National Institute for Health and Care Excellence

Audit and Risk Committee Annual Report

This report provides the board with an annual review of the committee’s work and to provide assurance on the effectiveness of NICE’s governance, risk management, financial and internal control arrangements. It also presents the outcome of the committee’s review of its terms of reference.

The Board is asked to:

* receive the report and note in particular the committee’s assessment of the work undertaken in 2020/21 (paragraphs 6 - 28) and the anticipated challenges for the coming year (paragraph 38)
* approve the amendments to the committee’s terms of reference.

Dr Rima Makarem

Audit and Risk Committee Chair

May 2021

Introduction

The committee’s primary function is to provide the board with an independent and objective view of the adequacy and effectiveness of NICE’s governance arrangements, system of internal controls, financial control and management of risk.

In order to discharge this function, the audit and risk committee prepares an annual report for the board and Accounting Officer. This report includes information provided by internal audit, external audit and other sources of assurance, such as reports from management.

Background

The composition of the committee changed during the year. Martin Cowie joined on 1 April 2020 but subsequently left on 20 August 2020 when he resigned from the NICE board. The board reviewed the committee’s composition and agreed the appointment of an external member to provide challenge from a financially qualified background if the upcoming non-executive director (NED) recruitment did not appoint someone with this expertise. Following the outcome of the NED recruitment in Q4 2020/21, Amanda Gibbon was recruited to this role in March 2021 and joined the committee from 1 April 2021.

It is worth noting here, but not specifically for the period covered by this report, following this NED recruitment 3 new members are also joining the committee in 2021/22: Mark Chakravarty, Alina Lourie and Justin Whatling. We look forward to working with all the new members and welcome their skills and expertise.

The committee has continued to have close links with the Department of Health & Social Care (DHSC) through the attendance of the NICE sponsor team at its meetings. The ARC Chair has also attended Arm’s Length Bodies (ALBs)’ ARC Chairs meetings, organised by DHSC, when they have taken place.

Audit and Risk Committee's assessment

The assessment of the committee, based on the totality of the work presented to it, including but not exclusively the internal and external audit work, is that financial, internal control and governance processes are well designed and managed.

Members of the board should acknowledge that the assurances given can never be absolute. The highest level of assurance that can be provided to the board is a reasonable assurance that no major weaknesses have been identified in NICE’s risk management arrangements, internal and financial controls and governance processes.

Information supporting the committee’s opinion

Summarised below are the key sources of assurance that the committee has relied upon when formulating this opinion.

Internal audit

NICE’s internal audit service is provided by auditors from the Government Internal Audit Agency (GIAA). As in prior years, should the need arise, private or specialist firms may be contracted to perform discrete audits. There was no requirement for this during 2020/21; all the work was performed by GIAA.

NICE’s head of internal audit during the year was Niki Parker. The committee agreed an annual work programme for internal audit at the start of the year which included six business areas to be reviewed, and the findings from these audits were presented and discussed throughout the year.

These audits informed the head of internal audit’s opinion, which the committee reviewed in draft at its meeting on 12 May 2021 covering the financial year ended 31 March 2021. An opinion of substantial assurance was issued. The final report will be presented in June when the committee will review the annual report and accounts for 2020/21.

The substantial opinion is an improvement on last year’s moderate assurance. We welcome the assessment as an indication of the effective internal controls in place. The table below sets out the full range of audit work in the year, with conclusions discussed later in the report:

Internal audit reviews

|  |  |  |
| --- | --- | --- |
| Assignment | Final report issued | Opinion |
| Committee recruitment and oversight | November 2020 | Moderate |
| Contract management - Capgemini | January 2021 | Moderate |
| TA & HST Charging | March 2021 | Substantial |
| NICE Connect project | March 2021 | Substantial |
| Roll out of Zoom video conferencing | April 2021 | Substantial |
| Data Security & Protection Toolkit | April 2021 | Substantial |

(See table 4 on page 17 for explanation of assurance opinion levels)

External audit

The National Audit Office (NAO) contracts the financial audit of NICE’s annual report and accounts to Ernst & Young (EY). The NAO’s Engagement Director and Engagement Manager continue to support the committee and attend each meeting, in addition to the Associate Partner and Audit Manager from EY.

