



Feidhmeannacht na Seirbhíse Sláinte  
Health Service Executive

## HSE Audit & Risk Committee Meeting

### Minutes

A meeting of the HSE Audit & Risk Committee was held on Friday 9<sup>th</sup> October 2020 at 08:15 via videoconference.

Members Present: Ann Markey, Brendan Lenihan (Vice Chair), Fergus Finlay, Fiona Ross, Pat Kirwan, Colm Campbell, Martin Pitt.

Board Members: Deirdre Madden (in attendance for item 8.1), Sarah McLoughlin (in attendance for item 8.1)

HSE Executive Attendance: Patrick Lynch (ND Quality Assurance and Verification), Geraldine Smith (ND Internal Audit), Stephen Mulvany (CFO), Mairead Dolan (Assistant Chief Financial Officer), Jim Curran (AND HBS Estates)( item 5), John Swords (Director Health Business Services ) (item 5 & 6) , John Hennessy (ND Acute Strategy and Planning) (item 5), Máire Lennon ( Office of Legal Services) (item 7), Liam Woods (ND Acute Operations) (item 8), Helen Byrne (AND Acute Operations) (item 8), Damian Casey ( Head of Finance) (Item 8.2), Margo Kovarova (Payment Services Ops Mgr) (item 8.2), Dara Purcell (Corporate Secretary), Hannah Barnes.

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

#### **2. Governance and Administration**

The Vice Chair welcomed Committee members to the meeting and in the absence of Executives, held a private session to consider the agenda and papers for the meeting and the approach to conducting the meeting. Ann Markey agreed to formally act as Committee chair for the purposes of signing the minutes at this meeting and then asked the Vice Chair to handle the conduct of the meeting.

A Committee member raised a potential Conflict of interest in relation to one of the funded agencies reported on by internal Audit because he had some familiarity of the organisation, however after reviewing the matter the V/Chair declared that the consensus of the Committee was that this was not considered a conflict of interest. No other conflicts of interest were declared.

The Committee approved the minutes of the 11<sup>th</sup> September subject to the addition of an additional action for the CIO requesting that the CIO liaise with other relevant managers to ensure that his root cause analysis of issues raised in ICT internal audit reports (business buy-in and relative priority given to development over maintenance etc) are reflected in the appropriate non-ICT risks in the Corporate Risk Register.

### **3. Financial Matters**

#### **3.1 YTD Expenditure Update and 3.2 COVID Tracker**

*Items 3.1 and 3.2 were taken together*

The Committee reviewed with the CFO the YTD expenditure position at the end of August 2020 and the estimated COVID-19 costs incurred up to close of business on Friday 25<sup>th</sup> September. The CFO noted the 2020 Revised Estimates Volume (REV) for Health is based on the Covid-19 Action Plan costs of €1.827bn but does not yet take into consideration the costs of restarting services in a Covid-19 environment or preparing for the winter period. The Committee was told that the HSE's potential net additional budget requirement for 2020 including winter planning is currently estimated to be €1.028b (€120m capital + €908m revenue), with testing & tracing €168m and PPE €643m representing 89% of this estimated requirement. It was noted that taking account of any expenditure or income loss currently identified by services as Covid-19 related i.e. €1,841.9m, the HSE monthly reports are showing a surplus of €227.6m / 2.0% against the original NSP'2020 budget, or €265.5m / 2.4% when the YTD effect of the 1<sup>st</sup> Surplus from 2019 is reflected.

#### **3.3 Report on the COVID 19 Budgetary Sanction Process**

The CFO provided a verbal update on the status of the COVID 19 Budgetary Sanction Process. The Committee noted that work is being undertaken to produce a standardised report on this item going forward. The CFO stated that they are working to be assured that the individual or specific sanctions that the HSE has received have not been breached except for an early issue surrounding a PPE Sanction which is currently being worked through. The HSE is within expenditure approvals for all other general sanctions.

#### **3.4 Implementation of the audit recommendations relating to the management of PPP in the [REDACTED] Disability Organisation**

The CFO spoke to the briefing paper provided to the Committee in advance of the meeting. He provided details on the commissioning of the [REDACTED] independent review into the Private Patient Property i.e. monies allegedly taken from service users accounts without their knowledge or consent. The Committee were updated on the current status of this report which remains in Draft. It

is now expected that the completion of the draft report will be concluded by the beginning of November 2020. The committee were assured that the conclusion of the review regarding PPP [REDACTED] continues to remain a priority across National Disability Operations and [REDACTED] and will do so until the process is completed. The Committee agreed to keep this item on the meeting agenda going forward.

