



## AUDIT AND RISK COMMITTEE MINUTES

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**Date:** Friday, 26 November 2021

**Meeting Number:** 55

**Location:** Microsoft Teams  
Information & Privacy Commission NSW  
**Level 15, McKell Building**  
2-24 Rawson Place  
Haymarket NSW 2000

**Time:** 10:00-12:30

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

**In attendance:** **Ms Elizabeth Tydd, Information & Privacy Commission (ET)**  
Ms Samantha Gavel, Privacy Commissioner, Information & Privacy Commission (SG)  
Ms Jessica Kavanagh, Information & Privacy Commission (JK)  
**Ms Sonia Minutillo, Information & Privacy Commission (SM)**  
Mr Ian Naylor, Information & Privacy Commission (IN)  
Ms Pamela Robertson-Gregg, O'Connor Marsden (PR)  
Ms Yasmine Salameh, Information & Privacy Commission (YS) (for finance discussion)  
Mr Clinton Gould, Department of Customer Service (CG) (for finance discussion)  
Mr Nick Sikka, Department of Customer Service (NS) (for finance discussion)

**Minutes:** **Lynley Mattes, Information & Privacy Commission (LM)**

**Apologies:** Ms Somaiya Ahmed, Audit Office (SA)  
Ms Olive Ferino, Audit Office (OF)  
Ms Judy Malpas, O'Connor Marsden (JM)

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### ITEM

1. **Chair Welcome**

The Chair welcomed the attendees.

2. **DCS Cyber Security Update Presentation by Mr. Matt Fedele-Sirotych (Chief Security Information Officer) Department of Customer Services**

A comprehensive briefing was provided to the Committee which covered the following items:

- DCS Project Trust - Goals & Benefits for Cluster Agencies
- Cyber Resilience Roadmap 2021 to 2023
- Expected Outcomes including GovConnect Residual Risks & Targets
- Targets for Essential 8 & Mandatory 25 actions including GovConnect
- Cyber Security Staff Training Metrics
- Explanation of the DCS Cyber Security Policy Attestation for 2020/21

- Cyber Incidents for December 2020 to September 2021 Quarters
- Cyber Assurance Status.

The Committee questioned Mr Fedele-Sirotych on the Maturity Levels for Essential 8 & Mandatory 25 Controls particularly the proposed target maturity levels some of which are below those recommended in the Government's Cyber Security Policy. He responded that DCS was satisfied with the Cyber protection offered by the agreed current and targeted maturity levels.

Mr Fedele-Sirotych pointed out to the ARC that effective Cyber Security controls for ICT Legacy systems owned and operated by the Cluster Agency is the responsibility of the Agency including Penetration Testing.

### **3. Attendance**

#### **4. A. Declarations of interest**

Nil

#### **B. Disclosures**

MD disclosed her employment relationship with Willoughby Council.

#### **5. A. Minutes of previous meetings 24 September 2021 & 8 October 2021**

Endorsed by the Committee. The Chair noted that the Management Representation Letter for the 2020/21 Financial Year was provided to the Committee after the 8 October Meeting. Committee members endorsed the signing of the Letter by the Chief Executive Officer and agreed that the Representations made in the Letter can be fully supported.

#### **B. Rolling Action Report**

The Committee noted that the items in the Action Report have been addressed or are included in the Agenda for the meeting.

### **10:56 – Clinton Gould (DCS) joined the meeting**

#### **6. A. Update from the Chair**

The Chair noted that a meeting of DCS Cluster ARC Chairs has been convened for 8 December 2021.

The Chair spoke to the difficulties encountered with DCS this year around the 20/21 Financial Statements. CG advised that this year a decision was made with Treasury to push out the date for submission of the Financial Statements. Also, the Audit Office has had resourcing issues. CG did note that DCS are very task focused and don't always engage in the right way with the smaller agencies. This is to be rectified. DCS were pressed to meet deadlines as everything was pushed out. CG stated that DCS will endeavour to work better together from a DCS perspective in future. The Chair noted that the Internal Control Questionnaire (ICQ) went straight to Treasury without going to the IPC first. CG confirmed that this was an oversight on DCS's behalf.

MC asked about the quality control of the Financial Statements and advised that there were repeated careless mistakes from the DCS team, MD was curious to know the quality control or management of these processes and expressed her dissatisfaction. CG reported that he was not aware of a quality control issue and NS & CG will take that offline and look into it further.

