Board meeting

15 May 2024

Audit and Risk Committee annual report to Board 2023/24

Purpose of paper

For assurance and decision.

Board action required

The Board is asked to:

* 1. receive the report and take assurance from the audit and risk committee’s work in 2023/24
  2. approve the proposed amendments to the committee’s terms of reference.

Brief summary

In addition to the updates provided after each committee meeting, the audit and risk committee formally reports to the board annually to provide assurance on the effectiveness of NICE’s governance, risk management, financial and internal control arrangements.

Board sponsor

Alina Lourie, Chair of the audit and risk committee

Introduction

1. The committee’s primary function is to provide the board with an independent view of the adequacy and effectiveness of NICE’s governance arrangements, including the system of internal controls, risk management and use of resources, and to make sure they remain effective and fit for purpose, whilst also ensuring there is a robust system of assurance to evidence it.

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, including reports from management and external consultants.

Key issues

## Committee membership

The committee membership remained stable and there was a high level of attendance during the year.

The external member, Amanda Gibbon, was re-appointed in January 2024 for a further three year term in recognition of her input and expertise.

In line with best practice, the Accounting Officer (the chief executive) and the finance director routinely attended the committee’s meetings, as well as the head of internal audit from the Government Internal Audit Agency and representatives of the external auditor (the National Audit Office and KPMG). The committee also continued to have close links with the Department of Health & Social Care (DHSC), with the head of the NICE sponsor team regularly attending its meetings.

## Audit & 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 reporting, internal control and governance processes are well designed, and notwithstanding paragraph 8 below, are generally well managed and effective.

## 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 controls

The committee advised the board, via its chair’s report in December 2023, that three control issues were identified during the year. The three issues related to - the secondment of two senior members of NICE staff to NHS organisations, which did not receive prior HMT approvals as novel arrangements; the 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; and the income shortfall versus target in the 2023/24 financial forecast, primarily due to technology appraisal/highly specialised technologies income being unexpectedly below plan.

The committee initially discussed these issues in September 2023 and requested a report on the lessons learnt, alongside an improvement plan to prevent any recurrences in the future. These were reviewed and approved at the committee’s subsequent meeting in November 2023. The committee then commissioned the Government Internal Audit Agency (GIAA) to undertake an audit on NICE’s control framework and provide assurance on the actions taken to strengthen internal controls.

The internal controls audit report received a ‘limited’ assurance rating. It was reviewed by the committee in May 2024 and highlighted that arrangements for ET members providing the Accounting Officer with confidence that controls are operating as intended could be strengthened. The action plan made eight recommendations for improvement which management have agreed to implement.

Internal Audit

NICE’s internal audit service is provided by the Government Internal Audit Agency (GIAA), with the ability to commission additional specialist work if required for specific audits. NICE’s head of internal audit continued to be Niki Parker. The committee agreed an annual work programme for internal audit at the start of the year which included five business areas to be reviewed. In addition, GIAA were engaged to undertake an audit of NICE’s Data Security and Protection Toolkit (DPST) submission in line with NHS England requirements.

The head of internal audit will issue her annual opinion of assurance in June when the committee reviews the final version of the annual report and accounts for 2023/24.

The table below summarises the internal audit work and outcomes in 2023/24:

**Table 1 – Internal audit reviews**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Business area** | **Assurance rating** | **Recommendations made** | | |
|  |  | **High** | **Med** | **Low** |
| Technology appraisals | Moderate | - | 6 | 3 |
| Payroll, expenses and staff benefits | Moderate | - | 4 | 6 |
| Training – learning and development | Limited | 1 | 3 | 1 |
| Speaking up | Moderate | 1 | 6 | 2 |
| Controls framework | Limited | 2 | 5 | 1 |
| DSPT | Risk assessment: Moderate  Confidence level: High | | | |
| **Total recommendations = 41** | | **4** | **24** | **13** |
| (2022/23 = 39) | | 6 | 19 | 14 |

Throughout the year, recommended actions arising from internals audit reports are monitored to ensure robust follow- up. At the time of writing these actions are taking place with [GIAA to confirm] outstanding.

