AUDIT AND RISK COMMITTEE

**Unconfirmed minutes of the meeting on 9 November 2023 in the Westbourne,**

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

Present

Alina Lourie Non-Executive Director (chair)

Mark Chakravarty Non-Executive Director

Amanda Gibbon External Member

In attendance

Sam Roberts Chief Executive

Boryana Stambolova Interim Director, Finance

Martin Davison Associate Director, Finance

David Coombs Associate Director, Corporate Office

Barney Wilkinson Associate Director, Procurement

Elaine Repton Corporate Governance & Risk Manager (minutes)

Naomi Lee Head of Organisational Transformation (for item 5.3)

Oliver MacKenzie Information Governance Manager (for item 6.4)

Emma Turner Information and Records Manager (for item 6.4)

Ehtisham Ramzan Head of Financial Accounting (for item 7.2)

Niki Parker Senior Audit Manager, Government Internal Audit Agency

Stephen Ferris Engagement Director, National Audit Office

Laura Wright Audit Manager, National Audit Office

Richard Lee Engagement Director, KPMG

## 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 Michael Borowitz, Justin Whatling and David Wright (DHSC Sponsor team). It was agreed to ask the Sponsor team to nominate a deputy in future.

**Action: ER**

## 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 18 September 2023 were agreed as a correct record.

## Action Log (item 4.2)

1. The committee reviewed the action log noting the matters which were completed and closed.
2. The following open actions were discussed:
3. **Committee effectiveness review** (risk 334) – A topic for a future training session was how the use of real-world data could help the committee to better undertake its role.

**Action: ER**

1. **Compliance with functional standards** (risk 335) – This item remains open until a definitive response is received from the DHSC in respect of ALBs’ obligations to fully comply with all the Government functional standards.
2. **Cyber security** (risk 341) **–** It was agreed to invite Raghu Vydyanath to the January 2024 meeting to make a presentation on cyber security, including responding to the four key cyber security questions posed in the NAO’s training session from September.

# Update on the annual report and accounts (item 4.3)

1. The latest position with the signing of 2022/23 annual report and accounts was discussed in the pre-meeting. The open meeting noted that a decision was still awaited from HMT on the retrospective business case for a senior staff member’s secondment. Once received, the NAO will be able to conclude their audit of the 2022/23 annual report and accounts.

# SUBSTANTIVE ITEMS

## Strengthening internal controls (item 5.1)

1. Sam Roberts summarised the lessons learned following the three internal control issues discussed at the last meeting, and confirmed an action plan has been put in place to address the findings and strengthen control. The committee noted the key learning points as:
* Clarity on the extent of delegations (which have now been summarised into NICE’s standing financial instructions).
* Improved understanding of the drivers of the key risks facing NICE, with early warning indicators to be monitored at bi-monthly accountability meetings.
* Clarity on roles and responsibilities across the key teams of finance, HR commercial and governance.
* Sharing of information to improve transparency, avoid single points of failure, and to support internal challenge, underpinned by the use of a shared tracker to discuss up and coming issues which may require external approval.
1. The committee thanked the executives for a comprehensive paper and for the additional work that has gone into strengthening the controls since September, commenting that there was clear evidence and a determination to address the findings. It was queried whether it was sustainable for the chief executive to be focused on this issue, and instead it was suggested this required focus from senior managers across the organisation. In response, Sam Roberts stated that she had taken personal responsibility to address these issues but would take a step back once the improved controls were further embedded. She confirmed that weekly meetings are taking place involving the enabling functions to give early warning of any potential external approval requirements but highlighted the challenge of clarifying some of the delegations – this has now been achieved and will be issued to staff in an accessible format.
2. The committee questioned how the importance of the control framework could be embedded into the culture of the organisation, as attending training courses and circulating documents for reading was not always enough, and therefore people have to be held accountable. Sam Roberts recognised the cultural challenge but stated that the work has started with the executive team, and the next step is to engage with the 200 plus line managers.
3. The committee asked whether additional resources would help, for example from GIAA providing advisory support. It was agreed that GIAA should firstly undertake the planned internal audit of the control framework, and then depending on the findings of the review, GIAA could potentially help shape the work to address any weaknesses that are found and provide benchmarking to compare against good practice.
4. The committee asked to be kept informed of progress at future meetings by way of a 1 – 2 page summary based around the three key themes of: clarity of roles around delegations; improved understanding of the risk indicators; and information sharing across teams.