### **11:00 – Nick Sikka (DCS Finance) & Yasmine Salameh (IPC) joined the meeting**

## 7. Finance

### A. Financial Dashboard (October 2021)

The report was noted and taken as read. The Chair had a number of questions about the paper which were answered by IN via return email on 23 November 2021. NS is acting in the role whilst Alexis is on Maternity Leave. The Chair advised that all looks to be tracking well including the Recurrent funding. Discussion was had around the \$315k Capital Grant which is included in the Grants figure resulting in inflating the period end forecast results. ET pointed out that the IPC were used to seeing the Capital and Recurrent Grants as separate items on the Dashboard. Discussion turned to the Capitalisation Threshold which for DCS Agencies is \$50k which the IPC has difficulty in reaching having previously operated at a \$30k threshold within the Department of Communities & Justice (DCJ) cluster. ET requested that Capital be presented separately on the Dashboard and that DCS reduce the Threshold limit for IPC. CG took this on notice and suggested that a variation to the policy could potentially be granted in relation to the Capitalisation Threshold which is set within DCS.

***Action Item: IN to liaise with CG for report back regarding the Quality Control processes regarding financials and the capitalisation threshold options for the IPC (eg a separate policy) and forward advice to the ARC out of session***

MC identified that the key issue is that the IPC receives \$315k in Capital Grant Funding before incurring any costs which needs to be identified in the Bank Account and as work is progressed, this figure will decrease no matter the Threshold.

ET expressed her concern that Parliament has not passed the Mandatory Notification Data Breach Scheme (MNDB) Legislation and the IPC may not be able to spend the assigned Capital Grant and queried whether the unspent Capital Grant can be rolled over to 2021/22. The IPC would like to quarantine the Capital Grant to be able to utilise this for adjustments to IPC's computer systems. CG advised that the Capital Grant not spent can be carried forward (subject to Treasury approval).

***Action Item: IN to liaise with CG and Treasury (via CG) about carrying forward unspent capital into 2021/22 and provide an update at the next ARC Meeting on March 2022***

### B. Superannuation Guarantee (Administration) Act 1992 (Cth) (SGAA) – Contributions for ARC Members

CG provided a summary of the background of this matter and confirmed that the Tax Office Public ruling (issued in response to NSW Education) specifically relating to ARC states that ARC Members are to be treated as employees for tax and superannuation purposes. CG understands that different agencies are treated differently and that Treasury are looking into this further. MD declared that she was unaware that PAYG tax was to be taken from payments as other agencies are treating this differently.

***Action Item: CG will find the ruling and email this to LM for distribution to the ARC out of session***

### C. GovConnect Update (payroll controls)

CG spoke about Unisys and advised that this work was being brought back in-house within DCS. Work remains however to be done to strengthen Access Controls.

CG reported to the ARC that the Audit Office's Report to Parliament was sent without DCS's review.

ET confirmed that in communication with CG she raised two issues 1. ARC member fee payments & 2. LSL/information to identify deposits to the IPC as the DCS remittance does not advise. The IPC has speculated that these deposits relate to LSL which may be incorrect.

## 11:35 – DCS Finance & Yasmine Salameh (IPC) left the meeting

### 6. B. Update from the CEO/Information Commissioner

ET took her paper as read. There were no questions from the ARC Members.

The Commissioner informed the Committee of a case which could pose a potential risk to the IPC in terms of reputation and staff WHS.

### C. Update from the Privacy Commissioner

SG advised that the legislation for MNDBS will be introduced to Parliament early next year and was pleased that CG advised the allocated budgetary funding could be rolled over for technical adjustments.

Two pieces of Privacy Legislation have gone through Parliament (Contact Tracing and Data Sharing in case of emergencies).

The Chair queried if there are any risks related to the delay of the MNDBS. SG reported that some privacy breaches have been received recently and the IPC have needed to make sure that the scheme is able to handle the complexities of such. There is some delay in the Minister's office in respect of IDSupport functions. DCJ needs to give consideration as to whether that will be accommodated in the MNDBS.

MD was pleased to see the safeguards on the Covid app. Great work and well done for getting that through.

MD queried sharing information in an emergency. SG replied that we have been working with Resilience NSW on the guidance that will underpin that legislation. The government put through an amendment that, where possible, agencies will continue to seek exemptions. MD would like to see some information of the exemptions used.

**Action Item: SG to provide a further update regarding Sharing of Personal Information during an Emergency at the next meeting in March 2022**

## 8. External Audit

### A. 2020/2021 Financial Statements Update

IN stated that some changes of an immaterial nature were made to the Financial Statements by the Audit Office after the meeting of 8 October 2021.

The Chair mentioned that the External Audit Checklist and Timetable for next Financial year are very helpful. He has a couple of suggested additions which he will provide to IN.

**Action Item: LM/SM to liaise with the Chair requesting the additions for the 2021/22 External Audit Checklist and Timetable**

## 9. Agency Planning and Reporting

### A. Monthly IPC Case File Dashboard (October 2021)

The report was noted and taken as read.

IN highlighted the following:

- Casework statistics for October
- Strategic initiatives, mostly complete or nearing completion
- DCS process of staff returning to the office from working remotely.

MC queried item number 14 regarding Strategic Planning. The consultants engaged are Gauge Consulting (Kathy Jones - who we have utilised previously). ET gave an overall update of the planning process, 4 x Pillars and KPIs. An invitation will be extended to the ARC Members to attend the upcoming online meetings.

