AUDIT AND RISK COMMITTEE

**Confirmed minutes of the meeting on 3 May 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 (up to item 6.4)

Amanda Gibbon External Member

In attendance

Sam Roberts Chief Executive

Boryana Stambolova Interim Director, Finance

David Coombs Associate Director, Corporate Office

Barney Wilkinson Associate Director, Procurement

Elaine Repton Corporate Governance & Risk Manager (minutes)

Helen Brown Chief People Officer (for item 5.4)

Suzanne Martin Head of Information Governance and Records Management (for item 5.5)

Ehtisham Ramzan Head of Financial Accounting (for items 6.1 and 6.2)

Sanjay Tanday Associate Director, Content and Channels (for item 6.2)

Malik Pervez Associate Director, IT Infrastructure (for item 6.5)

Alexia Tonnel Director, Digital, Information & Technology (item 6.5)

Heather Reid Senior Programme Manager – C-19 Inquiry (for item 7.1)

Niki Parker Head of Internal Audit, Government Internal Audit Agency

Stephen Ferris Engagement Director, National Audit Office

Laura Wright Engagement Manager, National Audit Office

Richard Lee Engagement Director, KPMG

David Wright DHSC Sponsor team lead (from item 5.1)

Kathryn Bull Campbell Tickell (observing the meeting)

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

1. The meeting of the non-executive directors and external member with the internal and external auditors, was postponed to the 21 June meeting.

**Welcome and apologies (item 2)**

1. The chair welcomed everyone to the meeting. Introductions were made for the benefit of Kathryn Bull from Campbell Tickell, who was observing the meeting as part of the Board’s effectiveness review.
2. Apologies for absence were received from Justin Whatling, who was attending a NICE appeal panel hearing.

## Declaration of interest (item 3)

1. The committee noted the interests register. Amanda Gibbon advised that she had become a full voting board member and Senior Independent Director at the Royal Free NHS Foundation Trust.
2. 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 19 January 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. **Cyber security session** (action 298) – The committee agreed that the session with the National Cyber Security Centre should be re-arranged for the September meeting.
4. **Business continuity planning** (action 319) – The committee requested a full report back in September on progress made against the internal audit recommendations.
5. **Strategic risks** (action 324) – It was agreed to keep the potential introduction of control scores open until the committee has considered examples of risks presented in the ‘bow tie’ format, to check whether additional control scores would add value.
6. **Cyber security internal audit** (action 326) – The action is to remain open until all the internal audit recommendations have been addressed.
7. **Annual cyber security report** (action 328) – Alexia Tonnel has agreed to circulate slides to the committee during June to provide an update on the queries raised in January**.**

# SUBSTANTIVE ITEMS

## Strategic risks (item 5.1)

1. Sam Roberts presented a revised strategic risk register which had been updated with the two new risks requested by the board. Sam referred to the challenges of the current external environment, plus the regulatory review of the health ALBs, which were reflected in risks 1.4 and 1.11.
2. The committee noted that the executive team now reviews the strategic risks at the monthly ET meetings and at the bi-monthly accountability meetings between the CEO and individual directors.
3. Following the risk session with the board in March, it is intended to produce a ‘bow tie’ analysis of the highest rated strategic risks to better understand the mitigations and whether control scores would add value. Two examples will come to the September meeting – topic selection and transformation.
4. The committee agreed that the risk register better reflected the present challenges. Specific comments for the executive team to consider were:
* Whether the risks around the UK’s attractiveness for companies to launch innovative medicines were adequately reflected.
* The tension between NICE’s role in supporting access to innovative technologies while also taking account of the challenging financial context for the NHS.
* Whether the risk register could be reorganised around the four business plan priorities to reflect the improved alignment between the risks and strategy.
* The need to diversify income given the difficult financial pressures expected this year and next year.
1. It was agreed that better visualisation of the risks in the ‘bow tie’ format will help the committee, as would potentially the addition of a heat map.
2. The executive team will take the committee’s comments into consideration in the next iteration of the risk register.

**Action: Elaine Repton**

## Internal audit progress report (item 5.2)

1. Niki Parker confirmed that this year’s internal audit work had been completed with six moderate assurance ratings and one audit with a limited assurance rating.
2. It was noted that the position with outstanding recommendations had improved but some still needed to be followed up. The committee was keen to see the collaborating centres, cyber security and business continuity planning actions completed. Niki Parker stated that she would be following up all the actions for her year-end report.
3. The committee commented on the number of actions relating to training needs, and questioned whether it was going to be affordable. Sam Roberts agreed it will be challenging from both a capacity and affordability perspective given the other business plan priorities. Boryana Stambolova added that the investment programme will be an agile process this year with a pipeline of prioritised projects worked up and ready to bring forward, if there is slippage elsewhere. So there may be scope to cover some but not all the identified needs.
4. The progress report was noted, and the committee welcomed completion of the plan in timescale.