[REDACTED]

**Actions:**

- The Committee agreed to keep the implementation of the audit recommendations relating to the management of PPP in the [REDACTED] Disability Organisation on meeting agenda going forward.

#### **4. Accounting, Financial & Governance Reporting**

##### **4.1 Tax Submission 2019**

The Committee noted the briefing paper on the 2019 Tax Self Review and Payment to revenue. The ACFO provided an overview on the process which is conducted based on an agreed risk assessment approach with Revenue under their co-operative compliance framework. The level of review for 2019 was impacted by Covid19 staffing requirements, and it was agreed with Revenue to perform a review focussed on specific areas which gave rise to the significant liabilities in previous years. The Committee noted that as a result of this review, a tax payment of just over €3.1m was made to the Revenue Commissioners and a payment of just over €3.1m in underpaid taxes and interest was paid in respect of 2019.

The ACFO said that of the 2019 review payment, almost 53% is directly attributable to payroll taxes, 37% is attributable to VAT with PSWT at 0.8%, RCT at just over 4% and interest at 5.6%. She highlighted that one of the key findings from this process is that the levels of review payments to non – Irish agencies has increased significantly in 2019. This occurs when the HSE cannot get confirmation that the relevant Non-Irish agency has accounted to Revenue for Irish payroll taxes from payments to these agency staff, a secondary obligation may arise under Section 985D of the

Taxes Consolidation Act 1997. The CFO informed the Committee that he will be writing to National Directors and other senior staff around the HSE to bring the foreign agencies issue to their attention.

Queries around double taxation agreements arose and the ACFO clarified that there is an exemption when the employer is based in a country where there is an existing double Tax agreement. RCT can be problematic as sometimes invoices are not clear that they relate to construction or maintenance, so there is a training issue around this. Sometimes there can be differences as a wrong code may have been used which triggers the wrong rate of Tax. The CFO was also asked to clarify if any of these issues impede on the HSE's hiring plan, he noted that the issue predominantly relates to medical agencies and regional hospitals and he informed the Committee that the AFCCO will taking up this issue with the Head of Procurement to try to reduce the frequency of these incidences.

#### **4.2 Update on S.38 Provider**

The Committee noted the briefing paper provided by the Head of Disability Operations in advance of the meeting. The CFO agreed to speak broadly on the topic, outlining that the Provider is the first large entity in the disability operating space to give 12 months' notice of ceasing to provide services. The core issues surround the handling of the 8000 service users and the employment of 3000 staff and volunteers as the HSE does not have capacity to easily take over and run the Provider's services. He highlighted that staff in the Disability Services unit are continuing to work through this case however there is a large financial risk to this issue. The CFO advised that the provider will not have signed an SLA for the year and that presently they have set out a number of key requirements for the HSE in terms of providing financial certainty during the notice period. This includes a request for an additional €20 million funding support to year end; similarly, the provider has signalled its intention to furnish a further report to HSE setting out funding requirements in consideration of the remainder of the notice period.

The Committee requested that the secretariat arrange for a follow up meeting with the Head of Disability Operations and relevant staff members to receive further data and information on the issue.

Actions:

- The Committee requested that a meeting be arranged with the Head of the Disability Operations within the next 10 days.

## **5. Capital**

*ND Estates, ND Acute Strategy and Planning, and the Director of Health Business Services, joined the meeting at 9:55*

## 5.1 Update relating to Capital Actions

The briefing paper circulated in advance of the meeting which provided updates on the following actions were noted:

1. Report on work being undertaken to quantify the amount of procurement that did not comply with procurement guidelines
2. Paper on disaster fire/flood/disaster assessments of Capital Buildings to be brought to Committee
3. A schedule of Capital Projects that may require Board approval
4. Consideration if a separate exercise can be carried out to assess the impact of the quality of care provided to children due to any potential delays in the building of the National Children's Hospital

In response to a request for further clarification on the business case for the Relocation of the National Maternity Hospital the ND Estates said the work is completed on the business case and the operation costs are being considered by senior management . It was noted that some delays have occurred due to finalising the legal agreements between St Vincent's national maternity hospital and the HSE for the lease of lands, the operation license and the formation of a new company.

