

Report to:	MSMTM
Report by:	Helen Gardner-Swift, Head of Corporate Services (HOCS)
Meeting Date:	14 September 2021
Subject/ Title:	Review of the temporary closure of office premises due to the COVID-19 pandemic VC156929
Background papers (not attached)	Committee Reports - relating to the review of temporary closure 12/05/21, 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 the temporary closure of the office premises, the gradual re-opening of the office premises and approve related recommendations.

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 31 December 2021
 - (ii) from 1 January 2021, a gradual re-opening of the office premises can begin, subject to relevant guidance and the relevant health and safety requirements and measures being in place
 - (iii) the HOCS submits a report to the SMT by 30 November 2021 updating the SMT on the work being undertaken relating to the re-opening of the office promises and take in to account any further relevant guidance
 - (iv) temporary remote working remains the default and the temporary remote working arrangements that are in place continue
 - (v) the HOCS and the Finance and Administration Manager (FAM) finalise the draft risk assessments and the health and safety arrangements and undertake the work required to enable the required physical distancing and hygiene measures to be in place for the gradual re-opening to take place
 - (vi) all members of staff are consulted on the relevant draft risk assessments and health and safety measures to be put in place and wellbeing discussions to take place
 - (vii) the HOCS reviews the human resources guidance and arrange for any required further guidance to be prepared and submitted to the SMT for approval, as necessary

- (viii) our stakeholders and the public are notified, as appropriate, of the continued temporary closure of the office premises due to the COVID-19 pandemic and the gradual re-opening of the office premises
- (ix) the publication arrangements concerning this report, as set out in paragraph 42 are agreed.

Executive summary

Review of temporary closure of the office premises

Background

- 3. On 12 May 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 July 2021. Following a verbal update by the HOCS, an extension to the temporary closure was approved by the SMT on 4 August 2021, with a further review to take place by 14 September 2021.
- 4. The Committee Reports (CR), referred to in the Background papers, set out the matters considered and the recommendations which were agreed on 12 May 2021, 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 24 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.

Preparations for office re-opening

8. Whilst waiting for the move to Level 0 and the relevant guidance to be published, the Corporate Services Team (CST) has undertaken initial preparatory work and workplace planning relating to the required physical distancing and hygiene measures, processes, supply chains and logistics that need to be in place in order to introduce any required changes as safely and effectively as possible.

The Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021 (the Regulations)

9. The office premises are now in Level 0 and the above Regulations came into force on 9 August 2021. Regulation 4 requires a person who is responsible for carrying on a business or providing a service must have regard to guidance issued by the Scottish Ministers about measures to minimise risk of exposure to coronavirus relating to its premises, business or service.

Scottish Government (SG) advice and guidance

Gradual return to the offices

10. The SG has advised:
 - that a gradual return to offices can begin in line with staff wellbeing discussions and business need
 - remote working continues to be an important mitigation for controlling the COVID-19 virus and businesses should still support employees to do this, where possible
 - employers are encouraged to consider, for the longer term, a hybrid model of remote and office working (which may, of course, have benefits beyond the need to control a virus).
11. On 13 August 2021, the SG published updated guidance on returning to the office and, on 10 September 2021, published further updated guidance on working arrangements which recognises that businesses are best placed to understand how their operations work most effectively and, also, understand their employees' needs and requests for flexible working, based on relevant consultations. The guidance also included guidance on travelling safely.
12. The SG urges employers to exercise caution as re-opening could result in an increase in cases which may result in outbreak management measures taking hold. This could require specific restrictions or higher levels of general protective measures to control any further outbreaks.

Travelling safely

13. A number of our staff would normally commute to the office premises using public transport. Transport providers will have procedures to promote the safety of customers and staff, but it is an individual's responsibility to comply with guidance. Transport Scotland has produced guidance on travelling safely.
14. The SG advises that people in Scotland can help keep Scotland moving by reducing the need to travel (work from home or near home), plan ahead and choose active travel (walk, wheel or cycle, where possible).
15. We will need to take staff travel arrangements into account in the re-opening of the office premises.

