



We are delighted to have welcomed three new team members this month—it was great they arrived in time for our team Christmas meal as it was an opportunity to meet lots of us face-to-face as we are still spending a proportion of time working from home. A number of longer standing colleagues also commented how nice it was to have a chance to re-connect.

At the close of the year I want to thank all of you for your ongoing support for SW Councils, I hope you have found us a useful resource during 2022 and that you will continue to see us as your first point of contact for help during 2023—if we cannot help we will try and point you in the right direction. We are continuing our series of short articles about the A-Z of our services as a reminder of all we can do—I had hoped for Christmas we might find some items for the 'X'mas category—but we haven't thought of anything so far except to wish you all a Merry Xmas, Happy Holiday and New Year from the SW Councils team.



Bryony Houlden
Chief Executive
@BryonyHoulden
Bryony.Houlden@swcouncils.gov.uk



Index

- 02 Retained EU Law (Revocation and Reform) Bill
- 04 A-Z of SW Councils Services
- 05 New members of SW Councils' Team
- 06 Three Tourism Awards for the Roman Baths and Pump Rooms
- 07 First Freeports Launched; Electrified Automation
- 08 Debate Not Hate campaign
- 09 Cornerstones of Culture Report; Digital Transformation training programme for Local Government
- 10 Adult Social Care workforce Retention Guide; Modern Slavery Guide and Maturity Matrix
- 11 Winter Vigilance Campaign Toolkit; Adult Smoking Habits
- 12 LGA 2022-23 Apprenticeship Surveys
- 13 Forthcoming Events; SW Jobs

Potential Implications of the Retained EU Law (Revocation and Reform) Bill

UPDATE FOR SOUTH WEST COUNCILS BY DARREN NEWMAN

Earlier this year, the Supreme Court cleared up some key issues around the calculation of holiday pay (*Harpur v Brazel Trust* – don’t worry I’m not going over that again). But this subject just won’t stand still. The Government’s **Retained EU law (Revocation and Reform) Bill** which is currently making its way through parliament has the potential to cause absolute chaos. As currently drafted it will abolish the Working Time Regulations – including the right to paid annual leave – at the end of 2023.

I can’t quite believe that the Government will actually go through with this. Ministers have the power under the Bill to choose to keep specific laws in place that would otherwise be repealed. I would assume that even if the Government was keen to see the 48 hour week and rules on rest breaks being abolished, it would intervene to keep the right to paid annual leave. I remember when the Working Time Regulations first came in and at that time about 3 million workers – mostly part-time – were not entitled to any paid annual leave at all. Surely the Government does not intend to return to those days? We will have to wait and see.

But even if the right to annual leave is retained, the Bill creates a whole new level of uncertainty about what that right consists of. The Bill abolishes the supremacy of EU law and gives the Court of Appeal and the Supreme Court the right to depart from decisions of the European Court of Justice. That could chaos when it comes to annual leave because so many of the established rules – from the carry-over of annual leave when the employee is sick, to the inclusion of

overtime and allowances in the calculation of holiday pay – depend entirely on ECJ decisions. If the Retained EU Law Bill goes through as it is, I can foresee years of confusion while we argue about these issues all over again.

It is with that context in mind that we can look at the next case on annual leave to be considered by the Supreme Court. This is **Police Service of Northern Ireland v Agnew and others**. This has taken some time to come before the Supreme Court since it was decided by the Northern Ireland Court of Appeal back in 2019 but it is now scheduled to be heard on 14 December.

The case is about the inclusion of overtime in the calculation of holiday pay but the key area of interest that it holds is in the question of back pay.

If an employer has failed to calculate holiday pay correctly then that will lead to an unlawful deduction from wages every time there is an underpayment. The time limit for bringing a claim is three months from the date of the deduction or, where there is a series of deductions, the latest deduction in the series. That means that if a worker is subjected to a series of deductions stretching over an extended period then they can bring a claim provided they do so within three months of the last deduction even if the claim is made more than three months after the first and subsequent ones.

The Agnew case is concerned with a different limitation that was imposed by the EAT in 2014 case of **Bear Scotland v Fulton** where in a

Potential Implications of the Retained EU Law (Revocation and Reform) Bill continued....

series of deductions there is a gap of more than three months between two of the deductions.

Before 2014 it was taken for granted that a series of deductions could stretch back over an indefinite time period. The Government sought to limit the scope of back pay claims in the **Deduction from Wages (Limitation)**

Regulations 2014 which provided that a series of deductions could not stretch back more than two years. At almost the same time the EAT added another restriction. In **Bear Scotland Ltd v Fulton** the EAT held that a series would be broken if two deductions were separated by a gap of three months or so. The logic was that the law intended that a worker who left it for more than three months before claiming for a deduction from wages should lose the right to claim and it didn't seem right that an out-of-date claim could be revived just because another deduction was made some time later.

