

Minutes (DRAFT FOR APPROVAL)

B/21/16

NHS NATIONAL SERVICES SCOTLAND (NSS)

**MINUTES OF THE NSS AUDIT AND RISK COMMITTEE MEETING HELD ON 02 MARCH 2021
COMMENCING AT 0930 HRS**

Present: Ms Julie Burgess, Non-Executive Committee (Chair)
Mr John Deffenbaugh, Non-Executive Director
Mr Gordon Greenhill, Non-Executive Director
Professor Arturo Langa, Non-Executive Director
Mrs Alison Rooney, Non-Executive Director

In Attendance: Ms Lisa Blackett, Non-Executive Director
Ms Rachel Browne, External Auditor, Audit Scotland
Mr Lee Dobbie, Service Auditor – KPMG
Ms Inire Evong, External Auditor – Audit Scotland
Ms Laura Howard, Associate Director - Finance Operations
Mrs Carolyn Low, Director of Finance
Mr James Lucas, Internal Auditor - KPMG
Mrs Eilidh McLaughlin, Associate Director of Information Security and Governance [Items 14 & 15]
Mr Deryck Mitchelson, Director of Digital and Security
Mrs Mary Morgan, Director of Strategy, Performance, and Service Transformation
Mr Matthew Neilson, Associate Director
Dr Lorna Ramsay, NSS Medical Director and Caldicott Guardian [Items 14 & 15]
Ms Trish Ruddy, NSS Privacy Advisor [Item 15]
Mr Neil Thomas

Apologies Mr Colin Sinclair, NSS Chief Executive

ACTION

1. WELCOME, APOLOGIES AND IN ATTENDANCE

1.1 Ms Burgess welcomed everyone to the meeting, noting the apologies and those in attendance. Before starting the formal business of the meeting, Ms Burgess asked Members if they had any interests to declare in the context of the Agenda items to be considered. No interests were declared.

2. DRAFT MINUTES OF THE NSS AUDIT AND RISK COMMITTEE [ARC] MEETINGS HELD ON 2 DECEMBER 2020 [paper AR/21/02 refers]

2.1 Members considered the minutes of the previous meeting held on 2 December 2020 and, subject to correction of some minor typographical errors, were content to approve as a correct record. **Action: Mrs Bailey to make the minor corrections identified to the 2 December 2020 draft minutes.** L Bailey

3. MATTERS ARISING [paper AR/21/03 refers]

3.1 Members noted the updates provided which showed that that the vast majority of the actions were completed, covered by the other items on agenda, or scheduled for discussion at the Board. Ms Burgess confirmed that she had received Counter Fraud Training, and Ms Howard and Professor Langa were arranging a time to discuss the linking of the Counter Fraud and Whistleblowing policies.



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Chair: Mr Keith Redpath
Chief Executive: Mr Colin Sinclair

ACTION**4. INTERNAL AUDIT STATUS REPORT [paper AR/21/04 refers]**

- 4.1 Mr Lucas spoke to the paper which provided a summary of progress against the internal audit plan. Members noted those audits which had been re-prioritised and moved to 2021-22 Draft Plan, and were assured that those which had not been moved were on track to be completed by the year-end point.

5. COMPLETED INTERNAL AUDIT: CAPITAL PLANNING [paper AR/21/06 refers]

- 5.1 Members discussed the findings in the report on the Capital Planning internal audit. They were pleased to note that the report was positive overall. The audit had identified some changes that would need to be made but these were already being addressed. Members sought clarity on the first recommendation regarding integration of Finance at an early stage of a project. They were assured that this was about achieving consistency and a more proactive approach, as for lower value/routine projects, it tends not to happen until a later stage. Mr Lucas agreed to look at the wording and try to make that clearer.

Action: Mr Lucas to consider re-wording Recommendation 1 for clarity.