The ND Estates said that the new lab facility at the Coombe Hospital will be the next major capital contract for Board consideration. The Committee suggested that management and board consider if there is merit in bringing significant projects through the Audit & Risk Committee for detailed review in terms of compliance of procurement and to allow for time to ask detailed structural questions prior to submission to the Board for approval.

The ND Estates briefed Committee on the project to install more resilient gas infrastructure which involved work on model 3 and 4 hospital sites. This has increased oxygen capacity and renewed pipework where deficiencies had been identified on these sites.

The Committee noted that a major survey of health infrastructure resilience to severe weather events e.g. wind events, heat waves, flooding, extreme cold snaps which has been delayed due to COVID-19 is being prepared and will be provided to the Committee in Q1 2021. The Committee asked if the ND Estates could provide a list of the infrastructure the is critical to business continuity within the HSE, in advance of the completion of this survey.

The Director of Health Business Services advised the Committee that he was exploring a plan to create a centralised emergency Stock warehouse for the country rather than a PPE specific unit. He has approached government colleagues to further explore the plan. The Committee suggested this work should be aligned to Risk 23 Business Continuity Management.

The ND Internal Audit noted that the need for a business continuity plan had been flagged in the audit report for the PPE Warehouse. The Director of Health Business Services noted that while contingency plans for the use of third-party logistics (3PL) was operational at the time the audit was conducted, he accepted the internal audit recommendation and the use of 3PL logistic companies is now written into the contingency plans as requested.

Action:

- the Committee requested a list of critical infrastructure within the HSE to be provided.

## **5.2 Update on the implementation of a Stock Uptake System within the PPE Warehouse**

The Head of Procurement briefed the Committee on the Implementation of a Stock Update System within the PPE Warehouse. He informed the Committee that the PPE Warehouse was a new building and the HSE has built the necessary infrastructure on site. He addressed the issues from the audit carried out by Internal Audit. In relation to the Stock/Inventory Management System the Head of Procurement advised the committee that as part of the overall National Distribution Service, the implementation of SAP system in the PPE Warehouse is now complete, having gone live on 30<sup>th</sup> September and all PPE stock is now on the system.

## **6. Brexit**

### **6.1 Brexit Update**

The ND Acute Strategy and Planning provided an update in relation to Risk 26, noting that we are now less than 90 days from Brexit date and that there is no longer uncertainty in relation to this – Brexit is a certainty from 1st January 2021. He informed the Committee that the focus of HSE preparations is centred on developing contingency and resilience measures, particularly in areas such as:

- Continued access to services in the UK and Northern Ireland
- Food safety controls at ports and Dublin Airport
- Supply chain risks
- GDPR compliance
- Communications with internal and external stakeholders

He also noted that the HSE Brexit Steering group has resumed and meets on a fortnightly basis. Risk owners have been identified for nine individual Brexit workstreams, and three subgroups are in place to deal with key risk issues in relation to medicine supplies, medical devices and GDPR compliance.

The Committee discussion focused on access issues for all-island services, overseas treatment and clinical placements and emergency ambulance arrangements, and progress on these in the context of the Common Travel Area; Environmental Health services and cover at ports and Dublin Airport and Supply Chain Risk and procurement & stores preparations such as stock management and alternative supply routes.

The importance of communications was noted and briefing sessions for key stakeholder groups have resumed. The HSE communications on Brexit is closely aligned with the DoH's Communications Unit in relation to radio advertising, social media messaging and webpage updates. The meeting also noted that Brexit was coinciding in terms of timing with ongoing COVID-19 pressures and wintertime pressures within the Health Services.

The ND Acute Strategy and Planning advised that they had recommended that the risk rating be raised from 9 to 12 due to the increase in likeliness. The Committee were told that this year Brexit related costs for the HSE are estimated to be around €20 million and relates mostly to the direct recruitment of staff. Indirect costs are more difficult to quantify as they will be part of the more long term effects.

It was agreed that further updates are to be provided to the Committee on an ongoing basis.

