AUDIT AND RISK COMMITTEE

**Unconfirmed minutes of the meeting held on 8 September 2021**

**in meeting room 8, Redman Place, London and via MS Teams**

Present

Tom Wright Non-Executive Director (chair)

Dr Mark Chakravarty Non-Executive Director

Alina Lourie Non-Executive Director

Dr Justin Whatling Non-Executive Director

Amanda Gibbon External Member

In attendance

Professor Gill Leng Chief Executive

Jennifer Howells Director - Finance, Strategy and Transformation

Boryana Stambolova Deputy Director - Finance, Strategy and Commercial

David Coombs Associate Director – Corporate Office

Martin Davison Associate Director - Finance

Barney Wilkinson Associate Director - Procurement

Elaine Repton Corporate Governance & Risk Manager (minutes)

Jenniffer Prescott Programme Director – CHTE (item 4.2)

Alexia Tonnel Director – Digital, Information and Technology (item 4.3)

Malik Pervez Associate Director – IT Infrastructure and Operations (item 4.3)

Dr Felix Greaves Director – Science, Evidence and Analytics (item 4.4)

Pall Jonsson Programme Director – SEA (item 4.4)

Swapna Mistry Strategy Manager – Strategy & Transformation Unit (observing)

Niki Parker Government Internal Audit Agency (GIAA)

Andrew Jackson National Audit Office (NAO)

Andrew Ferguson National Audit Office (NAO)

David Wright NICE Sponsor Lead, DHSC

## Apologies for absence (item 1)

1. Apologies for absence were received from Elaine Inglesby-Burke.

## Declaration of interest (item 2)

1. The committee noted the interests register. There were no new declarations of interest relevant to this meeting.

## Minutes of the last meeting (item 3.1)

1. The minutes of the meeting held on 16 June 2021 were agreed as a correct record.

## Action Log (item 3.2)

1. The committee reviewed the action log noting the matters which were completed and those still in progress.It was noted that no requests for future deep dive topics had been received. The committee members were asked to advise of any topics which they feel would benefit from a detailed risk discussion at a future meeting.

# RISK MANAGEMENT

## Strategic risks (item 4.1)

1. The committee reviewed the strategic risk register which had been updated by the Executive Team and Gill Leng highlighted the current highest priority risks for NICE. These were capacity to deliver the strategic plan and the requirement for ongoing financial resourcing to support the transformation programme and life sciences vision.
2. The committee discussed the recruitment challenges, accepting that despite a significant number of appointments having been made in June and July, many roles were filled internally which was therefore not having a material impact on the overall vacancy level. It was recognised that recruitment was difficult in the current environment, particularly for some of the specialist roles which NICE requires and noted that the appointment of a new interim Chief People Officer would provide additional leadership in this area. The committee discussed the need for creative solutions to the skills shortages, such as collaborations with universities to sponsor MSc programmes and graduate trainee schemes. Gill Leng highlighted NICE’s work in this area, including the trainee economist roles and the joint MSc course with the London School of Economics.
3. In terms of future resourcing, Gill stated that the CSR bid had included a request to support the ongoing transformation work and investment in the Life Sciences hub. If unsuccessful, other sources of income would be explored and priorities would have to be re-visited, potentially leading to some activities being paused.
4. The committee also discussed risk 1 regarding NICE’s ability to meet the changing and dynamic needs of national system partners. It was queried how collaboration agreements were progressing and whether NICE was engaging with integrated care systems. Gill advised that this will be the subject of the discussion at the October board strategy away day to agree priorities and how best to manage partners’ expectations. The external guests invited to the October session were noted and Gill advised that she was also attending the NHS Confederation chair’s meeting to discuss their requirements of NICE.
5. The committee supported the opportunities to engage with partners, particularly in view of the expected difficult winter period, and thinking about the value chain and NICE’s role in it.
6. Subject to the above comments, the committee noted the strategic risks which will be discussed with the board on 15 September 2021.

**CHTE Confidentiality breach update (item 4.2)**

1. Jenniffer Prescott joined the meeting to give a progress update since the confidentiality breach occurred in the development of a technology appraisal in June, and to outline the lessons learned and consider next steps.
2. The committee discussed the need to find a digital solution to effectively redact text in long and complex documents, to avoid human error. Jenniffer advised that there was not currently an off-the-shelf product which meets NICE’s requirements, but there was a keenness to work in collaboration with others to develop one. Mark Chakravarty mentioned three solutions which he thought might help and agreed to pass the details to Jenniffer.

**ACTION: MC**

1. In the meantime, until a digital tool is identified, the committee discussed options to reduce the risk of a future breaches by considering producing a separate report for engagement which does not include any of the confidential information, thereby removing the need for redaction. Alternatively, to use a document reader which would highlight specific text such as GBP pound sign, which is then sense checked by the team. Jenniffer added that the company could request that significant amounts of data is redacted, as well as price.
2. Jennifer Howells advised that there have been other incidents involving confidential data, which have been discussed with the Information Governance Steering Group. She expressed concern that there should not be a complete reliance placed on technology as training for staff is also important. The committee requested a progress update on the action taken to safeguard confidential data, including the strengthening of protocols. It was noted that the annual information governance paper is due to come to committee in November, and this update could potentially be included in that report as part of the lessons learned following recent data breaches.