The responsibility for recommending the audit opinion to the Comptroller and Auditor General (C&AG) is retained by the NAO. The NAO gives an opinion on whether the accounts are a true and fair view of the financial affairs of NICE and also whether its funds have been applied to the purposes intended by Parliament. This opinion will follow their audit starting on 3 May 2021, and a clean unqualified opinion is again anticipated following a positive interim audit at the end of month 9.

Fraud, bribery and corruption

All the health ALBs are required to comply with the Government’s Functional Standard GovS 013: Counter fraud. NICE’s counter-fraud, bribery and corruption strategy, policy and response plan is aligned to the functional standard. NICE is also required to complete an annual assurance checklist, develop an action plan for improving counter-fraud arrangements and produce a fraud risk assessment.

NICE made its first returns to the Cabinet Office in September 2019, and awaited feedback as to whether it met the required standard, which was expected in November. ALBs were later advised that the Cabinet Office was unable to provide feedback as its priority had been diverted to dealing with the COVID-19 pandemic. The current position is that the Cabinet Office is considering whether Government departments should review their respective ALB submissions, or whether an ALB peer to peer review would be appropriate. We await the outcome of the discussions.

The DHSC’s Anti-Fraud Unit has taken the lead in facilitating a Counter Fraud Liaison Group for the health group ALBs. These meetings are held quarterly and have been attended by the corporate governance and risk manager. They have been helpful in sharing learning and good practice.

There were no incidents of fraud, bribery or corruption detected during the 2020/21 financial year.

Assurance framework

The audit and risk committee has oversight of the operation of NICE’s internal control and assurance arrangements. These arrangements include the:

* identification of corporate risks linked to business objectives
* assessment and management of high and medium level risks
* monitoring of the effectiveness of the internal controls
* monitoring of financial controls and exception reporting
* considering any instances of non-compliance with laws or regulations

review of independent assurance reports.

Risk management

The risk management policy sets out NICE’s approach to risk management. It defines risk, risk appetite, outlines roles and responsibilities and explains how risks are categorised, assessed and escalated. The policy was reviewed against the government’s Orange book ‘risk management – principles and concepts’ to ensure it was aligned with best practice and approved by the board in May 2020.

Identification of risks - NICE’s assurance arrangements involve an annual business planning cycle that establishes clear business objectives for the organisation and individual centres and directorates. Directors and their management teams identify potential risks that could adversely affect delivery of these objectives and develop strategies to manage them. These are included in a risk register which is reported to the NICE executive team, the audit & risk committee and to the board at the beginning of the financial year setting out the key business objectives of the organisation and listing controls and assurances for the management of those risks.

Management of risks – Risk management policy emphasises the directors’ ownership of the risk identification and management process and requires that the executive team (ET) reviews the risk register regularly. It does this six times per year. The audit and risk committee reviewed the risk register at each of its quarterly meetings. In doing so, the ET and audit & risk committee assess whether the management strategies are likely to be effective in mitigating the risk level, and additional actions are agreed where necessary. They also consider whether any new risks have emerged that should be added to the register, and whether any risks have been mitigated to an extent they can be removed from the corporate-level register and monitored at a centre/directorate level.

During the development of NICE’s 5 year strategic plan 2021-2026, the ET and board considered a list of risks which focused more on NICE’s strategic ambitions whilst also reflecting potential risks to NICE from developments in the wider health and social environment. Going forward, the committee will review the strategic risks rather than the operational risks which are aligned to delivery of the annual business plan. The operational risk will now be monitored by Directors and their senior teams, with oversight from the ET.

Corporate governance

#### **The board and executive team**

During the year, Sharmila Nebhrajani joined the board as chairman, and Gillian Leng was appointed as chief executive and accounting officer.

One non-executive director (NED) left the board, Martin Cowie in August 2020. This meant that the number of NEDs again fell below the statutory minimum of at least 6, and therefore a committee of the board members was re-established to undertake the board’s functions until six new NEDs were appointed by the DHSC in April 2021.

The audit & risk committee agreed that the heightened risk at the leadership level of the organisation should remain on the risk register for monitoring.

#### Declaration of interests

NICE has two policies on declaring and managing interests. One for board members and employees, and the other for the advisory committees. Both are reviewed every 3 years, with the scope for an earlier review if necessary. In March 2021, the board approved amendments to the policy for board members and employees, notably relating to the links board members may have with the commercial sector.