J Lucas

6. DRAFT INTERNAL AUDIT PLAN [paper AR/21/07 refers]

- 6.1 Members noted the updates provided on the progress in developing the Draft Internal Audit Plan for 2021/22, acknowledging that the number of days had been reduced and there were still feedback from the Executive Teams to be incorporated. In considering whether there were any gaps in the plan, Members felt that having an audit of the whistleblowing standards implementation would be useful. However, they recognised it might be best to leave that for the 2022-23 financial year as the guidance had only just recently been published. Members asked whether the timing of the strategic objective audit was still appropriate given the upcoming change of Chief Executive. Mrs Morgan confirmed that she was content with the timing as it would be a key audit for future planning. Members also noted that the timeline of the audit relating to third party supplier management was already being changed due to an overlap in scope with an external audit. Members were pleased to see an audit on staff wellbeing planned in the first quarter of 2021/22 but sought clarity on the comment about productivity levels. Mr Lucas advised that was a general comment based on anecdotal evidence from across all KPMG's clients so was not specific, and may well not be applicable, to NSS.

- 6.2 In terms of leadership and essential line management Members were keen to see benchmarking of NSS against similar organisations if possible. Going back to the audit of the strategic objectives, Members received an overview of the approach that would be taken. They were also advised that the audit of COVID-19 services was noted as a placeholder in anticipation of the potential need to respond to future public inquiries. In considering the number of audit days, Members sought assurances that the projected number was enough. Members were keen that the audit on leadership looked at what would be needed in the new environment rather than being entirely focussed on how NSS had done during the pandemic. Members agreed that payroll services would definitely need to be audited once the new services had been established and noted that the deferral was recognition of the delay to that. Members also agreed that the timing of the audit on the new cancer resource would need to be considered as the service was still in development. Members acknowledged that this was a busy plan and would need to be carefully balanced with the business as usual work.

7. EXTERNAL AUDIT UPDATE [paper AR/21/08 refers]

- 7.1 Ms Browne spoke to the update on the Draft External Audit planning process and an overview of the timelines for agreeing both the plan itself and the scope of the proposed work. Members were keen to see the planning concluded as quickly as possible and that the process also utilised the ways of working developed during the pandemic to avoid undue stress and pressure on staff. They were assured that the lessons learned from last year had been taken on board and, with remote auditing better established, the process could be managed better. It was agreed that once management had signed off on a working draft, a short, ad-hoc Audit and Risk Committee meeting could then be convened via TEAMS.

8. COVID-19 GUIDE [paper AR/21/09 refers]

- 8.1 Ms Grant spoke to the paper, which had been developed in response to the impact of remote auditing, and the refocusing of Audit Scotland's principles in that environment. Members discussed how to take forward some of the key considerations within the paper. To that end, Members proposed a questionnaire and holding development sessions in the run up to year-end – one on risk and one on annual accounts. Members recognised that COVID-19 related risks would be a factor at least in the medium term, and that elements of the pandemic response would be subject to audits for years to come but, of those, Personal Protective Equipment (PPE) was the most pressing. Members also acknowledged that this was about using resources based on risk and having assurance that the processes were picking up areas which were not immediately reported to this Committee. However, Members felt assured that they had positive answers to these questions already so a high-level stock-take was appropriate at this point.

9. NHS IN SCOTLAND [paper AR/21/10 refers]

- 9.1 Members noted the paper, which was focused this year on NHSScotland's response to the Covid-19 pandemic. Members' attention was drawn in particular to the section that highlighted NSS's role in supplying PPE, as well as financial performance. Members discussed the recommendation for NSS to ensure the move back to the more usual tendering process and agreed that should be included on the forward programme for the Finance, Procurement and Performance Committee (FPPC). Members expressed concerns that it read like NSS had not been considering VFM, sustainability and quality and agreed that it did not feel like that reflected fairly on the work which had been done. Members recognised the absolute necessity for assessing the impact on staff well-being. Members also wished to commend everyone in the organisation for the high performance on the recurring savings figure. In respect of National Board Collaboration, Members were keen to get a sense of the progress made on that. Going back to PPE, Mrs Low offered to share an update presented at FPPC specifically on this, which would show that there was lots to celebrate but also lessons learned to take forward. **Action: Mrs Low to share update on PPE from the February 2021 FPPC meeting with Members.**

