



Darren Newman on liability for 3<sup>rd</sup> Party Harassment at Work



East Midlands Jobs and Recruitment Advertising Campaign Updates



L&D and Networking



National Pay Negotiations Update

## EAST MIDLANDS JOBS & RECRUITMENT ADVERTISING CAMPAIGN UPDATE

The regional jobs portal – East Midlands Jobs – has been refreshed and has been made available to councils free of charge until 31<sup>st</sup> March 2025 in support of the roll-out of the national recruitment campaign. Feedback from Councils about the site has been really positive, and some Councils have taken up the option of having vacancies automatically uploaded from their own websites. East Midlands Jobs is still available for councils to use – there is a small annual subscription to cover the costs of site maintenance and further improvements we will make to the site.

The cost is £295 for Districts/Boroughs and £495 for Counties and Unitaries. For non-member organisations, the cost is £885. These prices are subject to VAT. We are providing a month's grace period during April for councils that notify us of their intention to subscribe, to give time for a PO to be arranged. A pay-as-you-go option is also available (£95/£285 plus VAT per advert for member/non-members).

To subscribe or confirm your intention to subscribe, please email Sam – [sam.maher@emcouncils.gov.uk](mailto:sam.maher@emcouncils.gov.uk)

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## NATIONAL RECRUITMENT CAMPAIGN – UPDATE MEETING

We heard from councils in the region at our update meeting in January that you found the resources from the national campaign to be really useful and it has been great to see how councils within the East Midlands have tailored the resources to produce excellent materials and videos.

The LGA is hosting an online event on Wednesday 30<sup>th</sup> April 2025 (2pm – 3.30pm). The event will share the findings of the evaluation, as well as highlighting case studies from councils. Spoiler alert! – a council from our region has been invited to share a video they have produced as an excellent example of how the resources from the campaign have been put used and built on. The registration link for the event is here: [registration link](#).

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## PROJECTS WITH LOCAL AUTHORITIES

During March, EMC has supported councils with:

- Senior Team Development
- Recruitment and selection training
- Psychometric testing

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

CONTACT LISA

CONTACT SAM



### EMC COUNCILLOR DEVELOPMENT

East Midlands Councils is offering the following training opportunities to support councillors with their learning and development.

#### **The Role of the Civic Head - 20th May 2025 10am - 3pm, North Kesteven District Council**

This session will benefit Elected Members who anticipate election to the office of Mayor or Chair of Council at Annual Meetings in May 2025. Attendance by civic office support staff has also proved useful and beneficial in understanding the role and building effective working relationships.

[READ MORE](#)

#### **Chairing Skills for Members - 18th June 2025 - 6pm - 8.30pm on-line**

This 2.5-hour session has been developed for Councillors in the East Midlands and will provide participants with tips and techniques associated with being a skilled chair of a virtual, physical or hybrid meeting. It is suitable for both chairs and vice chairs.

[READ MORE](#)

#### **Look out for the following learning events too!**

##### **Regional Induction Session for New Councillors**

We are planning a regional induction session for new councillors in early July 2025 to help them hit the ground running! The date and further details will follow shortly but the aim is to complement your own council's induction programme by covering a range of national and regional issues as well as further understanding the local ward role. A valued feature of the event is the opportunity to network with other members from across the region.

**Knowledge Briefing Event – Government Policy: Devolution and National Planning Policy: 5th June - 10am – 4pm at Devonshire Place in Leicester.** An event for both councillors and officers to meet and hear about the latest government policy reforms regarding the devolution framework, national planning policy and housing and to consider the impact for councils and communities. This event will be bookable soon on our website.

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### EQUALITY DIVERSITY & INCLUSION (EDI) NETWORK

The next meeting of the regional EDI network will be taking place on 22<sup>nd</sup> May 2025 at 10.00am. It will be a virtual meeting via MTeams and will provide an opportunity for councils to share practice and hear about new initiatives. The meeting will include an update on work and opportunities to assist people in the region who are Hong Kong BNOs to gain employment and make full use of the experience and skills they can offer.

Contact Suzanne Boulby to register your attendance and receive an invitation to the meeting – email Suzanne at [suzanne.boulby@emcouncils.gov.uk](mailto:suzanne.boulby@emcouncils.gov.uk)



## IN DEEP WITH DARREN

### PREVENTION OF THIRD-PARTY HARASSMENT AT WORK

Since October 2024 all employers have been under a duty to take reasonable steps to prevent their employees from being subject to sexual harassment at work. That duty does not just apply to preventing harassment from fellow employees but extends to the harassment that an employee might suffer from third parties such as contractors service users and members of the public.

But the duty is limited. First of all it only applies to sexual harassment. That has a particular definition in the Equality Act and covers unwanted conduct of a sexual nature. It does not cover unwanted conduct that simply relates to the protected characteristic of sex. If a service user behaves in an objectionable manner toward female employees that might be unwanted conduct and it might relate to the fact that the employees are women – but it will not be sexual harassment within this definition. It is not the sort of conduct that the employer has a duty to prevent.

The second limitation of the duty is that while the employer must take reasonable steps to prevent sexual harassment from third parties, it is not liable for that harassment. It is only liable for the acts of its own employees as they act in the course of their employment. Third party liability was originally part of the private members' bill that introduced the duty to prevent sexual harassment but it was removed when the bill reached the House of Lords as it was meeting too much opposition.

