AUDIT AND RISK COMMITTEE

**Unconfirmed minutes of the meeting on 31 January 2024 in the Westbourne,**

**2 Redman Place, London and via Teams**

Present

Alina Lourie Non-Executive Director (chair)

Michael Borowitz Non-Executive Director

Mark Chakravarty Non-Executive Director

Justin Whatling Non-Executive Director

Amanda Gibbon External Member

In attendance

Sam Roberts Chief Executive

David Coombs Associate Director, Corporate Office

Martin Davison Associate Director, Finance

Boryana Stambolova Interim Director, Finance

Ehtisham Ramzan Head of Financial Accounting

Raghu Vydyanath Chief Information Officer

Barney Wilkinson Associate Director, Procurement

Elaine Repton Corporate Governance & Risk Manager (minutes)

Lindsay Johnson Assistant Governance Manager (observing)

Niki Parker Senior Audit Manager, Government Internal Audit Agency

Stephen Ferris Engagement Director, National Audit Office

Laura Wright Audit Manager, National Audit Office

Katie Henry Engagement Lead, KPMG

David Wright Head of NICE Sponsor Team, DHSC

## Committee’s private meeting with the auditors (item 1)

1. A meeting of the non-executive directors and external member with the internal and external auditors, took place in private before the open meeting.

**Welcome and apologies (item 2)**

1. The chair welcomed everyone to the meeting.
2. There were no apologies for absence.

## Declaration of interest (item 3)

1. The committee noted the interests register. Mark Chakravarty confirmed that he had a recent new interest at Archetype, which had been added to the register. Further updates were required, which would be notified by email.

## Minutes of the last meeting (item 4.1)

1. The minutes of the meeting held on 9 November 2023 were agreed as a correct record.

## Action Log (item 4.2)

1. The committee reviewed the two outstanding actions, as follows:
2. **Committee effectiveness review** (risk 334) – It was agreed that a training session on the use of Artificial Intelligence (AI) in HTA submissions to NICE would be helpful. The committee noted that AI as a topic was vast and therefore focussing on its biggest impact for NICE would be the most valuable use of time. This will be explored in terms of timing and a facilitator.

**Action: ER**

1. **Compliance with functional standards** (risk 335) – David Wright confirmed that NICE’s responsibilities in relation to complying with functional standards will be set out in the new Framework Agreement, which is currently being drafted. In summary, the requirement will be to give due regard to the relevant functional standards as appropriate, in particular those relating to finance, commercial and counter fraud.
2. The committee agreed it would also be a useful exercise to self-assess NICE against the Human Resources standard to identify any gaps in HR good practice. Sam Roberts agreed that it should be discussed with HR colleagues at the next internal controls weekly meeting.

**Action: HB**

# SUBSTANTIVE ITEMS

## Strategic risks (item 5.1)

1. The committee reviewed the latest strategic risk register, noting the key changes since November and agreeing to focus on three risks in detail.
2. In terms of maturing the risk register format, the committee commented that it would be helpful to clearly understand where the gaps in controls and assurance were, and what the priority actions were to achieve the target score. For example, where the current risk score was high (‘red’), a note of exactly what is still to be addressed to reduce the risk score, and in what priority order.
3. Additionally, the committee agreed it would also be useful to incorporate risk tolerance levels for each item, so that risks could be considered through a ‘risk appetite’ lens. It was agreed that the target ratings should be aligned to the risk appetite and noted that where NICE was content to accept a certain level of risk in a business area, the current and target ratings may be the same.
4. The committee agreed the risk ‘bow tie’ tool was helpful to analyse risks in more detail. It was agreed to take it a step further in the next iteration, to look at how to highlight any gaps in controls by including a RAG rating of the preventative and mitigating controls as well also showing this on a heat map. Also, to include narrative on how the mitigating actions were being prioritised (based on those risks where the current risk was furthest away from the target risk), and to align this to the risk appetite statement.

