



HR in the East Midlands

August 2020

It was great to see so many of you during the first Exchange we held last week. From feedback so far, you found it really useful as a format and an overview of the session is provided below. Homeworking was one of the topics we discussed as part of the Exchange and Darren Newman's article looks at the legal aspects of responding to requests for homeworking. Our L&D section features new opportunities being offered for the region in Autumn. National pay negotiations for many groups of employees reached agreement this week, and in case you missed them, all information is covered in the national news section.

Information Exchange – Current Workforce Issues arising from COVID

There was great feedback from the first virtual **Information Exchange** which we held this month. The Exchange provides an opportunity to share your experiences, approaches and information on topical workforce issues and learn from each other. This first session focused on **Current COVID workforce issues**: Employees who have been shielding; Casuals and reliefs; Working from home approaches.

Thank you to all participants – we had great input from everyone, which was what made it so successful as an approach. Special thanks to Pete Buckley from Derbyshire CC and Caroline Glass from Newark & Sherwood DC for leading the discussion on casuals/reliefs and on supporting staff returning

from shielding. Also, to Lucy Shevill of Lincolnshire CC who shared their Homeworker DSE Assessment. Information referred to during the exchange has been circulated to participants. Copies are available from sam.maher@emcouncils.gov.uk

There remains a high level of interest in approaches and allowances for homeworking and therefore we will be conducting a national survey on this soon.

Wellbeing and **New Ways of Working** have been raised as useful themes for future Exchanges based on your feedback so far. We look forward to see you at future sessions.

Projects with Local Authorities

During August we have provided support to councils on an individual basis through assignments including:-

- Harassment & bullying investigation
- Action Learning for Managers and Team Members on New Ways of Working – see the learning and development section for more information
- Psychometric testing

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

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Learning & Development

Solving Workplace Problems using Action Learning

This Autumn EMC will be hosting and facilitating virtual action learning sessions for officers across local government, providing a focused opportunity for individuals who want to make progress, explore work challenges where they feel stuck, or need space to be able to refocus and move forward. The sessions will enable participants to reflect on where they are now, and identify actions to create change and progress. For more information on the programme starting on 24 September visit [here](#).

Wellbeing Conversations Development for Managers – Interactive workshops

EMC is offering a practical and interactive virtual workshops enabling managers to support their team members through wellbeing conversations. Due to the high level of interest, we have added an extra date to the programme, on 16 September at 14:00.

For more details of this first workshop, including costs and how to book visit [here](#).

Developing Skills for Effective Wellbeing Conversations

To complement and lead on first workshop featured above, EMC is offering a further session for managers where the focus on developing the skills for effective wellbeing conversations. Date options for this workshop are:-

22 September 2020 (9:30 – 11:30)

23 September 2020 (14:00 – 16:00)

For more information on workshop two, including costs and how to book visit [here](#).

Taking Your Training Remote – A Regional virtual training programme

EMC is providing a programme of two workshops on 'taking your training virtual'. Each workshop is 2.5 hours long and delivered over Zoom.

- Workshop 1 is focused on tools and technology
- Workshop 2 is focused on "translating" your training so it works well remotely.

Both workshops are highly interactive and practical, so you'll go away with real learnings you can put into practice right away.

To ensure an excellent participant experience, numbers at each workshop will be limited. Details [here](#).

Exploring the Learning from Coaching Supervision, 11 Sep 2020

Coaching supervision is an essential part of any coaching practice and helps to maintain the professional competence of individual coaches. It isn't just about when you're stuck or have a problem; through reflective practice and sharing experiences, it helps the coach grow, develop and be the best they can be. It also assists them to identify areas for further personal learning and development.

This workshop will enable coaches to participate in some practical exploration through discussing their experiences via an action learning process, and to reflect on what they have learnt. Details [here](#).

Delivering Councillor Learning and Development Programme

EMC has developed a 4-part programme of support for Democratic Service/Councillor Development officers in the East Midlands. The virtual sessions will be highly interactive in nature:-

- **Workshop 1** - What do we mean by Councillor Development and why is it important?, 7 Oct 2 - [here](#).
- **Workshop 2** - Approaches to identifying councillor learning and development needs, 4 Nov 20 – [here](#).
- **Workshop 3** - Councillor Learning and Development Provision including evaluation, 2 Dec 20 – [here](#).
- **Workshop 4** - Delivering a training/briefing session, 13 Jan 2021 – [here](#).

