

Report to:	QSMTM Q3 2022-23
Report by:	Helen Gardner-Swift, Head of Corporate Services (HOCS)
Meeting Date:	26 January 2023
Subject/ Title: (and VC no)	Employment Policy Update VC179909
Attached Papers (title and VC no)	None

Purpose of report

1. The purpose of this Committee Report (CR) is to provide the annual update to the Senior Management Team (SMT) and, also, provide assurance to the Scottish Information Commissioner (the Commissioner) that the organisation's employment policies are legally compliant.

Recommendation and actions

2. I recommend
 - i. the SMT notes the contents of this CR
 - ii. the Commissioner notes the assurance provided in paragraph 20.
 - iii. the CR is published as set out in paragraph 38.

Executive summary

3. The C1 Governance Reporting Arrangements (GRA) state that the HOCS provides an annual update to the Senior Management Team (SMT) of changes in employment law and, also, provides an annual assurance that the Commissioner's employment policies are legally compliant.

Employment Policies

Employee Handbook

4. An updated Employee Handbook (EH) was approved on 2 June 2021. Our employment law advisers, Law at Work (now Worknest) provided advice and assistance on the updates required to the EH.
5. The EH is split into 2 parts:
 - Part 1 sets out the sections of the revised Employee Handbook which are incorporated into employment contracts (except where specified) and the benefits that a member of staff may be entitled to as an employee of the Commissioner.
 - Part 2 contains the policies and procedures that apply to employees during their employment:
 - a number of policies are now incorporated into Part 2 instead of formerly being stand-alone policies and these included:
 - Security Vetting Policy and Procedure

- Health Living Scheme
 - Performance and Development Framework
 - Anti-Harassment, Bullying and Victimisation Policy – this is replaced by the “Dignity at Work” policy in the revised Employee Handbook
6. The policies and procedures in the EH are kept under review and monitored on an ongoing basis, taking account of legislative requirements, recommendations, guidance and good practice.
7. I am the Responsible Manager for the EH and will be undertaking a planned review in Q4 – the review was due to take place this month but has been delayed due to the moving of the 2021-22 audit timetable to Q3 which has had a consequential effect on work priorities.

Menopause Policy and Guidance

8. The SMT approved the key document C5 Menopause Policy on 29 June 2022 (VC172638) and draft Menopause – Guidance for Managers is being submitted for approval at today’s meeting. When the EH is reviewed, I will consider whether the C5 Menopause Policy should be incorporated into the EH rather than be a stand-alone policy.

Employment accreditations/schemes

9. The work on the Carer Positive Accreditation has been delayed but it is hoped that this can be progressed in 2023-24.

Re-opening of office premises

10. The office premises re-opened on 3 May 2022 with occupancy restrictions and COVID-19 mitigations in place in accordance with Scottish Government guidance and health and safety requirements.
11. There is still a need for remote working and hybrid working is in place. Due to the current occupancy level restrictions, not all members of staff can be in the office premises at one time.
12. The following policies, related documentation and arrangements are in place:
- Gradual Return to the Office Handbook (the Handbook) (VC169078)
 - Self-assessments and one-to-one discussions
 - COVID-19 Absences (ill health, staying at home, caring responsibilities, vaccinations, foreign travel) (VC169090)
 - Remote working guidance (VC169099)

Wellbeing

13. Updated wellbeing guidance has been circulated to all staff and a Wellbeing Resources Note is filed in VC140686 which can be viewed by all members of staff.
14. Line managers should also be discussing wellbeing with each of their team members in their regular monthly 1:1 catch ups.

Employee Assistance Programme

15. Two new resources can now be accessed through the Employee Assistance Programme (EAP) and the Wellbeing Resources Note (see above) provides details of how these can be accessed. (Staff were also notified of these resources by email):
- MyMindPal
 - GP Helpline
16. These resources are additional to the existing services the EAP provides to all members of staff which include:
- a. 24/7 access to counselling and information advice via a freephone number provided by accredited counsellors and trained advisors
 - b. structured counselling sessions
 - c. information services, including Citizens Advice based guidance, such as debt management, legal and tax consumer issues, dependent care
 - d. wellbeing resources
 - e. articles, tips and self-assessments.
17. Line managers should sign post their team members to the EAP where required and/or necessary.
18. Monthly EAP updates containing advice on different subjects are circulated to all staff.