## Internal audit report – business planning and performance (item 5.3)

1. The committee discussed the findings of business planning and performance report which received a moderate assurance rating with three medium and one low recommendation.
2. The committee recognised that the strategic direction and business planning process had significantly changed over the period covered by the audit, but the audit recommendations did still provide useful actions. Reference was made to the need to ensure that relevant external stakeholders are made aware of the new direction of the 5 year strategic plan. Sam Roberts acknowledged that following approval of the 2023/24 business plan in May it would be timely to update stakeholders who had previously been engaged in the development of the strategy and to update publicly facing strategic documentation.
3. Regarding future audit planning, Niki Parker undertook to review the audit plan in July / August 2023 with the executives, to confirm that the remaining audits were still the appropriate business areas to review and to ensure the audit scopes will deliver a report which adds value.
4. The audit report was noted.

## Internal audit report – equality, diversity and inclusion (item 5.4)

1. The committee reviewed the findings of the equality, diversity and inclusion (EDI) audit report which received a moderate assurance rating with two high and three medium recommendations for improvement. The report recognised the significant steps taken to improve NICE’s approach to EDI. Helen Brown advised that a lot of good progress has been made but there was still much more work to do including the production of an overarching EDI vision and strategy.
2. It was queried whether there would be alignment of the employee and the committee member action plans to address the ‘cultural’ objectives set out in the Public Sector Equality Duty, which were not currently being reported on. Helen Brown confirmed that the two different groups will be aligned to ensure they were receiving equal attention.
3. The committee agreed that it would be helpful to have an external perspective and learn from others, to understand what ‘good looks like’ in the public sector. The committee was asked to share any good examples they are aware of.
4. The audit report was noted, and the committee looked forward to seeing a future EDI 5 year roadmap for NICE.

## Data Security and Protection Toolkit (DSPT) report (item 5.5)

1. Suzanne Martin gave an overview of the findings from the DSPT independent assessment review carried out by the GIAA looking at 13 assertions across the 10 National Data Guardian Standards, pre-determined as in-scope by NHS Digital. It was noted that all recommended actions are expected to be implemented by 30 June 2023.
2. The committee noted that one of the findings related to new starters not completing the mandatory information governance training (5 starters in an eight month period). The target was 95% of all staff having an in date certificate, which was challenging, and continues to be an area of close focus. Reference was also made to business continuity testing relating to data security which had not been sufficiently documented. The Digital, Information and Technology team had given an assurance that they will test a specific cybersecurity incident management process by 30 June 2023.
3. The report was noted.

## Internal audit plan 2023/24 and Audit Charter (item 5.6)

1. The committee was asked to review the business areas proposed for inclusion in the 2023/24 audit plan.
2. Niki Parker explained the scope for the review of training would be looking to provide assurance around policies and procedures, mandatory training and how training needs are identified. The committee discussed the importance of the audit scoping being correct so that the report highlights any barriers to staff completing training, and whether the training on offer was right to get the organisation to where it needs to be on its transformation journey. In response, it was noted that the audit review was anticipated to focus on mandatory training rather than addressing the strategic priority of continuous improvement and building a workforce for the future. The committee therefore agreed that the scope for the training audit should come to the September meeting for discussion before the fieldwork begins.

**Action: Niki Parker**

1. It was queried whether the technology appraisals – process and methods audit could be extended to include appeals. It was agreed that this would be explored further during the scoping but may not be possible given the number of days allocated to the audit.
2. The committee approved the internal audit plan for 2023/24 and approved the signing of the GIAA’s internal audit charter.

# REPORTS FOR DISCUSSION

## Financial accounting performance (item 6.1)

1. The financial accounting performance position at 31 March 2023 was reviewed. The committee noted that the M12 management accounts had been sent to the DHSC and KPMG were due to start the audit on 9 May.
2. Reference was made to the financial compliance section of the report which showed that NICE had failed to remain within its revenue resource limit within the year due to the recently agreed pay award for 2022/23 and had failed to meet the Better Payment Practice Code (BPPC) target due to NHS Shared Business Services experiencing delays in setting up new suppliers.
3. It was noted that the accounting standard IFRS 16 – Leases was adopted on 1 April 2022, which will disclose £7.9m in the accounts, with a note to the reader to explain the difference to the prior year figure due to the new standard.
4. The committee noted the table of losses and special payments and was advised of a special payment made post 1 April 2023, which was not reported in the paper. This related to a staff member which had now received approval from HM Treasury.
5. With regard to the aged debtors’ position, it was reported that the 1 – 30 days category included two large invoices from NHS England which they have confirmed will be paid. There was a query on the £175k outstanding over 90 days. It was agreed that a breakdown of this category would be circulated to the committee.

**Action: Boryana Stambolova**

1. The committee noted the financial accounting performance at the end of March 2023.
2. Richard Lee gave a brief update on the final audit, which he confirmed was progressing to plan. He reported that KPMG were in discussions with the finance team, and there was nothing to bring to the committee’s attention at this point.

## Draft annual report and accounts 2022/23 (item 6.2)

1. Sanjay Tanday presented the first draft of the annual report and accounts which included the performance report, governance statement and early financial figures.
2. The committee provided some initial comments on the functional standards section and agreed to send any further suggested amendments directly to Elaine Repton on email.
3. The draft annual report and accounts was noted at this stage, with a view to receiving a final version for recommendation to the board on 21 June 2023.