Actions:

- Further updates on Brexit preparation are to be provided to the Committee on an ongoing basis.

## **7. Office of Legal Services**

*Máire Lennon joined the meeting at*

### **7.1 A listing/ analysis of all non SCA litigation in which HSE is involved and a briefing on the processed and controls around this area**

The Corporate Secretary and the Head of Legal Services spoke to the briefing paper which had been circulated prior to the meeting. They informed the Committee of the structure and general

operations of the Office of Legal Services (OLS), and informed the Committee that there are eight external Legal firms currently contracted to the HSE to provide legal advice.

The Committee were told that special consideration is given to matters that are categorised by the contracted firms as strategic and a report is issued to the EMT every quarter on these strategic matters.

The Committee asked for clarity on authority levels for the instruction and management of strategic cases within HSE. The head of Legal services confirmed that instructions on case management within the HSE is at a very senior level. The person who gives the instructions to the legal firms for operational matters is generally the Hospital Group CEO / Chief office of the CHO and on corporate instructions would be at Assistant National Director level or higher. The AND or higher will take on board the legal advice that they are receiving. When necessary, a National Director or higher may be involved on whether a particular strategic case should be managed. Another factor surrounds whether a settlement litigation amount exceeds €50k, as per the NFR26 Departmental consent must be acquired for any settlement above this level. The Department of Health must also be notified if the settlement may impact on policy. The Committee were advised that departmental involvement is infrequent and that in the last 12 months the department would only have been involved on 3 or 4 cases. The OLS provides a quarterly report on these cases to HSE management.

The Committee were also informed on the controls and process around decisions that are taken to litigate or make applications that involve other state bodies. In the rare instance of this type of litigation the legal firm must involve legal services offices independently of the point of instruction and make the HSE aware of the case and the strategy basis for taking take action. The Committee these cases normally involve issues around service regulation and noted that Chief Officers are frequently the point of instruction.

The Committee indicated that it wished to reflect on the assurances re the level of authorisation controls in place over strategic cases and would discuss this matter further.

## **8. Internal Audit**

*D. Madden and S. McLoughlin joined the meeting at 11:35*

*ND Acute Operations and AND Acute Operations at 11.45*

### **8.1 IA's review of Hospitals Arrangements with Genomics Medicine Ireland**

The ND Internal Audit briefed the Committee on the Internal Audit's review of information from both Statutory and Voluntary Hospitals in respect of their arrangements with Genomics Medicine



Ireland. A questionnaire was developed and issued to all Statutory and Voluntary hospitals in the system. As at 1st October 2020, 14 questionnaires remain outstanding and this is being followed up with the CEOs office within each hospital. The Committee were told that the quality completeness of responses varied and in the majority of cases the hospitals that submitted a response failed to include specific required documentation which was set out in the information request, this is being followed up on as the documentation will form part of Internal Audit's final Report. The Committee were concerned about the non-responses to the Questionnaire and stated that non-responses will not be tolerated after the final deadline. The Committee stated that where hospitals have either not responded to IA or have not provided full information, it will call the relevant accountable personnel to the Committee's November meeting.

Based on the 35 responses received, 9 hospitals have confirmed they have arrangement(s) with GMI. These arrangements total 24. 3 hospitals confirmed arrangements were in place but did not provide the number of projects in place.

ND Internal Audit clarified that the questionnaire did enquire on benefits of GMI but no responses contained any financial benefit despite this being discussed in the media. It was confirmed that this will be looked into further for Internal Audit's full report. S. McLoughlin provided some observations regarding the reliance on research ethics committee as the cornerstone of governance in this research area, the complexity of the data involved and that staff within hospitals do appear to be sponsored by GMI. She also highlighted the lack of understanding around handling the type of data involved in such projects and also the lack of an opt out option from these kinds of studies. Finally, she raised concern regarding the referral to a benefit around the provision of the best healthcare for patients through a genomics service as the service is a data service and not a healthcare provider. The ND Acute Operations informed the Committee that a Professor of Genomics is in recruitment currently and the CCO has been working on a wider HSE Genomics policy.