The result was that back pay claims for holiday pay were severely restricted as many workers would take three months or more between periods of annual leave that might result in an underpayment. At the very least, claims brought by groups of workers would be complicated by the fact that the period between each individual payment of holiday pay for each individual worker would have to be analysed to make sure that they formed a continuous series.

The Bear Scotland approach was widely criticised – in my view, rightly so. The problem with the EAT's approach was that it was completely made up. There is just no suggestion in the legislation itself that the time limit works in this way the EAT said it did. The 'three-month gap rule' is just plain wrong. The Northern Ireland Court of Appeal in *Agnew* also thought it was wrong and ruled that the question of whether a number of

underpayments form a single series is a question of fact for the Tribunal to decide. The fact that more than three months passes between two deductions does not mean that the series is broken.

Decisions from Northern Ireland are not binding on the rest of the UK so as things stand the Bear Scotland approach is still binding on Tribunals even if most employment lawyers think it is wrong. However a ruling from the Supreme Court will put the issue to rest – one way or the other.

If, as I expect, the Supreme Court rules that the 'three-month gap' rule does not exist, then that leaves those whose holiday is underpaid able to claim up to two years of backpay even if there are significant gaps between the holidays that they have taken. Large scale group back pay claims will be easier to bring.

The two-year limit may also be challenged. It is not entirely clear that it complies with EU law and that still matters – even after Brexit. Earlier this year, the Court of Appeal in **Smith v Pimlico Plumbers** accepted that when an employer is not providing proper paid leave to a worker then they can't lose their right to claim for unpaid annual leave while they are still employed. They can carry over their entitlement until their employment ends. On that basis it is hard to see how someone claiming for unpaid annual leave can have that claim limited to two years' worth of backpay.

Whether anyone will have time to bring a case on that point before the Retained EU Law Bill comes in and plays havoc with our understanding of how the law on paid annual leave works, we will have to wait and see. Unless the Government changes course, 2023 is going to be an action-packed year for employment law.

A - Z of SW Councils' Services

H



Hong Kong British Nationals (Overseas) Welcome HUB

Find out more about the SW Strategic Migration Partnerships' support of the welcome programme on our [website](#)

HR Policies

SW Councils' team of professionally qualified and experienced specialists offer high quality independent Employment Advice and support.

For more information please visit our [website](#).



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Independent Remuneration Panel Support

SW Councils provides support to independent remuneration panels, who are responsible for determining the level of payments to elected members of councils. For more details email: info@swcouncils.gov.uk

In-House Events

Most of our courses can be adapted for in-house delivery.

More details are available on our [website](#).

Interview Support and Training

Getting the right people, supporting their skill development and then keeping those people is so important.

More details are available on our [website](#).

Investigations

We can help with grievances, disciplinaries, bullying and harassment or whistleblowing cases.

More details are available on our [website](#).

Always here to help ...

Please get in touch to find out more and tell us what more we can do to help:

info@swcouncils.gov.uk
01823 270101

Meet the new members of South West Councils' Team

Kyran Devitt



Before working in Education, I worked in the leisure industry as a Personal Trainer and Wellness coach. This is where I found my passion for wanting to help make a change to others. This meant I had to develop my own personal skills and I then found a real desire to want to learn and develop myself to enable me to be able to help others develop also.

Outside of work I enjoy playing sport (rugby & cricket), spending time socialising with my family and friends as well as enjoying time away on holiday preferably somewhere nice and hot.

I am excited to be joining South West Councils and stepping into the L&D team. I look forward to a new challenge and developing myself to help the team going forward.

Alina Duta



I moved to Somerset four years ago from Romania and have been enjoying getting to know the surroundings! I previously worked in a bank as a Relationship Manager and worked there for 10 years. I also finished University in Romania where I studied Economics. I have two daughters who keep me really busy, one is 8 years old and the other is just under 2 and I enjoy cooking for the family; my signature dish is lasagne.

I have recently joined South West Councils and am enjoying getting to know everyone and building an understanding of Local Government

Jess Mancer



After completing my Masters in English Literature at Bristol University, I realised that my interest in social issues would be key to my career; I wanted to start off in a role that would allow me to get a broader idea of what organisations are out there helping people and how they are supported and set up. I am pleased to be starting at South West Councils, and so far I am meeting lots of different people and getting to learn a lot about various interesting organisations. In my free time I love to spend time with friends and family, as well as read, take my dogs for long walks, and doing anything that involves food!

