



## AUDIT AND RISK COMMITTEE MINUTES

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**Date:** Thursday, 16 November 2023

**Meeting Number:** 63

**Location:** Information & Privacy Commission NSW  
McKell L15-IPC-M04-14 (IPC Meeting Room)  
Level 15, McKell Building  
2-24 Rawson Place  
Haymarket NSW 2000  
(*Microsoft Teams to be made available*)

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

**Members:** Ms Marcia Doheny (Chairperson) (MD)  
Ms Sally Pearce (SP)  
Mr Peter Scarlett (PS)

**In attendance:** *Ms Olive Ferino, Audit Office (OF)*  
*Mr David Daniels (DD)*  
Ms Elizabeth Tydd, Information & Privacy Commission (ET)  
Ms Sonia Minutillo, A/Privacy Commissioner, Information & Privacy Commission (SM)  
Ms Judy Malpas, O'Connor Marsden (JM)  
Mr Timothy Fleming, A/CAE, Information & Privacy Commission (TF)  
Ms Carla Wilson, Information & Privacy Commission (CW)  
Mr Ian Naylor, Information & Privacy Commission (IN)  
Ms Yasmine Salameh, Information & Privacy Commission (YS) (for finance discussion)  
*Ms Neharika Gossain (A/Director), Department of Customer Service (NG) (for finance discussion)*

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

**Apologies:** Ms Yas Wickramasekera, O'Connor Marsden (YW)  
Mr Michael Tzimoulas, Department of Customer Service (MT) (for finance discussion)

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### ITEM

**1. Chair Welcome**

The Chair welcomed David Daniels (Audit Office), Carla Wilson (IPC) and all attendees and provided an acknowledgement of country.

**2. Attendance**

Apologies received from Yas Wickramasekera.

**3. A. Declarations of Interest**

Nil.

**B. Disclosures**

Nil.

**4. A. Minutes of previous meeting of 22 September 2023**

The Committee queried the GSF Act, Grants and budget discussion. ET confirmed that this is compliance by Minister and Officers and the declaration of Open Access Information and the GIPA Act.

The Minutes of Meeting from 22 September 2023 were endorsed by the Committee and confirmed for publishing.

2024 Proposed Dates were discussed. March & November meetings to be revisited.

**Action Item: LM to distribute suggested dates to the Committee out of session**

**Action Item: SM to propose some new dates aligning with IPC business needs for June 2024**

**B. Rolling Action Report**

The paper was taken as read.

The IPC took the Committee through the Rolling Action Report.

**5. A. Update from the CEO/Information Commissioner**

The paper was taken as read.

The IC spoke to the People Matters Employee Survey (PMES) Results and advised that a meeting was held on Tuesday, 14 November 2023 with the Public Service Commission (PSC) and IPC Managers / Directors / Commissioners to discuss the results. PSC suggested 2 or 3 results be focussed on going forward. Accountability, Engagement, Values, further engagement with the PSC, engagement with staff and analytics of the scoring were discussed. The Committee offered that the IPC results were very good and that the IPC was coming off high results from previous years. Remote working may have presented more challenges to the IPC (i.e.. missing the face-to-face communication, engagement, and networking). Further discussion was had regarding change, budgets, change of government, recession etc. The Committee congratulated the IPC on its considered action.

The Committee mentioned conducting Managers meeting to assist with lifting people up in Management and suggested having a guest speaker noting reliance upon managers within IPC. The IPC noted that Managers meet regularly and that Elevate training was undertaken by all 9/10+.

**Action Item: TF/IN to take this forward at the next Managers Meeting**

Incidents reported to NSW Police were discussed with training being investigated. The Chair recommended EAP be reiterated to staff.

Again, this year an erratum is under preparation to address the transposition of data inputted by a NSW agency in the s37 Report. The IPC has sought to enhance its mitigation strategies by establishing a 'trigger' of 40% variation on previous years' results.

The IC noted the worth of the Committee and its extraordinary contribution to the IPC being fortified by the Committee. The Committee plays an incredible role which permeates through all staff at the IPC. ET reiterated her statement from this year's Annual Report:

*The IPC has benefited from the collective contribution of successive Audit and Risk Committees (ARC). The Chairs and Members have unfailingly given expert advice and importantly support to the IPC as a small independent agency navigating the budgetary and administrative constraints of the extant cluster hosting arrangements.*

## **B. Update from the A/Privacy Commissioner**

The paper was taken as read.

The IPC highlighted the Mandatory Notification Data Breach Scheme (MNDB) which is just under a fortnight away from commencement on 28 November 2023. Guidance has been developed for agencies and internal use at the IPC.