Mrs Low

10. SERVICE AUDIT PLAN 2020/21 [paper AR/21/11 refers]

- 10.1 Mr Dobbing spoke to paper, which updated on progress towards delivering the Service Audit reports for 2020/21. Members noted that the control framework for IT had now been agreed and the service audit was in an improved position in that respect. Testing was due to begin in the coming days, continuing through to the end of April 2021 and would be reported in May 2021. Members discussed the outcome of the audit and were advised that there would be a focus on communication and escalation where necessary. Exceptions which had previously been identified may change by the end of the testing period, especially since the frameworks were still being developed, so it would not be

ACTION

helpful to predict the final outcome ahead of testing being completed. It was important to re-iterate that service audit was a process over a year and the auditors would not have a final answer before it was complete. However, it was possible to take a “temperature check” at a given point and respond to it as necessary. Members were reassured that NSS had a close working relationship with the auditors and the understanding of how that has been developed. It was now important to ensure stakeholders understood this and use the report itself to describe the process better.

11. INTERNAL AUDIT ACTIONS REPORT [paper AR/21/12 refers]

- 11.1 Members noted the report, which provided an overview of NSS performance against Internal Audit Actions. All actions were on track with one extension request. Members discussed the clinical waste actions and agreed that the actions regarding general clinical waste should be closed off but, due to the specific security issues involved, vaccine waste needed to be managed through a separate route and brought back to the next meeting. **Action: Mr Neilson to ensure that actions relating to general clinical waste were closed off and that a separate route be established specifically for vaccine waste.** Members also agreed that complaints needed to transition to a Business As Usual position.

M Neilson**12. RISK MANAGEMENT UPDATE [paper AR/21/13 refers]**

- 12.1 Mr Neilson took members through the paper, which provided details of all Red risks and any new Amber Reputational risks recorded on the NSS Risk Register as at 31 January 2021. Members discussed the Windows 7 risk and noted that it should be classified as a business risk rather than a reputational risk. Members also discussed Oracle support and received assurance it was not a “cliff-edge” situation. In respect of the risk relating to the shelf-life of pandemic stock, consideration would be given to where this best sat. Members asked whether the reporting on the corporate level Brexit risk could be drilled down into further, and were advised that the EMT had already done this and recommended that the risk be closed. Members were assured that any specific Brexit risks at Strategic Business Unit level would continue to be monitored and escalated as appropriate. Regarding the risk around unstructured/unclassified data, Members received assurances about resourcing and that more detail would be included for the next update. Members also recognised that there may be benefit to linking this with the Information Governance section of the agenda. Members discussed the issues with legacy systems in PCFS and whether any similar issues were yet to emerge. They were advised that this was being monitored but it was difficult to accurately predict due to the changes forced by COVID-19. However, it did highlight a potential issue around use of, and reliance on, legacy systems.

13. FRAUD UPDATE [paper AR/21/14 refers]

- 13.1 Members were pleased to note that the National Fraud initiative work was well underway and on track to be completed in line with the annual accounts. No issues were anticipated to be found. There had been no new fraud cases in the current quarter and work on the two existing cases was ongoing. Ms Howard updated on the work being done with Counter Fraud Services (CFS) on external cases relating to onward sale of PPE, as well as a number of CFS’s national programmes of work. Members were also pleased to note the high rate of compliance regarding the Fraud Awareness eLearning module, and the progress of the fraud awareness training programme.

ACTION

14. UPDATED AUDIT AND RISK COMMITTEE CONSITUTION AND TERMS OF REFERENCE [paper AR/21/15 refers]

- 14.1 Members discussed the current Terms of Reference and any updates that may be required. Members agreed the final paragraph in section one should be re-worked to provide clarity on the Committee's level of authority and there should be wording to capture information governance under key duties. There were also minor formatting corrections in the section relating to meetings and membership. **Action: Mrs Bailey to update and circulate the Terms of Reference to have a final draft for approval at the next ARC meeting.**

L Bailey

15. INFORMATION SECURITY AND GOVERNANCE UPDATE [paper AR/21/16 refers]

- 15.1 Mrs McLaughlin spoke to her paper, which updated on key aspects of information governance and security activity since the previous report presented in December 2020. Members noted that the continued and sustained pressure on the team due to volume of work in relation to pandemic response was expected to continue for some time to come, and were assured that resourcing was being actively considered. Compliance tasks relating to business as usual work had been, by necessity, de-prioritised but assurance was given that the risk and governance implications of this were being kept under review. Members were also updated on the challenges specifically relating to Records Management and the Information Asset Register. Members were advised that the impact of these challenges had been an increase in Freedom of Information (FOI) request response time breaches due to pressures of work but were assured that some temporary solutions had been sought to assist with this.