Health and safety arrangements

16. The Commissioner must comply with the relevant statutory regulations and take account of relevant SG guidance relating to offices and physical distancing and hygiene requirements.
17. In August 2021, myself and the CST began the more detailed work on the draft risk assessments and arrangements that will need to be in place to enable our office premises to re-open and these are now being finalised. Members of staff will be consulted on the relevant draft risk assessments and arrangements.
18. It is intended that members of staff will also be asked to carry out a self-assessment of their COVID-19 risk and provide details of this risk assessment to the FAM. Further guidance on this will be issued in due course.
19. As the office premises gradually re-open there will still need to be temporary remote working taking place as it is unlikely to be able to accommodate the return of all members of staff at one time.
20. 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.

Essential visits to the office premises

21. 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 until the office premises re-open.

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

22. The easing of restrictions should 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 are likely to remain in place for some time to come and, as these are the measures that have the greatest impact on how we conduct our business using our office premises, it is likely that we will not be able to consider fully re-opening the office premises until next year. This would be in line with the arrangements that the Scottish Parliamentary Corporate Body (SPCB) has made, based on the planning assumption that the current operational stance, with remote working, is likely to remain in place for the rest of 2021.
23. Taking a longer-term view for an organisation can provide more certainty to staff and stakeholders and, also, help with operational planning. I am of the view that it would be appropriate for the temporary closure of our office premises to remain in place until 31 December 2021 and that we should now plan for the re-opening of the office premises from January 2021. However, it would also seem sensible to provide an update on progress by 30 November 2021, taking account of any further guidance issued by the SG.
24. Taking into consideration the Regulations, the SG guidance 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 fully temporarily closed due to the COVID-19 pandemic until 31 December 2021
 - from 1 January 2021 (and following the Christmas and New Year closure of the office premises), a gradual re-opening of the office premises can begin, subject to relevant guidance and the relevant health and safety requirements and measures being in place
 - an update report should be submitted to the SMT by 30 November 2021 on the work being undertaken relating to the re-opening of the office premises, taking account of any further relevant guidance
 - temporary remote working should remain the default and the temporary remote working arrangements that are in place should continue whilst the office premises are temporarily closed due the COVID-19 pandemic
 - myself and the FAM finalise the draft risk assessments and the health and safety arrangements and undertake the work required to enable the required physical distancing and hygiene measures to be in place for the gradual re-opening to take place

- all members of staff are consulted on the relevant draft risk assessments and health and safety measures to be put in place and wellbeing discussions should take place
- the human resources guidance is reviewed and any required further guidance be prepared and submitted to the SMT for approval, as necessary

Wellbeing

25. Both last year and this year have 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.
26. 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). Line managers should sign post their team members to this resource, when necessary.
27. Line managers have received training on managing mental health in the workplace. Wellbeing guidance has also been issued to staff and line managers should continue to discuss wellbeing with their team members in their regular 1:1 catch ups.
28. Wellbeing discussions will also need to take place as part of the office re-opening measures and guidance will be issued to staff and line managers on the matters that will need to be discussed and how this will be done.

Risk impact

29. The Commissioner is the regulator of FOI in Scotland and has functions and duties to fulfil.
30. As an employer, with 24 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 has also regularly reviewed the temporary closure of the office premises, taking account of the relevant Scottish government guidance and legislation that is in place.
31. 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.

32. Working towards a gradual return to the office premises in January 2022 will enable the relevant health and safety measures to be put in place and mitigate the risk of the Commissioner not complying with health and safety duties.

Equalities impact

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

Privacy impact

34. 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

35. Business continuity is in place, however, the COVID-19 pandemic is impacting our work and has presented us with resourcing challenges. The temporary closure of the office premises and the remote working arrangements that are in place help us to manage our resources, as efficiently and effectively as possible.
36. The additional work that is required to ensure all health and safety arrangements are in place will have an impact of the work of the CST.

Operational/ strategic plan impact

37. 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.
38. 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)

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

Consultation and Communication

40. Publication of the MSMTM minute and this CR and email update to all members of staff.

Publication

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