The Employment Rights Bill – which has just reached the House of Lords – restores that liability. When the Bill is brought into force it will make employers liable for the harassment of employees while those employees are acting in the course of their employment – even if the harassment is carried out by third parties. Importantly this is not limited to sexual harassment. Any unwanted conduct related to a protected characteristic – if it is serious enough to amount to harassment - will be covered.

The implications for local authorities are huge. A teacher subjected to sexist comments from a parent; a social worker mocked for wearing a headscarf; a street cleaner who suffers racial abuse from a passer-by – the employer could be held liable in all of these cases.

But to establish liability the claimant must show that the employer failed to take all reasonable steps to prevent the harassment from occurring. This is similar to the defence that an employer has under the current law that it took all reasonable steps to prevent the discrimination or harassment alleged to have been committed by an employee. The difference is that while currently the employer must show that it has taken all reasonable steps, in cases of third-party harassment the claimant must establish a failure to take those steps – the burden of proof is reversed.

I have seen some concern from employers that they are unable to control the behaviour of members of the public – and of course that is true. But when we look at the phrase 'all reasonable steps' we should not get distracted by the word 'all' – it is the word 'reasonable' that is most important. And what is reasonable will of course vary depending on the circumstances. There are some environments – like a library – where the employer is in control of who comes in and can exclude people who behave inappropriately. There are others – such as a care setting – where the employer may not be able to exclude people it has a duty to care for, but can still control the environment in which the work is done, carry out appropriate risk assessments and ensure that support is on hand for employees who need it.



## IN DEEP WITH DARREN

There are also environments where the employer has no way of controlling the behaviour of others and must concentrate on the support it can provide to employees.

I would expect Tribunals to understand that an employer cannot reasonably be expected to control or even police the behaviour of every third party that an employee comes into contact with. We will of course have to wait for the case law to develop and there will be case law! Whether or not the employer has taken all reasonable steps to prevent harassment from a third party is likely to be the key issue in most cases. The harasser will not be an employee and may not be available as a witness to deny any accusations being made. In most discrimination cases – at least the ones that make it to a hearing – the employer is challenging the employee’s account of what happened. But for third party harassment the employer may not have any choice but to accept the employee’s version of events. The only defence realistically available might then be to argue that even through the harassment took place there is nothing more that the employer could reasonably be expected to have done.

There is so far very little case law on what taking ‘all reasonable steps’ actually means. In my experience employers do not often try to make the argument that they should not be held liable for whatever one of their employees has done. When the issue is addressed it is actually quite surprising how easily satisfied a Tribunal can be. In the recent case of *Campbell v Sheffield Teaching North Hospitals NHS Foundation Trust* the EAT accepted that an employer who had a clear policy on equality issues and backed that up by including equality issues in performance reviews, regular training for staff and a series of workplace posters emphasising its values had met the requirement to take all reasonable steps.

Of course, these steps cannot easily be translated into preventing harassment from third parties. Mandatory equality training for members of the public is not really an option. But an employer who does what it can to protect its employees through a campaign of public awareness, by training staff to deal with challenging behaviour, making sure they are supported appropriately and able to extricate themselves from situations where they feel harassed or unsafe is probably doing all that a Tribunal would expect.



## NATIONAL DEVELOPMENTS

### NATIONAL PAY NEGOTIATION DEVELOPMENTS

The Employers' Side of the National Joint Council met on 24<sup>th</sup> March 2025 to discuss the national pay claims that have been submitted by the unions and representatives of each of the employee groups. Copies of the claims received for 2025 are available on EMC's website at the link below. The Members received feedback provided by councils who attended the regional pay briefings and submitted responses to the LGA's pay survey.

The Employers' Side will be meeting again on Tuesday 22<sup>nd</sup> April 2025. We will keep you updated with any developments as they arise. Sam Maher attends the meetings as one of the advisers to the Employers, appointed from the regional employers' organisations.

[READ MORE](#)

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### CORONERS' REPRESENTATIVES WITHDRAWAL FROM NATIONAL PAY NEGOTIATIONS

Representatives of Coroners have withdrawn from the Joint National Committee for Coroners which has been in place to negotiate pay. The reason for their withdrawal is partly due to the growing gap between the funded pay awards the Judiciary have received (via the Senior Salaries Review Body), and the pay awards available within local government budgetary constraints. The implications of this change is that pay will need to be negotiated at local level, and EMC shared this news recently with councils who would be affected.

[READ MORE](#)

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### EQUALITY (RACE & DISABILITY) BILL – CONSULTATION ON EXTENSION OF MANDATORY PAY GAP REPORTING TO ETHNICITY AND DISABILITY

The Government has opened consultation to seek views on how to introduce mandatory ethnicity and disability pay gap reporting. Councils are encouraged to contribute directly and as part of the LGA's national response on behalf of the sector.

[READ MORE](#)

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### STATUTORY REDUNDANCY & UNFAIR DISMISSAL COMPENSATION RATES

From 6<sup>th</sup> April the statutory limit on a week's pay for statutory redundancy increases from £700 to £719 per week. The maximum compensatory award for unfair dismissal is increased to £118,223. Compensation for unlawful inducements from collective bargaining is increased to £5,735.