

AUDIT AND RISK COMMITTEE MINUTES

Date: Tuesday, 26 November 2019

Meeting Number: 43

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

In attendance: Mr Chris Harper, Audit Office (CH)
Ms Samantha Gavel Privacy Commissioner, Information & Privacy Commission (SG)
Ms Joy Milag, Department of Justice (JM)
Mr Clinton Gould, Department of Customer Service (CG) (for Item 5)
Ms Sonia Minutillo, Information & Privacy Commission (SM)
Ms Pamela Robertson-Gregg, O'Connor Marsden (PR)
Ms Elizabeth Tydd, Information & Privacy Commission (ET)
Ms Sarah Wyatt, Information & Privacy Commission (SW)
Mr David Marcus, Information and Privacy Commission (DM)

Minutes: Angeline Estrada, Information & Privacy Commission (AE)

Apologies: Mr Robert Hayek, Audit Office (RH)

ITEM

1. Attendance
The Audit and Risk Committee Meeting was declared open at 14:05 by the Chairperson.
Apologies provided for the above.
2. A. Declarations of interest
Nil changes to report.
B. Disclosures
Nil declarations of interest and disclosures
3. A. Minutes of previous meeting
Minutes of previous meeting 11 October 2019
Chair raised minor issues regarding previous meeting minutes (Full stop missing from page 3) for update prior to publication.
B. Rolling Action Report
Discussed.
4. A. Update from the Chair
Chair raised positive feedback for annual report given IPC's small footprint and ability to provide a comprehensive report within its resource constraints.

Chair noted participation in the strategic planning which had been a valuable experience and opportunity.

B. Update from the CEO/Information Commissioner

Information Commissioner provided a written report.

Information Commissioner and Privacy Commissioner attended an informal meeting with the Chair of the Oversight Committee for the IPC and commented that they were interested in and supportive of IPC's role. IPC appearance before the oversight Committee in early 2020 likely.

MC raised queries regarding IPC's 40 day timeframe to complete reviews whether this applies to all applicants, and if the IPC has capacity to achieve this timeframe. SM explained that regardless of who the applicant is the 40 working day timeframe strictly applies in GIPA and by decision applies to privacy reviews also.

Members noted possible re-location of the IPC and queried the impact. The Committee was advised that there were challenges associated that would need to be managed. CEO provided an update of the meeting with Minister Dominello and noted that accommodation and on-going funding were discussed.

C. Update from the Privacy Commissioner

The Privacy Commissioner advised she had hosted a meeting of all Privacy Commissioners in November. This was a positive meeting and included updates on key issues in other jurisdictions. Of interest to most jurisdictions is the possible introduction of a data breach scheme for NSW government agencies, following the introduction of a scheme by the Commonwealth in 2018. NSW has released a discussion paper on a possible scheme. This has been the subject of consultation with agencies and other interested organisations, with a number of submissions made. The lead agency for the discussion paper is the Department of Communities and Justice.

The Commonwealth Identity Matching Services Bill (IMSB) will be re-introduced to parliament in 2020. The Bill was previously subject of consideration by parliamentary committee, which made a number of recommendations, including re-drafting of the bill.

PC updated on the amendment to the NSW Fines Act which saw amendments made that require notifications about privacy breaches to the Privacy Commissioner. The amendment also requires the Privacy Commissioner to report on any breaches notified. This will require changes to the IPC's systems and consultation with Transport and Revenue NSW.

The Privacy Commissioner recently appeared before a parliamentary inquiry on the introduction of legislation to enable the roll out of cameras to detect illegal mobile phone use by drivers. The introduction of legislation followed a trial of the scheme earlier in the year. The Privacy Commissioner was consulted during the trial and made a number of recommendations to Transport for NSW to improve the operation of the scheme.