- 15.2 Members were pleased to note that progress on the Centre of Excellence business case had been positive. Risks relating to information security and governance had also been scrutinised with the reduction of risk 4577 (relating to legislative compliance) from amber to red, notwithstanding the FOI pressures mentioned earlier. However, Members were assured that this risk would be kept under close review in light of resourcing and capacity pressures. Members were also pleased to note that two previously adverse events which had been previously reported to the Information Commissioner's Office had been appropriately managed without the requirement for ICO intervention. Members were content with the report although asked, regarding compliance, if it would be possible to consider providing slightly more detail.

16. DATA PROTECTION OFFICER'S (DPO) PRESENTATION ON LEGISLATIVE DUTIES IN RELATION TO REPORTING [paper AR/21/17 refers]

- 16.1 Ms Ruddy spoke to her paper summarising the obligations under the General Data Protection Regulations (GDPR) and the Data Protection Officer's (DPO) role, as well as updating on NSS's current status against each of the GDPR obligations. Members noted that although there had been progress in some areas, records of processing activities and 'Accountability Principle' compliance remained the key areas of concern. It was hoped that as NSS's additional temporary resource became more focussed towards internal compliance tasks the speed of progress would increase. The report also highlighted that, due to the volume and pace of demand in relation to the COVID-19 response, there was a growing backlog of data protection related compliance documentation to be fully completed for COVID-19 products and services. Members noted the update on preparations for a potential no adequacy decision regarding GDPR legislation following the EU exit, recognising the agreement reached at the end of the EU exit transition period gave additional time. However, the adequacy ruling was still awaited (as of 19 February 2021) and the Scottish Government continued to advise the importance of monitoring the risk in this area.

ACTION

16.2 Members were advised that DPO training had been delayed due to COVID-19 but were assured that it was a key consideration. Members discussed areas where there were elements of good practice and culture, and were pleased to note that Ms Ruddy had engaged with Board Services about signposting things like the Data Privacy Impact Assessments. Members discussed how any conflicts of interest for the DPO was managed and were assured it was considered day to day, and that the onus was very much on the DPO to highlight that. Members asked whether there had been any increase in requests from public regarding their data as a result of Test and Trace, noting that there had been increases in Subject Access Requests, as well as Freedom Of Information requests for death data (which tended to be media driven). Members also asked about the impact of the upcoming changes to the donor screening questions and were assured that the relevant Equality Impact and Data Privacy Impact Assessments would be completed and shared appropriately.

17. COMMITTEE HIGHLIGHTS REPORT [paper AR/21/18 refers]

17.1 Members agreed the following items for the Committee Highlights Report to the Board:

- The Committee received the final report on the Capital Planning audit
- The Committee received updates on progress for the Internal and External Audit Action plans;
- Proposals for development sessions on risks and the annual accounts;
- Considered two Audit Scotland reports - the COVID-19 Guide for Audit Committees and the NHS in Scotland Report;
- Highlighting the recommendation from the NHS Scotland Report about the tendering processes for the Finance, Procurement and Performance Committee forward programme;
- The Committee recognised that in addition to the work that had been done in respect of the service audit control frameworks (which had improved), there could also be more within the report to clarify the process for the benefit of stakeholders;
- The Committee reviewed their Terms of Reference and made some suggestions for updates.

18. ANY OTHER BUSINESS

18.1 Members had no other business to raise at this point.

19. DATE OF NEXT MEETING

19.1 Members noted the next meeting was scheduled for Wednesday, 26 May 2021 at 0930hrs.

There being no further formal business the meeting finished at 1300hrs