### External audit

The National Audit Office (NAO) are NICE’s external auditors. The NAO continue to contract KPMG to undertake the audit of NICE’s annual report and accounts but retain responsibility for recommending the audit opinion to the Comptroller and Auditor General (C&AG). The NAO give an opinion on whether the accounts are a true and fair view of the financial affairs and also whether NICE’s funds have been applied to the purposes intended by Parliament. This opinion will follow their audit that is due to start in May 2024.

The NAO’s Engagement Director Stephen Ferris and Engagement Manager Laura Wright, provided support to the committee and attended meetings during the year, in addition to Richard Lee, partner, and Katie Henry, senior audit manager from KPMG. Richard Lee did not attend the meeting in January 2024, advising that Katie Henry would be taking over as engagement director. Laura Wright (NAO) has also been replaced by Jacob Horner as the NAO’s engagement manager.

Risk management

The risk management policy sets out NICE’s approach to risk management, including roles and responsibilities, how risks are categorised, assessed and escalated, and outlines NICE’s risk appetite.

Risk appetite

The committee reviewed the risk management policy during the year, and recommended a number of updates which were approved by the board. In line with a recommendation from the board effectiveness review, a key change was to update the risk appetite statement by introducing a delineated risk appetite for each category of activity. The purpose of which was to show where NICE was willing to tolerate known risks, in return for the benefits expected. In light of the changing health and care system, NICE has adopted a more nuanced risk appetite in which it seeks a wider degree of risk, for example around organisational transformation, while remaining committed to robust methods, processes, and internal governance.

Strategic risk register

The committee also recommended to the board a revised risk register format which now better distinguishes between the actions being taken to manage the risk (the controls) and the assurance these controls are effective (based on the ‘three lines of defence’ model). This work was in line with guidance in HM Treasury’s ‘orange book on risk management’.

The committee reviews the strategic risks at each of its quarterly meetings and ensures it sets aside sufficient time to discuss the highest scoring risks and to consider any new emerging risks. The next steps for further improvement are to clarify in the risk register which actions are the key priority for strengthening controls and aligning the target risk scores to the risk appetite statement.

The committee also undertake a ‘deep dive’ discussion in the format of a risk ‘bow tie’ which looks in detail at one of the highest rated risks by exploring the causes and consequences of the risk. The use of the ‘bow tie’ tool and other improvements were informed by a board risk management session facilitated by the Chief Risk Officer at the Ministry of Justice, who will facilitate a follow-up session in May 2024.

### Declarations of interest

NICE has two policies regarding declaring and managing interests - one for board members and employees, and one for the advisory committees. Both are reviewed every 3 years, with the scope for earlier reviews if necessary. The latter is currently under review.

The committee was advised that no breaches of the policies had been identified during the year.

### Government functional standards

All government departments and their ALBs were previously instructed that they should at least meet the mandatory (‘shall’) elements of each functional standard (FS) and be working towards the advisory (‘should’) standards. Subsequently we were advised by the DHSC sponsor team that NICE should give due regard to the relevant functional standards as appropriate, in particular those relating to finance, commercial and counter fraud.

NICE has a nominated director and senior lead responsible for ensuring compliance with the standards, and that this is proportionate to NICE’s size and remit and used to drive continuous improvement over time. Self-assessments have been completed against 11 of the 13 applicable standards. As of 31 March 2024, two self-assessments are still to be completed, ‘human resources’ and ‘debts’. The ‘grants’ standard is not applicable to NICE.

A formal external assessment of NICE’s compliance with the counter fraud standard was undertaken by the DHSC and a peer group of ALB representatives in November 2023. The outcome confirmed that NICE was compliant against all 12 mandatory principles.

The committee will continue to review compliance with the functional standards, particularly finance, commercial and counter fraud, and also be advised of any significant developments in this area.

### Counter fraud, bribery and corruption

NICE has a counter fraud, bribery and corruption strategy and response plan which is aligned to the counter fraud functional standard and a mandatory fraud awareness staff training course (with approximately 90% completion rate throughout the year). There were no incidents of fraud, bribery or corruption detected during the 2023/24 financial year.

As mentioned above, a DHSC and ALB peer group review assessed NICE as compliant with the mandatory elements of the functional standard. The Cabinet Office has developed a continuous improvement assessment framework (CIAF) for organisations to self-assess against the advisory elements, but this has not yet been published. It was being trialled with some Government departments last year and is expected to be rolled out in 2024/25.