I am really excited to be joining the team, getting to know everyone, and getting stuck in.

The Roman Baths and Pump Rooms scoops three Bristol, Bath and Somerset Tourism Awards

The Roman Baths and Pump Room has scooped three awards at the Bristol, Bath and Somerset Tourism Awards: Gold for Wedding Venue of the Year, Bronze for Large Visitor Attraction of the Year, and Bronze in the Accessible and Inclusive Tourism category.

Kevin Guy, Leader of Bath & North East Somerset Council, said: *"We are thrilled to have won these prestigious awards, which recognise the hard work put in by our staff year-round to provide an award-winning experience for all of our visitors. The awards cap a great year for the Roman Baths, which was named Number 1 UK attraction and Number 8 best-rated attraction in the world by Tripadvisor earlier this year."*

The past year has seen many exciting developments at the Roman Baths. A new Roman Gym area opened in October 2021, revealing excavations never before seen by the public. With projections and new interpretation, the Gym gives visitors the chance to explore how the Romans kept fit and healthy, learn about Roman medicine, and see the remains of an ancient sauna (*laconicum*).

The Roman Baths Clore Learning Centre opened earlier this year, giving school children and local community groups a chance to learn about the fascinating history of Roman Britain where it actually happened. The innovative new Investigation Zone allows children to have a go at being archaeologists, excavating replica Roman remains in a mock-up archaeological trench and recording their findings using an app.

Every effort is made to ensure that the Roman Baths is as accessible as possible to disabled visitors. Ninety percent of the historic building is accessible to wheelchair users. British Sign Language guides are available for deaf or hearing impaired visitors, and there are fully descriptive audio tours and tactile models to help blind and partially sighted visitors explore the site. Information is provided for autistic visitors and those experiencing potential claustrophobia. The Baths also offers quiet evenings throughout the year, where neurodiverse visitors can enjoy a quieter experience.

Winners from the Bristol, Bath and Somerset Tourism Awards will be entered into corresponding categories of the South West Tourism Awards. Winners from the South West awards will then be selected to represent the region in the national VisitEngland Awards.

www.romanbaths.co.uk

www.bathvenues.co.uk

www.somersettourismawards.org.uk

#BBSTA22



First Freeports launched in major economic boost

The United Kingdom's first Freeports in Plymouth, Solent, and Teesside are now fully up and running after receiving final government approval on Wednesday 7 December.

Each of these Freeports will now receive up to £25 million seed funding and potentially tens of millions of pounds in locally retained business rates to upgrade local infrastructure and stimulate regeneration. Businesses in Freeports can take advantage of tax incentives, unlocking much-needed investment and bringing high quality jobs in industries of the future to some of the nation's most overlooked communities.

Combined, the first three Freeports are expected to bring millions of pounds in investment and thousands of highly skilled jobs, turbocharging local economies and benefitting the whole of the UK.

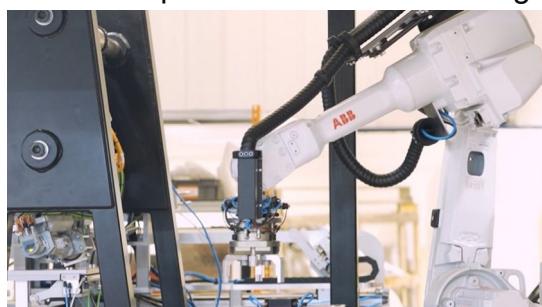
Freeports benefit from a package of measures, comprising tax reliefs, customs advantages, business rates retention, planning, regeneration, innovation and trade and investment support.

For more information on Freeports visit www.gov.uk

Electrified Automation, Somerset

Electrified Automation, Somerset is one project benefitting from new funding for the development of clean transport technologies. It has been awarded £6 million to further develop their innovative process for manufacturing electric motors that are more cost-competitive, powerful

and efficient than many of the products currently available in the marketplace.



The grant has been awarded through the Advanced Propulsion Centre (APC) Collaborative Research and Development programme, which supports the development of innovative low and zero carbon automotive technology. [For more information.](#)



Debate Not Hate

The LGA have launched the new [Debate Not Hate campaign toolkit](#)

The new toolkit outlines different ways councils and councillors can support the Debate Not Hate campaign objectives and take action.



The toolkit is designed to provide councils and councillors with resources to raise awareness of the campaign's aims to challenge and reduce abuse against local politicians and encourage improvements in the quality of public discourse and political debate.

