

Audit and Risk Committee Meeting – Information & Privacy Commission NSW (IPC)

Tuesday, 19 March 2019 – 14:00-16:30

Meeting No. 39

Minutes

The Audit and Risk Committee meeting was declared open at 14:02 by the Chairperson.

Item 1.

Attendance

Members:

Ms Lyn Baker (Chairperson) (LB)
Mr Paul Crombie (PC)
Mr Malcolm Clinch (MC)

Attendees:

Ms Elizabeth Tydd, Information Commissioner and CEO, Information & Privacy Commission (ET)
Ms Samantha Gavel, Privacy Commissioner (SG)
Ms Sonia Minutillo, Director Investigation and Reporting, Information & Privacy Commission (SM)
Mr David Marcus, Director Business Improvement, Information & Privacy Commission (DM)
Ms Sarah Wyatt, Assistant Director, Legal Counsel and Regulatory Advice, Information & Privacy Commission (SW)
Ms Libby Stratford, Department of Justice (LS)
Mr Chris Harper, Audit Office (CH)
Ms Kylie McRae, O'Connor Marsden (KM)
Mr David Steel, Manager, Systems and Corporate Services (DS) (Items 5-9)

Minutes:

Ms Lynley Mattes, Information & Privacy Commission (LM)

Apologies:

Ms Pamela Robertson-Gregg, O'Connor Marsden (PR)
Mr Robert Hayek, Audit Office (RH)
Ms Joy Milag, Department of Justice (JM)

Item 2.

A. Declarations

No changes.

B. Disclosures

General disclosure confirmed by Committee.

Item 3.

A. Minutes of Previous Meeting

Pamela Robertson-Gregg & Robert Hayek noted as apologies.

Draft minutes of 20 November 2018 to include Sarah Wyatt as an attendee. Once this change is made, the minutes were accepted as true and correct.

Action Item 1: SW to be added to the list of attendees for the Minutes of Meeting from 20 November 2019 and then to be published on the IPC website

B. Rolling Action Report

The Committee noted the Rolling Action Report and all completed matters and noted the approach to recording of closed matters – ie after two meetings the closed items should be deleted.

Item 4.

A. Update from the Chairperson

The Chair welcomed members and raised the banking Royal Commission and its relevance for regulators (ie. could agencies such as the IPC be criticised for lack of regulatory action).

In response, attendees noted importance of a questioning culture and acknowledged the IPC Regulatory Framework and priorities together with the work of the Compliance Committee.

ET advised that the IPC is currently rolling out the audit program to agencies and in regard to a current audit had found a rapid decline over 6 months in the agency performance compared to 2017/18 (from the agency Dashboard). This reinforced the importance of having objective benchmarks and, as a regulator, testing the veracity of data through methods such as file samples. Members were encouraged to visit the Agency Dashboard on the IPC's website at <https://www.ipc.nsw.gov.au/information-access/agency-gipa-dashboard>.

Attendees raised the importance of the Regulatory Framework and having a risk based, proportionate response to agency conduct, which would support regulatory action.

In regard to organisational regulatory culture, the Committee noted the importance of this being understood at all levels of an organisation, and were advised this was addressed in the training strategy under development.

B. Update from the Chief Executive Officer/Information Commissioner

ET and attendees spoke to the attached paper, noting:

- the significance of the impact of the recent amendments to the GIPA Act and the current restructure occurring as a result
- the importance of anticipating and addressing impacts on staff morale
- that new case management processes were developed with strong staff input and delivering excellent results

- the benefits of the new processes applying across privacy as well as information access
- Treasury has been approached to assist with funding ongoing costs (via a PTA) for any redundancies that might occur, and the importance of demonstrating the positive impact for the community (in terms of timeliness) and other efficiencies

C. Update from the Privacy Commissioner

The Privacy Commissioner spoke of two recent matters:

- Pilot of a camera system to detect illegal mobile phone use
- A recent privacy complaint

It was also noted that privacy complaints and reviews are on trend to exceed 2017/18 levels.

Privacy Awareness Week will be held in May 2019. An international speaker has been organised to give the keynote. A panel of interesting speakers is currently being created. A morning tea with live streaming of the event will be held for staff. A citizen event is also planned during the week.

Item 5. Agency Planning and Reporting

(David Steel joined the meeting)

A. Finance Report & Monthly Dashboards

DM spoke to the report attached. Case work productivity and timeliness was discussed in the context of the legislative amendments in Nov. 2018 as was the likely resulting increase in the IPC's EoFY deficit, notwithstanding some reduced expenses. The IPC would continue to review expenses and monitor its cash position. Attendees noted the improved payment management performance and advised proposed changes to payroll arrangements had been deferred pending consultations within the Justice cluster.

