

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

Tuesday, 20 November 2018 – 14:30-17:00

Meeting No. 38

Minutes

The Audit and Risk Committee meeting was declared open at 14:30 by the Chairperson.

Item 1.

Attendance

Members:

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

Attendees:

Ms Elizabeth Tydd, CEO, Information & Privacy Commission (ET)
Ms Samantha Gavel Privacy Commissioner, (SG)
Ms Sonia Minutillo, Information & Privacy Commission (SM)
Mr David Marcus, Information & Privacy Commission (DM)
Ms Lynley Mattes, Information & Privacy Commission (Minutes) (LM)
Ms Sarah Wyatt, Information & Privacy Commission (SW)

Apologies:

Mr Robert Hayek, Audit Office (RH)
Mr Chris Harper, Audit Office (CH)
Ms Kylie McRae, O'Connor Marsden (KM)
Mr Ashley Hawkins, Department of Justice (AH)
Ms Libby Stratford, Department of Justice (LS)
Ms Pamela Robertson-Gregg, O'Connor Marsden (PR)

Item 2.

A. Declarations

No changes.

B. Disclosures

General disclosure confirmed by Committee.

Item 3.

A. Minutes of Previous Meeting

Draft minutes of 18 September 2018 were accepted as true and correct.

Action Item 1: Minutes to be published on the website.

B. Rolling Action Report

The Committee noted the Rolling Action Report and all completed matters and raised the recording of closed matters.

Action Item 2: IPC to action process for Rolling Action Report of removing after two meetings. Lynley to action.

Item 4.

A. Update from the Chairperson

Lyn Baker excused herself from the meeting at this point due to illness. Paul Crombie was asked to act as Chair.

B. Update from the Chief Executive Officer/Information Commissioner

CEO spoke to the paper:

IPC Annual Report:

IPC's applications in terms of case management have seen a decline (-100). There is a requirement to focus on timeliness. A new Manager has commenced in the role and is working with team.

IPC Functional Structure

New IPC functional structure provided. It was suggested that it would be helpful for the new Assistant Director – Legal and Regulatory Counsel (SW) to attend regular meetings. Agreed by A/Chair.

Discussion regarding a privacy breach. IPC looking to mitigate, considering Resolve enhancements as well as training, reminders etc.

WHS Issues

Policies need to be made clearer and training programmed to raise awareness of operation of policies. ARC queried productivity factor – general discussion. No action required post investigation. However IPC is meeting with DoJ regarding any recommendations.

GIPA Bill

IPC advised today that the department has interpreted the commencement provision for the Bill as commencing on assent. Recognition that the GIPA Bill, requires IPC to finalise external reviews within 40 working days from receipt of info. IPC determined process enhancements will apply to both information access and privacy to ensure timeliness and resource application to both (productivity). Sound support systems required.

IPC propose to address these issues by a transitional plan that brings in some temporary resources. With SW's support and SM's input propose to have new process in place. Focus for existing staff resources on finalisation of existing cases on hand over the coming month. New cases under the legislative amendments could be received in as soon as 3 days' time. All internal/external collateral to be updated reflective of the legislative amendments.

Revised Delegations

Revised delegations have just been distributed throughout the IPC. Privacy Commissioner advised delegations should be ready throughout the next few days.

Values Training

The Commissioners provided a copy of the presentation being given to all IPC staff in ARC papers. Lots more training is being rolled out.

C. Update from the Privacy Commissioner

The Privacy Commissioner thanked SM for providing the update at the last meeting.

Data breach resources (for agencies) and fact sheets for consumers and healthcare providers about access to health records are now available on the IPC website, which is very pleasing.

It has been a very busy parliamentary period with a number of legislative matters coming before the Parliament for consideration.

IPC attended the Legislative Council Inquiry into the Road Transport Amendment (National Facial Biometric Matching Capability) Bill 2018. This legislation enables RMS to provide drivers' licence information, including photographs and personal information, to a database which will be managed by the Commonwealth to assist with verifying identity for law enforcement and other related purposes. The IPC has been involved in the consultations between the Commonwealth and jurisdictions regarding the privacy aspects of the scheme over a number of years. The Commonwealth Government's overarching legislation for the scheme has not yet been passed by the Parliament. The Department of Home Affairs has advised that it is likely to be debated soon. ARC queried what the IPC can actually do in terms of raising privacy concerns and implementing appropriate risk mitigation for the scheme. The PC advised that the scheme had already been approved by Commonwealth and State and Territory first Ministers. The IPC's role is to consider the risks and make sure that they are appropriately mitigated.

There will be ongoing consultation with the Commonwealth about the scheme, even after the legislation is passed. Privacy requirements, use and levels of access were discussed (different access depending on needs), as well as the need for further work and on-going review of the scheme once it is implemented

The Commonwealth Government's e-health record, My Health Record, was discussed. IPC was consulted and made a submission to the Commonwealth Parliamentary inquiry which made a series of recommendations. The Commonwealth Health Minister recently announced, in response to the inquiry report, that the opt-out period for My Health record would be extended, but other inquiry recommendations were not adopted.

Item 5. Agency Planning and Reporting

Finance Report & Monthly Dashboards

DM spoke to the report attached. Case work productivity and timeliness was discussed.

Financial Processes & Payments

The IPC is improving this process. Lifted up to 70% for the last quarter and last month was 90% with October 97% (excluding DoJ lifts to 100%). Push to accelerated payment terms in December.