The Chair raised a question about how the IPC communicates with other clusters/agencies regarding developing legislation and policy. CEO advised that the IPC utilises a number of strategies which includes discussions with the Secretary of Dept Customer Service and that we continue to remind agencies and talk to Ministers about the need to consult early in the development of new projects. The challenge is in the independence of the role of the IPC, but also how to ensure that the IPC is being heard and listened to when policy and legislative proposals are being developed/submitted.

5. Agency planning and reporting

Clinton Gould joined the meeting and advised on general progress of the transition of the IPC to the Customer Service Cluster. He noted the continuing need to find efficiencies while delivering on the government's priorities reflected in the reduction in the number of clusters. In regard to accommodation the Committee noted the financial aspects of a re-location but also expressed concerns regarding risks in regard to:

- Effective delivery of services
- Perceived independence of the IPC (including as a receiver of Public Interest Disclosures)
- Difficulties faced by staff in being co-located with regulated agencies

Financial Update –

Staff numbers maintained to meet statutory deadlines.

Cash level increased as a result of delays in paying payroll invoices by cluster.

Note: Project dashboard now includes Operations & Risk factors that were requested some time ago.

6. Risk Management 2019-20

Risk Register –

Minimal changes with risk profile have been made since the last meeting which was in October.

Main observation is in terms of the changing environment we are operating in and this would be a factor to consider in the development of the forward enterprise risk register, in conjunction with the consideration of risks associated with operational, strategic and reputation.

It is proposed that members of the ARC will come together, with the IPC Executive and senior management for the review and re-assessment of the IPC Enterprise Risk Register in a workshop to be facilitated by OCM.

Regarding the IPC WHS Risk Register & Systems Compliance, no changes noted, as things are working and going well.

It was also noted that the IPC is actively contributing to cyber security issues.

Attached with the papers was the review of the IPC Enterprise Risk Management Policy and Framework which was due for review. Changes are minor and where noted in track changes for ease of reference. Further review would be intended to ensure alignment with our new cluster, DCS.

The Committee endorsed the revised framework subject to any changes that may arise from the risk planning workshop.

7. Internal Audit

A. Proposed 2020 Audit Program

Proposed 2020 Audit Plan is currently on hold subject to risk workshop.

Pamela Robertson-Gregg commented that its good practice to do audit plans 2 years out.

Actions are progressing on time bar item 6 which is largely affected by working with DCS, otherwise all others are on track.

Attached with the papers was the review of the Audit and Risk Committee Charter 2019-20 which was due for review. Changes are minor and where made, noted in track changes for ease of reference. The Committee endorsed the revised Charter subject to inclusion of reference to the capacity for the ARC to make decisions out of session.

8. External Audit

DM provided a verbal update, noting the small number of issues raised had been addressed.

9. Review of ARC Charter Annual Calendar

Annual Calendar is on track.

Main change relates to fraud papers – although these had been updated with minor changes, it is intended to review the Fraud and Policy Framework against that of the DCS as our new cluster. Any further update to the policy framework would be provided at a future meeting.

The Committee noted inclusion of the updated Internal Audit Manual and Charter. Minor amendments were made to the Charter. Similarly the policy reflects both cluster arrangements and is to be further refined to reflect our new cluster arrangement with DCS. The Committee endorses the updated Manual and Charter.

The Committee noted the reviewed policy register as provided and noted that the number of IPC-specific policies was being kept to the minimum necessary, with the bulk of policies drawn from the Cluster. The Committee also noted the policy development framework would now be finalised.

Information Commissioner commented on the calendar – ‘Oct-Dec review of financial statements’. Comments were made that the review of financial statements should be a March task and not in Oct – Dec.

Action Item: It was agreed that further discussion to address would occur out of session regarding timing of the review of financial statements in March (not October).

In regard to Item 3.2 (consistency between financial statements and the Annual Report) the Committee was advised this was a Treasury requirement.

Action Item: Internal audit manual - Change is to include reference in 1.3 otherwise no changes to be made.

The Committee endorsed the revised internal audit manual.

Meeting concluded at 16:30