In regard to the Dashboard, attendees noted the timeliness/aging data for NCAT numbers was not a measure of IPC performance, and that a current review of open files was being undertaken. The large number of projects planned was also discussed, and that it would assist to know the relative risk of projects.

LB requested that the Register for projects contain a classification column to identify risk implication.

Attendees noted the implementation of WHS action plan and the good results of the WHS agency self assessment.

Action Item 2: IPC to update the Dashboard with a classification column for projects.

B. Quarterly Updates to the Attorney General and Minister for DFSI

Attendees noted upcoming guidance to local councils, the advice to the Attorney and Department in regard to financial trends and that quarterly meetings with the Attorney and Secretary occur.

The role of the CEO/Information Commissioner as Open Data Advocate was discussed and it was noted that much of this work is integrated with other work of the IPC and Information Commissioner.

Item 6. Risk Management

A. Risk Register

SM spoke to the attached paper.

Three particular risks that have had a variation:

- S4 – our ability to delivery under the service standards
- O10 – ineffective staff performance monitoring and review
- O90 – capabilities and resources not adequate to meet business requirements

Attendees noted that budget or finance was not explicitly covered in the risk register but was addressed in O8

B. IPC WHS Risk Register

DM spoke to the attached paper and noted that further controls had been put in place to support WHS, that the results of an agency self-assessment was positive and that the IPC was continuing to base its policies on those of the Department where appropriate, but was considering IPC specific policies in some areas. Despite the risks posed by the restructure this has been run with as much support and consultation as possible, with input from the Department. A 'pulse' survey was currently occurring to help improve engagement and identify any new issues.

C. IPC HSC Minutes of Meeting

Attached for the benefit of the committee.

It was noted the minutes had no dates, and attendees were advised this was because they were still in draft.

Item 7. Internal Audit

A. Internal Audit Scopes

Attendees noted there are no outstanding audit recommendations from the previous audits.

The terms of reference of the two proposed internal audits were circulated out of session and amended. The Financial Systems and Fraud Control audit now has an additional risk in relation to staff training, and the WHS audit has an additional risk regarding governance and PCBUs.

The ToRs were accepted, noting that in some cases the risks needed to be expressed in the negative.

Audits will be completed during April/May and reported to the June meeting.

Action Item 3: Audit risks for the two proposed audits to be reviewed to ensure they are expressed in the negative to inform risk mitigation strategies.

Item 8. External Audit

A. Early Close Timetable

Attendees noted the papers.

B. IPC Annual Engagement Plan

The Plan was noted and discussion was had around the Committee's availability to attend the Out of Cycle Meeting of 16 April 2019.

Action Item 4: LM to try to arrange with all Members on 16 April 2019

Discussion was had around inter & intra payments, noting that IPC was well placed and that the Department had carried out considerable work on intercompany payments. There were no significant one off accounting issues & transactions identified.

Item 9. ARC Self-Assessment

To be distributed to members and collated for the June meeting.

Regarding orientation & recommendations for new members, a baseline pack has been created and members should provide any additional suggestions for inclusion to the IPC.

June will be the Chair's last meeting and a process commenced for appointment of a new member. Members will be advised when this process is completed.

Action Item 5: SM to distribute self-assessment survey within the next week to members and collated for the June meeting

Item 10. Review of ARC Charter Annual Calendar

The Committee was advised that the IPC is subject of a matter referred from the Anti-Discrimination Board to the NSW Civil and Administrative Tribunal. It concerns a complaint from a member of the public about the IPC. The IPC has lodged a claim under the TMF Statement of Cover and the insurer has accepted coverage and engaged external lawyers to act on the IPC's behalf.

Attendees noted that even if the case was to be dismissed, there was reputational risk to the IPC.

Privacy breaches also discussed. Additional procedures, such as double checking email addresses, have been implemented. The IPC is also investigating auto emailing out of the management database which will minimise the use of manual entry of an individual's email address on each occasion. Attendees discussed the challenge of high volume applicants and the importance of managing staff safety while protecting applicant rights. The importance of good training for staff was noted as was the availability of training by the DPP on fixated individuals.

OTHER BUSINESS

The Committee confirmed the next meeting date of Tuesday, 25 June 2019 – Quarter 4 (14:00).

New appointment will be advised out of session.

The meeting was declared closed at 15:30.