NICE takes part in the Government’s National Fraud Initiative as part of the action plan to improve the detection and reporting of fraud. No issues of concern were identified following the exercise. The NFI is carried out every two years and the next data submission is in September 2024.

### Management reporting

The committee received a range of assurance reports from management throughout the year. These are summarised in the table over page:

**Table 2 – summary of sources of management assurance**

|  |  |
| --- | --- |
| **Management assurance** | **Description** |
| **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 was one loss reported in the year related to the non-completion of an organisational development training contract (noted earlier in this report as one of the control issues). |
| **Losses and compensation register** | As required by HM Treasury (and within the SFIs), NICE maintains a register of losses and special payments which is reported at each audit and risk committee. For 2023/24 the total value of these was £31,034 (£13,633 in 2022/23).  The losses related to:   * £9,330 in train cancellation or amendment fees (201 tickets). * £254 for 2 flight cancellations. * £21,450 due to the non-completion of a training supplier contract. |
| **Contract waiver report** | The committee receives a report at every meeting of the tender waivers that have been authorised. 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 2023/24 there were a total of 160 contracts awarded of which 37 were subject to waivers, with a total value of £**2,375,345** (£3,243,388.00 – 166 contracts in 2022/23). The committee reviews waivers granted and if it had any concerns, requested assurance from management. |
| **Technical accounting issues** | No significant changes to existing accounting policies or practices were reported. |
| **Annual assurance reports** | A range of annual reports provide the committee with additional assurance. During 2023/24 the committee received reports on information governance and compliance with the Data Security & Protection toolkit, cyber security and resilience, the management of complaints and compliance with the functional standards. |

## Key messages from this year’s work

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

1. We continue to mature the risk management arrangements. As noted earlier in the report we adopted the ‘bow-tie’ approach to inform our deep dive risk discussions on the organisational transformation programme, topic selection and prioritisation; and the financial position and funding.
2. A focus for 23/24 has been cyber security and resilience; the new Chief Information Officer (CIO) was invited to our January meeting to update the committee. His report provided an assessment of NICE’s current cyber security arrangements compared against the National Cyber Security Centre’s cyber assessment framework (CAF). This highlighted the priorities for improvement. (This discussion was informed by an earlier cyber security training session externally facilitated by the NAO. This looked at the cyber security landscape and areas for audit and risk committees to consider).
3. There have been six internal audit reports published (listed in table 1 above). The executive sponsors for each area attended the committee meeting for the presentation of the audit reports to answer any queries on the report or the management action plan. The committee has been satisfied with the implementation of actions arising from this year’s audits and those from the previous year’s audit plan.
4. We reviewed two corporate governance policies – risk management and the Standing Financial Instructions and recommended revised versions to the board.
5. We were advised that there have been no whistleblowing cases reported during the year. The three Freedom to Speak Up Guardians hold regular ‘drop-in’ sessions which are communicated to all staff via the NICE Space intranet, and they provide the executive team with updates on their work. In 2023/24 this initiative was widened to include six ambassadors who are also available for staff to speak to in confidence if they have any concerns.
6. We reviewed the committee’s terms of reference and recommended minor amendments, including a revised name for the committee from audit and risk committee to audit and risk assurance committee (appendix C). The reason for this is stated in both the [HM Treasury's audit and risk assurance committee handbook](https://assets.publishing.service.gov.uk/media/5a8066a040f0b623026934a8/PU1934_Audit_committee_handbook.pdf) and the [NHS audit committee handbook](https://www.hfma.org.uk/publications/nhs-audit-committee-handbook?_cldee=WqFreOYkLMdOb31mnz2U_xO5XQady6cwpKHt5aSK_yWjPTLemfreD-KSNQxzpxNYK2nld0mYjLI8FCGBokx5YQ&recipientid=contact-e0489a918b24ed11b83d0022489b04a4-429223ed3ffe45b1a4b8e2f9f832cbe6&esid=61a51d72-41e1-ee11-904c-0022489de52a),the latter of which was re-issued inMarch 2024describing three types of committee*.* (In essence, as audit committees have developed, they have matured from just focussing on internal and external audit’s work, to taking a more active oversight of risk management.) The NICE ARC is thus following the third more active approach - looking at the management of individual risks, the effectiveness of controls **and the sources of assurance**. As a result, a name change has been recommended to better reflect the committee’s work.
7. The need to gain external approval for a senior secondment delayed approval of the 2022/23 annual report and accounts until January 2024, but we were pleased to receive a clean set of accounts for the financial year 2022/23 and a positive audit opinion.
8. The committee was able to review an early draft of the annual report and accounts for 2023/24 in May to provide an opportunity to comment on its content ahead of the approval in June 2024.

