

Report to:	QSMTM Q4
Report by:	Helen Gardner-Swift, Head of Corporate Services (HOCS)
Meeting Date:	12 May 2021
Subject/ Title:	Review of the temporary closure of office premises due to the COVID-19 pandemic VC150778
Background papers (not attached)	Committee Reports - relating to the review of temporary closure 04/02/21, 28/10/20, 16/09/20, 05/08/20, 22/07/20, 17/06/20, 27/05/20, 11/05/20, 23/04/20

Purpose of report

1. The purpose of this Committee Report (CR) is to consider and approve a further temporary closure of the office premises in the light of the COVID-19 pandemic and, also, to provide updates the Senior Management Team (SMT) on wellbeing and the Fair Work First Guidance issued by the Scottish government.

Recommendation and actions

2. I recommend that
 - (i) taking into consideration the matters set out in in this report, the office premises should remain temporarily closed due to the COVID-19 pandemic until 30 September 2021
 - (ii) the SMT review the temporary closure of the office premises due to the COVID-19 pandemic by 31 July 2021 (or earlier, if appropriate)
 - (iii) whilst the office premises are temporarily closed due to the COVID-19 pandemic the temporary remote working arrangements that are in place continue
 - (iv) the HOCS and the Finance and Administration Manager (FAM) continue with the preparatory work on the physical distancing and hygiene measures that are likely to be required and submit recommendations to the SMT prior to the re-opening of the office premises
 - (v) our stakeholders and the public are notified, as appropriate, of the continued temporary closure of the office premises due to the COVID-19 pandemic
 - (vi) the SMT note the update on wellbeing
 - (vii) the SMT note the Fair Work First guidance and agree that, where possible, we should seek to apply the Fair Work First criteria in awarding contracts
 - (viii) the publication arrangements concerning this report, as set out in paragraph 46 are agreed.

Executive summary

Review of temporary closure of the office premises

Background

3. On 4 February 2021, the SMT reviewed the temporary closure of the office premises due to the COVID-19 pandemic and agreed that the office premises should remain closed until 31 May 2021, with a further review to take place by 14 May 2021 or earlier, if appropriate.
4. The Committee Reports (CR), referred to in the Background papers, set out the matters considered and the recommendations which were agreed on 4 February 2021, 28 October, 16 September, 5 August, 22 July, 17 June, 27 May, 11 May and 23 April 2020.

Remote Working

5. As a result of the temporary closure of the office premises due to the COVID-19 pandemic, we have expanded our remote working and are now able to provide the majority of our services, with all staff working remotely, details of which been posted on our [website](#).
6. We have 25 members of staff, excluding the Commissioner, the majority of which work full time. For historical reasons related to our management, working systems and security, initially there were limited remote working facilities. As the SMT activated temporary business continuity arrangements due to the impact of COVID-19 pandemic, we utilised the limited remote working facilities that were in place from Monday 23 March 2020. Since then, we have expanded our remote working in two tranches and all members of staff are now able to work remotely, have mobile phones and have remote access to our office systems.
7. Remote working, as a public health measure in response to the COVID-19 pandemic, helps to mitigate the transmission of the virus amongst the general population. Those who are working from home contribute to the public health effort and make it safer for those workers who cannot work from home.
8. In addition, the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Regulations 2020 (the Regulations), place a duty on employers to take all reasonable steps to minimise the spread of coronavirus. If you are responsible for carrying on a business or providing a service you must, by law:

- take measures which are reasonably practicable to minimise the risk of the incidence and spread of coronavirus on your premises, including for example controlling the use of, or access to, your premises
 - have regard to guidance issued by the Scottish Government about such measures,
9. Supporting staff to work from home for those roles that can be undertaken remotely is a way to comply with the above duties.
10. It is likely that when the office premises re-open (subject to Scottish government guidance, the relevant physical distancing and hygiene requirements and health and safety requirements) there will still need to be some temporary remote working taking place. Also, in the event that the office premises have to close again temporarily in the future (due to the COVID-19 pandemic or for some other reason), it is likely that remote working, with access to our office systems, will be required to enable the Commissioner's office to function as much as is reasonably possible.

