AUDIT AND RISK COMMITTEE

## Unconfirmed minutes of the meeting held on 25 November 2020

## via MS Teams

Present

Dr Rima Makarem Non-Executive Director (chair)

Dame Elaine Inglesby-Burke Non-Executive Director

Tom Wright Non-Executive Director

In attendance

Professor Gill Leng Chief Executive

David Coombs Associate Director – Corporate Office

Martin Davison Interim Associate Director - Finance

Barney Wilkinson Associate Director - Procurement

Jane Lynn Head of Financial Accounting

Elaine Repton Corporate Governance & Risk Manager (minutes)

Niki Parker Government Internal Audit Agency (GIAA)

Andrew Jackson National Audit Office (NAO)

Andrew Ferguson National Audit Office (NAO)

Hassan Rohimun Ernst & Young (EY)

Dan Spiller Ernst & Young (EY)

Jane Newton DHSC, NICE Sponsor Lead

Grace Marguerie Associate Director – Human Resources (item 4.3)

Alexia Tonnel Director – Digital, Information & Technology (for item 10.1)

Malik Pervez Associate Director – Digital, Information & Technology (for item 10.1)

Kelly Parry Information Governance Manager & Data Protection Officer (for item 11.1)

Abigail Dunne Management Accountant (observing)

## Apologies for absence

1. Apologies for absence were received from Jennifer Howells.

## Declaration of interest

1. There were no declarations of interest relevant to this meeting.

## Minutes of the last meeting

1. The minutes of the meeting held on 9 September 2020 were agreed as a correct record.

**Action Log**

1. The committee reviewed the action log noting the matters which were completed and those still in progress.

## RISK MANAGEMENT

### Risk Management

1. The committee received a paper describing the internal risk management process within NICE, and highlighting the risk escalation routes and where staff have the opportunity to feed into risk discussions through their directorate risk registers and via key project risk registers.
2. There was a discussion of how risks within business as usual activities are reported to the board. Gill Leng advised that following the suggestion at the last public board meeting, the Directors’ progress reports will in future summarise the key risks in their centre/directorate. David Coombs has amended the board report template and reminded directors to include references to risks starting with next public board meeting in January.
3. The committee asked to what extent risk interdependencies across the health group are being discussed. It was noted that the ALB risk lead network was more of an information sharing forum and only the larger ALB bodies tended to discuss inter-related issues. Gill Leng advised that she attends the ALB Chief Executive’s group where some risk interdependencies are shared, for example the current concurrent risks around winter preparedness, COVID-19, and the end of the UK-EU transition period. Jane Newton added that the discussion of system-wide risks mostly take place at the quarterly accountability meetings with ALBs and their DHSC sponsor team.

### Corporate risk register 2020/21

1. The committee reviewed the corporate risk register. Gill Leng highlighted the current highest risks being capacity to deliver business priorities, staff morale and workload pressures, and the importance of gaining support for stage 2 of the methods and process review. The impact of the additional work created by the COVID-19 response had exacerbated an already demanding workload for many teams, even though some activities had been paused to divert resources to delivering COVID-19 guidance at pace.
2. At the same time NICE was also developing a new strategic plan for the next five years, all of which has culminated in teams becoming extremely busy, whilst operating remotely, and this has inevitably had an impact on staff who also had pressures from carer responsibilities or have struggled being isolated from their colleagues.
3. The committee commented that the key risks were inter-related and asked whether the Senior Management Team should take another look at activities which could be paused for now. Jane Newton queried the vacancy rate as NICE had historically carried a high vacancy rate and asked if this approach was having an impact in the current year more than previously due to COVID. Gill Leng reported that there were over 90 budgeted vacancies (12%), but the average monthly rate was around 15 live vacancies. Extra resource has been put into HR to support the recruitment team and in other teams where it will help from now until the end of March 2021.
4. The committee acknowledged that many organisations are feeling the strain of similar challenges with staff fatigued and the impact of national lockdowns.
5. The committee chair highlighted a recent apparent breach of the declaration of interest policy, in which interests were not declared prior to a committee meeting. Gill Leng advised that the case related to a topic expert not a NICE committee member. The full details were currently being investigated through the breach reporting process, and NICE’s Responsible Officer (RO) has been advised and would follow this up with the individual’s RO as appropriate.
6. It was noted that topic experts were nominated by the sponsoring company and may often have relevant interests due to their involvement in clinical trials and research. Gill highlighted that the individuals are there to give evidence to the committee and are not involved in the advisory committee’s final decision making. The issue was identified at the committee meeting and so the risk to the guidance being compromised was low. The outcome of the investigation will be included in the annual breach report presented to this committee.
7. The committee noted that some of the undeclared interests in this case were publicly available and queried whether the appointment process should be strengthened to routinely include more checks of the applicants’ declaration of interests, including reviewing their social media profiles. Gill Leng advised that the current policy does allow for checks of publicly available information to be made, and the interview panel should explore the candidates’ interests to ensure they would not be excluded from participating in the committee. The committee noted the recent establishment of independent spot-checks by the Corporate Office to ensure advisory committees are following the declarations of interest process, and to identify if the declared interests of a sample of committee members aligns with the policy, which will include the checking of publicly available information.
8. The committee considered whether the risk register should include an additional conflict of interest specific risk reflecting the potential impact on guidance and damage to NICE’s reputation if committee member interests are not fully disclosed. It was noted that the current ‘spot checks’ of committee member declarations of interest is referred to within risk 05/20 relating to ‘*NICE being unable to effectively manage criticism about contentious or contested guidance, including COVID-19 guidance developed at pace, which results in damage to our reputation and reduced take-up of guidance’.* Andrew Jackson referred to a recent NAO report on procurement of PPE equipment, which had included interest disclosures, and advised the committee that NICE should take a proportionate approach, to ensure it receives the assurance it needs.
9. Gill Leng agreed that SMT would re-look at the risk to agree whether it required further mitigations or include an additional specific risk covering conflicts of interest.

**ACTION: ER**

1. Elaine Repton agreed to follow up progress with the creation of a new Technology Governance Board to help manage the prioritisation of digital activities, which was been agreed in principle by the Senior Management Team in July 2020.

**ACTION: ER**

1. The committee noted the risk register.

## Risk discussion – Workforce equality, diversity and inclusion

1. The committee received a presentation from Grace Marguerie of NICE’s equality objectives for 2020-24 and plans to address the improvements which need to be made to achieve significant progress against the gaps and issues which have been identified.
2. Grace outlined some of the initiatives which are underway including staff listening events, strong messages from the Chief Executive, training for hiring managers and collaborations with other ALBs to share good practice.
3. The committee challenged the approach of target driven objectives. The view was that to really make the step change needed, initiatives must address the cultural issues which impact progress. This required looking at the challenge from a different viewpoint rather than setting tougher targets. It was agreed that understanding the cultural differences between BAME applicants and adapting internal processes and changing the mindset of hiring managers to be able to respond in a different way, was likely to deliver different results.
4. Reference was also made to the learnings from moving to virtual working which was showing in some sectors that the change was enabling more women and employees with a disability to be successful in securing job opportunities. Grace stated that NICE was doing a lot of work to maximise the learning from the current virtual world of work.
5. The committee thanked Grace for her presentation.

## INTERNAL AUDIT

### Internal audit progress report

1. Niki Parker presented the internal audit progress report showing that of the six audits planned in the year, one report has been finalised, two have fieldwork underway and the remaining three having the initial scoping meetings arranged.
2. The committee was assured that the plan would be completed in time and the progress report was noted.

### Committee recruitment and oversight

1. The internal audit review of committee recruitment and oversight received a moderate assurance rating with five recommendations for improvement. All the recommendations had been accepted by management.
2. It was noted that a fully standardised induction programme would be difficult as the composition and role of the committees varies, but there was scope for a minimum level of basic information to be agreed.

## EXTERNAL AUDIT

### NAO wider work in the health and care sector

1. The committee noted the NAO’s wider work and recently published guides to support the health and care sector, notably the report on supplying the NHS and social care with Personal Protective Equipment and the Government’s spending in response to COVID-19.

## FINANCE

### Financial accounting performance

1. Jane Lynn presented the financial accounting performance report as at 30 September 2020, which overall reported positive performance in most areas. Reference was made to income expected from NHS England in the year. A purchase order was still awaited for the Managed Access workstream (£730k), but the funding and business case have been approved. Progress was also being made with HealthTech Connect (£300k). The total write-offs, losses and special payments were under £5k compared with £20k for the same period last year due to the lack of travel and reduced expense claims.
2. It was noted that the outstanding payment of €159,000 for the EUNetHTA project was anticipated to be available in July 2021 when the online portal for submitting claims will be re-opened.
3. The report was noted.

## CONTRACTS & IT

### Waiver report – August to November 2020

1. The report on contract waivers approved between August and November 2020 was noted. The committee noted expenditure on IT projects including the new London office.

## ANNUAL REPORT AND ACCOUNTS

### Annual Report Production Timetable 2020/21

1. The committee noted the outline timetable for the production of the annual report and accounts for 2020/21. Andrew Jackson noted that the DHSC was expected to publish its timeframe, which all ALBs will be expected to work to, by the end of the calendar year.
2. The report was noted.

## DIGITAL, INFORMATION AND TECHNOLOGY

### Annual IT Security and Resilience Report 2020

1. Alexia Tonnel and Malik Pervez joined the meeting to present an overview of the key areas of activity to strengthen IT security and system resilience. Alexia advised that the separate IT and Digital Services Teams have now merged to form a new Digital, Information and Technology directorate, and plans were progressing to transition from an external managed service provider to bring it in-house to have one common IT solution rather than separate arrangements as at present.
2. The committee noted that simulated phishing exercises had caught some staff out, particularly the September test when 223 staff opened the fake email and took action by clicking on an embedded link. Staff who fail to spot the test were re-directed to a short training exercise.
3. In response to a question about whether NICE commissions an external security agency to regularly test the resilience of the IT system, Malik advised that this is something he was looking to review when the management of the infrastructure is brought in-house. At present, there were different arrangements in place for the penetration testing of web applications managed by NICE and for the network which is managed externally.
4. The committee discussed the requirement for users to complete a two-factor authentication to access a NICE issued laptop. Malik explained the current security arrangements and stressed it was about achieving an appropriate balance between risk and the user experience. Alexia agreed to re-look at the security of laptops to review whether any additional measures were required.

**ACTION: AT/MP**

## CORPORATE OFFICE

### Information Governance Annual Report 2019/20

1. Kelly Parry presented a review of the arrangements to ensure that NICE has effective information governance (IG) controls in place. The key areas of activity in the last year had been completion of the Data Security and Protection Toolkit, which was currently undergoing an internal audit review, delivering IG training to staff, reviewing the impact of the UK’s EU exit, supporting the use of Zoom and embedding data protection impact assessments.
2. Next year the Information Governance team will be heavily involved in the roll out of Microsoft Sharepoint if approved by the Board, which will fundamentally change the way staff save and access documents on the network drives.
3. The committee noted that there had been fewer data breaches than last year but asked if anything more could be done through digital solutions to reduce the instances even further. Kelly advised that most cases were due to human error so the IG mandatory training was important. There were other ways teams were looking to improve by having a time delay on sending emails to give an opportunity to spot errors. Another option was to disable the autofill function in the email address bar to reduce the risk of selecting the wrong recipient.
4. Reference was also made to the IG issues which have been experienced with Hire Lab, the online recruitment system now in place. The IG team have been working with HR and DIT colleagues and the software supplier to seek to resolve the problems. A key lesson is to ensure there is IT involvement in any future software system purchase
5. The report was noted.

## Counter fraud functional standard – Q2 return

1. The committee reviewed the Q2 consolidated data return (CDR) for the Cabinet Office, which was submitted to the DHSC Counter Fraud Unit on 26 October 2020. The return confirmed that the two supplier payments made in error in Q1 had been recovered. A further salary overpayment made in Q2 was noted. There were no losses from fraud in the period.
2. The committee also noted updates made to the supporting action plan, risk assessment and annual compliance checklist which were being maintained for internal assurance purposes.

### Gifts and hospitality policy review

1. The committee noted the revised gifts and hospitality policy.
2. Elaine Repton agreed to circulate a version showing the tracked changes, for information.

**ACTION: ER**

### Internal audit recommendations

1. Progress in addressing the outstanding audit actions was reviewed. There were limited updates since the last meeting due to capacity challenges and other priorities, mostly relating to COVID-19 work. The chair asked about the increased risk of delaying the high rated recommendations. It was agreed that the highly rated actions should as a general principle be addressed quickly, however in this case, they related to travel expense claims which were currently on hold. Nevertheless, it was agreed that the action owners be reminded of the importance of responding to recommendations which have been agreed by management, in a timely manner.

**ACTION: ER**

1. The report was noted.

## Use of the NICE seal

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

### Committee annual plan 2020

1. The committee noted its annual work plan for 2020/21.

## Future meeting dates

1. The committee confirmed its future meetings would take place on:
* 20 January 2021
* 12 May 2021
* 16 June 2021
* 8 September 2021

The meeting closed at 16:25pm.