Employment Law Advice

19. Worknest (previously Law at Work) provides a contracted service for employment law advice and this contract has been renewed until May 2023. Worknest also provides regular employment law updates and advice on legal compliance when required.

Assurance

20. Taking the above into account, I am of the view that the organisation's employment policies are legally compliant.

Employment law updates - 2023

21. In 2023, the following changes are expected and/or anticipated:

Bill of Rights

22. The Bill of Rights Bill 2022-23 has resumed its passage through Parliament. If passed, the Bill of Rights would repeal the Human Rights Act 1998, which incorporates and makes the rights contained in the European Convention on Human Rights (ECHR) domestically enforceable and would reframe the UK's legal relationship with the ECHR.

Retained EU Law (Revocation and Reform) Bill

23. This was introduced in September 2022 and could see quite radical changes to UK employment law. The Bill aims to revoke EU-derived subordinate legislation and retained EU legislation by 31 December 2023, unless specific legislation is introduced to retain it or a government minister extends the deemed repeal date.

24. This bill could result in changes to the following:

- Working Time Regulations 1998
- Agency Workers Regulations 2010
- Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000
- Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).

Carer's Leave Bill

25. This Bill received government support on 21 October 2022 after a successful second reading and introduces a new and flexible entitlement of one week's unpaid leave per year for employees who are providing or arranging care. Protection from Redundancy (Pregnancy and Family Leave) Bill

The Protection from Redundancy Bill passed its second reading on 21 October 2022

26. Currently, the Employment Rights Act 1996 (ERA 1996) allows the Secretary of State to make regulations concerning redundancies “*during*” periods of maternity leave, adoption leave or shared parental leave. If passed, this Bill would amend the ERA 1996 to provide protection against redundancy “*during or after*” an individual takes the relevant leave. It would also add a new provision to the ERA 1996 about redundancy “*during, or after*” a “*protected period of pregnancy.*”

Transport Strikes (Minimum Service Levels) Bill

27. The Transport Strikes Bill is expected to come into force in 2023. If passed, it would ensure minimum service levels are maintained on transport services during strikes to prevent a complete closure of transport services via rail, the Tube and buses.

Neonatal Care (Leave and Pay) Bill

28. The Neonatal Care Bill received government backing in July 2022 and is designed to allow parents whose babies need hospital neonatal care to take 12 weeks' paid leave in addition to their statutory maternity or paternity leave. If passed, this right will be available from the first day of employment and will also apply to parents whose babies are admitted to hospital up to the age of 28 days (and who have a continuous stay in hospital of 7 full days or more).

Simply Personnel – project

29. The basic HR system that we use is no longer being updated/supported by the supplier and a project to replace this is being undertaken in Q4. Interim procedures will need to be in place while the project is being carried out and all staff will be advised of these.

Risk impact

30. The Commissioner's reputation and, also, public confidence in the Commissioner could be undermined if the Commissioner does not demonstrate good practice and good governance.
31. The employment policies the Commissioner has in place mitigate against strategic and operational risks of not having effective and robust governance, policies and human resource arrangements in place

Equalities impact

32. The Commissioner is committed to promoting equality of opportunity and treatment and to ensuring that there is no discrimination in employment practices. The employment policies the Commissioner has in place encourage equality, manage the risk of discrimination, promote diversity and ensure employees are managed fairly.

Privacy impact

33. 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 and is updated as required.

Resources impact

34. There is no additional resource impact forecasted for 2022-23. If there are new legislative requirements that come into effect in 2023 there may be a resources impact but this will depend on the requirement and what is action is required.

Operational/ strategic plan impact

35. There is none at present.

Records management impact (including any key documents actions)

36. There is none at present.

Consultation and Communication

37. QSMTM Q3 minute

Publication

38. This CR should be published in full.