



HSE Audit & Risk Committee Meeting

Minutes

A meeting of the HSE Audit & Risk Committee was held on Friday 16th September at 1pm via videoconference.

Members Present: Brendan Lenihan (Chair), Fergus Finlay, Michelle O'Sullivan, Ann Markey, Pat Kirwan, Colm Campbell, Martin Pitt

HSE Executive Attendance: Stephen Mulvany (CFO), Dean Sullivan (CSO), Tom Malone (Interim ND Internal Audit), Patrick Lynch (ND G&R/CRO), Paul de Freine (ND Estates), Mairead Dolan (ACFO), Dara Purcell (Corporate Secretary), Patricia Perry (Board Office).

Joined the Meeting Colum Maddox (A/CFO) (item 3), Julie Ryan (AND Procurement) (item 3.3), Brian Long (AND Procurement) (Item 3.3), Máire Lennon, Legal (Item 5), John Tuohy (Item 6.3) Kevin Hartnett (Item 6.3), Mark Kane AND Estates (Item 7 & 8) Richard Darch and Shane Dineen, Archus (Item 7.1)

Minutes reflect the order in which items were considered and are numbered in accordance with the original agenda.

1. Committee Members Private Discussion

The Chairman welcomed the Committee members to the meeting and held a private session to consider the agenda and papers and the approach to conducting the meeting.

EMT joined the meeting at 1.30pm.

2. Governance and Administration

No conflicts of interest were declared.

2.1 Minutes

The Committee approved the minutes of the meeting held on 20 July 2022.

2.2 Matters Arising

A. Markey requested an update in relation to Internal Audit Report IT004ASOP0722 re follow up on Mandiant IT recommendations. The Chair advised that a verbal update was given by the CIO at the Board meeting. A briefing note will be requested from the CIO for circulation to Committee members.

3. Accounting, Governance and Financial Reporting

Colum Maddox A/CFO joined the meeting

3.1 YTD Expenditure

The CFO provided a briefing to the Committee on the financial position year to date and the forecast to year end as set out in the briefing papers circulated to the Committee prior to the meeting.



He advised the Committee that the draft revenue I&E financial position at the end of July 2022 shows an YTD deficit of €731.4m or 6.2%, with a significant element of this being driven by the direct impact of COVID-19, as reflected in the €608.2m adverse variance on the COVID-19 reported costs and €123.2m adverse variance on core (Non-COVID 19) related costs. However, when account is taken of COVID – 19 related, Acute income, bad debts and CNU cost of care issues which are embedded in Core services this variance reduces to circa €50m YTD. He advised that account must also be taken of National Service Plan 2022 funding yet to be drawn down from the DoH. It is also expected that the core (non COVID-19) activities will naturally increase and the impact of “delayed” care will also increase demand for core services.

The CFO advised that a core expenditure plan was prepared following the completion of the Q1 forecast. This plan aimed to reduce the expected level of growth to €66m below the level in the LOW Q1 scenario i.e. to deliver a 2022 breakeven on CORE, assuming the costs relating to State Claims Agency breaks even and without factoring in the effect of the Haddington Road Agreement reversal (HRA). Maximum variance targets were set based on the outputs of this core plan, these targets have now been communicated to services and the monitoring of these targets including consideration of any corrective action is being actioned through the performance & accountability framework.

The CFO updated the Committee in relation to the Cash position stating that Cash pressure is still evident in the system to the end of August 2022 and is expected to continue to year end. This being driven by unfunded COVID-19 related expenditure pressures such as Testing & Tracing, COVID-19 Vaccines, PPE, COVID-19 Therapeutics’, Acute & Community COVID-19 responses.

Following consideration of the key financial messages the Committee noted that:

1. Q1 and Q2 Forecasts indicate that there has been a level of unfunded CORE costs year to date, and that this trend is currently predicted to continue through 2022.
2. Steps have been taken by the EMT, based on Q1 projections to reduce the expected level of growth in order to deliver a 2022 breakeven on CORE (assuming SCA breaks even and without factoring in HRA). A Core plan has been formulated to reduce forecasted growth, by at least €70m, with as much of this as possible targeted as a reduction to unfunded growth.
3. There will be continued engagement with DOH and DPER in respect of 2023 costs and funding, particularly in relation to the main cost pressure areas discussed above.
4. Committee would like assurance from budget holders that controls and plans are in place. A report to be included at the next Committee meeting of the breakdown of maximum expenditure limits with HGs & CHOs.