Review of the committee’s effectiveness in 2023/24

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 April 2023.

1. The non-executives completed a short survey which concluded overall that they were content that the committee was operating well in line with its terms of reference. They agreed the current members had a good range of skills but highlighted that additional cyber and digital skills would be helpful. However, it was noted that the Digital Security and Protection Toolkit (DSPT) audit report was positive, and NICE plans to undertake cyber essentials accreditation, which will further strengthen arrangements.

# Challenges and risks for 2024/25

In the coming year we will continue to review the strategic risks facing NICE and analyse them using the ‘bow tie’ approach to better understand the controls in place and assess their effectiveness, as well as better aligning the risk register with the risk appetite statement.

In terms of our focus, we are conscious of the following key issues facing NICE which will guide our work:

* **Cyber security** **improvements** – following the CIO’s report to the committee in January 2024, we are keen to be updated on the improvements planned for 2024/25 and beyond to strengthen NICE’s IT resilience.
* **Internal controls framework** – the committee is looking forward to reviewing management’s progress with addressing the findings of the internal controls audit report.
* **Contract management** – the new Atamis system is now fully implemented and provides management information on contracts. The committee will draw on this information to gain assurance that robust contract management arrangements are in place.
* **Use of AI** – the committee has requested a training session on the use of Artificial Intelligence (AI) in HTA submissions to NICE.

### Conclusion

Considering all of the above, the committee concludes that NICE is well managed with effective processes and controls, strong financial, procurement, HR, information governance, and digital service management, and a skilled and committed workforce. While issues arose with the control framework in the year, we are satisfied that the actions taken to respond to these have left NICE in a more robust position.

We record our appreciation of the excellent work and support from those teams whose work we most scrutinise and rely on. We also note with satisfaction the effective working relationships that continue to operate with our external auditors and internal auditors.

As chair of the committee, my focus for 2024/25 will be to build on last year’s good work, in particular to retain a keen focus on strategic risks and gaining assurance that the actions to be taken will mitigate these risks. The committee will focus on issues that provide assurances to the board, linked to the priorities that enable NICE to best support the health and social care system.

Board action required

The Board is asked to:

* 1. Receive the report and take assurance from the committee’s assessment of its work undertaken in 2023/24
  2. Approve the amendments to the committee’s terms of reference

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May 2024

# Appendix B

# The role and operation of the Audit and Risk Committee

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

Alina Lourie appointed 01/04/2021

Michael Borowitz appointed 01/01/2023

Mark Chakravarty appointed 01/04/2021

Justin Whatling appointed 01/04/2021

Amanda Gibbon appointed 01/03/2021 (independent member)

1. No members declared any conflicts of interests in any of the agenda items during the year.
2. The following managers attend the committee meetings regularly to support it, present reports, respond to audit reports and answer queries from the committee:

Sam Roberts Chief executive

Boryana Stambolova Interim director, finance

Martin Davison Associate director - finance

Barney Wilkinson Associate director – procurement

David Coombs Associate director – corporate office

Ehtisham Ramzan Head of financial accounting (from Nov 2022)

Elaine Repton Corporate governance & risk manager (committee secretary)

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

1. Representatives also attended from:

Internal audit The Government Internal Audit Agency

External audit The National Audit Office & KPMG

DHSC NICE Sponsor Team

1. 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. No issues of concern were raised which required management action to be taken.
2. 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 in 2023/24**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Member** | **3 May 2023** | **21 June 2023** | **18 Sept**  **2023** | **9 Nov 2023** | **31 Jan 2024** |
| Alina Lourie | P | P | P | P | P |
| Michael Borowitz | P | P | P | A | P |
| Mark Chakravarty | P | P | P | P | P |
| Amanda Gibbon | P | P | P | P | P |
| Justin Whatling | A\* | P | P | A | P |

**Key:** P= Present for meeting A= Absent from meeting A\* = Absent due to attending a NICE Appeal hearing

1. 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**

|  |  |
| --- | --- |
| **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, |