Contact Details

For further information about any of our work please contact the team:-

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In Deep with Darren

Darren Newman looks at the legal aspects relating to the move to more home working and responding to requests from employees

Has this pandemic seen the end of the traditional office job? Among the many changes to our way of life that we have seen over the past six months has been a huge rise in the number of people working from home. For many of us, virtual meetings have become the norm to the point where the idea of a group of people gathering together in a single room just to talk to each other seems downright strange.

The question is whether this change is a temporary one or something more long-lasting. Will more employees want to work from home on a permanent basis? Will employers want to encourage employees back to the office and back to a normal working pattern, or will the need to ensure a Covid-secure workplace mean that they will rely on extensive homeworking for the foreseeable future? The extent to which employees have a say in their place of work could be a key employment law issue in the coming year.

For employees who want to work from home the key employment right is the right to request flexible working, enjoyed by employees with six months' continuous service. The right was originally introduced to help those with caring responsibilities balance those with the demands of work but in 2014, all reference to the reason for the request was removed. Employees are now free to make a flexible working request for any reason they choose.

It is also important to remember that while we talk about a right to request 'flexible working' what the Act actually provides is a right of an employee to request a change in their terms and conditions of employment provided that change relates either to working time (including a change to the length of the working week, or the employee's specific hours of work) or to the place of work. In other words, an employee with at least 26 weeks' service has the right to request that they be allowed to work from home for all or part of the working week. When the request is made the

employer must handle that request in a reasonable way. There is no formal procedure that needs to be followed, but a Tribunal would expect to see a genuine discussion between the employer and the employee focussed on whether the arrangement can be made to work. A blanket policy to refuse requests will certainly not do.

Any refusal of a right to request flexible working must be based on one of the business reasons set out in the Act. There is no need to list them all because basically they cover every conceivable business reason you could think of from the burden of additional costs, through the impact the request would have on performance or the quality of the work that could be done and the difficulties that the change would present in reorganising work among existing staff. The facts on which the employer bases any refusal must be correct, but the Tribunal is not entitled to weigh the employer's reason for refusing against the employee's reason for making the request. While the process must be handled in a reasonable way and the reason for the refusal must be genuine – the employer's decision does not need to be a reasonable one.

Of course, there are wider issues. Hitherto most requests for a flexible working arrangement have been prompted by the employee's caring commitments and a large majority of such requests have been made by women. That raises the possibility of a right to request claim being backed up by allegations of indirect sex discrimination if the employer's refusal to accept a more flexible arrangement can be shown to put women at a particular disadvantage. To defeat such a claim the employer would have to show that its decision amounted to a 'proportionate means of achieving a legitimate aim' and in that case the Tribunal would absolutely be concerned with the reasonableness of the employer's refusal.

Not everyone requesting homeworking will be able to back that up with a discrimination claim – but there will be some. An employee with an underlying health condition that makes them more vulnerable to coronavirus may feel less able to travel into work on public transport – even if the workplace itself is covid-secure. The same may be true of an employee in a vulnerable age groups and even – though more



research is clearly needed on this issue – a member of ethnic group that may be particularly susceptible to the virus.

While a claim in any of these areas would be breaking new legal ground, it is clear that a sensible employer should approach all requests for homeworking in the same spirit of open mindedness and with a commitment to making the change work if possible. There is no room for prejudice against the whole concept of working from home or refusals based simply on a line manager's gut instinct or personal preference. Indeed, it is important that the approach to homeworking is consistent across the whole organisation. That does not mean that all employees are equally likely to have a request accepted – there are some jobs that simply cannot be done from home – but the same constructive approach centred on trying to make it work should certainly be followed in every case.

What we may also see is a reverse situation in which it is the employer who wants the employee to work from home and the employee who wants to come into the office. Here the issue will be the contract of employment. The place of work is something that must be set out in the employee's written statement of terms and conditions. Usually that is drafted with some flexibility on the employer's part so that the employee's location can be changed if necessary. Often that is based on a reasonable daily travelling distance – and so asking the employee to work from home might well be within the scope of the contract. But often in local government the place of work is confined to the local borough or county. It is not entirely clear that an employee in that case could be instructed to work from home if he or she happened to live over the council boundary.

There is another complication. Wherever the employee can be asked to work, it is clear that there is an implied term in the contract that the employer will provide the employee with the facilities necessary to do the job. Not everyone has a domestic arrangement conducive to working from home. It is not just a question of equipment such as an appropriate chair, desk and laptop – or even the question of broadband – all of these can be arranged. But not every employee will have the physical space to work effectively. They may not have a quiet room away from other people where they can work uninterrupted.