Health and safety requirements

11. The Commissioner must also comply with the relevant statutory regulations and take account of Scottish government guidance relating to non-essential offices and physical distancing and hygiene requirements. Myself and the FAM are in contact with our health and safety adviser to discuss the arrangements that are likely to be needed when the office premises to re-open, at the appropriate time, taking account of how any new health and safety arrangements will work with our current health and safety policy and procedures.
12. We are also preparing the relevant risk assessments (in accordance with the relevant guidance) and have begun the workplace planning to ensure the required physical distancing and hygiene measures, processes, supply chains and logistics are in place and in order to introduce any changes safely and effectively. At this stage, only initial and preparatory work is being undertaken as the office premises are not able to re-open.
13. It is likely that our steps towards opening the office premises will need to be careful, gradual and incremental as we adapt to a new way of working. We will also need to undertake the relevant risk assessments and consult staff at the appropriate time.

Where we are now

14. In the [Strategic Framework update](#) published by the Scottish government on 23 February 2021, the government reconfirmed the strategic intent to suppress the virus to the lowest possible level and keep it there, while striving to return to a more normal life for as many people as possible.
15. The [Coronavirus \(COVID-19\) timetable for easing restrictions](#) sets out how and when the Scottish government plans to lift the current coronavirus restrictions over the coming weeks and months. Working from home and working flexibly remain the default – if organisations have largely managed to have their staff working from home effectively during the COVID-19 pandemic, they should continue to do so wherever possible.
16. There are 5 COVID-19 protection levels (0-4) in Scotland. However, all protection levels are being kept under review and the dates set out below may change.
17. All of Scotland is currently at Level 3 and it is expected that the area where our office premises are situated will move through the levels on the following dates:
 - 17 May - Level 2
 - 7 June - Level 1
 - (late) June - Level 0
18. Although the requirement for people to stay at home in parts of Scotland is no longer in force, the current Scottish government guidance is that you should work from home if it is practicable for you to do so. Even in Level 0, remote working is advised and people should work from home wherever that is practicable.

Essential visits to the office premises

19. The Commissioner should ensure that the Regulations (see above) are complied with if a member of staff is required to undertake any essential work in the office premises or visit the office premises for an essential purpose. Scottish government guidance relating to non-essential offices and physical distancing and hygiene requirements should also be considered and taken account of before any essential work or an essential visit to the office premises takes place.
20. The requirements for essential office visits and revised procedures, including approval procedures, agreed by the SMT are in place and should continue to be followed.

Review of closure of the office premises due to the COVID-19 pandemic

21. Our workplace falls into the category of a non-essential business within the “Office and Call Centres” category and, in line with current Scottish government guidance, is not able to be open at present.
22. The aim of the [Strategic Framework update](#) is to suppress the COVID-19 virus to the lowest possible level and keep it there, while striving to return to a more normal life for as many people as possible. Our office premises are currently within a protection Level 3 but this may decrease to Level 2 from 17 May 2021.
23. Although the COVID-19 vaccination programme is now being rolled out, it may take a number of months before a significant proportion of Scotland’s adult population have received all required vaccine doses.
24. Easing out of restrictions is likely to continue to happen in a gradual and measured way and, as public health advice changes, we should continue to adapt and make changes, as appropriate. However, some measures, for example physical distancing, default remote working requirements and restrictions around travel may remain in place for some time to come. These are the measures that have the greatest impact on how we conduct our business using our office premises.
25. The Scottish Parliamentary Corporate Body (SPCB) has made a planning assumption that the current operational stance, with remote working, is likely to remain in place for the rest of 2021.
26. Taking a longer-term view for an organisation can provide more certainty to staff and stakeholders and, also, help with operational planning. However, as we are a smaller organisation, I am of the view that it would be more appropriate for the longer-term view, as regards the temporary closure of our office premises, to take us to the end of Quarter 2, that is 30 September 2021, and that we should plan for the re-opening of the office premises from the start of Quarter 3. However, it would also seem sensible to review the situation again by 31 July 2021 as it is likely that we will have a clearer view of how the COVID-19 pandemic is progressing and, also, have guidance on the reopening of non-essential offices.
27. Taking into consideration the current Regulations and Scottish government guidance, the current Strategic Framework, the potential higher risk posed by some COVID-19 variants, the

potential time for the vaccination roll-out to be completed and the work that will need to be undertaken to ensure that the office premises meet all required health and safety standards, my advice and recommendations are:

- that the office premises should remain temporarily closed due to the COVID-19 pandemic until 30 September 2021
- the remote working and on call working arrangements continue whilst the office premises are temporarily closed due the COVID-19 pandemic
- the SMT review the temporary closure of the office premises due to the COVID-19 pandemic by 31 July 2021 (or earlier, if appropriate).
- myself and the FAM continue with the further preparatory work on physical distancing and hygiene measures that need to be in place and submit recommendations to the SMT for consideration prior to the re-opening of the office premises.

