

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

Friday, 28 June 2019 – 14:00-16:30

Meeting No. 40

Minutes

The Audit and Risk Committee meeting was declared open at 14:25 by the New Chairperson (Paul Crombie).

Item 1.

Attendance

Members:

Mr Paul Crombie (Chairperson) (PC)
Mr Malcolm Clinch (MC)
Ms Marcia Doheny (MD)

Attendees:

Ms Samantha Gavel Privacy Commissioner, Information & Privacy Commission (SG)
Ms Kylie McRae, O'Connor Marsden (KM)
Ms Joy Milag, Department of Justice (JM)
Ms Sonia Minutillo, Information & Privacy Commission (SM)
Ms Elizabeth Tydd, CEO & Information Commissioner Information & Privacy Commission (ET)
Ms Sarah Wyatt, Information & Privacy Commission (SW)

Minutes:

Ms Lynley Mattes, Information & Privacy Commission (LM)

Apologies:

Mr Robert Hayek, Audit Office (RH)
Mr Chris Harper, Audit Office (CH)
Ms Pamela Robertson-Gregg, O'Connor Marsden (PR)

Item 2.

A. Declarations

No changes from PC and MC. MD advised that she will need to update hers due to part-time General Counsel position with Inner West Council.

B. Disclosures

General disclosure confirmed by Committee.

Item 3.

A. Minutes of Previous Meeting

Minutes of Meeting from 19 March 2019 and Out of Session Meeting of 16 April 2019 were confirmed by MC and endorsed by the Committee.. It was noted that PC was an apology for the 16 April Meeting.

B. Rolling Action Report

The Committee noted the Rolling Action Report and all completed matters.

Item 4.

A. Update from the Chairperson

The meeting was opened at 14:25. The Chair welcomed Marcia Doheny, newly appointed Independent Member. MD provided the Committee with details of her experience and qualifications. Apologies were received from Pamela Robertson-Gregg, Robert Hayek & Chris Harper.

The Committee welcomed Joy Milag who introduced herself and background.

Paul Crombie iterated that he was honoured to be appointed Chair and had 'big shoes' to fill.

B. Update from the Chief Executive Officer/Information Commissioner

ET thanked the chair for taking up the appointment. The IPC relies on the precise and focused advice of their ARC

ET then spoke to the attached paper, noting:

Change of cluster is being managed well and IPC's needs are being met. SW largely responsible for that role. ET will advise on governance under two responsible Ministers the AG & Minister for Customer Service.

GIPA Act amendments – still working extremely well with dashboard 'flashing green' and ongoing recruitment. IPC managed to ascertain that the PTA to Treasury was not supported. SW & ET to meet with Treasury quarterly to continue the relationship (new imperatives). Secretary meetings have been very positive in that regard. Completed the audit of NSWPF. An onsite audit of Treasury under preparation. A number of recommendations have been received and implemented. The NSWPF will now undertake quarterly reporting. The IPC will also conduct a follow-up review.

The Chair congratulated the IPC on their online assessment tools and noted it is a great assistance to agencies.

MD queried the amended 40-day requirement and queried whether there is a transitional phase. The IPC advised that the amendment only affected those cases after 28 November 2018. The IPC has made changes to the reporting requirements in line with the legislative amendments and applied these to both GIPA and Privacy review matters. The 40-day KPI is the same across both streams.

The Chair queried changes to cluster arrangements. Pre-payment in advance for a service throughout the year is normal practice.

MD queried how the IPC makes a decision which agency to audit. SM explained that the IPC adopts proportionate proactive approach informed by intelligence and guided by the Compliance Committee. The approach is very much risk driven. The audit aims for measurable outcomes that go to what systems are in place to support legislative outcomes.

ET advised the Committee that indicative funding for the IPC for 2019/20 is \$5.8M (2017/18 funding is \$5.6M). It was also noted that the Sector will be required to meet additional budget savings of \$2.5M over the next four years. ET also noted that the IPC wherever feasible will access resources from the Digital Restart Fund to implement ICT based structural reforms aimed at reducing employee related costs.

C. Update from the Privacy Commissioner

The Privacy Commissioner spoke of two recent matters:

Very busy time in Privacy with Privacy Awareness Week (PAW) held in mid-May 2019. Two events were hosted, a citizen event at Wynyard Station engaging with the public and a Stakeholder event for across government which was opened by Minister Dominello. The keynote address was provided by an international speaker and expert panel. Both events were very successful with about 100 people attending the Stakeholder event.

The Privacy Commissioner was also a guest speaker at the DFSI (now Customer Service) event with the Secretary, Glenn King. Guidance and tools and a privacy statement of jurisdiction were released as part of Privacy Awareness Week. Self-assessment tools and a fact sheet on consent for agencies were also released.

Recent engagement with the Department of Communities and Justice about the development of a mandatory data breach scheme discussion paper and whether a mandatory scheme should be introduced in NSW. Discussion paper should be circulated in the next few months.

Regulatory issues were discussed. General discussion by the ARC on the initiatives and resources to engage with citizens about their privacy rights. Something we would like to do more of if we can. The Privacy Commissioner has a wide remit under the legislation in relation to education.

MD had a question regarding privacy and cyber security and how the IPC responds to that meaningfully. The Privacy Commissioner noted that the IPC publishes resources and assistance for agencies to manage and respond to data breaches. The IPC regularly engages with the NSW Cyber Security Office who have lead responsibility for whole of government on cyber security matters. The issue is very much on people's radar but very much a work in progress.

Item 5. Agency Planning and Reporting

A. IPC Dashboard

SW spoke to her paper Item 5.

SM advised that the investment we have put in to redesigning our processes and capabilities in roles will be critical and the IPC is confident that the re-design and role changes have been set up to do that.

SM advised that a great deal has been invested into skills, on-boarding and training.

Item 6 – Proposed update to the dashboard were discussed.

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

Papers attached.

C. Expenditure Budget Paper & Customer Service Cluster Budget Paper

Service Partnership Agreement – prepaid for the next year. Increase by about 7k. Whilst we transition, a lot of our ongoing services and systems will continue to be provided by DoJ for up to 12 months. Strategic HR moved to Department of Customer Service (DCS) from 1 July 2019.

Office relocation – the IPC is working with Property NSW on the relocation. Now options: Southern Sydney Hub and 1 Oxford Street. SW advised that Property NSW is managing the lease extension to the IPC's current lease at 201 Elizabeth St. MC asked if the IPC has a provision to make good in the accounts? DoJ have previously advised the auditors that a 'make good' provision is not required. PNSW have also advised the IPC that a 'make good' requirement may arise in certain circumstances - if Property is removed and damage caused a make good requirement arises.

Performance development planning (PDP) process is underway. A WHS component has been built into the PDPs.

The Committee noted the Finance Report for the period ending 31 May 2019. It was noted that the Net Cost of Service at end May was some \$49,000 below budget with the net result at that date being a deficit of \$27,000 compared to the budget of \$72,000 deficit.

It was also noted that the financial year end projection at end May is forecast to be a deficit of \$312,000 compared to budget of \$47,000 deficit. The variation is largely due to the costs of implementing the 40 day legislative requirement. The increased deficit will be funded by the Cluster.

The Chair requested the Committee be kept informed of any budgetary matters.

Item 6. Risk Management

A. Risk Register

SM spoke to the attached paper.

Key notes:

Strategic Risk 7 – sitting low and we have been managing without any impact and no issues have arisen. Proposed that this is deleted from the register.

Two additional new risks to be considered by the committee: 1. Potential around MOG changes and 2. Inclusion of a specific risk around our relocation of premises Added into the risk register.

The ARC endorsed the proposed action to delete S7 and add two new items to the register.

WHS risk also attached in response to managing our commitments.

B. IPC WHS Risk Register

The Chair spoke to residual risk and revised risk. OCM advised that these were first assessed with controls. IPC's tolerance document says at what level additional treatments kick in. The additional measures are in place after having been revised. Risk S4 was explained as an example.

Action Item: LM to carry headings through each page on the Risk Register.

Action Item: SM to revisit the Risk Register (in conjunction with OCM) following the development of the next business plan with consideration to be given to an extra column summarising the original risk and controls which have been put in place.

It was suggested that Executive level discussions are had with staff to build a culture of understanding on these issues. ET confirmed that it is on every Staff Agenda.

MD requested that a presentation be given to the Committee to address these risks (other ideas as to respond to the risks), just the fundamental risks.

Action Item: Presentation to Committee to be considered.

Discussion was had around CHS6 and whether WHS register risks were developed internally as a collective. SM advised that this reflects some of the risks staff had identified. At the time the change in legislative environment was not at the forefront.

Action Item: A review of CHS6 is to be undertaken as to whether this needs to be expanded.

Discussion was held around recommendations in the context of the IPC being a smaller entity. SM advised that a range of processes have been implemented to encourage staff to speak up about issues (ie. JustTalk, training, WHS, included as part of their PDP, management team agenda, executive agenda and staff agenda). Culturally the IPC has tried to embed this at every opportunity and encourage people to raise issues and concerns. Business areas have allocated a WHS representative. Steps have been taken to create a positive message around WHS. IPC has supported staff in dealing with difficult clients and has implemented procedures to manage those individuals. Discussed the composition of people of the HSC and that the chair is a representative of the staff.

C. IPC HSC Minutes of Meeting

Minutes of the WHS Committee attached. WHS is being actively managed and is discussed later under the internal audit reports. Forthcoming WHS training to be delivered by an external service provider. There is an all staff training session and another targeted at management. Next HSC Meeting to be held in August. The Chair advised that the ARC does not have a remit to approve but can endorse.

Item 7. Internal Audit

Two internal audits were endorsed last year. Financial Systems & Fraud and IPC WHS. These were completed over April and May 2019 and the reports were attached with the papers.

A number of recommendations were made and some steps have been taken to implement these to date. The IPC is committed to the implementation of recommendations. Business Improvement (BI) team will lead the work. This will be impacted by the MOG as there are a number of recommendations around policies. IPC has previously adopted or modified Justice policies, but will now need to apply Customer Service policies.

The Chair queried whether it was worthwhile revising some of the dates which SM replied that she thought that she was generous and discussed with SW, comfortable with the timeframes.

The audit plan identifies the proposed next audits. SM advised that the internal audit plan may benefit from some revision. OCM noted that these were set three years ago and need to be aligned.

The IPC Business Plan is to be completed around November 2019. It is proposed that the risk register be reviewed against the next business plan and brought to the subsequent ARC meeting. The internal audits likely to then be timetabled for April/May 2020. This approach was supported by the ARC.

The Chair cross referenced back into the risk register and the Action items. MC requested that another box with commenced be added to the register.

Action item – SM to add a “Commenced” field be added to the register.

Item 8. External Audit

A. 2018/19 Financial Statements Timetable

SW spoke to the attached paper and proposed that the Committee endorse the timetable. The ARC endorsed the proposed timetable.

Regarding the 19 July 2019 meeting, unfortunately ET and MD will be unavailable. A teleconference is to be held at 09:00 with MD to provide her advice in advance and ET via dial in.

Action Item: LM to send calendar invite with teleconference details.

B. Audit Office Observations on IPC Early Close Procedures

Page 5 identifies a net reconciling difference. Briefing attached to the CEO. PC had a teleconference this morning and his advice is that he is happy with the reconciling difference proposal.

The Chair asked that the Committee’s appreciation be recorded for all of the work the IPC have done on early close procedure.

MC spoke of new and updated accounting standards – assumes there wouldn’t be too many issue. JM advised that DOJ is working with IPC to develop accounting position papers. There are decisions to be made to AASB16 and what impact it has.

C. AO/IPC Annual Engagement Plan

Item 9. ARC Self-Assessment

SM spoke to the Self-Assessment results (which predate MD), handed out a copy and summarised the results recorded in paper 9.

Discussion was had around the ARC devoting more time to emerging issues and being involved in assessment of the performance, perhaps participating in the business and strategic planning in the second half of the year.

Action Item: Dates to be provided for November to all three ARC members (and an all staff meeting) with a facilitator.

Action Item: Lynley to email members with any training invitations (ie. GIPA on Wednesday).

Item 10. Review of ARC Charter Annual Calendar

A. Annual Calendar

An IPC client was dissatisfied with an outcome which led to her making a complaint to the Anti-discrimination Board (ADB) - the matter was dismissed.

No questions from the committee (Chair).

On track with the calendar.

B. Legislative Compliance Register

The IPC will be undertaking a thorough review of the Legislative Compliance Register in light of GSF Act amendments. The Act amendments have commenced on different dates and are being led by Treasury.

C. Attestation

The annual attestation was noted by the Committee.

OTHER BUSINESS

The Committee confirmed the next meeting date of Tuesday, 24 September 2019 (14:00).

The meeting concluded at 16:27

Paul Crombie
Chair