**Action: ER**

1. The three risks discussed in detail were organisational transformation, activity fluctuations and finance. The latter was picked up in the risk deep dive item.
2. **Organisational transformation** – Sam Roberts outlined the key risks to successfully delivering the organisational transformation, and explained how the risks were being mitigated through the transformation programme, with regular progress reports to the Board. In terms of understanding where the gaps in controls were, Sam agreed with the comments that cultural change was difficult to achieve, and it was difficult to assess whether the pace was too fast or too slow, or whether it’s going well or not as there is no ‘blueprint’. The committee noted there are indicators which are measured around staff engagement, sickness and levels turnover, but suggested also considering whether the turnover is affecting roles with critical skills.
3. **Activity fluctuations** – Boryana Stambolova explained that due to a large proportion of NICE’s income now coming from Technology Appraisals (TA), it is based on externally driven demand, which is unpredictable. This will impact on the budget, and can lead to a financial shortfall, as happened in 2023/24. One of the key internal risks was that NICE does not have an agile workforce with common ways of working (within the guidance producing teams), where staff can easily be flexed between teams in response to fluctuations in demand. This would also avoid expensive recruitment costs if there was capacity in other teams which could be moved. NICE also does not have contracts to access external capacity to support TAs in response to spikes in demand.
4. Additionally, any surplus from income generating teams such as NICE Advice and NICE International, had to be transferred to reserves which required approval from the DHSC to spend, and therefore not possible to use to support other programmes, if required. There was a shared view that restricting how NICE can utilise income generated from commercial activities was a disincentive and a missed opportunity to further grow income streams.

## Risk deep dive: Finance (item 5.2)

1. Martin Davison presented a deep dive analysis of the financial and funding risk. The committee noted the ‘causes’ of the difficult financial position earlier in the year, notably lower than planned TA income; a higher than expected pay award; re-structuring and redundancy costs, and the Government’s reform and efficiency review which required ALBs to make additional savings. The pressures meant that some investment projects were put on hold and a vacancy review panel was introduced to challenge every recruitment request.
2. In terms of mitigating controls, Martin reported that he had worked closely with the DHSC sponsor and finance teams, to be transparent about the budget pressures and risks. While NICE was able to mitigate the pressures by reallocating funding, DHSC funded the additional costs arising from the pay award. In summary, the committee noted that the financial position was volatile and that good lead risk indicators were needed to foresee changes as early as possible and have options to be able to react. It was noted that the fluctuations in TA activity are now much more closely monitored, to give better, and earlier insight into potential income shortfalls. The committee welcomed the bow-tie analysis and asked that the controls on the finance bow-tie are more aligned with the risk register.

**Action: BS**

1. In view of the financial challenges, it was recognised that the dependency on GIA and TA income could be reduced if NICE was allowed to diversify through commercial opportunities and retain funds raised through NICE Advice and potentially clinical guidelines. However, it was acknowledged that the current restraints on how income can be utilised, were limiting.
2. The committee thanked Martin and Boryana for their presentation.

## Audit completion report and annual report and accounts 2022/23 (item 5.3)

1. The committee had previously received the NAO’s audit completion report via email. Boryana highlighted the audit findings and the management responses. The cover paper set out the three key changes which had been made to the annual report and accounts since they were last reviewed by the committee in June 2023.
2. The committee asked why the unadjusted misstatements which were above the NAO’s stated materiality threshold had not been corrected given there had been time to do this after the year end, whilst awaiting the external approvals. Katie Henry responded advising that the adjustments related to changes for the VAT impact on the ‘right-of-use’ and lease liability arising from the new IFRS 16 accounting standard. The corrections had been identified at a late stage in the accounts production, and to amend them would have required significant changes elsewhere in the accounts. On balance, KPMG and the NAO had taken the view that the adjustments did not have an overall material impact on the accounts. The external auditors agreed in future that they would endeavour to ensure the committee were aware of any misstatements prior to laying of the accounts.
3. The final annual report and accounts was received and noted, as laid in Parliament on 25 January 2024. The committee received the audit completion report, noting its content, specifically the unadjusted misstatements and supported management’s decision not to amend the accounts on the basis that the effect of the unadjusted errors were immaterial in aggregate to the financial statements taken as a whole.
4. With regard to a second business case concerning the secondment of a senior manager to an NHS body, Boryana confirmed that it had been submitted and was now with the DHSC sponsor team. David Wright advised that it had been received within DHSC and was awaiting a response. The committee asked to be kept regularly updated on its progress.

**Action: BS**

## Internal controls – progress update (item 5.4)

1. The committee received a progress update on the actions taken following the internal control breaches identified during the last 12 months. The report reminded the committee of the three key breaches and the areas which have been the focus for management improvement.
2. It was noted that the executive team members will also be receiving refresher training on their responsibilities within the Managing Public Money guidance.
3. The committee was satisfied with the actions that have been taken and welcomed the progress made.
4. The report was noted.