The [toolkit provides a range of digital and physical resources for councils and councillors](#) to use, including:

- Brand guidelines and logos
- Email banners and virtual meeting background
- Social media assets
- Poster printouts and stand specifications
- Template letters to MPs and the Local Government Minister
- A model council motion and template press release.

Abuse of councillors or council officers is unacceptable and only serves to silence the voices of democratically elected leaders and the residents they represent. It is vital that we come together and push for concrete action to protect current councillors and ensure prospective councillors feel safe to stand for election. If you have comments about the toolkit or other issues the LGA should consider under the Debate Not Hate campaign please email DebateNotHate@local.gov.uk



Next years SW Challenge 12th October 2023



**£1,950 + VAT
Per team of six until 31 March 2023**

To book or for more information contact:

training@SWCouncils.gov.uk

Cornerstones of Culture Report

The final report of the Commission on Culture and Local Government, exploring the contribution of local culture, the barriers it faces and the four cornerstones that are essential to a healthy local cultural ecosystem has been launched.

The [Cornerstones of Culture](#) report draws together evidence of the ways in which local culture contributes to:

- resilient places
- inclusive economic recovery
- social mobility
- addressing health inequalities.

It concludes that local culture can be important in delivering against these agendas and that councils have a vital role to play - in funding and supporting local cultural infrastructure and as place shapers.

The report identifies four 'Cornerstones' of cultural placemaking, which are needed to support a strong local cultural offer:

- **Capacity and resilience in place.** A levelling up of capacity for culture within place, targeting regional inequalities and enabling councils to develop and deliver meaningful place-led strategies for culture.
- **Leadership and power.** A power shift towards place-led approaches that enable a greater diversity of communities, cultural providers and practitioners to shape local decision making.
- **Funding.** A coherent and transparent approach to funding culture in a place that supports the delivery of place-led strategies and addresses the immediate financial fragility of the sector triggered by the pandemic and cost of living crisis.
- **Evidence.** A coordinated approach to developing an effective evidence base for culture and place in order to measure value and shape future investment.

It sets out detailed recommendations about how each of these can be strengthened through collaboration and a commitment to place-led working.

Digital Transformation training programme for local government

DLUHC is running a free training programme for local government in collaboration with the Amazon Web Services Institute and the Society for Innovation, Technology and Modernisation.

This programme is for Leaders in local government such as chief executives, executive directors, directors, assistant directors, chief digital/IT officers and their direct teams and equips them with the confidence and expertise they need to lead the successful digital transformation of public services to better meet the needs of their citizens. The programme is available at no cost. Capacity is limited.

[Executive Education Programme in Digital Transformation for UK Local Government](#)

Adult Social Care Workforce Retention Guide

Skills for Care, the strategic workforce development and planning body for adult social care in England, and Partners in Care and Health, a partnership of the Local Government Association and Association of Directors of Adult Social Services, have developed a guide to 'top tips for adult social care workforce retention'.

The guide has been developed in conjunction with councils and providers of social care and is aimed at senior officers, employers or councillors with an interest in the adult social care workforce or commissioning. The guide provides top tips, suggestions, and links to resources to help implement staff retention measures.

Guidance:

<https://www.skillsforcare.org.uk/Recruitment-support/Recruitment-planning/Recruitment-planning.aspx>

More information:

<https://www.skillsforcare.org.uk/Home.aspx>

<https://www.local.gov.uk/our-support/partners-care-and-health>

Modern Slavery guidance and maturity matrix

The Local Government Association (LGA) has published an updated guide on modern slavery, supported by a maturity matrix designed to assist councils in developing their work on modern slavery.

The guide is split into targeted sections for officers working in different council services including children's services, adult social care, housing, community and regulatory services and procurement and commissioning in local government supply chains.

The matrix provides a framework for assessing progress and planning future activity on modern slavery. The first two sections focus on the leadership and resources and capacity needed to effectively manage modern slavery work across a council.

Subsequent sections focus on the four broad themes of council activity highlighted in the LGA guidance: identifying, referring and supporting victims, disruption and prevention and mitigating the risk of modern slavery in council supply chains.

[Council guide](#) and [Maturity matrix](#)



Winter Vigilance Campaign toolkit for businesses

The Police are urging shoppers, event goers and businesses to remain vigilant whilst out and about or working over the 2022 festive period, and to report anything that doesn't feel right. A Winter Vigilance campaign toolkit has been created, which contains key messages and resources that can be used by councils and businesses. The campaign aims to:

- Highlight how we can all play our part in defeating terrorism
- Increase awareness of the signs of potential terrorist activity
- Encourage staff and customers to report anything that doesn't feel right
- Encourage everyone to socialise safely

Toolkit: <https://www.protectuk.police.uk/vigilance-campaign>

Action Counters Terrorism: <https://act.campaign.gov.uk/>

Adult Smoking Habits

Responding to latest ONS figures on adult smoking habits, which show that the proportion of the population in England who are current smokers has fallen to 13 per cent in 2021, Cllr David Fothergill, Chairman of the LGA's Community Wellbeing Board, said:

"Council public health teams work hard to help reduce smoking rates and it is testament to their efforts that smoking rates continue to fall.