The Committee raised the longer term sustainability of funding for the health service given demographics, service requirements etc. The CFO said there was an appreciation of this issue and it was under consideration.



3.4 Update on Estimates Process

The Chairman informed the Committee that preparation of the Estimates is a key component of the annual service planning process. It incorporates two elements:

- i. An estimate of funding requirements for an existing level of service (ELS) for 2023 (led by National Finance). This will specify and project what the financial requirements or full cost of existing services (**excluding** COVID-19 services) will be for 2023, which is informed by the forecasting of expenditure to the end of 2022.
- ii. An estimate of requirements for key new service developments (NSDs) for 2023. The focus is on full implementation of all strategic developments and service improvements funded in previous years, and to identify exceptional areas where targeted investments are required in 2023, and where there is an assured supply of the requisite staff categories.

The CFO presented the papers as circulated to the Committee prior to the meeting noting that Estimates 2023 preparation, as a key step of the annual service planning process, is more complex than in previous years, given financial pressures on government, residual challenges around recruitment and retention and the broader ongoing impact of the pandemic.

He provided a briefing to the Committee on the discussions held by the Performance and Delivery Committee and Board at a special meeting on September 2022 to consider the funding required in 2023 to address the core deficit, the full year costs of continuing to provide existing level of service in 2023 and costs of planned new service developments in 2023.

The Committee noted this preliminary view of Estimates (ELS) 2023 and NSD has been shared with the DoH in order to allow a more informed process leading up to budget day 2022.

3.2 Health Budget Oversight Group Minutes

The CFO and A/CFO noted that while HBOG meetings have been deferred to allow a focus on the Estimates process at present, they are continuing to engage with the DoH. The next HBOG meeting is scheduled for 29th September 2022.

The Chairman emphasized the need for strong exchange of information between the HSE, DoH and DPER which needs to be formalized. The CFO advised that work is ongoing and that a number of workshops had taken place to provide more structure, and that a roadmap would be required. This has been delayed due to the Estimates process, but a plan is in place to look at this process after the Estimates are finalized.



3.3 Procurement – Annual Assessment of Competitive / Compliant Procurement exercise 2021 – Corporate Centre analysis

Brian Long AND Procurement, acting for ND Procurement and Julie Ryan AND Corporate Procurement Planning and Compliance Improvement (CPP&CI) joined the meeting for consideration of this item.

They advised the Committee that following the presentation of the Annual Self-assessment of competitive compliance procurement exercise at the Audit & Risk Committee meeting in July 2022, the Committee requested a paper to provide a more in-depth analysis across the Corporate Centre incorporating an analysis of the list of derogations used to declare compliant procurement and the name of each Executive Management Team (EMT) owner aligned to the data presented. In parallel an analysis of non-compliant procurement by each EMT member was also conducted, and the final paper was presented to the Committee prior to the meeting.

The CFO noted that two papers had been provided to the Committee, and that paper 2 had been updated based on the Corporate Centre being redefined to exclude the National Ambulance Services, National Screening Service and Environmental Health.

The CFO provided an update to the Committee in terms of the SIC Process for 2022 on Procurement Compliance Assessment. As agreed, these assessments will now be completed on a quarterly basis. Q1 & Q2 returns for 2022 were due for completion by end of September. However, while significant progress is being made, the programme of work is running a few weeks behind schedule and the outcome for Q1 and Q2 will not be complete until the end of October 2022. It will be presented to the Committee at the November meeting.

The Chair asked about the external verification process and management confirmed that this was carried out by Grant Thornton noting their findings indicated that the self-declaration process was robust with minimal error detected.

The CFO provided a brief overview of paper 2. He advised that as requested at the July Audit & Risk Committee meeting this paper focused on identifying the level of compliance by EMT members where they had relied on permitted derogations to declare compliance. He outlined that 78% of the self-declaration of compliant procurement across the Corporate Centre was based on the application of one of the Standard EU Tender Procedures. It was also highlighted that apart from this the most frequently used permitted derogation was article 32 which is used in extreme urgency and unforeseen circumstances.

The Committee welcomed the work that had been completed, noting that it provided a base for better information flow and a number of further assurances, potentially including testing of controls during the Internal Audit Plan.



4. Risk Management

The CRO provided a verbal update to the Committee, stating that the unit level Q3 Review of the Corporate Risk Register is to be submitted later that day.

He informed the Committee that a review of the HSE's Risk Management Policy 2017 is underway. Once drafted it will be brought to the ARC for observations. C Campbell and P Kirwan will separately consider the draft with the CRO. A review of the Risk Appetite Statement will also be undertaken in parallel with the review of the Risk Management Policy.