The committee reviewed an annual report on breaches of the policy. One breach was recorded during the year which related to an expert witness who had been nominated to give evidence at a Technology Appraisal Committee. At the committee meeting the chair noted that the expert verbally declared interests that had not been included on the written declaration. An investigation was undertaken by NICE’s Acting Director of Health and Social Care in her capacity as Revalidation Responsible Officer. She engaged with the individual and concluded that it was a genuine oversight and not a deliberate attempt to mislead the committee. The breach was considered to be low risk as the expert witnesses do not take part in the committee’s decision making and the interests were identified before the committee developed its recommendations. Improvements to be made as a consequence of this breach include an updated nomination form. On receipt of nomination forms the NICE project team will proactively question applicants if their forms do not appear to contain enough detail, and work with committee chairs to agree collectively what interests are acceptable. This will form part of the Centre for Health Technology Evaluation’s wider process review.

#### **Management reporting**

The committee received a range of assurance reports from management throughout the year. These are summarised below:

* Losses and compensation register

As required by DHSC, NICE maintains a register of such payments. This is reported at each audit and risk committee. For 2020/21 the total value of these payments was £13,576 (£19,654 in 2019/20).

Of this amount, £3,865 relates to train cancellation or amendment fees, £0 relates to flight cancellation costs/amendment fees, and £5,169 relates to event cancellation fees.  Of the remaining value, £3,592 relates to bad debts written-off, and £950 was paid to a staff member for carpet damage.

The train cancellations equate to 13% of the total travel bookings and is seen as a reasonable business expense.

Losses were lower than in past years due to significant reduction in travel during the Covid-19 pandemic

* Contract waiver reports

The committee receives a report at every meeting of the tender waivers that have been authorised since the last meeting. Details are provided of the reason for the waiver, the value and the person that authorised it. The committee also receives an annual summary of all waivers granted during the year. In 2020/21 there were a total of 71 contracts awarded of which 29 were subject to waivers, with a total value of £535,966.00 (£303,812.00 in 2019/20). The committee reviews waivers granted and requests specific assurance from management if it has any concern.

* Technical accounting issues

The committee receives reports where there are significant changes to existing accounting policies or practices. No new accounting standards were reported in the year. The implementation of IFRS 16 relating to leases was delayed nationally until 2022/23. The committee received a progress report in May 2021.

* Annual assurance reports

There are a range of reports that the committee receives to provide additional assurance. During 2020/21 the committee received reports on information governance and compliance with the Data Security & Protection toolkit, IT security and resilience, the management of complaints, breaches of the DOI policy and compliance with the counter fraud functional standard.

* **Specific incident reports**

Where there is an incident particularly relating to a loss suffered by NICE, the committee receives a report as part of its risk management duties. There were no data breach incidents of severity that required escalation to the committee.

Key messages from the year’s work

From our work we wish to highlight to the board the following:

* We were pleased to receive in April 2020, a clean set of accounts for the financial year 2019/20 and a positive audit opinion. The work is done to very tight timetables but continues to present a positive picture of the accuracy and control of our core financial systems. This continues to be reinforced by internal audit assessments. Our internal auditors gave a ‘substantial’ rating to TA and HST charging, the key financial control which was reviewed in the year.
* We continue to focus part of our meetings on risk management. We receive at each meeting a statement of the main risks facing NICE and the mitigating actions taken by the executive. We invite the Chief Executive to update us with her opinion of the highest rated risks facing NICE.
* We also invite a senior manager to present to us at each committee meeting to hear their perspective on the challenges and risks in a specific area of responsibility. We looked at the following areas in detail:
  + The cyber security and information governance arrangements in place to mitigate risk, implement the move to remote working and support NICE's digital workplace strategy
  + a presentation of NICE’s equality, diversity and inclusion objectives for 2020-24 and the initiatives which are planned to address the improvements which need to be made to achieve significant progress
  + the key risks associated with contract management and the controls in place to mitigate risks, including the assurance framework around procurement, contract support and training, commercial skills, value for money and the impact of the UK’s exit from the EU might have on NICE.
* There have been six internal audit reports published (listed in table 1 above). We were assured that the audit plan covered a good spread of NICE’s work. In total there were 20 recommendations for improvement (0 high, 12 medium and 8 low). This compared to 22 recommendations in 2019/20. The committee noted that there had been some slippage in the original timescales in the management action plans due to other COVID-19-related work being prioritised but was satisfied that appropriate progress was being made to implement recommendations from this year’s and previous year’s audit plan.
* No incidents of fraud had been detected within NICE in 2020/21 but we will need to continue to assure ourselves of the effectiveness of controls through the functional standard returns
* In November 2020 we received a comprehensive review of NICE’s key areas of activity to strengthen IT security and system resilience. We were advised that the separate IT and Digital Services Teams had merged to form a new Digital, Information and Technology directorate, and we noted plans to transition from an external managed service provider to one common IT solution. We asked whether NICE commissions an external security agency to regularly test the resilience of the IT system and were advised that this was being reviewed for when the management of the infrastructure is brought in-house. We were assured that presently there were different arrangements in place for the penetration testing of web applications managed by NICE and for the network which is managed externally. We noted that simulated phishing exercises had been undertaken which had caught some staff out, particularly one in September when 223 staff opened the fake email and took action by clicking on an embedded link. Staff who fail to spot the tests are re-directed to a training exercise.
* The committee reviewed an annual information governance (IG) assurance report in November 2020 which advised of the arrangements to ensure that NICE has effective controls in place to safeguard confidential information. The key areas of activity in the last year had been completion of the Data Security and Protection Toolkit, delivering IG training to all staff, reviewing the impact of the UK’s exit from the EU, supporting the use of Zoom video conferencing after all staff began to work remotely, and embedding data protection impact assessments. We noted that there had been fewer data breaches than the previous year and that most cases were due to human error which was why the mandatory IG training course was so important for new starters and refreshed each year for existing staff. We were advised on the action taken to ensure robust information governance around the staff recruitment process.
* We were advised that there have been no whistleblowing cases reported during the year, but we are reassured that NICE has appointed two Freedom to Speak Up Guardians who provide staff with an additional safe and confidential route to raise any concerns. The Guardians hold regular ‘drop-in’ sessions which are communicated to all staff via the NICE Space intranet
* We reviewed the committee’s terms of reference and recommended minor amendments (appendix B).
* The committee was able to review an early draft of the annual report and accounts for 2020/21 in May to provide an opportunity to comment on its content ahead of the approval in June 2021.

Review of the committee’s effectiveness in 2020/21

The committee’s terms of reference require that periodically, the committee shall review its own effectiveness and report the results to the board. This exercise took place in May. The NAO facilitated a review of the committee’s performance using the NAO’s audit and risk committee effectiveness checklist.

The committee discussed the findings of the review and concluded that overall the committee’s effectiveness was regarded as positive by all the respondents with limited scope for improvement. There were three areas suggested for further consideration: the induction of new committee members, communication of NICE’s work across the departmental group and the use of assurance mapping to target the areas of highest risk. The committee was satisfied that the first two points were being adequately covered. The issue of assurance mapping is an area to potentially re-visit with support from the internal auditor who may be able to offer insight from their work with other ALBs. It was agreed that a proportionate approach be adopted.

Training

No specific audit and risk training was held last year, but a training course has been identified for newly appointed board members joining the committee. Separately, the committee has recommended that the Board session facilitated by the NAO discussing potential ‘black swan’ risks in December 2019 should be followed up when time permits.

Review of internal and external audit services

In line with governance best practice, the committee’s annual work programme includes a review of the performance and effectiveness of the internal and external auditors.

The regular attendees at the audit & risk committee meetings were invited to complete a survey to review the performance of external audit in September 2020 and internal audit in January 2021. The views expressed were summarised for discussion by the committee.

NICE’s external auditor is the NAO, appointed by Parliament. As noted above, the NAO contracts out the auditing of NICE’s financial statements to EY but the NAO still attend the committee’s meetings. The report on their effectiveness was overall very positive indicating good relationships between NICE, the NAO and EY. One issue arose in June 2020 when EY’s internal approval process regarding NICE as a going concern threatened to delay NICE being able to lay its accounts before Parliament. The committee requested a full explanation from the EY team at the time and the position was addressed and rectified.

The review of internal auditor was also positive in respect of working relationships, the quality of reports and GIAA being a trusted and valued advisor to NICE. There was a slight concern mid-year regarding resources to complete the annual audit plan as only one of six audits had been completed at the end of Q3. However, the auditor gave an assurance that the plan would be completed.

