uk/news/tuc-calls-overhaul-shared-parental-leave>



leave, because they are in a different position from those who have not. Even in indirect discrimination cases, like must be compared with like. Since men who take shared parental leave after their partner has taken maternity leave are no worse off than women who take shared parental leave in the same circumstances, it cannot be said that men are at a particular disadvantage. Even if they were (and you can see that the Court of Appeal is keen to cover all the bases here) then the employer's policy would be justified as a 'proportionate means of achieving a legitimate aim' and therefore would not amount to indirect discrimination.

There is also another – rather technical – barrier in the way of a discrimination claim. The Court of Appeal held that because the issue over payment for shared parental leave is one of contractual entitlement, it cannot be the subject of a sex discrimination case at all. Instead it has to be taken as an equal pay claim – or an equality of terms claim as the Equality Act puts it. But any equal pay claim based on comparing yourself with someone who takes maternity leave is doomed to fail. This is because Schedule 7 of the Equality Act provides that the equality clause on which such a claim relies does not apply to terms affording special treatment to women in connection with pregnancy or childbirth.

It is as though the Court of Appeal has gone out of its way to reassure employers that they are free to pay an enhanced rate for maternity leave without having to match that entitlement for shared parental leave. Every possible avenue for challenging that arrangement has been closed off – unless of course the matter is taken to the Supreme Court.

This will be a relief to employers – matching enhanced maternity pay for everyone taking shared parental leave would be a very expensive exercise – but leaves us with the original problem. How do you encourage fathers to take more leave? There is currently speculation that the Prime Minister is pushing for a new right to 12 weeks' paid paternity leave with the first six weeks paid at 90 per cent of earnings. But this would take an Act of Parliament and the commitment of a Prime Minister with more than just a few weeks left in the job. Nevertheless, better paid leave for fathers must certainly be part of the solution. It is now clear that this will not be enforced by the courts, but perhaps it will make its way onto the Government's rather lengthy to-do list.

National Developments

National Pay Negotiations – Regional Pay Roadshow Event

Negotiations on national pay for Local Government Services employees (Green Book) will be formally launched in July, when the joint trade unions will be submitting their pay claim for 2020. On 12th September 2019, between 1.15 and 4.00pm, EMC will be hosting a Pay Roadshow event to enable councils in the East Midlands to be consulted on the national pay negotiations and engage directly with the employers' national negotiating team. To book a place please call Mila Pereira on 01664 502 648 or email:-

Mila.pereira@emcouncils.gov.uk

Exit Pay Cap Consultation – Encouraging Your Responses

The consultation closes on the Exit Pay Cap proposals on **3 July 2019**. EMC is submitting a response on behalf of the region and thank you to everyone who has provided us with a copy of your submission to feed into our response.

If you haven't submitted a response to Government, you are encouraged to do so to ensure there is plenty of information and evidence on the implications for local authorities. We'd suggest using the LGA's response as a guide when developing your submission, as it provides a comprehensive insight to the key issues. It can be accessed [here](#).

LGA Annual Workforce Survey

The LGA would like to thank those who contributed to the 2017/18 Workforce Survey as a national picture would not be possible without your support. A report looking at the national, district and single and upper results can be found here:

<https://www.local.gov.uk/local-government-workforce-survey-2017-18>. For those who have

agreed to have the data published on LGINform your benchmarking data can be found here:

<https://lginform.local.gov.uk/reports/view/lga-research/lga-research-report-local-government-workforce-and-earnings-surveys>



The report can be printed and the charts and data behind them exported, providing you with a one stop shop for your HR benchmarking needs. If you didn't originally agree to have your data published, but would now like to do so, please get in touch with jon.sutcliffe@local.gov.uk.

Quarterly Workforce Benchmarking Club

Due to demands for more contemporaneous HR Data the LGA are starting a quarterly workforce benchmarking club collecting data on 5 core issues: sickness, turnover & vacancy rates, top 5% earners and training budgets. The club will launch in July, collecting data from April – June 2019, there will also be an opportunity to upload data for 2018/2019. For more information and/or to register your interest please contact felicity.meerloo@local.gov.uk.

NARE Update

NARE is the National Association of Regional Employers, which meets quarterly with colleagues from the LGA. The most recent meeting took place on 18th June and discussed the exit pay cap. Improving and co-ordinating the collection of employment-related data was also discussed.

The Metropolitan Police gave a presentation on **cybercrime**, which is affecting a growing number of individuals and organisations. EMC offers a service to councils that includes a subscription to a system that provides a warning of potential cyber-attacks, as well as network to enable officers to meet up and share information and practice on ICT security issues. The service is called WARP, and for more information please contact Kirsty Lowe at Kirsty.lowe@emcouncils.gov.uk

Apprenticeships Newsletter

The LGA's latest apprenticeship newsletter can be accessed via this link: [apprenticeships](#)

This month's edition provides information on:-

- Public Sector Target Reporting period
- Open letter to the Education Secretary calls for reforms to the apprenticeship system

- Best Practice Levy Monitoring Tool now available.
- Liverpool City Region apprenticeship portal
- Highways Engineer Apprenticeship Trailblazer update
- Accessibility and Digital Inclusion Level 4 standard
- Cyber Security Level 3 Standard
- T-Level Workshops

Webinars: Closing the gender pay gap

GEO's Workplace and Gender Equality (WAGE) Research Programme works with academics and policymakers to build the evidence base and increase our knowledge of what works to reduce the gender pay gap. They use this knowledge to support employers with information that will help them to understand their pay gaps and take action to close them.

Please see a series of links that may be useful for you.

How to support women's career development

Thursday 27 June 12:30-1:30

This webinar will focus on how to support women to progress, through networking, mentoring, sponsorship, and career development advice and support, and will be hosted by the Government Equalities Office and Dr Elena Doldor, from Queen Mary, University of London.

<https://attendee.gotowebinar.com/register/6147328128922852098>

How to improve your flexible working policy

Tuesday 9th July 12:30-1:30

This webinar will focus on the research behind supporting employees to work flexibly and achieve a work-life balance, and will be hosted by the Government Equalities Office and Dr Heejung Chung, from the University of Kent.

<https://attendee.gotowebinar.com/register/3382265292275541250>

How to support parents to balance work and childcare

Thursday 11th July 12:30-1:30



This webinar will focus on how to support parents in the workplace, improve parental leave policies, and support men and women to share caring equally, and will be hosted by the Government Equalities Office and Professor Margaret O'Brien from University College London.

<https://attendee.gotowebinar.com/register/7078725528323635202>

How to debias your recruitment, performance, reward and promotion processes

Thursday 18th July 12:30-1:30

This webinar will focus on how to improve your performance, reward, recruitment and promotion processes to remove bias and make the best use of the skills and talent in your workforce, and will be hosted by the Government Equalities Office and Kate Glazebrook, CEO and co-founder of Applied.

<https://attendee.gotowebinar.com/register/2557991111745914370>