A discussion took place in relation to the National Emergency Plan, and the potential for significant shortages on fuel and electricity, which could lead to potential power cuts and the risks associated with same, and if there is a contingency plan in place. CRO advised the Committee that the health services are prioritized in relation to supply of power. An update will be sought from the ND Capital & Estates in relation to this. There has been ongoing work with A/CFO in relation to defining the risks associated rising inflation including the impact of increasing fuel costs.

The Committee discussed the requirement for joint work between the DoH and HSE on Risk. The CRO advised that a discussion had taken place with the ARC Chair and Greg Dempsey Deputy Secretary General DoH and was to be raised with the HSE CEO and Chair along with the Minister for Health and Secretary General of the DoH, which has not taken place as yet. The Committee Chairman will follow up with the Board Chair.

5. Legal Services

The Head of Legal Services joined the meeting to present a report on Strategic Legal Cases for Q1 & Q2 2022, which was circulated prior to the meeting and included a summary of 59 strategic legal cases. The report reflected the revised format agreed by the ARC in July and advised that the particulars of new and closed cases will be provided in the next report. She provided information to the Committee on the legal spend by HSE for year up to 30 June 2022 and noted that any out of court settlements entered into by the HSE of a value over €0.05m require the prior approval of DoH and DPER.

The Committee held a discussion in relation to the report and suggested that some form of RAG rating of cases be included for the next report.

The Committee discussed the controls on expenditure in managing cases, and were informed that while the budget is centralized and managed nationally by the Office of Legal Services in line with contracted rates, the senior manager leading the case has overall responsibility for the approval of expenditure.



A discussion took place in relation to the legal spend in cases, and it was noted that the biggest legal spend related to social care matters, wardship, mental health, safe guarding issues. The Committee received an update in relation to the procurement process for the supply of legal services, and how the legal firms were appointed. The Head of Legal Services advised the Committee there are 7 firms contracted through a public procurement process which concluded in March 2015, and that work has been ongoing with the Office of Government Procurement to conduct a new procurements process for legal services this year. This was welcomed by the ARC.

A discussion took place in relation to the work of the Farrelly Commission re “Grace” case. The Committee were advised that the Commission is established and reports to the Department, relevant officials from the HSE have been called to attend hearings and HSE has a national office in place to respond to all matters relating to the work of the Commission.

It was agreed that a briefing note would be requested from the DoH on the work of the Commission, covering the work completed, work to be finalised, reporting timelines, and costs.

The Committee discussed the need to ensure alternative dispute resolutions to legal disputes which can be costly and time delayed when litigated, The Head of Legal Affairs advised the Committee that the use of mediation has been used in many instances, especially in HR cases, but stated that mediation would not be a solution in all cases.

The settlement process in strategic cases was discussed and the Committee were advised that once litigation is concluded the EMT member or senior point of instruction will make the decision in these cases. The Committee discussed whether HSE Board should be informed of cases with a high value settlement. The CFO undertook to bring this back to EMT to be considered, noting that currently any significant settlement would involve the relevant EMT member and CEO.

The ARC also discussed the need to ensure learning from strategic legal cases is disseminated appropriately.

The Chair thanked the Head of Legal Services for the update and it was agreed that the next half yearly report would include a graduation of categories or have a risk rating included. The next report to also include a track changes, to ensure that the Committee can identify the new information incorporated, (new information in red, standing information in black). A Policy around legal settlement and a general update on the Procurement process underway to be included in the Report.



6. Internal Audit

6.1 Q2 IA Reports

The ND IA presented to the Committee Q2– 2022 Activity Report which was circulated prior to the meeting. As at 30th June 2022 (Q2 2022) 78 reports were issued in Q2, 14 of which related to TUSLA. Included in the 64 HSE reports were 13 follow-up reports, and 11 reports in respect of funded agencies.

The top control issues identified in this quarter were in relation to Policies & Procedures, Governance, Financial Controls, Banking and Oversight. The ND IA referred to the Internal Audit Dashboard, which illustrates the types of control issues and the extent to which each control issue occurred in the quarter and YTD. The audit opinions in the Q2 reporting assessed the control environment in relation to the 64 HSE reports as: Unsatisfactory 22% (9 reports); Limited 20% (8 reports); Moderate 33% (13 reports); Satisfactory 25% (10 reports).