"Smoking is still the leading cause of preventable death in England. Every day more than 200 people in England die from smoking and 280 children under 16 have their first cigarette. Two thirds of those smoking one cigarette will go on to become addicted, taking on average thirty attempts before they successfully quit.

"Reducing smoking rates among the remaining 5.4 million smokers in England is the single biggest thing we can do to improve the nation's health.

"Greater help is needed for those most in need of support, including routine and manual workers, pregnant women or people with mental health conditions.

"Councils can help the Government to achieve its ambition of eliminating smoking in England by 2030, through their tobacco control and other public health and support services, but need certainty over their long-term funding."

[Adult smoking habits in the UK - Office for National Statistics](https://www.ons.gov.uk/peoplepopulationandcommunity/people/healthandwellbeing/smokingandtobacco/adultsmokinghabitsintheuk)

LGA 2022-23 Apprenticeship Surveys

Deadline 11 January 2023

All councils should now have received links to both the following surveys:

Organisational Survey

This is the LGA traditional annual apprenticeships survey and covers organisational issues from apprenticeship starts, levy spend, transfers, pay etc to the way you structure your apprenticeships programme. In previous years we have had excellent turnout for this survey, which has enabled us to collect a really good baseline of data for the sector.

This year, all councils that take part will receive an individual report tailored to their responses, illustrating how they compare nationally, regionally and by council type as well as giving an indicative assessment of where we think you are against the LGA's Apprenticeships Maturity Model. These reports will be shared only with the council concerned. National and Regional reports of the aggregated data will be made available to all in addition to a national webinar as usual to analyse the results.

This survey closes at 5pm on 11 January.

If you haven't done already, you can use [this link](#) to complete the survey, though please make sure you include a contact email address so we can identify which council it came from. If you have submitted a response and not included an email address please contact [Jamie Saddler](#) ASAP.

Apprentices' Health and Wellbeing Survey

This is a survey designed for apprentices to complete and covers demographics, health and wellbeing issues and questions about their apprenticeship.

Each council should have received a bespoke link to circulate to their apprentices to help them complete the survey. **We would be extremely grateful if councils could circulate this link to their apprentices ASAP**, or to managers in teams where apprentices are located to forward on to ensure apprentices have enough time to take part in the survey.

As of Monday 12 December, we had almost 600 completed surveys from apprentices, however these responses come from only 50 councils. We want to get as wide a response rate as possible, so we would be grateful if you could circulate the link to your apprentices as a matter of urgency and ideally do so before Christmas. We would also encourage councils if they are able, to circulate the link among apprentices in maintained schools or forward it on to your schools. We're keen to get responses from this group too as they account for around one in four of all apprenticeships in local government and we want to make sure we collect a good sample from this group.

This survey also closes at 5pm on 11 January.

Please do contact [Jamie Saddler](#) ASAP if you don't have your council's link.



Free Advertising

South West Councils' members can advertise for free.

Broaden your jobseeker audience and improve the quality of candidates.

Putting your advert on our site ensures you reach a wide audience with a solid brand.

SWJobs@swcouncils.gov.uk

Don't forget South West Councils has an unrivalled grasp of employment and training issues affecting local service deliverers at both national and local level.

Because all our team members are professionally qualified experienced specialists, we bring a wealth of expertise to bear on the issues facing a wide range of organisations.



We welcome your input so if you have anything you would like us to include in our next newsletter.

Please contact:

jane.shipton@swcouncils.gov.uk

Forthcoming Events

January 2023

17	<u>ILM Level 3 Award in Effective Coaching</u>
17	<u>ILM Level 3 Award in Effective Mentoring</u>
17	<u>ILM Level 5 Certificate in Effective Coaching and Mentoring</u>
17	<u>ILM Level 7 Certificate for Executive and Senior Level Coaches and Mentors</u>
23	<u>ILM Level 7 Certificate for Coaching Supervisors</u>
31	<u>ILM Level 3 Management of Volunteers</u>

For more information on our learning and development events email:

training@swcouncils.gov.uk

CONTACT US

- ☛ 01823 270101
- ☛ 01823 425200
- ☛ www.swcouncils.gov.uk
- ☛ @swcouncils