AUDIT AND RISK COMMITTEE

**Confirmed minutes of the meeting on 18 September 2023 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

Barney Wilkinson Associate Director, Procurement

Ehtisham Ramzan Head of Financial Accounting

Elaine Repton Corporate Governance & Risk Manager (minutes)

Jonathan Benger Chief Medical Officer and Interim Director, Centre for Guidelines (for item 5.2)

Matt Stevenson Cyber Security & IT Compliance Manager (for item 5.3)

Helen Knight Director, Medicines Evaluation (for item 6.2)

Jenna Dilkes Associate Director, Technology Appraisals (for item 6.2.)

Helen Brown Chief People Officer (for items 6.2 and 7.1)

Niki Parker Head of Internal Audit, Government Internal Audit Agency

Stephen Ferris Engagement Director, National Audit Office

Richard Lee Engagement Director, KPMG

Katie Henry Audit Manager, KPMG

Yvonne Gallagher Director, Digital, National Audit Office

## 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. Apologies for absence were received from Boryana Stambolova, David Wright (DHSC Sponsor team) and Laura Wright (NAO).

## Declaration of interest (item 3)

1. The committee noted the interests register. It was confirmed there were no conflicts of interest in relation to the items to be discussed at the meeting.

## Minutes of the last meeting (item 4.1)

1. The minutes of the meeting held on 21 June 2023 were agreed as a correct record.

## Action Log (item 4.1)

1. The committee reviewed the action log noting the matters which were completed and closed.
2. The following open actions were discussed:
3. **Strategic risks** (action 324) – This item would be covered later on the agenda along with the actions arising from the board effectiveness review. It was agreed the action would remain open until the risk register improvements have been agreed and implemented.
4. **Compliance with functional standards** (risk 335) – This item also remains open until a definitive response is received from the DHSC in respect of ALBs’ requirements to fully comply with all the Government functional standards.

# SUBSTANTIVE ITEMS

## Strategic risks and actions to address the board effectiveness review (item 5.1)

1. Sam Roberts proposed that the committee does not discuss the risks in detail as the executive team has recognised that a substantive review is needed and has planned to do this on 3 October. Following which, the committee will receive a revised and refined strategic risk register in November, which will be in a proposed new format with a heat map; an example of which was included in the papers. The committee discussed and supported the new format, emphasising the importance of capturing the controls that will have greatest impact on reducing the risk level, and ensuring that any new actions are clear on what is going to be done differently to have an impact.
2. The committee spent time discussing three current financial control issues.
3. Firstly, the outstanding approval of the secondment of a senior member of NICE staff to an NHS organisation. Approval for the secondment is currently with HM Treasury (HMT), following review by the DHSC. The outcome of HMT’s decision will enable the auditor to conclude their report on the 2022/23 annual report and accounts. The committee discussed whether a second secondment for another senior staff member that commenced in the 2023/24 financial year should be disclosed in the 2022/23 annual report and accounts as a post-balance sheet event. KPMG advised that if HMT do not approve the first secondment, then both secondments would likely need to be disclosed in the annual governance statement in the 2022/23 annual report and accounts.
4. The second issue was noted in the financial accounting report later on the agenda and related to a write off of £21k following a failure to commission the balance of a consultancy contract within the timeframe approved in the business case to DHSC. The committee expressed concern that this latest development indicated that the issues which arose with contract management last year had not been resolved. KPMG highlighted the need to ensure that any external reporting of the loss as mandated by Managing Public Money is completed.

 Boryana Stambolova

1. The third issue related to the financial position which was currently forecasting a deficit, primarily due to a significant reduction in income from the technology appraisal programme.
2. Following a detailed discussion of all three issues, it was agreed that the executive would come back to the committee in November having fully reviewed what has happened, investigated where internal controls were not followed, and outlined any actions needed to strengthen controls going forward to provide the necessary assurances to the committee and the board.

 **Action: Sam Roberts**

1. Also, it was requested that if the auditors reach a decision to qualify the 2022/23 annual accounts, that a short notice meeting of the committee be called to give a full update, including a discussion of any disclosures in relation to the secondments.

**Action:** **Boryana Stambolova**

1. In view of the above points, the committee considered whether the planned audit of corporate governance in Q3/4, could be re-purposed to look at the compliance with spend controls, and the wider cultural awareness that needs to be understood around the responsibility and accountability of all staff for managing public money. It was agreed that David Coombs and Niki Parker would meet to discuss a draft terms of reference for the audit and bring these to the November meeting for review.

**Action: David Coombs and Niki Parker**

## Risk deep dive: Topic selection/prioritisation (item 5.2)

1. Jonathan Benger joined the meeting for the ‘deep dive’ on the risk around topic selection and prioritisation, which was presented in the ‘bow tie’ format to illustrate the causes and consequences of the risk as well as the mitigations.
2. Jonathan stated that the new approach to topic prioritisation will be informed by outputs from horizon scanning, system intelligence and topic intelligence, that will feed into a new prioritisation board, which will meet in shadow form from September 2023. It will synthesise inputs from topic intelligence, system intelligence and horizon scanning to prioritise the topics for NICE guidance using a single prioritisation framework. This was illustrated in a schematic diagram showing cross-organisation unification and integration of six internal teams.
3. The committee asked how progress will be demonstrated. Jonathan confirmed the next step will be to develop metrics to show whether the new approach is working, and to continue to refine targets and measure performance.
4. The committee thanked Jonathan for his presentation.