Challenges and risks for 2021/22

In the coming year we will continue to review the range of strategic risks facing NICE, consider the controls in place and assess their effective management. In terms of our focus, we are conscious of the following issues and key risks facing NICE which will guide our work:

* Workforce challenges– The work to transform our organisation, alongside other workload pressures, risks destabilising staff and potentially having an impact on turnover. In addition, there is the challenge of having to recruit to new roles, which means the workforce strategy will need to be closely monitored during the year, including staff well-being.
* Economic challenges– The requirement for NICE to contribute to efficiency savings across the public sector following the COVID-19 pandemic, means the digital transformation work is essential to help deliver new ways of working which will allow staff to improve their productivity and effectiveness.
* Impact and influence – NICE’s guidelines must remain relevant to the needs of the health and social care system, including in response to changes resulting from COVID-19, the future role of Integrated Care Systems in driving integrated care, the focus on tackling health inequalities, and in promoting high quality care.
* Innovation – The strategic plan includes ambitions to become scientific leaders in research and establish the use of real world data in NICE’s methods.
* The health technology evaluation methods and process review – The outcome of this significant piece of work will need support from a range of different stakeholder interests to be able to deliver the ambition for greater speed, flexibility and responsiveness of health technology evaluation.
* Cyber security – Attacks from cyber criminals are increasingly more sophisticated. We will review NICE’s progress against the digital workplace strategy and the plans to bring management of the IT infrastructure in-house, as well as reviewing arrangements to reduce the risks of information governance breaches.

Conclusion

Putting the above into context, the committee concludes that NICE is well managed with effective processes and controls, strong financial, procurement, HR, information, and digital service management, and a skilled and committed workforce. That provides a resilient and strong base for the challenges ahead.

We record our appreciation of the excellent work and support from those in the finance, strategy and transformation directorate whose work we most scrutinise and rely on. We also note with pleasure the effective working relationships that continue to operate with our external auditors and internal auditors.

Finally, this is my last year as non-executive director and audit chair at NICE. It has been a pleasure to work alongside executive and non-executive colleagues for over four years, strengthening governance and risk management in a continuous cycle of quality improvement. I leave NICE at the cusp of a new era for the organisation and wish it the best of luck and success.

The role and operation of the Audit and Risk Committee

The members of the committee during the period of the report were as follows:

Rima Makarem (chair) from 01/01/2017

Elaine Inglesby-Burke from 16/11/2016

Martin Cowie from 01/04/2020 to 20/08/2020

Tom Wright from 01/04/2019

No members declared any conflicts of interests in any of the agenda items during the year.

The following executives and managers attend the committee meetings regularly to support it, present reports, respond to audit reports and answer queries from the committee:

Gillian Leng Chief Executive

Jennifer Howells Finance, strategy and transformation director

Martin Davison Acting associate director - finance

Barney Wilkinson Associate director - procurement

David Coombs Associate director - corporate office

Jane Lynn Head of financial accounts

Elaine Repton Corporate governance & risk manager (secretary)

Other senior managers attend as and when for specific items when required.

Representatives also attend from:

Internal audit Government Internal Audit Agency

External Audit National Audit Office and Ernst & Young (EY)

DHSC NICE Sponsor Team

It has been the committee’s normal practice to hold a private discussion at the start of each meeting between the auditors and members of the committee without the management present. This is to give the auditors an opportunity to raise any matters of concern without management present.

The committee is required to meet at least 4 times a year. Meetings took place during the period and were attended as follows:

Table 3 - attendance at meetings

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Member | 22 Apr 2020 | 17 Jun 2020 | 9 Sept 2020 | 25 Nov 2020 | 20 Jan 2021 |
| Rima Makarem | Present | Present | Present | Present | Present |
| Elaine Inglesby-Burke | Apologies | Apologies | Present | Present | Present |
| Martin Cowie | Present | Present | N/A | N/A | N/A |
| Tom  Wright | Present | Present | Present | Present | Present |

The quorum for meetings of the committee is two, as the table above shows all meetings of the committee during the period were quorate.

Table 4 - Explanation of internal audit assurance levels

|  |  |
| --- | --- |
| Assurance level | Description |
| Substantial | The framework of governance, risk management and control is adequate and effective. |
| Moderate | Some improvements are required to enhance the adequacy and effectiveness of the framework of governance, risk management and control. |
| Limited | There are significant weaknesses in the framework of governance, risk management and control such that it could be or could become inadequate and ineffective |
| Unsatisfactory | There are fundamental weaknesses in the framework of governance, risk management and control such that it is inadequate and ineffective or is likely to fail. |

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