



# HR in the East Midlands

November 2023

This month we feature the discount available to access XperthR. Darren Newman's article looks at a new right to request predictable working hours. There is a reminder of the range of mediation training available and we also give an update from our recent Equality Diversity & Inclusion Network event.

## XperthR Regional Deal

Each year, EMC negotiates a regional deal with the online HR and employment law information provider, XperthR, for the benefit of all our member authorities. XperthR are continually adding new content and extra services to keep the provision up to date and relevant for our needs. This is an extremely popular offer, with 33 authorities signing up to the deal last year.

We have re-negotiated with XperthR for the period April 2024 - March 2025, based on the current number of user licences and are pleased to confirm that there will only be a marginal increase in costs of just under 2%. Therefore for 2024–2025 the costs will be:

**First User Licence (which includes the Public Sector Access Fee) £999.00 + VAT.** This still represents a 50% saving from XperthR's standard rate card pricing structure.

**Subsequent Licences £837.00 + VAT per licence.** This represents a 58% saving from XperthR's standard rate card pricing structure.

If you would like to continue to subscribe to the regional deal or to join in, please email Mila at [mila.pereira@emcouncils.gov.uk](mailto:mila.pereira@emcouncils.gov.uk) by **Friday 26th January 2024** at the latest, advising how many licences you require so that we may confirm the collective number of licences with XperthR, and they can then make the purchase order/invoicing arrangements.

For those authorities who may be interested in additional products and services available, XperthR have agreed the cost of their legal advice line for EMC member authorities will be £704.00 per person.

If you have any questions please do not hesitate to contact either Mila or Lisa Butterfill at [lisa.butterfill@emcouncils.gov.uk](mailto:lisa.butterfill@emcouncils.gov.uk).

## Projects with Local Authorities

During November, EMC has supported councils with:-

- Restructuring support
- Grievance and disciplinary investigations
- Psychometric testing

**To find out how EMC could support an area of work for you, then please contact Sam, Lisa, or Mark.**

[Sam.Maher@emcouncils.gov.uk](mailto:Sam.Maher@emcouncils.gov.uk)

[Lisa.Butterfill@emcouncils.gov.uk](mailto:Lisa.Butterfill@emcouncils.gov.uk)

[Mark.pinchen@emcouncils.gov.uk](mailto:Mark.pinchen@emcouncils.gov.uk)

# Learning & Development

## Mediation and Conflict Resolution Training

Would you or someone in your team benefit from an improved ability to effectively mediate? We have a range of courses to support this and help resolve disputes before they become a disruptive and time-consuming issue. They will all take place at Pera Business Park in Melton Mowbray.

### 1. Workplace Mediation Skills Tuesday 9 & Wednesday 10 January 2024

This two-day course equips you to be able to address workplace conflict at an early and informal level, ensuring that situations do not escalate to the point of requiring formal intervention.

Target audience - HR Professionals, Employee Relations Staff & Team Leaders Managers  
**Places still available - please contact Mark directly: [mark.pinchen@emcouncils.gov.uk](mailto:mark.pinchen@emcouncils.gov.uk)**

### 2. The Interpersonal Mediation Practitioner's Certificate (IMPC) Monday 15 - Friday 19 January 2024

Become an Accredited Workplace Mediator with the Interpersonal Mediation Practitioner's Certificate (IMPC), the market-leading mediator qualification.

Target Audience - HR Professionals & Employee Relations staff  
**Deadline for booking 12/12/23**

### 3. Mediation Development Day (Refresher) Thursday 30 January 2024

Refresh your skills and receive live consultative support from an expert in the field. A reminder of what you learned in your initial training and re-boots your confidence and competence as a practising mediator.

Target Audience - HR Professionals, Team Leaders & Managers  
**Deadline for booking 20/12/23**

### 4. Conflict Resolution Skills for Managers Tuesday 19 March 2024

This 1-day workshop equips delegates with the skills to be able to better address both their own and others' disagreements. Equipping managers with the basic skills required to resolve workplace conflict.