# Cyber security training session (item 5.3)

1. The committee welcomed Yvonne Gallagher from the NAO to give an overview of the cyber security landscape and advice on the questions which audit committees should be asking of their management teams in order to gain assurance over the organisation’s cyber security arrangements.
2. The key ‘take aways’ from the session were:
* Most attacks are opportunistic so any ‘housekeeping’ improvements organisations make to their security arrangements (as simple as applying the latest security patch upgrades) can help reduce the risk.
* Threats and vulnerabilities – educate staff about phishing and social engineering to be able to limit the damage caused if there is a security breach.
* Ransomware – attacks are not well publicised (for obvious reasons) but can be a result of ‘poor hygiene’ such as system back-ups not being secure.
* Supply chain security – is an area where the NAO was seeing a significant increase in attacks. Supply chain vulnerabilities is an important area for focus and NAO recommended organisations should map their dependencies so that their risk exposure can be better understood and managed. This can be a major problem for smaller organisations who do not have the time, skills or funding to invest in adequate cyber security measures.
* Skills and capabilities – the importance of agreeing and having in place the right level of skills required for your organisation.
1. In response to a question from the committee, Matt Stevenson briefly outlined NICE’s cyber security arrangements, including compliance with NHS Digital’s Data Protection and Security Toolkit (DSPT), email filtering, firewalls, mandatory staff training and the independent penetration testing that takes place.
2. It was noted that a new Chief Information Officer would be joining NICE shortly. It was agreed to ask them the 4 key questions in Yvonne’s presentation, once they are in post, and to come back to a future meeting having considered whether there was sufficient assurance over cyber security in key suppliers, whether an external technical assurance audit would be helpful, as well as reviewing third party access arrangements.

**Action: Chief Information Officer**

1. The chair thanked Yvonne for a very helpful session.

# Update on the annual report and accounts (item 6.1)

1. This item was covered under the strategic risks section.

## Internal audit progress report (item 6.2)

1. Niki Parker gave an update on the internal audit plan which was progressing in timescale and there were no concerns to highlight to the committee. The position with outstanding recommendations was also positive. Niki was confident the outstanding actions will be addressed.
2. The two audits still to be scoped were corporate governance and the DSPT. As discussed at paragraph 16 above, a draft terms of reference for the corporate governance audit will come to the next meeting for discussion.
3. The progress report was noted, and the committee welcomed the positive progress.

## Internal audit report – review of Technology Appraisals (item 6.2.1)

1. The committee discussed the findings of the technology appraisals (TA) audit report which received a moderate assurance rating with six medium and three low recommendations.
2. There was a comment that whilst committee member training was important so that members understood their role, it should be proportionate and targeted to ensure the best use of resources.
3. The audit report was noted.

## Training audit – draft terms of reference (item 6.2.2)

1. Niki Parker presented the draft terms of reference which the committee had requested sight of prior to the audit commencing. The audit will review whether training is aligned to the strategic priorities, delivering value for money, and whether there is oversight of completion. The committee supported the terms of reference, but in light of the issues with contract management, asked if the audit could also consider whether training is effective. Niki and Helen Brown agreed to have further conversations off-line about how this could be addressed in the context of the resources allocated to the audit.

**Action: Niki Parker & Helen Brown**

## Compliance dashboard (item 6.3)

1. Elaine Repton presented the proposed dashboard that would replace some of the regular reports for information. The committee agreed that the dashboard would help to reduce the paperwork and enable it to focus on the most important issues. It was requested that both the financial accounting paper and waivers reports be retained as backing papers but refined in format. It was also suggested that the RAG rating be removed, but that indicators on forecasting and budgeting are included, given the discussion earlier in the meeting during the strategic risks.
2. It was agreed that there would be a gradual move to less reports overtime, once the committee is confident that it is still receiving the level of assurance it requires, through fewer papers. A covering report to the dashboard would provide narrative on any negative performance trends, and any exception reporting.
3. It was agreed that a further populated dashboard be submitted in November for review.

**Action: Elaine Repton**

# REPORTS FOR INFORMATION

## Health and safety annual report 2022/23 (item 7.1)

1. Helen Brown presented an annual review of the health and safety compliance requirements to provide assurance that NICE is meeting all its commitments and remains up to date with relevant legislation. Good progress was reported, and no issues of concern have been identified.
2. It was noted that the fire safety and display screen equipment mandatory training courses were reporting below target for all directorates, and Helen confirmed that this was being raised with directors in their accountability meetings, as an area for improvement.
3. The report was noted.

## Financial accounting performance (item 7.2)

1. Ehtisham Ramzan presented the report setting out the financial accounting performance at 31 July 2023. Reference was made to the aged debtors and the table of losses and special payments, noting that the fruitless payment had been covered earlier in the meeting. The aged debtors showed the outstanding invoices over 90 days old. As previously discussed by the committee, the internal purchase order system at NHS England is still taking a significant amount of time to get invoices processed.
2. 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 the period April to September 2023. The number and value of contract waivers has increased on previous periods, partly due to the Digital, Information and Technology directorate submitting most of their requests at the start of the year.
2. The contract waivers report was noted.

## Counter fraud Q1 data return and action plan (item 7.4)

1. The report confirmed there had been no losses from fraud or error reported in the Q1 return to DHSC. A salary overpayment is still being recovered from a former staff member as previously reported.
2. The counter fraud action plan for 2023/24, which is a requirement of the counter fraud functional standard, was noted. The focus was on strengthening the one area of ‘partial compliance’ from the formal review in February 2023, which was around having SMART targets and evidence of outcome based metrics. The DHSC peer group will be undertaking a further compliance review in November 2023.
3. The report was noted and the action plan was supported.

## Use of the NICE Seal (item 7.5)

1. There have been no entries in the seal register.

**Committee annual plan 2022/23 (item 7.6)**

1. The committee noted the annual plan.

**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:
* 9 November 2023
* 31 January 2024
* 8 May 2024
* 19 June 2024
* 18 September 2024
* 27 November 2024

The meeting closed at 4:50pm.