Action:

1. NDIA to provide a list of any hospitals which have not responded or have not provided full information by deadline.
2. ARC to invite relevant hospital personnel to ARC November meeting

### **8.3 Monitoring of Consultants Contract – full report and update on the implementation of audit recommendations**

The ND of Acute Operations assisted by the AND Acute Operations provided an update to the Committee on the management of the implementation and adequacy of the Comprehensive Framework for Reporting Consultant Contract Compliance. He outlined that of the 13 audit recommendations 7 were completed and provided updates on the remaining open actions. He noted that one significant recommendation is for the development of a revised Consultant Contract guidance document which is now in draft form and is being signed off with colleagues in HR shortly, after which it will be circulated to all hospitals. The Committee noted the ND Acute operations comments on the delays that COVID has caused and that paradoxically compliance may have risen during this time however breaches could still be observed.

The ND Acute Operations answered questions regarding the recruitment process and the extent at which managing the existing consultant contracts will inhibit consultant recruitment going forward. He stated that the option to do private work may be an attractor and this is not currently an inhibitor. He noted that the spread of private capacity differs greatly across the country. The Committee noted that 29 type C contracts had been recently approved.

The ND Acute Operations clarified that the measurement of diagnostic and outpatients activity is complex and he noted that work is being undertaken with hype data to better understand the division of work in this area between the public and private space. He highlighted that outpatients is not a particularly vulnerable area to Consultant contract compliance while the biggest residual area of exposure is in diagnostics due to complications in measurement.

Action:

- Update on implementation of recommendations in July 2021.

### **8.2 Report on the implementation of audit recommendation following the audit of Secure payment services – National Payment**

*The Head of Finance and the Payment Services Ops Manager joined the meeting at 11:55.*

The CFO along with the Head of Finance and the Payment Services Ops Manager briefed the Committee on the progress being made in the implementation of recommendations from the audit of secure payment services to assess whether user access rights were appropriate. The Committee learnt that although good work has been made more work is required on system

controls and this is being co-ordinated across the relevant functions. The Head of Finance provided an overview of the status of implementation across HSE sites as follows:

- Across 3 SAP sites (Dublin, Limerick & Tullamore) ;

User Setup process is in place

Stage 1: user review is complete by Payment Services

Stage 2: systems access control review is due for completion October/November

Periodic Reporting on User access is now in place

- Across 3 Aran sites (Galway, Cork & Kilkenny)

User Setup process is in place

Stage 1: Payment Services user review will start next week (Cork & Kilkenny)

Stage 2: systems access control review is due for completion October/November (Cork & Kilkenny)

Periodic Reporting on User access is now in place

When asked about accountability and responsibility to ensure the issue is not systemic across other HSE Systems the CFO responded by clarifying that he is the main process owner for financial systems and the Head of Payment Services has responsibility specifically for Payment Services. There is a co-ordinated approach across OoCIO, NFD and HBS underway to address the short-term risk and control issues. Long term access controls will be managed by SAP CoE when IFMS is deployed across the health sector.

## **9. Risk Management**

### **9.1 Report form ND QAV and 9.2 Updated Corporate Risk Register**

*Item 9.1 and 9.1 were taken together*

The ND QAV spoke to the briefing papers circulated in advance of the meeting. He noted that the Q3 CRR review is well advanced and the draft report is expected to be brought to the EMT meeting on the 27<sup>th</sup> October. The expectation is that this version of the CRR will then be approved at the meeting of the ARC following EMT consideration of the revised CRR. He acknowledged that although

he had not yet seen the updates each risk owner was asked to consider and accept the advice of the HSE Board sub Committees.

He confirmed that the Corporate Risk Support Team [CRST] are now meeting on a monthly basis and the members are made up of each EMT's support team member, who manages their own risks. He also noted that the joint board and EMT process tender has successfully being awarded to Moody's Risk Management. Mr Moody will work with the Board and EMT on areas such as risk appetite and the overall risk process. It is envisioned that a number of workshops will take place with the EMT.

The Committee raised concerns about resourcing of the national risk function in the absence of a CRO being appointed. The ND QAV said he has had some discussions with the CCO about progressing with a number of posts in 2020. He also advised the ARC that initial discussions have taken place with the CIO in relation to the development of a risk management information system.

#### 10. A.O.B

The meeting concluded at 13:14 with a discussion among members in the absence of HSE Executives.

Signed: 

A/Chairperson

13/11/2020

Date