**Action Item: LM to forward the Gauge invitations to the ARC for Tuesday and Thursday next week**

MC noted that the Dashboard comprises a huge set of data, and asked is all that data actively used for Management purposes? SM advised that she and the Managers definitely use it, relating to their own remit. ET advised that she also refers to this Dashboard frequently.

**B. Quarterly Report to the Attorney General & Minister Dominello – Quarter 1, July 2021 to September 2021**

Noted as read.

**10. Internal Audit**

**A. Status Register**

SM took the paper as read.

SM explained that the IPC has been trying to arrange a meeting between the Chairs of the IPC and DCS Audit & Risk Committees. An invitation has been secured for the Chair to attend a DCS cluster wide ARC Chairs meeting on 8 December 2021 and SM has been in touch with the CAE of DCS about this matter.

SM reported that there are no current internal audits underway. A number of the ongoing actions on the status registers are in part contingent on the completion of the current Strategic Planning process.

**B. Internal Audit Plan**

The IPC will prepare the Internal Audit Plan following the revision of the Strategic Plan and review of the Enterprise Risk Management Framework and Risk Register. Initial discussions have been undertaken with OCM to progress this January 2022.

SM has been engaging with CAE at DCS about matters that may be relevant to the IPC arising from their internal audits. Observations around lessons learnt relating to use of pCard was discussed.

The Chair requested that the draft Internal Audit Plan, when available, be provided to the ARC out of session so that some resolution of the audits to be undertaken can occur prior to the next meeting of the ARC scheduled for 25 March 2022.

**Action Item: SM to provide a copy of the Draft Internal Audit Plan out of session to ARC Members**

**11. Risk Management 2021-2022**

**A. Review of IPC Risk Register (includes WHS) Q2 2021-2022**

SM took the paper as read and advised that there has been very little movement in risk ratings and mitigation strategies, although this might change next year. The risk rating for Risk O4 remains at Moderate. Although the IPC have received additional funding for 2020/21, increasing volumes year on year may result in the IPC funding being insufficient to meet work demands. Risk O8 remains Moderate. It was noted that DCS are responsible for the related computer systems.

The Chair questioned whether there is an IPC Cyber Security Risk Register. ET advised that IPC's approach will be contained in our Risk Register which is to be taken forward by SM & PR. IPC is required to look at its own systems (ie. Resolve) and include this in our register. The IPC has undertaken a self-assessment relating to our 'Crown Jewels' but no response as to treatment has been received as yet from DCS. The IPC will need to take a subset of these results and build these into the Enterprise Risk Management Framework.

#### **B. IPC HSC Meeting (18 November 2021)**

Minutes of meeting noted. No significant matters.

MC asked about the mental health of Staff and if this was discussed in the HSC Meetings? IN & SM advised that Managers/Directors were checking in with staff during Team Meetings and the handling of mental health is being discussed at an Executive level.

ET spoke about Benestar (IPC's Employee Assistance Provider (EAP)) and IN advised that Benestar will be presenting again at an IPC staff meeting next year.

SM spoke about the I&R Staff and supporting them with their mental health despite negative emails.

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

#### **A. Annual Calendar**

The ARC Members noted the paper as read.

The Chair pointed out that the external review of the internal audit function is required next year as the last review was undertaken in 2017. SM advised that she has reached out to the CAE of DCS for assistance.

The Chair spoke to the Fraud Control Policy and IN noted only minor changes to the previous Policy Document. The Chair said it would assist the Committee if changes to policy documents could be highlighted in the updated version. ET also brought to the ARC's attention the new Public Interest Disclosures Bill 2021 which was tabled in NSW Parliament on 23 November 2021.

***Action Item: All Policy Documents are to be provided to ARC Members in mark-up in future***

#### **Other Business**

The Chair congratulated the IPC on the content and timeliness of its Annual Report and the quality of the published document. ET advised that she has had contact from Treasury on the content requirements/scope of annual reports going forward and will keep the Committee updated.

The Chair wished all Members and attendees a very Merry Christmas and Happy New Year.

**The meeting closed at approximately 12:45.**



### ARC Meeting Schedule for 2022

- Friday, 25 March 2022 @ 10:00
- Thursday, 9 June 2022 @ 14:30
- Thursday, 22 September 2022 @ 10:00
- Friday, 25 November 2022 @ 14:30

### Tenure Dates

<b>Member</b>	<b>Appointment</b>	<b>Commencement Date</b>	<b>End Date</b>	<b>Extension End Date 1</b>	<b>Extension End Date 2</b>
Malcolm Clinch	Member	5 July 2015	5 July 2018	5 July 2021	5 July 2023
Paul Crombie	Member	17 September 2014	17 September 2017	20 September 2020	
Paul Crombie	Chair	16 June 2019	16 June 2022		
Marcia Doheny	Member	28 June 2019	28 June 2022		