## Cyber security strategy and roadmap (item 5.5)

1. Raghu Vydyanath presented a summary of NICE’s current cyber security arrangements compared against the National Cyber Security Centre’s cyber assessment framework (CAF), and highlighted the scope of required improvement. The report outlined the improvement work planned for 2023/24, some of which has been achieved to mitigate the cyber security risks. Further improvements to comply with national standards which are planned for 2024/25 and 2025/26 were detailed in the paper.
2. The committee noted that the strategic risk rating had been increased as a result of the baseline assessment, and they welcomed the openness and clarity in the paper. In terms of next steps, Raghu stated that the priorities were the website and the planning tool (used by the guidance producing teams), for which business cases were being prepared for consideration by the executive team.
3. In response to a question about resources and capability to deliver the roadmap, Raghu advised that a hybrid approach will be taken working with the internal teams and an external partner. An additional senior role has been recruited and is expected to start in April.
4. It was noted that the internal governance reporting is through the executive team and the operational management committee, in addition to an internal audit review of cyber security planned for 2024/25.
5. In light of the significant work plan and expenditure involved, the committee requested a progress update in September against the priorities for 2024/25.

# ITEMS FOR DISCUSSION

## Internal audit progress report (item 6.1)

1. Niki Parker gave a progress update on the 2023/24 internal audit plan, which was progressing slightly behind timescale. However, all audits were expected to be completed by the May meeting. There were no concerns to highlight to the committee at this point.
2. The position with outstanding recommendations was positive.
3. The progress report was noted.

## Payroll, benefits and expenses audit report (item 6.2.)

1. Niki Parker presented the report on the payroll, benefits and expenses audit, which had been given a moderate assurance rating. In response to being asked if any of the findings had been of concern, Niki stated that the four moderate actions indicated a need for improvement around policies; ownership of, and access to, systems; procedural guidance on roles and responsibilities; and importantly that this was clearly documented and understood.
2. It was queried whether there was an over reliance on the audits undertaken on NHS Shared Business Services (SBS), who provide the payroll service. Niki stated that NHS SBS provide the service, but their annual report gives a high level assurance. The risks remain with NICE therefore robust internal checks and reconciliations were essential. Boryana added in her view there was some over reliance on NHS SBS but there were also some tasks duplicated between the NICE and SBS teams due to silo working. She agreed that ownership of systems and access can be improved. The process is clear, but it can be more clearly documented.
3. The internal audit report was noted.

## Draft internal audit plan 2024/25 (item 6.3)

1. Niki Parker sought the committee’s view on the proposed audits for inclusion in the 2024/25 internal audit plan, confirming that these topics were either on a reserve list from last year’s discussions, or had been identified using the GIAA’s risk assessment tool.
2. There was support from NICE senior managers for five of the proposed topics but the sixth, to give assurance over an area of operational activity, was still to be agreed. The committee supported ‘the prioritisation of guideline topics’ being included in Q4 2024/25, as this had been suggested in the previous two years but considered too early in light of the planned changes.
3. The draft audit plan 2024/25 was supported and will be presented for final approval in May.

## External audit planning 2023/24 (item 6.4)

1. Katie Henry stated that the annual audit planning report had been delayed due to a new auditing standard ISA 220 coming into effect. The standard relates to the specific responsibilities of the auditor regarding quality control procedures for an audit of the financial statements and requires significantly more audit work to be carried out ahead of the report being shared. It was noted that the planning meeting for this year’s audit will be held next week, and a report will be presented in May.

# ITEMS FOR INFORMATION

## Compliance dashboard (item 7.1)

1. Elaine Repton presented the Q3 compliance dashboard advising that there were no areas of concern to bring to the committee’s attention. The British Library cyber incident had not impacted NICE’s cyber security, but there have been operational implications in terms of NICE’s access to literature used in guidance production.
2. The report was noted.

## Financial accounting performance (item 7.2)

1. Ehtisham Ramzan presented the report setting out the financial accounting performance as at 31 December 2023. He highlighted that the month 9 accounts had been submitted to DHSC and the interim audit would be commencing soon.
2. Performance in Q3 reported 66% of cash had been drawn down and the forecast underspend was £450k. The additional funding of £630k from DHSC for cyber security investment has to be committed by the end of March 2024.
3. It was noted that the aged debt position was improved on the same period last year with the percentage debt over 90 days old (£28k) representing 0.9% of the debt, compared to almost 7% last year.
4. The committee noted the financial accounting performance report.

# Contract waivers report (item 7.3)

1. Barney Wilkinson presented a schedule of the contract waivers approved during November and December 2023. The number and value of contract waivers was noted.
2. After the meeting closed, some members of the committee viewed the dashboards and management reports available within the Atamis system, which will support the contract management process at NICE.

**Committee annual plan 2023/24 (item 7.4)**

1. The committee noted the annual plan. It was agreed that the next deep dive risk topic ‘people’, would be in September due to the amount of year end reports presented in May.

**Other business (item 8)**

1. There were no further items of business.

# Dates of future meetings (item 9)

1. The committee confirmed the future meetings dates as:
* 8 May 2024
* 19 June 2024
* 18 September 2024
* 27 November 2024

The meeting closed at 4:35pm.