**Action: SR**

## Strategic risks and risk appetite (item 5.2)

1. The committee reviewed the refined and reformatted strategic risk register and gave their observations. The addition of the sources of assurance column was welcomed as was the smaller number of risks.
2. In terms of general comments, the committee encouraged management to:
* Consider whether the board’s discussions could be listed more predominantly in the controls and assurance.
* Make the future planned actions more specific.
* Avoid the temptation to fill all three lines of assurance for every risk and instead focus on the most important.
1. The external auditors highlighted that their work should not be seen as a third line of assurance. As such it was agreed to change the descriptor for the third line of assurance to external, independent reports, and also remove external audit reports as a third line of assurance for specific risks.

**Action: SR**

1. The committee then reviewed the top 3 risks in detail.
2. In terms of IT resilience, it was queried whether there is sufficient understanding of which systems would be prioritised for restoration if there was a major cyber security incident or system outage. Additionally, acknowledging that other ALBs may have similar issues, there would be value in having a forum to share information or do some benchmarking.
3. The internal controls risk was covered under item 5.1 above. The future mitigations and actions are to be focused on clarity around delegations, safety nets and information sharing.
4. The committee commented that NICE’s relevance to the health and care system would be expected to be a key discussion item at the NICE board meetings and therefore should show as a source of assurance. Sam Roberts confirmed that the four strategic programme boards report on their progress to the board, but also noted that ‘relevance’ is difficult to accurately measure.
5. It was agreed that three more risks would be reviewed in detail in January, including the funding risk.

**Risk appetite**

1. The committee was asked to review the risk appetite section of the risk management policy which has been updated in response to a recommendation in the board effectiveness review. This has been done in line with HMT’s Orange book and gives a more granular description of NICE’s ‘appetite’ to tolerate known risks in return for the benefits expected from a particular course of action.
2. The committee agreed it would be a significant change for NICE to move from an historically ‘cautious’ risk appetite, to being more ‘open’ to risk, and commented it will be good to hear the board’s view on areas where it would be willing to be more open to risk, and really thinking about what that means in reality and whether it is deliverable. The committee discussed that accepting a higher level of risk in some areas would need to be related back to the target rating in the risk register.
3. The committee supported the amendments and agreed submission of the revised risk management policy to the board in December, making it clear how the risk appetite has changed.

**Action: SR**

## Risk deep dive: Organisational transformation (item 5.3)

1. Naomi Lee joined the meeting for the ‘deep dive’ risk discussion and presented a ‘bow tie’ analysis for the organisational transformation risk. She commented that the bow tie format had helped with thinking through the consequences of the risk, and also confirmed progress with the mitigating controls.
2. The committee discussed the mitigating controls, specifically staff turnover and staff absence due to stress, which were early warnings (indicators) of the risk crystallising, as a result of organisational change. Naomi described the work underway to support staff through change which is part of the EDI roadmap, the values and behaviours work and reviewing the bullying and harassment policy. Other initiatives including HR business partnering and being an employer of choice have not yet started but are planned.
3. The committee commented that the mitigating controls looked weaker than the preventative controls and queried whether the presentation needed amending. Naomi was asked which indicators were being measured and what was needed to move them to a ‘green’ rating. She advised that the staff engagement score was an important indicator, as well as sickness absence and turnover rates, which are all KPIs reported to the board.
4. From a presentational viewpoint, it was suggested that the mitigating controls which are progressing well should also be highlighted to show this, similar to the preventative controls, to give a more balanced view.

**Action: NL**

1. The committee thanked Naomi for her presentation.

# ITEMS FOR DISCUSSION

## Internal audit progress report (item 6.1)

1. Niki Parker gave an update on the internal audit plan which was progressing within timescale with no concerns to highlight to the committee.
2. The position with outstanding recommendations was also positive. Niki confirmed she was confident that the overdue equality, diversity and inclusion actions will be addressed in line with the revised timeframe. She also noted that the TA action which was reporting as overdue has now been completed.
3. The progress report was noted.