The ND IA advised the Committee in relation to the Implementation of Internal Audit Recommendations the following were implemented or superseded by Q2 2022: 42% (241) of the total 2022 recommendations; 76% (573) of the total 2021 recommendations, and 78% (557) of the total 2020 recommendations.

He advised that as agreed at the June meeting, IA committed to highlighting the number of outstanding recommendations relating to 2020 and 2021 to the EMT, and that there has been steady progress made by management on this issue, and that he will continue to engage with management with a view to improving implementation rates. It was noted that ND IA should attend the NPOG meetings to look at recommendations.

The Committee noted their concern with the delay in implementing 2020 and 2021 IA recommendations, and requested ND IA to request that each Divisional Lead submit a report to the Committee on the status of all open IA recommendations that relate to 2020 and 2021. On review of the reports, the Audit & Risk Committee will consider the need for National leads to attend its November meeting to discuss the reports outlining why the recommendation remains open; what are the planned actions in place to close the recommendation and an estimated close date.

ND IA to provide a separate paper which incorporates all Outstanding Recommendations for 2020 / 2021 which is to be brought back to the ARC.

The ND IA advised the Committee that the Internal Audit Division's staffing level as at 30th June 2022 was 58 WTE (headcount 65), the approved staff complement is 79. The Division is currently at various stages of recruitment, which includes two grade 8 audit managers at interview stage, one grade 8 data analytics manager and one grade 8 corporate reporting manager at advertising stage. He advised the Committee that there was an underspend, with the IA Expenditure versus Budget at the 30th June 2022, pay and non-pay expenditure



being €2.7m with a YTD budget of €3.4m.

He updated the Committee in relation to the External Quality Assessment (EQA) of the IA Division, and that following a competitive tender process, Mazars have been appointed to undertake the Assessment, and the review is due to commence in September. A survey of ARC members and EMT members will take place. The EQA will also conduct interviews with the CEO, CFO and Chair of the ARC.

The ND IA then took the Committee through the summary of Key HSE Reports Issued for Quarter 2 2022.

The Committee discussed the governance arrangements in relation to IA Report Clinical Research Facility – Galway University Hospitals ref no. Q2-22-ASD-001. P.Kirwan to supply a briefing document to ND IA and Committee from the HSE Research Unit. It was agreed that an assessment on improving governance and financial controls in organisations is required, and A/CFO to take this away and check overall role.

The Committee highlighted that due to the significance of issues identified in the IA Report Consultants Leave Records - Sligo University Hospital ref no. Q2-22-ASD-007, the Committee requested that the Internal Audit findings be forwarded to the People & Culture Committee for their information.

IA Report CHO Oversight of Funded Agencies - Cavan Monaghan CHO 1 – Louth Meath CHO 8 – Disability Services ref no. Q2-22-CHO-03 and IA Report Funded Agency COPE Galway CLG ref no. Q2-22-CHO-005, were also discussed by the Committee.

6.2 Internal Audit's Review of funded agencies audit approach

The Chair advised the Committee that the Internal Audit Division is conducting a review on the audit process of funded agencies and proposed that the Board Secretariat provide IA with Committee members details and for each Committee member to meet with IA for a 30 minute discussion to provide their views which will then be combined for the next meeting of the Committee. Committee members agreed.

6.3 HSE Property Insurance

John Tuohy, Internal Audit Manager provided a briefing to the Committee on the Internal Audit Report on HSE Property Insurance which was circulated to the Committee prior to the meeting. He advised the Committee that IA undertook a review of HSE Property Insurance as part of the agreed audit plan for 2020. The final report issued on 15th July 2022. A key component of the audit was to establish the accuracy and completeness of internal databases and registers used to record properties and their associated values.

He outlined that the audit findings indicated that the level of assurance that may be provided to management about the adequacy and effectiveness of the governance, risk management and internal control system in the area reviewed was unsatisfactory and summarized the key audit findings which the Committee held a



discussion on.

The Chair thanked the IA Manager for the update and noted the management response to the recommendations in the IA report and that actions have been taken to date in addressing some of the largest exposures, and additional actions are to be taken by management from now up to end July 2023. He requested that major assets such as acute hospitals should be revalued. The Chair and Committee noted their approval to proceed with timelines as suggested in the IA report, and requested that the ND IA keep the Committee informed if timelines are not met.

7. Estates Management

Mark Kane AND Estates: Richard Darch, Archus and Shane Dineen, Archus joined the meeting

7.1 Property Strategy

Further to previous engagement with the Audit & Risk Committee in May, the CSO and ND & AND Capital and Estates presented the current version of the HSE Capital & Estates Strategy, which contained minor amendments following consideration of the Committee.