**ACTION: JP/DC**

## Cyber security update (item 4.3)

1. Alexia Tonnel and Malik Pervez presented an update on activities underway to strengthen NICE’s cyber security arrangements. Alexia outlined how the team had responded to the incident in July 2021 and briefly mentioned the other key areas of work to raise staff awareness of cyber security through the development of an on-line training module and regular spoof phishing campaigns.
2. The committee noted the work to manage the transition to the new service provider, to purchase additional ransomware protection and develop business continuity plans. The planned next steps were fully endorsed by the committee given that cyber security attacks were becoming more sophisticated.
3. Assurances were sought on the effectiveness of the phishing campaigns in improving staff awareness. It was noted that those who fail to recognise the test are re-directed to a training video. The committee asked about the failure rates and whether additional messages on the intranet landing page each morning would help to ensure staff remain vigilant to cyber risks. Alexia agreed to check the analysis of phishing exercises to confirm how many staff were caught out, completed the training, and then subsequently caught again. She added that NICE’s current information governance training module includes a section on common cyber security risks which staff should be alert to, but the IT Team was currently developing a specific cyber security training course which will be mandatory and will involve regular comms exercises to promote awareness.

**ACTION: AT**

1. The committee also queried the arrangements for effective information governance in NICE’s shared offices. It was reported that each ALB had its own infrastructure, firewall and IG strategy. Some ALBs were ISO 20001 compliant, but NICE was not at the present time.
2. In relation to home working, it was queried what the security arrangements were for end point devices should they become compromised. Malik advised that the ability to disable a device remotely was already in place and he was looking at an additional layer of security to complement the existing product.
3. The committee discussed whether the gradual return to the office would increase the IT & IG risk level as staff become mobile and travel more with laptops. Alexia was asked whether there were plans to have a comms campaign to remind staff to be extra careful when travelling with devices, especially on public transport, and not leave bags unattended in public areas. It was agreed that there would be a comms reminder to staff about travelling with devices and complying with the General Data Protection Regulation (GDPR) requirements.

**ACTION: AT**

## Risk discussion: Data analytics (item 4.4)

1. Felix Greaves and Pall Jonsson gave a presentation of the importance of ‘data’ to the delivery of NICE’s strategic plan and outlined some of the current challenges associated with the sharing of data across the health and social care system.
2. The committee noted that the data analytics team was relatively new and still in development, but the team was working in partnership with NHS Digital to access data needed to support decision making and the transformation of NICE guidance.
3. The committee acknowledged the current uncertainties around the ‘trusted research environments’ (TREs), referred to in the DHSC national data strategy, in terms of what the future arrangements for the TREs will be and what level of influence NICE will have to be able to access the data it requires.
4. In summary, the committee recognised how critical data was to NICE and how complex and challenging the data sharing environment was within the NHS but concluded that NICE needed to agree the types of data it needed, where it wanted to have an influence and to work on building capacity and capabilities in those areas.
5. The committee thanked Felix and Pall for their presentation.

**INTERNAL AUDIT**

**Progress report (item 5.1)**

1. Niki Parker provided a progress update on delivery of the internal audit plan and requested the committee to review and support the internal audit charter.
2. It was noted that the risk management draft internal audit report has been issued with fieldwork underway for a further three audits. The committee observed that the subject matter of the planned internal audit reviews was internally focussed whereas NICE’s current risk areas were external. It was suggested that this point be re-visited at the next meeting.

**ACTION: NP**

1. The committee noted the internal audit progress report and supported the signing of the internal audit charter.

**EXTERNAL AUDIT**

**NAO audit progress update (item 6.1)**

1. Andrew Jackson advised the committee that EY had withdrawn from the contract framework to undertake NICE’s year-end financial audit on behalf of the NAO. KPMG will be replacing EY. Jennifer Howells requested an introductory meeting with the KPMG team as soon as possible.

**ACTION: AJ**

1. The external auditor’s update was noted.

**FINANCE**

**Financial accounting performance (item 7.1)**

1. Martin Davison presented the financial accounting performance report for the period ended 30 July 2021. The committee noted an improved position regarding payments from NHS England which is thought to be as a result of them moving to the Atamis procurement platform which NICE has also signed up to, along with other NHS bodies.
2. The committee noted the two staff overpayments, which had both been repaid, and queried whether the correct control systems were in place. Martin advised that overpayments are low in number but do happen occasionally as a result of human error, due to the time lag in notifications from managers reaching the HR and finance teams. Overall, he was satisfied that the internal controls were adequate.