## Control framework audit – draft terms of reference (item 6.2.)

1. Niki Parker presented the draft terms of reference for the controls framework audit which the committee had requested sight of prior to the review commencing. As agreed at the last meeting, the scope has been shaped on the back of recent internal control discussions, using the days originally allocated for a corporate governance review. The fieldwork was planned to begin in late November with the final report expected to be presented to the May 2024 meeting.
2. The committee asked if there was expected to be any capacity issues to implement the findings. Niki advised that her report would prioritise any recommendations, and that she would be able to advise on any ‘quick wins’, but giving a view on capacity was a matter for the executive team, not internal audit.
3. The terms of reference for the audit was supported.

## Revisions to Standing Orders and Standing Financial Instructions (item 6.3)

1. Boryana Stambolova presented revised Standing Financial Instructions (SFIs) for approval, which have been updated to include all the ALB delegations so that all external approvals are in one comprehensive document. The Standing Orders required only minor amendments, so had not been included in the report but would be circulated on request.
2. The amendments to the SFIs were tracked, and attention was drawn to the scheme of delegation in the appendix, which now included the ALB delegations. The committee also noted that the expenditure limit for securing one tender quote was being increased from £5k to £10k to help reduce the number of waivers being requested. The importance of communicating the delegations to all staff was emphasised. This will be actioned once the revisions were approved, with the production of a short simple summary to be circulated to all senior managers.
3. The revisions to the SFIs were agreed for submission to the December board meeting for approval and adoption.

**Action: BS**

## Annual report on information governance and records management (item 6.4)

1. The committee received the annual information governance and records management (IG&RM) report which described the arrangements in place to ensure information is managed effectively at NICE and provided assurance that the risks to effective IG&RM have been identified and mitigated.
2. The report summarised the statutory requirements which NICE is compliant with, in addition to meeting the standards within the Data Security and Protection Toolkit (DSPT). The committee noted the areas of work which the teams have been involved with during the last year, notably investigating data breaches, undertaking data protection impact assessments, responding to data subject access requests (DSARs), and preparing for the transfer of records to The National Archive.
3. It was noted that a significant amount of the teams workplan has also been supporting delivery of the digital workplace programme through the roll out of M365 and move to SharePoint. The committee emphasised the need for strengthened oversight of access permissions during the transition to SharePoint as changes in systems do give rise to an increased risk of data breaches.
4. The annual information governance and records management (IG&RM) report was noted, and the team thanked for a comprehensive paper.

# ITEMS FOR INFORMATION

## Compliance dashboard (item 7.1)

1. Elaine Repton presented the Q2 compliance dashboard which had replaced some of the regular information reports. The committee agreed the dashboard gave a helpful overview. Boryana Stambolova explained the financial forecast which had moved to a surplus/underspend position, compared to the M5 deficit/overspend. Boryana highlighted the need for caution given there are risks to the forecast outturn position which are not yet confirmed.
2. The Q2 compliance dashboard was noted.

## Financial accounting performance (item 7.2)

1. Ehtisham Ramzan presented the financial accounting performance as at 30 September 2023, highlighting three key points to the committee. Performance against the better practice payment code (BPPC) was slightly below target due to delays in NHS Shared Business Services setting up new suppliers. Reference was also made to debtors outstanding for more than 90 days, and the table of losses and special payments, showing losses on travel cancellations.
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 September and November 2023. The number and value of contract waivers was noted.

**Committee annual plan 2022/23 (item 7.4)**

1. The committee noted the annual plan.

**Other business (item 8)**

**Invitation to the MHRA audit and risk committee (item 8.1)**

1. Mark Chakravarty reported that he had attended a meeting of the MHRA’s audit and risk committee in place of the committee chair. The committee had shared issues of concern including cyber risks, horizon scanning and data sharing which they had agreed it would be helpful to collaborate on.
2. Mark was thanked for attending the meeting.

# Dates of future meetings (item 9)

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

The meeting closed at 4:30pm.