Wellbeing

28. The last year has been difficult and it would be good if we were better able to predict when our working life will return to “normal” - to seeing colleagues in person and being able to be in the office premises.
29. We have renewed the Employee Assistance Programme (EAP) this year (same provider as previously) and assistance and guidance for all staff is available from professionals who can provide counselling, referrals to local wellbeing resources and articles, tips and self-assessments. Details of how staff can access this service are available from the Finance and Administration Manager (FAM).
30. In February 2021, line managers received training on managing mental health in the workplace. Wellbeing guidance has also been issued to staff and line managers should be discussing wellbeing with their team members in their regular 1:1 catch ups.

Fair Work

31. The Scottish government has stated that it is keen to build confidence and create the right environment for supporting safer work as we continue to live with the COVID-19 virus. In order to judge whether and when restrictions can be changed, the Scottish government has indicated that it will consider a range of evidence on the progress of the pandemic in Scotland using the principles set out in the Strategic Framework (see above) and, also, that it will have regard to its commitment to fair work.

Fair Work First Guidance

32. The [Fair Work Guidance](#) published on 29 January 2021:
- is intended for those who are involved in awarding public sector grants, other funding and public contracts as well as those who receive funding through public sector grants, sponsorship arrangements with the Scottish Government and/or are involved in the delivery of contracts. In this regard, public bodies should give due regard to their dual role as an employer and in administering public funding
 - is designed to encourage and support employers to adopt fair work practices within their organisation.
33. While Fair Work is relevant for all employers and all workers, the context in which it can be applied will vary depending on factors such as the type and size of the organisation and the sector and location in which it operates. The guidance aims to help organisations identify and progress their fair work priorities as part of their continuous improvement approach. It does not set a minimum standard but provides direction on how the Fair Work First criteria can be adopted. It will be for each organisation to determine how the guidance can be applied to the organisation's priorities
34. The Key Document C6 Procurement Policy and Procedure is due to be reviewed later this year and the review will take account of the above published guidance. In the meantime, where possible, we should seek to apply the Fair Work First criteria in awarding contracts.

Risk impact

35. The Commissioner is the regulator of FOI in Scotland and has functions and duties to fulfil.
36. As an employer, with 25 members of staff, the Commissioner is responsible for their health and safety when they are working on his behalf. Employees also have health and safety responsibilities when they are working on behalf of the Commissioner. The Commissioner also regularly reviews the temporary closure of the office premises, taking account of the relevant Scottish government guidance and legislation that is in place.
37. The expansion of remote working arrangements to all members of staff has enabled us to undertake our mainstream work and offer the majority of our services which has helped to

mitigate a number of strategic and operational risks whilst also ensuring that we are safeguarding the health and safety of our staff.

38. Adoption of the Fair Work First criteria, where possible, will help us to mitigate the risk of not complying with relevant fair work standards.

Equalities impact

39. There is no direct equalities impact arising from this report.

Privacy impact

40. There is no direct privacy impact arising from this report. We have strict protocols and procedures in place to ensure we continue to comply with data protection laws.

Resources impact

41. Business continuity procedures are in place, however, the COVID-19 pandemic is impacting our work and has presented us with resourcing challenges. The temporary office premises closure and the remote working arrangements that are in place help us to manage our resources, as efficiently and effectively as possible.

Operational/ strategic plan impact

42. Each year the Commissioner publishes an operational plan setting out the organisation's planned activities, timetable for delivery and how each activity supports the Commissioner's vision and strategic aims. Targets and key performance indicators are also set.
43. The temporary closure of the office premises due to the COVID-19 pandemic is likely to impact the strategic plan objectives, the operational plan, our targets and key performance indicators. All of these are being kept under review.

Records management impact (including any key documents actions)

44. This CR and the related minute will be published on our website.

Consultation and Communication

45. Publication of the QSMTM Q4 minute and this CR and email update to all members of staff.

Publication

46. I recommend that the CR is published in full.