

<b>Report to:</b>	MSMTM
<b>Report by:</b>	Helen Gardner-Swift, Head of Corporate Services (HOCS)
<b>Meeting Date:</b>	11 October 2023
<b>Subject/ Title:</b> (and VC no)	C5 Employee Handbook – review of key document VC192596
<b>Attached Papers</b> (title and VC no)	Employee Handbook draft VC 194559 (issued for staff consultation)

## **Purpose of report**

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1. The purpose of this Committee Report (CR) is to consider the results of the staff consultation, to agree the further amendments (if any) required and to seek approval of the revised draft key document C5 Employee Handbook (EH).

## **Recommendation and actions**

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2. I recommend the SMT
  - (i) notes the contents of this CR
  - (ii) considers and takes account of the consultation responses
  - (iii) subject to any SMT comments or further amendments at the meeting, agrees the proposed changes and recommendations as set out in Appendix 1 and approves the revised draft EH
  - (iv) agrees the publication arrangements set out in paragraph 16.

## **Executive summary**

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### **Employment Policies**

3. The current key document C5 Employee Handbook was approved on 2 June 2021 and incorporates employment policies and procedures. Part 1 sets out the sections which are incorporated into employment contracts (except where specified) and the benefits that members of staff may be entitled to as an employee of the Scottish Information Commissioner (the Commissioner). Part 2 contains the policies and procedures that apply during employment with the Commissioner.
4. A planned review of the key document was due to take place in Q4 2022-23 but due to other work priorities this could not happen until Q1/Q2 2023-24.

### **Review**

5. Following the review, the proposed changes in the draft EH are shown highlighted and with comments (where an explanation is required).

6. The revisions also incorporate the hybrid working provisions of the key document, C5 “Returning to and working in the office premises and hybrid working”. This guidance was issued as interim guidance and, in due course, it was anticipated that the guidance will be incorporated into other relevant documents, for example, Employee Handbook, Health and Safety Policy and Handbook Staff Manual.

### **Staff consultation**

7. As there are some changes to Part 1 of the revised draft EH, it was necessary to consult staff (staff have already been consulted on the hybrid working provisions prior to the re-opening of the office premises in May 2022). The consultation also extended to the changes made in Part 2.
8. The period of consultation was from 25 September 2023- 9 October 2023 and members of staff could submit their comments on the draft revised Employee Handbook during this time.
9. The consultation responses, with my comments and recommendations are set out in **Appendix 1**.

### **Risk impact**

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10. The C5 Employee Handbook mitigates operational risks particularly those relating to not having effective policies and good human resources governance in place.

### **Equalities impact**

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11. The C5 Employee Handbook set out the employee policies relating to equality and diversity which aim to ensure that, in employment, no one is unlawfully discriminated against and that everyone can participate freely and be given the opportunity to excel during their employment.

### **Privacy impact**

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12. The EH refers to the relevant data protection policies and guidance that the Commissioner has in place. The Commissioner’s Privacy Notice provides information on the processing of employees’ personal data relating to security vetting.

### **Resources impact**

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13. None.

### **Operational/ strategic plan impact**

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14. None.

### **Records management impact (including any key documents actions)**

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15. None.

## Consultation and Communication

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16. The reviewed EH consultation exercise and QSMTM minute.

## Publication

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16. I recommend:

- the CR should be published in full
- the revised draft EH should be withheld on the basis that the exemption in section 27 of the Freedom of Information (Scotland) Act 2002 (intended publication) would apply if a request were, at this stage, to be made for the information