## ARC’s annual report to the board 2022/23 (item 6.3)

1. The chair presented the committee’s draft annual report to the board for 2022/23, outlining its work to provide the board with assurance that effective governance, financial and internal control arrangements are in place. The committee was asked to comment on the report and the suggested amendments to the committee’s terms of reference, before they are circulated to the May board meeting.
2. The following amendments were agreed:
* Para 13 – add Laura Wright, Engagement manager at the NAO.
* Para 28 – complete the section on the outcome of the committee’s annual effectiveness review.
* Para 29 – add that the committee intends to undertake more risk deep dives in 2023/24.
1. Subject to the amendments, the draft report was approved for submission to the board.

**Action: Elaine Repton**

(Mark Chakravarty left the meeting at this point)

## Committee effectiveness review 2022/23 (item 6.4)

1. Elaine Repton presented a summary of the feedback from the review of the committee’s effectiveness in 2022/23 and highlighted that the responses and recommended actions were set out in an appendix. The key issues were training for the committee on cyber security and EDI, and to undertake more ‘deep dives’ into the highest scoring risks. There was agreement to re-organise the cyber training for September, and to invite executive team members to gain greater exposure to the committee by attending the committee meetings in rotation and if possible, staying for the whole meeting rather than just when their risk areas are being discussed.
2. The committee chair agreed to review the remaining suggested improvements with the committee secretary.

**Action: Chair and Elaine Repton**

## IT Incident report (item 6.5)

1. Alexia Tonnel and Malik Pervez joined the meeting to advise the committee of a suspected theft in the Manchester office, and to explain the actions that have been taken since to reduce the risk level and improve resilience around security controls, access permissions and the IT asset register.
2. The incident report was noted.

**REPORTS FOR INFORMATION**

# COVID-19 public inquiry update (item 7.1)

1. Heather Reid presented a progress update on the COVID-19 public inquiry and NICE’s preparations for the submission of information to the inquiry. NICE was expected to be involved in modules 3 & 4 – healthcare and vaccines, therapeutics and anti-viral treatments.
2. The committee noted the update and welcomed the assurance on NICE’s preparations.

# Annual complaints report 2022/23 (item 7.2)

1. David Coombs presented the annual report on complaints that were considered during 2022/23 under NICE’s complaints policy and procedure. Four complaints were reviewed compared to five in the previous year, and none were escalated to the Information Commissioner’s Office or the Parliamentary Ombudsman.
2. The report was noted.

# Breaches of the declarations of interest policy (item 7.3)

1. The committee was advised of one breach of the advisory committee policy on dealing with declarations of interest. The issue related to organisations nominating expert witnesses and organisations submitting written evidence to committees. In conclusion following an investigation, it was agreed that the breach had not had a material impact on the committee’s recommendations, but an improvement plan was shared with the project team involved, to avoid a repeat.
2. The report was noted.

# Contract waivers report (item 7.4)

1. Barney Wilkinson presented the annual report of contract waivers approved in 2022/23 and a schedule of waivers agreed during January to April 2023. A total of 166 waivers were approved last year compared with 163 in the previous year. The committee was reminded of the waiver for the centre for guidelines contract with the special mental health guidance development unit which was approved in January at £1.67m.
2. The contract waivers report was noted.
3. Boryana Stambolova advised that a revised contract waiver report will be presented in June which includes trends and additional analysis by waiver type and volumes by directorate.

**Action: Boryana Stambolova**

# Compliance with the Functional Standards (item 7.5)

1. A summary of NICE’s compliance with the Government Functional Standards was reviewed, showing that NICE had completed self-assessments against the mandatory standards in 10 of the 12 standards which were applicable to its role. Of the remaining two standards, Boryana Stambolova confirmed that her team would review the finance standard but not the debt standard as the work involved would not be proportionate to NICE’s debt position.
2. The committee discussed the mixed messages from different parts of Government about the requirement to comply with the standards, and to what extent. David Wright was requested to seek the DHSC’s position on this and give an update at the next meeting.

**Action: David Wright**

## Counter fraud functional standard – Q4 data return (item 7.6)

1. The committee noted there were no losses from fraud or error reported in Q4. The report confirmed a duplicate payment of £1,176 made in error which was being returned, and £60 in salary repayments recovered from a former staff member.
2. The report was noted.

## Use of the NICE Seal (item 7.7)

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

**Committee annual plan 2022/23 (item 7.8)**

1. The committee noted the annual plan and requested that consideration be given to providing KPI dashboards in future rather than numerous long papers to allow more time for discussion.

**Action: Chair and Elaine Repton**

**Other business (item 8)**

1. There were no further items of business.

**Future meeting dates**

1. The committee confirmed its future meetings would take place on:
* 21 June 2023 (one hour virtual meeting for the annual report & accounts)
* 18 September 2023
* 9 November 2023

The meeting closed at 4:00pm.