Target Audience - HR Professionals, Team Leaders & Manager  
**Deadline for booking 13/02/24**

**FIND OUT MORE ABOUT OUR MEDIATION TRAINING & TO BOOK: [Information, Webinar and to book](#)**

## Equality Diversity & Inclusion (EDI) Network Event

On 28<sup>th</sup> November we held an in-person event for the regional EDI Network. Feedback from participants was great:

**"I thought today's event was a huge success and everyone I spoke to echoed those thoughts. I think everyone valued the opportunity to see each other face to face which was clear to see through the networking which took place."**

A key part of the event was the being able to hear from each other on work that is taking place in different councils – helping to identify opportunities to learn and share approaches. The day included key speakers –

- from the Shaw Trust on their Health and Work Programme to help people overcome barriers into employment
- from EMC's Strategic Migration Team on refugees, asylum seekers and resettlement schemes in the region.

The day also involved a session to shape the work of the network going forward.

If you would like to be part of the network, then contact Suzanne at [suzanne.boulby@emcouncils.gov.uk](mailto:suzanne.boulby@emcouncils.gov.uk)



## In Deep with Darren

### This month, Darren Newman's article looks at a new right to request predictable working hours

Since Brexit happened some time ago, you might think that an EU Directive adopted in the summer of 2019 and which member states had to implement by August 2022 would not affect us. It is true that the UK Government is not bound by the Directive on Transparent and Predictable Working Conditions, but it is clearly, at least indirectly, influenced by it. Among other measures, the Directive gives workers the right to 'request a form of employment with more predictable and secure working conditions where available and receive a reasoned written reply' (Article 12).

In 2019 The Taylor Review of Modern Working Practices clearly had the Directive in mind when it recommended that "Government should act to create a right to request a contract that guarantees hours which better reflect the actual hours worked, for those on zero hour contracts who have been in post for 12 months." The report suggested that "The average weekly hours worked over the previous 12 months should be the starting assumption for any new contract."

The UK Government seemed to take on board the recommendations of the Taylor Review, and this was picked up in the 2019 Conservative party manifesto which promised: "We will ensure that workers have the right to request a more predictable contract and other reasonable protections."

The Workers (Predictable Terms and Conditions) Act 2023 is the (eventual) fulfilment of that manifesto pledge. It allows a worker (subject to a qualifying period to be set out in Regulations) to request a change to their terms and conditions of employment if there is a 'lack of predictability' in their work pattern and the request is being made in order to get a more predictable work pattern. Interestingly this right also applies to agency workers when they have been engaged on the same assignment for at least 12 weeks. In that case the agency worker actually applies to the hirer to request either an employment or worker contract directly with the hirer rather than through the agency.

When a request is made, the employer or hirer must deal with the application reasonably and give a decision within one month. The decision must not be based on 'incorrect facts' and any refusal must be for one of a range of business reasons set out in the Act. These include the burden of additional costs, a detrimental impact on the employer's ability to meet customer demand or indeed a detrimental impact on 'other aspects of the employer's [or hirer's] business'.

You may spot a similarity between this new right and the existing right to request flexible working. That is not accidental. The new provisions have not exactly been cut and pasted from that right – but they have certainly used the flexible working provisions as a template.

Both rights employ the same sleight of hand to make them appear more significant than they really are. Employers are required to handle requests reasonably – but there is no requirement that the actual decision that they make must be a reasonable one.

If a worker on a casual contract requests regular hours, then the employer is free to say no to that request if the reason for the refusal is genuinely one of the ones set out in the Act. The process by which the employer reaches that decision must be a fair one, but the decision itself need not be.

Suppose a zero-hours worker requests regular working hours. The employer must consider that request and that may involve meeting the worker to discuss it and consulting with the relevant managers. But if the employer concludes that such a request would result in the worker costing more to employ, then that will be a valid ground for refusal. The employer's cost estimates would have to be accurate, but a Tribunal would not be able to decide the case based on whether or not they thought that the employer should be expected to bear those costs. The underlying reasonableness of the decisions cannot be challenged.

In the right to request flexible working there is another layer to this. If the employer refuses a request, then that might well lead to a claim for indirect sex discrimination. Women are still much more likely than men to need to adjust their working hours to accommodate their caring responsibilities. Refusing a flexible working request



may therefore be evidence of a practice that places women at a particular disadvantage and that will amount to indirect discrimination unless the employer can show that the refusal is a 'proportionate means of achieving a legitimate aim'. As we have seen in case after case over the years, that is a difficult hurdle for an employer to clear with the result that flexible working requests have to be taken very seriously.