Two e-learning modules targeted at practitioners and senior leaders are being created.

A lot of work has been undertaken around agency and have now also developed some additional guidance with a citizen focus to supplement existing materials.

The IPC foreshadowed for the Committee that the number of data breaches we will receive under the mandatory scheme is unknown and provided some explanation around the composition of the data under the Voluntary Data Breach Scheme, and in particular the notifications required under the Fines Administration Act which will cease following the commencement of the MNDB. The Committee noted that number of reports will need to be asterisked and explained. The IPC confirmed that discussions regarding reporting has commenced.

The Committee acknowledged the enormous amount of work undertaken by the IPC in preparation. The IPC thanked all staff involved in particular Rachel Jhinku.

The Chair enquired about what the IPC saw as key risks. The PC noted that the pace of technology and what causes data breaches and our ability to understand those causes will be key. As such our response to that challenge is the development of a new role description (to be recruited) for a technical analyst, with particular skills that will be able to build internal and external uplift and capability. The PC added that the data will drive Treasury's online allocation of funds, and that the IPC will be recruiting for ongoing staff (not temporary).

## **DCS Finance (YS @ 10:40 & NG @ 10:51) joined meeting**

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

The paper was taken as read.

The IPC spoke to the budget and deficit. An update was provided about a meeting with Treasury NSW on 15 November 2023. Treasury is undertaking monthly reviews of our accounts and has agreed to meet in March 2024. Anticipated that the reduction of approximately 8% in IPC budget will not require a top up this year.

**Action Item: The Chair requested that a record of the meeting to be drafted and kept by IN (actions and discussions)**

The second part of the meeting was regarding MNDB funding (10 years requested, 1 year provided). DCS suggested IPC lodge a New Policy Proposal (NPP) this month for the ongoing funding for the MNDB as we have a new government. This will put the need for funding for the MNDB Scheme into the view of the new government. We also have an opportunity to lodge a PTA in February if required. We will work with DCS to submit an NPP by the end of the month. ET confirmed that the bid previously made was not limited to just MNDB but also Corporate Services charges to reflect the escalating and increasing costs for the IPC.

Forensic analysis by IPC in March 2023 of charges from DCS highlighted duplicate payment of charges for services not provided or otherwise captured. The identified amount was \$85K then DCS negotiated to \$43K as acceptable to the IPC. DCS advised they were going to revert this charge however, the DCS Chief Financial Officer has advised that only \$14K will be credited back to the IPC as previous years will not be refunded (no retrospective adjustments). Discussion was had around lack of process associated with this and outgoing autonomy of independent agency and a disregard for IPC's budget based on a lack of process. Unilateral decisions of this nature are questionable. DCS advised that a lot of conversations have been happening in the background and that DCS Chief Financial Officer answer was based on prior year adjustments and does not want to change the numbers to reporting. The question was asked, operationally what does it mean? Perhaps receiving credit notes going forward and not amending previous year figures. The Committee asked the Audit Office to comment and they confirmed it seems unusual at first glance and they would be interested to see the legality of this decision and the rationale behind this. The Committee queried if this would be noted in the Audit going forward? If it didn't comply with legislation, it would be.

ARC Members contributed that DCS may consider the IPC as part of their portfolio budget and that might explain the accounting treatment. Discussion to inform DCS that as an independent entity with separate budget DCS's treatment should not reflect financial treatments that are acceptable to business units within DCS's portfolio budget.

The Committee observed that DCS are looking at the IPC as if they are funding the IPC. If it were an external company, they would need to refund the duplicated amount.

DCS noted that this is more of a reporting perspective. No retroactive reporting. Noting that there is still scope to escalate to the Chief Information Officer on how we can look into the refund/credit and operational/compliance aspect.

A forward audit program including the audit of DCS corporate services charges should help inform ongoing performance. The IPC is to consider an internal audit around financial services provided, potentially under an audit of the operation of the Memorandum of Understanding (MOU) and this might inform a new MOU noting that the IPC has only extended the MOU.

***Action Item: TF to add Financial Systems & Fraud to the internal audit schedule 2023-2024***

***Action Item: IN to document accounting treatment in correspondence to DCS***

***Action Item: DCS to follow-up treatment in respect of the remittance***

## 7. External Audit

### A. 2022-2023 Financial Statements Update

The AO confirmed that the unmodified Auditors Report was submitted and that this was the last Audit of the IPC by Weini Liao & Olive Ferino. David Daniels will be the Auditor going forward.

The Chair expressed the Committees appreciation to Weini Liao and Olive Ferino.