The calculation of long service leave and entitlements is to be kept up to date. ARC advised that they are impressed with the financial dashboard (concise).

Changed Payroll Arrangements

Payroll arrangements were discussed.

Service Partnership Agreement

Slight change to the arrangements of the Service Partnership Agreement –signed. The ARC expressed their pleasure concerning this action. The IPC advised that this partnership promises a lot and we will be approaching DoJ regarding timing.

Quarterly Updates to the Attorney General and Minister for DFSI

Papers attached.

Business Plan Mid-Cycle Review

DM spoke of the Business Plan Review, largely in the Corporate or WHS space.

IPC WHS Action Plan

WHS action plan is continuing (to be discussed further in the Risk Assessment).

A query concerning caseloads taking longer, is it due to staffing or complex cases? A new manager has commenced and 1 to 1 discussions being held (having the benefit of the data) to interrogate these issues with a view to identifying mechanisms to align outputs with those of previous years. ARC questioned staffing levels. The IPC advised that this will be considered in light of legislative changes.

The ARC recognises the very good work done.

Item 6. Risk Management

The IPC advised that there are two parts to the risk assessment. We have added a discreet component for WHS matters. Some small changes (to low) by virtue of them appearing in brackets. These points were discussed (5, 6 & 9). The ARC asked if where the risk is unacceptable, internally is it given a timeframe? IPC replied it does, and there is work around service standards. Two stage approach (new & old) trying to re-enforce the issues around standards and quality. Ongoing conversation we will need to have.

WHS Risks

Safework had identified three "risk context areas" of:

- Managing work performance
- Shaping relationships and work environment
- Coordinating and administrating working hours

The IPC have drawn on these and the previous WHS risks and views of staff and the IPC Health and Safety Committee.

Enterprise Risk Framework (ERF)

The ERF is due in the calendar for review. One main change is that 6.2 has been amended.

There were two items for the ARC to endorse:

1. Addition on the risk register of WHS and
2. Updated Enterprise Risk Framework.

The ARC endorsed the inclusion of each.

The ARC noted a number of outstanding items and was reassured that the IPC is pretty much on track with these. Key date was 14 November to comply with the notice.

Item 7. Internal Audit

The four year Internal Audit Plan was endorsed at the March meeting. A revised program has been implemented - two audits in the audit program for next year. Combined financial systems and fraud. Second proposed is WHS audit.

The ARC endorsed the proposed changes to the Internal Audit Program for 2018/19 to include (i) a combined Financial Systems and Fraud Audit (previously agreed as two separate audits) and (ii) a WHS Audit. The Committee noted that the rationale for combining the audits in (i) is that the IPC does not handle cash in its operations and believes it appropriate that the two separate audits previously proposed be combined with 2 extra audit days being allocated. The scope for the proposed audits will be provided to the ARC for review and endorsement out of session.

ARC queried what happens to the recruitment and succession plans and were advised that these will not go forward as the audit program currently sits. In light of what the IPC are doing concerning legislative changes and revisiting business processes and structure, it may be good to postpone for 12 months.

The Acting Chair noted that there are no outstanding audit recommendations.

Review of the Committee Charter was due. No substantive changes. An amendment at 4.3 made to include an addition. The ARC requested an amendment at item 1. Objective with the addition of "advice and independent assistance". Subject to that addition, it was agreed that the ARC Charter be revised and re-issued.

Action Item 3: SM to formalise and republish. To be circulated within the next 7 days to LB.

Item 8. External Audit

Spoke to papers internal assurance processes might not be closed until the audit office assessment.

Item 9. Review of ARC Charter Annual Calendar

A couple of items in the calendar to draw attention to:

Review of the Fraud Control Policy –review of policy confirmed application to include contractors. Also updated to include the Assistant Director and included third party financial, also no longer Service level Agreement (SLA), now Service Partnership Agreement (SPA). Once endorsed IPC will re-circulate to staff and follow up training is intended with ICAC early January meeting (goes into induction kit).

The ARC questioned whether there was any procedure in place that asks the staff of their knowledge of the IPC Fraud Control Framework and Policy? Managers need to do this for their annual attestation. Staff should be aware of this (for action).

At 4.2 the review of any current/pending litigation (regulatory). One matter settled – no further advice received from the ADB. The IPC will keep the Committee informed.

Final matter is the review of the Internal Audit Manual & Charter. Minor changes discussed. On review, OCM identified that the template briefs were not in accordance with IPC's templates (updated). The only comment from the ARC is the three year plan comment.

Recommendation for endorsement was approved by ARC.

The Policy Register updates (item 9B) were brought to attention and discussed. Ongoing issue to decide whether the IPC require a specific or a DoJ process (highlighted). Safework identified outdated DoJ policies. IPC has updated but DoJ may amend the source policy on their review in the future.

The Annual Calendar has been amended 4.3 in quarter 4.

Action Item 4: Staff to be made aware of Fraud Control Policy

Action item 5: IPC to provide a status update in March regarding 4.3 (progress report).

OTHER BUSINESS

- The Committee confirmed the next meeting date of Tuesday, 19 March 2019 – Quarter 3 (14:00).
- Tenure Dates – New appointments need to be considered in March/April.

Action Item 6: Agenda Item to be considered in March/April.

The meeting was declared closed at 16:50.