The unutilised income of circa £14k at the end of the IMPACT HTA project was queried. Martin advised that we will need to submit returns to the grant funder to show how we have utilised the funding and that this is subject to potential audit. Once this process has concluded, if the balance is unchanged, we will return any unutilised income to the grant funder.

1. The report was noted.

## Revisions to Standing Orders and Standing Financial Instructions (item 7.2)

1. Jennifer Howells introduced a paper detailing proposed revisions to NICE’s Standing Orders and Standing Financial Instructions which have been comprehensively reviewed and updated, with support from SCW Commissioning Support Unit and taking account of best practice in other health ALBs. The aim of the review was to help streamline operational decision making and empower staff below the Executive Team (ET). Subject to the committee’s support, the documents will be presented to the November public board meeting for approval and adoption.
2. David Coombs highlighted some of the key changes relating to procurement controls, tender limits and approval levels for consultancy.
3. The committee questioned the need to increase the level at which board approval is required for expenditure that sits outside of the business plan and budget from £250 to £500k, querying whether this would increase the level of risk, and how many operational approvals would normally fall within the range. Jennifer Howells referred to instances within the Digital Workplace programme where the £250k limit was almost reached, which this amendment was trying to address. She stressed that it was not out of line with other similar sized ALBs and suggested that the limit is kept under review and the committee is advised for an interim period when expenditure within this range, which would have previously come to the board, is approved. On this basis, the committee supported the proposed amendment.

**ACTION: JH**

1. Jennifer Howells agreed to further consider the following amendments requested by the committee:
* to consider amending the Finance, Strategy and Transformation Director title to Finance Director throughout to future proof the documents
* SFI 22 - consider amending ‘any potential ultra vires transactions or improper acts, which **exceptionally** may need to be referred to the Department of Health and Social Care’ to any evidence of ultra vires transactions or improper acts **will** be reported to the Department
* SFI 95 processing of payroll – consider also documenting the NHS Shared Business Service’s role in processing invoices of behalf of NICE

**ACTION: JH**

1. Gill Leng advised that due to the time delay in presenting the revised SO & SFI to the public board meeting in November, the board will be asked at its meeting on 15 September to agree to the immediate implementation of two specific SFI amendments relating to tender thresholds and the level at which ET approval is required for consultancy expenditure. These changes would aid the efficient utilisation of funding while maintaining appropriate safeguards, and do not affect the decisions on expenditure that would come to the board. The committee supported the request being made at the September board meeting.
2. Subject to the amendments in minute 37 and the request in minute 38 above, the committee supported the revised SO and SFI being presented to the board for approval in November.

# CONTRACTS

## Waiver report April to August 2021 (item 8.1)

1. The report on contract waivers approved between April and August 2021 was reviewed and noted.
2. Boryana Stambolova briefed the committee on the current position with the substantial tender exercise involving the Royal Colleges for the guideline collaborating centres. Boryana explained the background to the unsuccessful tender and outlined the future options available, including NICE’s preference. It was noted that legal advice was being sought and discussions taking place with the DHSC due to the potential implications.
3. It was agreed to defer a discussion to the board meeting next week.

**ACTION: JH**

# CORPORATE OFFICE

**Counter fraud functional standard – Q1 return (item 9.1)**

1. The committee noted the Q1 consolidated data return (CDR) for the Cabinet Office, which was submitted to the DHSC Counter Fraud Unit on 2 August 2021. The return included the two losses due to error following staff salary overpayments made in June. As noted in the financial accounting report earlier in the meeting, one was repaid in full immediately and one which was 50% repaid in June and the remainder repaid in July. The latter will be reported in the Q2 CDR for 2021/22.
2. The committee noted the Q1 CDR.

**Internal audit recommendations (item 9.2)**

1. Elaine Repton reported good progress in addressing outstanding audit actions with nine having been closed in agreement with the internal auditor. The committee queried whether all of the 30 outstanding actions were still relevant given the time passed and post-COVID ways of working. It was agreed to review all the outstanding actions with senior management and agree whether some should be closed.

**ACTION: ER**

1. The report was noted.

**Use of the NICE seal (item 9.3)**

1. The NICE seal had not been used since the last meeting.

**Committee annual plan 2021 (item 10)**

1. The committee noted its annual work plan for 2021 and agreed to send Elaine Repton a note of any deep dive risk topics.

**Other business**

1. **Non-executive director training** – Three of the new committee members had recently attended a civil service training course entitled ‘Essentials for audit and risk committee members’. The feedback was that the course was useful, but it was too long and would have been better as a bespoke course for NICE.
2. **Review of the meeting** – the committee members were asked to send their feedback on the hybrid meeting to Elaine Repton in order to assess whether future meetings should be hybrid or completely in person or virtual.

**Future meeting dates**

1. The committee confirmed its future meetings would take place on:
* 24 November 2021
* 28 January 2022
* 11 May 2022
* 16 June 2022
* 14 September 2022
* 30 November 2022

The meeting closed at 16:45.