**Action Item: ET to draft an email from the Committee expressing their appreciation to Weini & Olive**

The IPC spoke to a Treasury circular regarding the change to Annual Reporting regarding the deferral of reporting requirements and a consultation is being undertaken (Climate-related Disclosures). The IPC asked if the Committee had any feedback to provide this prior to deadline of 11 December 2023.

**Action Item: IN to distribute the Treasury Circular to the Committee for comment by return email**

**DCS Finance left meeting @ 11:19 (IN asked YS to stay)**

## 8. Agency Planning and Reporting

### A. Monthly IPC Case File Dashboard (September 2023)

This paper was taken as read and a short summary was provided.

The Committee noted 100% on Complaints & Reviews is positive.

### B. Quarterly Report to the Attorney General & Minister Dib – Quarter 1, July 2023 to September 2023

This report was taken as read. The Committee suggested circulating this report to the IPC Staff.

**Action Item: IN to arrange for a quarterly message with a link to the Quarterly Reports be sent to IPC Staff in appropriate circumstances noting the confidentiality of some of the contents of Ministerial Reports**

### C. Cyber Security

The paper was taken as read. A summary was provided and the results discussed. OCM used DCS Cyber Security Policy (CSP) as part of the BCP audit.

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

The paper was taken as read.

### E. Update of WHS actions arising

The paper was taken as read. The Committee raised difficulty in reading given formatting.

**Action Item: IN to ensure the formatting of the WHS actions arising report is legible going forward**

## 9. Internal Audit

**Action Item: TF will work with OCM in relation to the Two-Year Strategic Audit Plan going forward (as above re MOU etc)**

### A. IPC Records Management – Status Register

The IPC spoke to the Status Register of this audit.

### B. Upcoming Internal Audits

Discussion was had around the pCard audit.

Succession Planning was also discussed.

**The IPC advised that the Minister and Attorney General have signed instruments regarding acting Commissioner arrangements**

### C. IPC Leave Records Audit

The paper was taken as read.

### D. Business Continuity & Cyber Security Audits

The paper was taken as read.

## 10. Risk Management 2022-2023

### A. IPC Risk Register (includes WHS) Q2 2023-2024

The paper was taken as read and a short summary of the changes provided.

The IPC advised that a higher rate of disturbing images are being received in [IPCInfo@ipc.nsw.gov.au](mailto:IPCInfo@ipc.nsw.gov.au). The IPC/DCS have investigated as to blocking inappropriate images and will continue to investigate.

**Action Item: A risk around frontline staff receiving graphic imagery (in emails and as attachments) is to be added to the Risk Register (TF)**

**Action Item: IN to engage with DCS to request solutions to enable blocks on offensive imagery both in email content or as attachments to content**

The Committee suggested having conversation with other agencies around how they handle these types of emails.

The IPC confirmed that the Risk Register is distributed to the Executives for consideration prior to each Committee Meeting. Further, consideration of risks are linked back to the Strategic Plan and is a standing item in the Executives' Agenda (re consideration and operational management of risks). In the preparation of projects, the governance documents specifically include the consideration of risks as relevant to the projects and the mitigations that may be applied. The Committee suggested that the Risk Register be discussed during the Management Meetings.

**Action Item: TF to add the Risk Register as a standing item to the Management Meetings going forward**

The IPC spoke to the Cyber Security Risk presentation and the items which are being implemented to improve cyber security maturity. The Committee asked whether the cyber security exercise results were communicated with staff. The IPC confirmed that quarterly results are communicated to staff in team meetings.

OCM queried whether phishing is being extended to IPC work phones? The IPC confirmed that DCS are extending measures to smishing.

The IPC congratulated Yasmine & Inconsult for a very specifically targeted BCP exercise.

The IPC (ET) spoke to the results on page 1 of the cyber report as focus going forward.

**Action Item: IN to identify from the cyber report what this biggest risk and how is it being addressed within the IPC/DCS environment for next meeting**

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

The paper was taken as read.

#### Other Business

The Committee expressed their sincere appreciation to Elizabeth Tydd for her attentiveness and commitment to Information Access in NSW and leadership of the IPC. The Committee thanked Liz and wished her all the very best with her next endeavours.

ET excused herself from the meeting at 11:58.

**The meeting closed at 12:02.**

**Proposed** Schedule for 2024 – dates will be reviewed and are to be confirmed

- ~~Thursday, 21 March 2024 (10:00-12:00)~~
- ~~Thursday, 20 June 2024 (10:00-12:00)~~
- Thursday, 19 September 2024 (10:00-12:00)
- ~~Thursday, 28 November 2024 (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		
Sally Pearce	Member	6 July 2023	6 July 2026		