The CSO provided an update to the Committee in relation to a compendium supporting the Capital and Estates strategy which details the evidence, case studies and research that under-pin the strategy and its objectives. It was generally acknowledged that the information contained within the compendium was sufficiently detailed and articulated and no further discussion ensued.

The CSO presented an update to the Committee on the scenario planning tool developed in conjunction with the strategy. He advised that the three illustrative scenarios modelled by the planning tool and detailed in its paper were presented, discussed and it was agreed that the HSE review the content of the strategy in the context of its current and potential future leased portfolio; and future facility maintenance costs. Suggestions were made about an additional scenario that would more realistically combine some of the options developed.

Given the outcome of the scenario planning exercise indicated the need for strategic change approaches and increased levels of funding for future capital programmes, the Committee recommended that the planning tool and its outputs be further discussed with the DoH as the funding agency for HSE in advance of the Strategy being brought back to the Committee and then submitted to the Board for approval at their meeting in October. The ARC emphasized that the Board would want to ensure that before management embarked on the implementation of this approach that it has a stronger line of sight on buy in from our funder on the approach.
CFO and Richard Darch, Archus and Shane Dineen, Archus left the meeting

7.2 Owenacurra

The Chair advised the Committee that HSE Officials attended the Oireachtas Committee on Public Petitions on 15 September 2022 and that the HSE's Opening Statement had been circulated to the HSE Board.



The CSO then provided an update to the Committee in relation to the property transactions undertaken (either lease or purchase) around the time of the Owenacurra decisions and set out the process following relating to the property transactions undertaken on behalf of CH04 across Cork City regarding mental health accommodation during the Covid 19 pandemic, the focus of which was on two particular property transactions; Garnish House and Glenwood Carrigaline. Committee members held a discussion and requested that a lessons learnt piece (including corrective actions) be prepared by Estates.

The Committee were also updated and provided with assurance with regards to a conflict of interests in relation to the Glenwood, Carrigaline property, and advised by management that this was not an issue.

8. Properties and Contracts

8.1 Contracts

The CSO assisted by the ND Capital and Estates briefed the Committee on the following Contract circulated to the Committee prior to the meeting.

Contract Award – Outpatients Department (Phase 1) at Merlin Park University Hospital Galway

Following consideration and discussion in relation to the lowest tender being ruled out on quality issues, the Committee agreed to recommend to the HSE Board for approval.

8.2 Properties

The CSO and National Director Capital & Estates briefed the Committee on the following 7 property transactions circulated to the Committee prior to the meeting for scrutiny prior to submission to the Board for consideration.

- i. Transfer of Property 3 Tivoli Terrace, Clonmel, Co. Tipperary to Tipperary County Council for a nominal fee.
- ii. Transfer of Property at 7 O'Neill Street, Clonmel, Co Tipperary to Tipperary County Council for a nominal fee.
- iii. Transfer of three properties to Sophia Housing Association.
- iv. Proposed granting of 10-year lease for property at 120 Barrington Court, Prosperous, Co Kildare to Stewarts Care Ltd.
- v. Proposed granting of a lease for 9-years 9-months at Old Dispensary, Kilcullen, Co. Kildare to Teach na Daoine Community group.
- vi. Transfer of HSE Louisberg Health Centre Co. Mayo to Mayo County Council.
- vii. Proposed Lease of Primary Care Centre at Oriel House, Outrath, Co. Kilkenny for ICPOP team



A concern was noted in relation to the Proposed 20 year lease of Primary Care Centre at Oriel House, Outrath, Co Kilkenny, and the no “buy out” option on this property, and if there was an option of other HSE premises that could be used in the Kilkenny area. The ND Capital & Estates reassured the Committee that this process was completed and that there was no suitable facility and noted that there was a need to consolidate those staff that needed to be accommodated.

A discussion took place in relation to HSE vacant facilities, and the ND Capital & Estates advised the Committee that there is a database that was previously shared with the Department of Housing with regard to the Ukraine refugees. It was agreed the ND Capital & Estates would review with regard to disposal of assets which could go towards capital requirements and bring a report on properties that are unused and are surplus, to the Committee in November 2022.

Following consideration of the detail for each proposed transaction the Committee then agreed to recommend all 7 transactions to the HSE Board for approval.

9. A.O.B

The meeting ended 5.25pm, and Committee members held a Private session.

Signed:

Brendan Lenihan
Chairperson

13th October 2022

Date: