



## AUDIT AND RISK COMMITTEE MINUTES

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<b>Date:</b>	Thursday, 23 March 2023	<b>Meeting Number:</b> 60
<b>Location:</b>	Information & Privacy Commission NSW McKell L15-IPC-M04-14 (IPC Meeting Room) Level 15, McKell Building 2-24 Rawson Place Haymarket NSW 2000 ( <i>Microsoft Teams</i> )	
<b>Time:</b>	14:30-16:30	
<b>Members:</b>	Ms Marcia Doheny (Chairperson) (MD) Mr Malcolm Clinch (MC) Mr Peter Scarlett (PS)	
<b>In attendance:</b>	<i>Ms Olive Ferino, Audit Office (OF)</i> <i>Ms Weini Liao, Audit Office (WL)</i> Ms Elizabeth Tydd, Information & Privacy Commission (ET) Ms Samantha Gavel, Privacy Commissioner, Information & Privacy Commission (SG) Ms Judy Malpas, O'Connor Marsden (JM) Ms Sonia Minutillo, Information & Privacy Commission (SM) Mr Ian Naylor, Information & Privacy Commission (IN) Ms Jessica Kavanagh, Information & Privacy Commission (JK) <i>Ms Yasmine Salameh, Information &amp; Privacy Commission (YS)</i> Ms Neharika Gossain (A/Director), Department of Customer Service (NG) (for finance discussion)	
<b>Minutes:</b>	Lynley Mattes, Information & Privacy Commission (LM)	
<b>Apologies:</b>	Mr Michael Tzimoulas, Department of Customer Service (MT) (for finance discussion) Ms Yas Wickramasekera, O'Connor Marsden (YW)	

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### ITEM

**1. Chair Welcome**

The Chair welcomed the attendees and provided a Welcome to Country.

**2. Attendance**

Apologies received from Michael Tzimoulas and Yas Wickramasekera (who has replaced Pamela Robertson-Gregg as the O'Connor Marsden representative).

**3. A. Declarations of Interest**

PS noted that he had recently been appointed to the Rural Fire Service's Audit & Risk Committee and this is recorded via these Minutes.

**B. Disclosures**

Nil.

**4. A. Minutes of previous meeting of 25 November 2022**

Endorsed by the Committee and confirmed for publishing.

**B. Rolling Action Report**

Accepted as read.

**5. A. Update from the Chair**

The Chair attended a meeting by NSW Treasury for Members and Chairs of Audit and Risk Committees in February 2023 where the Deputy Secretary from Treasury spoke to sector challenges. Key highlights from her address included the State budget situation, impact of potential Machinery of Government (MoG) changes on the sector, and consideration of the impact of climate change on their operations and risks. Audit Office spoke to the work of the AO and public administration. Cyber NSW spoke to the impact of cyber security and risks to government. The Cyber Security Policy has been updated and there are unique risks to every agency and agencies need to focus on mitigation. Discussion was had around risks of cyber security, testing, phishing etc. and Cyber NSW Chief's advice that the requirement for a whole of government approach to addressing these risks.

**B. Update from the CEO/Information Commissioner**

ET advised that the IPC frequently meets with Cyber NSW and spoke to Local Government responsibilities.

**Action Item: ET will speak with Tony Chapman and tie in Local Government with cyber security**

The People Matter Employee Survey (PMES) Action Plan remains a major priority for the IPC and we are approximately 70% through our commitments. Collaboration within the IPC is being promoted. Inspirational speakers are being investigated. IPC has an active Social Committee and HSC Committee. The IPC are looking at a program with the Independent Review Office (IRO) around reciprocal arrangements with the IPC as one avenue for exposure to different agencies and roles as a response to development.

Three additional issues relating to Corporate Services are support for IPC's PTA to Treasury in addition to the Mandatory Notification of Data Breach Scheme (MNDB), subject to an assessment based on data from the IPC. The scheme does not begin until the end of the year which means we may only have 3-months' worth of data. DCS are happy to base the proposal on MNDB and increase in Corporate Services Changes for May 2023. There is still not full transparency around the MOU, there are labour charges & corporate services charges (Infosys etc). The MOU expired in June 2022 and DCS would like to align all the independent agencies MOUs for consistency.

ET spoke to Capital Projects and a consultancy agreement with Doll Martin for a feasibility work on using technology to support IA regulatory functions.

ET will be attending the International Conference of Information Commissioners (ICIC) in Manila with all other Australian jurisdictions.

### **C. Update from the Privacy Commissioner**

SG advised that assent to the Privacy and Personal Information Protection Amendment Bill 2022 was received on the 28 November 2022 which means the scheme will commence on 28 November 2023. A contractor is working with IPC for development of guidelines. Guidelines are to be presented in advance (June 2023). The IPC has created a new webpage with advice for agencies about the scheme. A newsletter will be created and distributed monthly. Recruitment will need to take place ahead of the scheme and that is being actioned by SM.

#### **Action Item: LM to forward a link to the MNDB webpage**

SG spoke to notifications received in relation to data breaches in addition to a brief update on ongoing steps being taken.

The Chair queried the statutory obligations of the MNDB for the IPC. SG advised that the IPC has enforcement powers of audit and requirements around the IPC reporting. Chair/PS asked what is the role and obligation of the IPC? SG spoke to what the IPC is currently doing. PS queried process improvements to assist the sector or is it a mere reporting procedure? SG spoke to other departments reporting process which also includes information to assist with education and process to prevent breaches in future. Last year's Privacy Awareness Event focussed on data breaches and what the sector can do to improve. The Chair expressed that it was unclear as to the obligations of the IPC (in relation to reporting and next steps) which is a risk to the IPC. The Chair suggested that the IPC has time to investigate this matter before the implementation of the scheme (resources, expertise and information).

SM supplemented that the IPC role is around assurance, there is no unpacking as to whether a notified breach met the threshold under the scheme. This was for the agency. The IPC can review response against legislative requirements, the action taken in response and sufficiency from an assurance perspective and working with agencies. Some work had been undertaken in 2022 to defining our regulatory approach. The IPC has functions to undertake audits which is a regulatory response which may be informed by a number of factors. The endeavour would be to work with agencies and build capacity that might supplement Cyber Security NSW in their work.

Where does Cyber Security NSW responsibilities start & end compared to the IPC?

ET spoke to the Regulatory Framework around IA and Privacy and this is a transparent statement of our IPC regulatory approach i.e. when will we use various regulatory powers but it was developed prior to the MNDB.

### **DCS Finance joined meeting @ 15:26**

#### **6. A. Financial Dashboard (February 2023)**

Paper taken as read. IN spoke to the figures on the dashboard. An investigation is being undertaken as to a possible duplication of charges regarding Infosys. \$1.25m to incorporate \$900k for MNDB scheme for 10 years to provide certainty going forward. MC queried the ERE figures and lack of roles. IN advised that the majority of these expenses are MNDB roles. ET spoke of the IPC and the challenges with attracting staff and retention/turnover.

PS noted the Treasury circular attached and queried the effect to the IPC. IN replied that it is not our role to evaluate the Digital Restart Fund (DRF) scheme but this may have flow on effects.

NG advised that when the PTA bid is being made to Treasury, IN will be asked to attend. NG queried whether the IPC may be exempt from the ED. ET confirmed that the IPC is an integrity agency although we have not been grouped into this definition following the Parliamentary Inquiry. Integrity Agencies are exempt from ED. ET advised that under the Public Interest Disclosures Act (PID Act), the IPC is listed as an Integrity Agency and we should pursue this definition in relation to the ED.

The Chair queried the inadequacy of the Corporate Services Charges and NG spoke to the audit DCS undertook looking at the GovConnect (GC) charges particularly. ET mentioned that the other independent agencies funding of corporate services comes from the insurance scheme (approved by SIRA). NG suggested looking at efficiency options for the IPC (in-house services). Chair suggested comparison/engagement with LECC.

**Action Item: NG and IN to provide an analysis of costs to bring some/all services in-house to the IPC and options to improve the outcome for the IPC in addition to comparative costs of other independent agencies**

**B. GovConnect Update (payroll controls)**

IN advised that DCS are working through Deloitte reports and work is ongoing.

**DCS Finance left meeting @ 15:45**

**7. External Audit**

**A. IPC Annual Engagement Plan (AO)**

WL introduced herself and tabled the IPC Annual Engagement Plan. WL spoke to the cyber security risks and the AO's role in this process. AO is talking to GC to understand the scope of their work in relation to cyber security risks. Any outcome will be shared with the IPC.

WL noted how agencies assess the climate risks on the finances and a report was published last year.

**B. Appropriation Update**

In November 2022 there were further changes to the Act and the way cross cluster payments are treated relating to deemed appropriations (changes identified on page 108). Treasury currently is consulting with DCS in relation to legislative changes and the impact to the department (rather than the cluster agencies). Hopefully by early close there will be more clarity on potential impact. Discussion was had around the increase in labour charges to 7%.

**The Audit Office left the meeting at 15:55.**

IN advised that all was on track for early close. Chair noted NG has been very proactive in addressing any issues affecting the IPC and Committee agreed.

**Action Item: The Chair will provide an introduction with LECC for financial discussions (re in-house)**

**8. Agency Planning and Reporting**

**A. Monthly IPC Case File Dashboard (February 2023)**

IN's paper was taken as read.

**B. Quarterly Report to the Attorney General & Minister Dominello – Quarter 2 October 2022 to December 2022**

This report was taken as read. PS spoke to the PMES results (page 133). ET spoke to the implementation of the PMES Action Plan and what the IPC is doing to address issues. The Chair noted page 132 and the scan of the Artificial Intelligence Regulatory Landscape. Discussion was had around ChatGPT.

**C. Cyber Security**

DCS have been running phishing exercises and assisting the IPC with cyber security. IN spoke to the Resolve Penetration Testing which was performed by an independent company, as well as other work with the vendor to improve our maturity on the Essential 8 criteria. A number of improvements were recommended from the testing. The Chair queried the difficulty of implementing these requirement and further discussion was had.

Cyber Security NSW Policy has changed and they recommend cyber security testing exercises (BCP) annually.

PS spoke to the length of the Cyber Security Framework. IN explained that the attachments to the policies are accessible to staff on the intranet. PS asked if staff are to navigate and understand the attachments? IN replied that staff should understand the relationship with DCS and their functions to the IPC. ET reiterated that the IPC's responsibilities are 6 pages long and the attachments relate to DCS's attachments and responsibilities.

**D. Auditor-General Report on the Internal Controls & Governance – IPC Progress Report**

The paper and the recommendations to be implemented by the IPC were noted.

**E. Update of WHS actions arising**

IPC Work Health & Safety Plan 2021 to 2023 was noted.

**9. Internal Audit**

**A. IPC Records Management – Status Register**

SM spoke to the status of the Records Management Audit recommendations.

**Action Items: An explanation to be added to the dates as to why noncompliance and the new date (SM)**

**B. Draft Strategic Internal Audit Plan**

SM noted the Two-Year Strategic Audit Plan: 2022– 2023 which will be scoped and provided to the ARC out of session, so the IPC is in a position to commence without delay.

**Action Item: OCM scoping document to be provided by SM out of session**

**10. Risk Management 2022-2023**

**A. IPC Risk Register (includes WHS) Q3 2022-2023**

SM took the paper as read

Little movement to the residential risk rating as the strategies are still in progress which does not have immediate impact or because the totality of strategies were not completed. Although incremental progress on strategies is occurring. PS asked when an overall review is undertaken. SM advised that this is undertaken when the Strategic Plan is reviewed (2024).

SM drew the attention of the ARC to key risks as 1 - Workforce resourcing issues which could have an impact on our ability to deliver. 2 - Cyber Security. 3 - IPC Finances continues to remain a concern as per earlier discussion in the ARC. 4 - Potential effect of any MOG changes.

ET spoke to an unacceptable risk of IA and Privacy and the positioning of DCS as a centralised agency of services with NSW and the independence of the IPC and the role of the IPC as an independent advisor.

SM also spoke to in addition to the Workforce resourcing risk with the terms of the Commissioners ending at the end of year (PC in September and IC/CEO in December) for staff around stability and knowledge retention.

SM noted the Draft Risk Appetite Statement included in the papers as item 10B. The statement endeavours to provide a risk appetite, description and rationale. The Chair questioned how this document is to be used? SM spoke to cyber security as an example and how this document will assist informing our approach and delivery both in individual teams but at an organisational level. This now needs to be embedded into our Enterprise Risk Management Framework and then discussions with staff as to how we implement this. The appetite statement gives the idea as to “why” and the Chair noted it relates to IPC’s values. JM told the ARC that the statement provides clarity and drives consistency in the internal audit function. The Committee endorsed this paper.

## **11. Review of ARC Charter Annual Calendar**

### **A. Annual Calendar**

Accepted as read.

### **B. Review of business continuity and disaster recovery arrangements – Update**

Accepted as read. PS highlighted that this document appeared very long. IN advised that the BCP was written to try to cover many instances that could occur.

### **C. Review performance management framework (dashboard)**

Accepted as read.

### **D. Review Code of Conduct and processes to ensure compliance**

Accepted as read.

### **E. Trends on Gifts & Benefits**

Accepted as read.

### **F. Review of IPC Cyber Security Maturity**

Accepted as read.

## Other Business

Discussion was had around best format for the inclusion of Attachments so that central ARC papers are easily identified.

**Action Item: IPC Executives to identify the discretionary reading going forward for LM to add as a separate attachment**

The meeting closed at 16:45.

### Schedule for 2023

- Thursday, 22 June 2023 (10:00-12:00)
- Friday, 22 September 2022 (10:00-12:00)
- Thursday, 16 November 2023 (10:00-12:00)

### Tenure Dates

Member	Appointment	Commencement Date	End Date	Extension End Date 1	Extension End Date 2
Malcolm Clinch	Member	5 July 2015	5 July 2018	5 July 2021	5 July 2023
Marcia Doheny	Member	28 June 2019	28 June 2022		
Marcia Doheny	Chair	17 June 2022	17 June 2025		
Peter Scarlett	Member	17 June 2022	17 June 2025		