Is the same true for the right to request a predictable work pattern? I don't think so. It is not immediately apparent to me that any one group defined by a protected characteristic is more likely to want a predictable work pattern than any other. Perhaps you could argue that unpredictable work disadvantages women because of the need to organise care for dependents in advance. But it may just as easily be the case that unpredictable work allows women to work around their caring needs, provided they have the right to refuse work that clashes with those needs.

### **Darren's Advice for Local Authorities**

If there is no indirect discrimination claim backing up a request for a predictable working pattern, then I suspect that this new right will not amount to very much. I would expect local authorities to listen carefully to requests for more predictable work from those employed on a casual basis – but in my experience they will already do so, and this new right need not result in any major change.

### **Possible Future Developments**

As we enter a general election year, it is worth looking at what Labour proposes to do in this area. Its policy document "a New Deal for Working People" says that a Labour Government would "ensure anyone working regular hours for twelve weeks or more will gain a right to a regular contract to reflect those hours normally worked."

This is a bit of an odd proposal. If a worker is already working regular hours, what is the problem? Surely it is the workers stuck with irregular hours who may need help? Also, how do you avoid incentivising employers to keep work irregular so that workers do not gain the right to a regular contract? More thinking needs to be done to flesh out this proposal – but it is clear that a new

Labour government will be taking a close look at casual and irregular work.

The Workers (Predictable Terms and Conditions) Act 2023 may not have much of an impact on its own, but I suspect it is a measure that the next Government will want to build on.

## **National Developments**

### **Finance Recruitment & Resourcing Focus Group**

On 27<sup>th</sup> November, EMC hosted a focus group with the LGA and CIPFA to support a national initiative from DLUHC to understand the issues and impact of recruitment and retention difficulties. This strand of the programme is focused on the challenges faced in relation to the recruitment, development and retention of financial services roles.

HR colleagues from councils across the region participated in the focus group and had the opportunity to discuss and explore their issues, as well as sharing their experience and practices. They also benefitted from benchmarking their position in relation to data from a recent national survey of Chief Finance Officers.

The information from this focus group will help CIPFA and the LGA to inform the case they are presenting to DLUHC as part of a programme of funded improvement on a national and regional level. If you have any questions or require further information, please contact [lisa.butterfill@emcouncils.gov.uk](mailto:lisa.butterfill@emcouncils.gov.uk)

### **National Pay Negotiations – Round-up**

This month saw a conclusion to most of the outstanding national pay negotiations. On 1st November 2023 we circulated the national agreements that were reached on 2023 pay awards for Chief Executives and for Local Government Services ("Green Book") employees.



On 16th November 2023, agreement was reached on the 2023 pay award for JNC local authority Craft & Associated Employees ('Red Book'). The agreement covers the period 1 April 2023 to 31 March 2024.

Copies of all the Circulars can be accessed [here](#).

## The National Graduate Development Programme

The National Graduate Development Programme is now open for applications. Councils can sign up to participate in the programme and take on some of the very best graduate talent. Taking part will help councils to build crucial capacity within their organisations and provide a platform for motivated trainees to kickstart their careers as future local government leaders. The closing date for councils to sign up to the programme is 29th February 2024.

For more information, use the following link: [NGDP Cohort 26](#)

## LGA Apprenticeship Update November 2023

Click on the following link to view November's newsletter : [Apprenticeship Newsletter](#)

It features information on:-

- the LGA's annual apprenticeship survey
- a range of workshops being provided over the coming months
- announcements within the Chancellor's Autumn Statement
- documents on pooling
- the updated apprenticeship mapping tool
- Apprentice of the Year event – call for volunteers to support the national event that takes place in a virtual format.

## Local Government Pension Scheme (LGPS) bulletin

The latest LGPS bulletin covers Scheme Advisory Board academy conversions guidance, the latest updates on the McCloud remedy and the publication of the LGPS statistics for 2022/2023. You can access it through this link: [October 2023 LGPS bulletin](#)

