What does Omicron mean for office-based employers?

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What is currently known about the Omicron variant?

Omicron is a new COVID-19 variant, which was designated as a "variant of concern" by the World Health Organisation on 26 November 2021. Omicron has several novel mutations which may affect the way it behaves.

It is not yet clear whether Omicron is more transmissible and/or causes more severe disease than other COVID-19 variants, such as Delta. The press reports that Omicron was first identified in South Africa and the number of people testing positive for COVID-19 has risen in parts of the country affected by the new variant. We understand from press reporting that early evidence also shows that there are increasing rates of hospitalisation in South Africa, although this could be due to the overall increase in infections as opposed to the severity of Omicron itself.

Reports show that there is some evidence to suggest that those who have previously been infected with COVID-19 could become re-infected more easily with Omicron, as compared to other variants. It is also not yet clear how the existing COVID-19 vaccines will stand up to Omicron. Further research is underway on all of these issues and more information should be available in the coming weeks.

Has Omicron reached the UK?

Yes. At the time of writing, the UK has reported that 42 people have been infected with the Omicron variant. Cases have been found across the country including in Buckinghamshire, Cambridgeshire, Clyde, Essex, Glasgow, Hertfordshire, Lanarkshire, Lancashire, London Merseyside, Norfolk, Northamptonshire, Nottinghamshire, Oxfordshire and Surrey. Perhaps unsurprisingly, the majority of cases have been reported in London.

Does Omicron mean that office-based staff must now work from home?

Not necessarily. "Freedom Day" on the 19 July 2021 was the date that the Government reached Step 4 of its roadmap for unwinding its COVID-19 restrictions. From that date, office-based employers were able to return workers to the office on a gradual basis. Many have done this over the late Summer and Autumn months, although many have opted to retain a degree of hybrid working.

The Autumn and Winter plan, published in September 2021, set out the measures the Government would adopt to manage COVID-19 through the Autumn and Winter months. This plan included contingency measures – a "Plan B" – to be followed in the event of unsustainable pressure on the NHS. This included a statement that the Government would consider asking people to work from home if they can, for a limited period.

Despite the concerns about Omicron, the Government has not yet triggered its Plan B measures. Accordingly, employers in England may continue to ask staff to work in the office. Indeed, the current version of the "Working Safely During Coronavirus Guidelines" (the **Guidelines**), updated on 2 December 2021, simply says that employers should assess the risks of staff working in the office and take action to manage the risk of COVID-19 spreading at work.

It is worth noting that the position is slightly different in Scotland. On 29 November 2021, the Scottish First Minister, Nicola Sturgeon, said that employers should ensure that they are maximising home working. The Scottish Health Secretary also advised people to work from home where possible. However, this advice is guidance only and does not represent a legal prohibition on individuals leaving home to attend the workplace.

Above all, however, employers should remember that they must

comply with their legal obligations to ensure the health, safety and welfare of staff and third parties so far as is reasonably practicable. This is particularly important in relation to vulnerable and pregnant workers, who may require special measures to be taken to protect them, including allowing them to work from home.

Where staff do come into the office, should they wear face coverings to protect them from Omicron?

It's not compulsory. In response to Omicron the Government has re-introduced the requirement to wear face coverings in shops, premises that provide close contact services, transport hubs and on public transport. However, there is no legal requirement to wear them in any other indoor setting, including offices.

However, the Guidelines state that office-based employers may wish to encourage the use of face coverings by workers particularly in areas where they come into contact with people they do not normally meet. This is said to be especially important in enclosed and crowded spaces (for example, lifts and corridors). Where masks are to be used, consideration should be given to making adjustments for disabled staff and to the fact that some people are unable to wear face coverings.

Have the rules on self-isolation changed?

Yes. Guidance introduced on 16 August 2021 had exempted certain groups of people from the requirement to self-isolate where they have been in contact with a positive case of COVID-19. These exempt groups are:

- those who are fully vaccinated against COVID-19 (i.e. at least 14 days have passed since the individual received all of the recommended doses of the vaccine);
- those aged below the age of 18 years and six months;
- those who have taken part or are currently part of an

approved COVID-19 vaccine trial; or
- those who are unable to be vaccinated for medical reasons.

However, the rules on self-isolation have been changed in response to the Omicron variant. Now, anyone who is a contact of a suspected or confirmed Omicron variant case (as notified by NHS Test and Trace) must self-isolate for ten days, even if they fall into one of the exempt categories listed above. However, these groups will remain exempt from isolation where they have been in contact with a positive case of other COVID-19 variants. You can read more about exemption from self-isolation here.

What's the position for overseas travel?

Overseas travel is still possible to most places, but the rules have been tightened up in an attempt to stem the flow of Omicron into the UK.

First, all international arrivals into the UK must now take a private PCR test within two days of arrival and self-isolate until they receive a negative result. If they receive a positive result, they must self-isolate for ten days. These rules apply to all individuals, including the double-vaccinated (who had previously been able to take cheaper lateral flow tests and avoid self-isolation unless they tested positive).

Second, a number of African countries have been added to the UK's "red list" for travel. These are: South Africa, Angola, Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, Zambia and Zimbabwe. Arrivals from these countries must take a PCR test before they travel to the UK and must quarantine in a managed hotel for ten days on arrival.

In light of these changes, employers may wish to limit overseas business travel for the time being, and certainly to the countries on the red list.

Do we need to cancel the Christmas party?

No, but some precautions should probably be considered. Although there are no rules in place restricting indoor hospitality or socialising between households, the Head of the UK's Health Security Agency (and former Deputy Chief Medical Officer), Jenny Harries, advised caution. She said that people should "avoid socialising when [they] didn't particularly need to". Yet the Prime Minister has said that Christmas parties do not need to be cancelled and that there will be no change to the advice about how people live their lives.

A sensible approach would be to consult with staff to see what they would like to do. One option might be to hold several smaller team events, rather than a whole office event. Where events do go ahead, safety measures should be considered such as ensuring the venue is well ventilated and asking staff to:

- take a lateral flow test before attending;
- sanitise their hands upon arrival;
- wear face masks in crowded areas (e.g. lifts or queues for cloakrooms); and
- limit physical contact.

What else do employers need to consider in light of Omicron?

Employers should monitor Government guidance closely over the coming weeks given that the situation may change rapidly as more is learnt about the Omicron variant. Risk assessments should be kept under review and updated as necessary if research suggests that Omicron is more transmissible and/or more severe.

In addition, where employers provide information about vaccines to staff, this should be updated to reflect the fact that booster jabs are available now to everyone aged 40 or over (and are due to be extended to those in the 18 to 39 age bracket). At present, booster jabs are available six months

after a second vaccine dose, but this will be reduced to three months in due course. Any vaccination policy should also be amended to reflect booster jabs (e.g. to confirm that employees will be given paid time off to attend booster jab appointments).

BDBF is currently advising many employers on the challenges presented by the coronavirus. If you or your business needs advice on any coronavirus-related matter please contact Amanda Steadman (amandasteadman@bdbf.co.uk) or your usual BDBF contact.

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