During lockdown there was a general sense that we were all working in a less than ideal environment and appropriate allowances were made on both sides. But in the long term a more sustainable approach will need to be taken. If an employer is asking more employees to work from home, then that needs to be accompanied by the appropriate package of support needed to make it work. If the employee does not have a suitable home environment, then it is up to the employer to find somewhere – perhaps a local co-working space – where the work can be done.

Finally, employers will have to grapple with the question of choosing who gets to work from home and who has to come into the office. This is an unenviable task that will require meeting the needs of employees in vulnerable groups without creating resentment among the rest of the workforce. Employers will need to retain some flexibility so that they can make changes to arrangements as the situation develops. Any change to an employee's contract should therefore include a review clause allowing the employer (after giving suitable notice) to revert to the original arrangement should the needs of the organisation require it. Getting the mix of home and office work right is going to be a key challenge in the months - and even years - to come.

More information can be found on Twitter:
[@daznewman](https://twitter.com/daznewman)

National Developments

National Pay Negotiations

This month saw agreement reached for several national negotiating groups. We circulated details as soon as these developments emerged, however, a summary and a link to the relevant documents are provided below.

Agreement was reached for pay awards for Chief Executives, Chief Officers, Local Government Services employees (those on "Green Book" conditions of service).



In summary, the pay award for each group is an increase of 2.75% with effect from 1st April 2020. For Chief Officers, it has also been agreed to conduct a joint survey on the gender pay gap and to discuss improving work-life balance. For Green Book employees, the minimum national annual leave entitlement for new entrants to local government has been increased by a day to 22 days, and it was agreed that joint discussions will be held on workplace causes of stress and mental health.

Agreement has also been reached for employees on Soulbury terms and conditions (eg youth workers, educational psychologist, etc). It provides an increase of 2.75% in pay across the pay spines from 1st September 2020 and agreement to discuss a review of the current Soulbury pay structure on a without prejudice basis.

Copies of all the agreements referred to above can be accessed [here](#).

Unions representing Craftworkers have not accepted the employers' offer and have asked to continue negotiations. At the time of writing, there is not yet a formal response from the Employers to this request.

Results of Latest COVID Workforce Survey

The report setting out the summary findings from the latest workforce survey is available [here](#)

Apprenticeships

Opportunities to become End Point Assessors for Revenues & Welfare Benefits Practitioner Standard

Last summer, EMC held a workshop on apprenticeships, in which our counterparts South West Councils (SWC) introduced their role as an approved End-Point Assessment Organisation and their aim of using experienced local government colleagues to become assessors. SWC is looking to expand their number of assessors and are currently seeking people with experience of Revenues and Welfare Benefits to become assessors. If you have suitable colleagues who would be interested, then please inform them of this opportunity:

"The assessment work is carried out remotely from home or work using web-based systems which makes it easier to plan, saves on travel time and means you can fit the assessment work around your job role. Assessors carry out assessments (usually remotely) on agreed dates and then record and submit outcomes with clear justifications for the grading decisions. You are required to be occupationally competent and knowledgeable, having 3 years' experience working in Revenues and Welfare in a training and/or supervisory capacity.

Being an End-Point Assessor will help to add to your professional development and give you a role in supporting new entrants. SWC pay a fee for each assessment you carry out which can either be paid to you as additional income or to your employer to help towards the Council's need to generate income targets. For this Apprenticeship Standard, each apprentice has 3 assessment activities to complete: a written assignment, a professional discussion and a presentation.

SWC will provide guidance material and tutorials to support you in this role. You will be able to review another assessor conducting an assessment and you will have access to an Assessor Mentor and IQA for ongoing support. SWC can also offer you the opportunity to gain a qualification in Undertaking End-Point Assessment while you are conducting assessments." To arrange an initial discussion about the role please contact Fay Edwards fay.edwards@swcouncils.gov.uk or Ed Keirle ed.keirle@swcouncils.gov.uk

Apprenticeships Incentives

Earlier this month, the government published a new page on the incentive payments available for hiring new apprentices (please note this does not include related schemes such as traineeships or kickstart). There is no new information contained here, but it does bring together the policy onto one page for the first time, making it easier to find rather than having to search through wider documents on the government's Jobs Plan for references. You can find the page here: <https://www.gov.uk/guidance/incentive-payments-for-hiring-a-new-apprentice>