## Appendix – Consultation comments, response and recommendations

### VC 194559 (issued for staff consultation)

Page Number	Paragraph/s	Comment	Response	Recommendation
7	32	Paragraph numbers in second line need updating	Formatting, etc will be corrected and updates made when draft EH finalised	Formatting, etc, to be corrected and updates made when draft EH finalised
11	65	Bullet point 2. Last sentence - However, It ... the I in the word 'It' should not be capitalised	Agreed	Amend.
17	89	Fixed Ratios The returning to work guidance says 'As we return to working in the office premises, we will not set any fixed ratios between how many days can be worked at home and how many days must be worked in the office premises. However, in due course, we want to enable you to work in the office premises for part of your working week.' The employee handbook says 'The Commissioner may set fixed ratios for the organisation between how many days can be worked remotely and how many days must be worked in the office premises.' This seems to be a change in approach from the return to work guidance and the employee handbook?	Updated wording to reflect passage of time since returning to work guidance put in place.  Employees should be made aware that fixed ratios could be set and the paragraph goes on to set out the matters that the Commissioner will consider when conspiring whether any fixed ratios should be set.	No change.
21	128	The paragraph after 128 needs to be numbered	Agreed	Amend.
23	160  (Para 145 in SMT working draft)	Does "paragraph 16" in second line relate to a paragraph in the Health Living Scheme Guidance (VC79086)? If so, this could be made clearer,	Formatting, etc will be corrected and updates made when draft EH finalised	Formatting, etc, to be corrected and updates made when draft EH finalised. Para 145 – to be

		and it looks like the correct paragraph number should be "paragraph 15".		updated
28	196	Re "attendance at the funeral of a close friend or colleague". I note this doesn't mention relatives - should this be included? Also, other than the first bullet point in paragraph 196 on page 28, is there any other guidance for statutory time of where a member of staff is required to <i>arrange</i> a funeral of a close relative or friend?	The draft EH (and current EH states that circumstances in which special leave with pay will normally be granted include dealing with a domestic crisis such as the serious illness or death of a close relative or dependant, sickness of a child (depending on particular circumstances). This would also include arranging a funeral of a close relative or friend and, also, attending a funeral. Attending a funeral of a close friend or colleague is included t differentiate form the first bullet point.	No change to draft wording.
49	255	Full stop required at the end of the paragraph	Agreed	Amend.
115-116	837 - 840	Does something now need to be added here about vaping?	E-cigarettes, personal vaporizers (PVs), and electronic nicotine delivery systems (ENDS) are battery operated devices and are often used as a replacement for cigarettes. They produce a vapour, including flavoured aromas either with or without nicotine.  Employers can decide whether to allow employees to use E-cigarettes and	To consider and take this forward as a project in Q3 and Q4 – FAM/HOCS to undertake project

			<p>similar products in the workplace or ban them like they would for ordinary smoking implements.</p> <p>Key points for an employer to consider:</p> <ul style="list-style-type: none"> <li>• E-cigarettes fall outside the scope of smoke free legislation as the act of smoking requires a substance to be burnt. Therefore, whether to allow employees to use them at work or not is up to their employer</li> <li>• Some employees use E-cigarettes as part of a plan to stop smoking, so employers may want to support their use if this is the case</li> <li>• The vapour from E-cigarettes might be annoying to some employees in the workplace</li> <li>• Some E-</li> </ul>	
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			<p>cigarettes look very similar to real cigarettes so employees or customers may think that real cigarettes are being smoked in the workplace</p> <ul style="list-style-type: none"><li>• If E-cigarettes are allowed at work, line managers should be aware of who may be using them within their teams. It is best to make it a rule that line management approval is needed to use E-cigarettes in the workplace</li><li>• Preventing the use of E-cigarettes at work could make it harder for those who use them to stop smoking, particularly if they are required to use them in designated smoking areas together with cigarette smokers. Employers</li></ul>	
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			<p>may want to consider organising a separate area for vaping near the workplace.</p> <p>If rules on vaping are to be put in place, a separate consultation exercise on the draft rules should take place and then the relevant provisions included in the EH and the health and safety Handbook</p>	
124	884	Third bullet point - sentence unfinished?	Reference to be included when EH finalised and amendment to be made to clarify	Amend wording to "without first following the required internal procedures"
All		Alignment needs corrected - CST will be happy to help when document approved	Agreed	Accept - thank you for the offer to help with this.