

Report of the

SERIOUS FRAUD OFFICE

TE TARI HARA TĀWARE

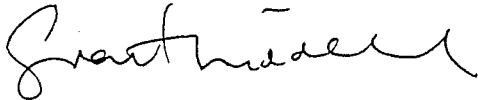
for the year ended
30 June 2009

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Presented to the House of Representatives pursuant to section 44(1) of the Public Finance Act 1989

*Hon Judith Collins
Minister responsible for the Serious Fraud Office*

In accordance with the Public Finance Act 1989 I submit the following report on the operations and financial performance of the Serious Fraud Office for the year ending 30 June 2009.

A handwritten signature in black ink, appearing to read 'Grant Liddell', written in a cursive style.

*Grant Liddell
Director and Chief Executive*

CONTENTS

| | PAGE |
|---|------|
| Statement of purpose | 4 |
| Directory | 4 |
| Chief Executive's overview | 5 |
| Statement of responsibility for the year ended 30 June 2009 | 11 |
| Audit report | 12 |
| Service performance | 15 |
| Class of output: 1 – Investigation and prosecution of serious or complex fraud | 15 |
| 1. Summary of cases for the year ended 30 June 2009 | 15 |
| 2. Output measures | 15 |
| 3. Use of statutory powers | 19 |
| 4. SFO prosecutions determined by the courts in the year to 30 June 2009 | 20 |
| Statement of output performance measures and standards | 27 |
| Statement of cost of services | 28 |
| Class of output: 2 – Civil forfeiture of criminal assets | 28 |
| Statement of output performance measures and standards | 29 |
| Statement of cost of services | 29 |
| Financial statements for the year ended 30 June 2009 | 30 |
| Statement of financial performance | 30 |
| Statement of movements in taxpayers' funds | 30 |
| Statement of financial position | 31 |
| Statement of cash flows | 32 |
| Statement of commitments | 33 |
| Statement of departmental expenses and capital expenditure against appropriations | 34 |
| Notes to financial statements | 35 |
| Corporate and collective interest management report | 48 |
| Policy on acceptance of cases | 49 |
| Management and structure | 51 |
| Serious Fraud Office Act panel of prosecutors as at 30 June 2009 | 52 |

STATEMENT OF PURPOSE

The Serious Fraud Office (SFO) is an operational department whose purpose is to detect and investigate cases of serious or complex fraud offending (in terms of the Serious Fraud Office Act 1990) and expeditiously prosecute offenders.

The services provided by the Serious Fraud Office contribute to the Government's strategic objectives, principally in the areas of encouraging a strongly growing, internationally competitive enterprise economy and building an economically strong and cohesive New Zealand.

Honest capital markets are crucial to achieving the objective of maintaining a strong and internationally competitive economy. Successful investigation and prosecution of "white collar" crime sustains New Zealand's reputation for honest capital markets, as well as deterring potential offenders.

By maintaining an effective "white collar" law enforcement capacity, the Serious Fraud Office is contributing towards enhancing investor confidence and encouraging savings and investment in New Zealand.

The Serious Fraud Office also contributes to the wider work of the Justice sector in building safer communities being communities in which there is reduced crime.

DIRECTORY

| | |
|------------------------|---|
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| <i>Bankers:</i> | <i>Westpac, Government Branch, Wellington</i> |

CHIEF EXECUTIVE'S OVERVIEW

A new chapter

The Serious Fraud Office entered a new chapter in its life following the change of Government at the general election. The new Government confirmed that the Serious Fraud Office would remain as a separate department of state and the previous government's proposal to merge the Serious Fraud Office into the Organised Financial Crime Agency New Zealand would not proceed.

The Serious Fraud Office (Abolition and Transitional Provisions) Bill had not completed its passage through the House at the time Parliament rose for the 2008 general election. As a result the proposed transition into OFCANZ was not able to occur before the change of Government. The Serious Fraud Office has continued to operate under the Serious Fraud Office Act 1990. The modified powers proposed in relation to the investigation and prosecution of serious fraud that the Abolition Bill would have introduced have therefore not proceeded.

The substantive work that was undertaken in 2008 to prepare the agency for transition, in particular work done to review internal processes, policies and procedure, which we called the 'value project', and the close collaborative work done with OFCANZ have been built on since the new Government continued the existence and operation of the Serious Fraud Office.

In particular, close working relationships have developed with OFCANZ at executive, managerial and operational levels, designed to ensure that the Serious Fraud Office is a component partner on all OFCANZ operations. The SFO participates in operations management and some OFCANZ staff are based in SFO premises.

The SFO contribution to OFCANZ operations is one of personnel, expertise and premises. It does not involve the exercise of SFO Act powers.

A new direction

Hon. Judith Collins, Minister of Police with responsibility for the Serious Fraud Office, signed off a new statement of intent for the Serious Fraud Office in April 2009. The statement of intent positions the Serious Fraud Office for a broader focus for its activities in the future. The Serious Fraud Office has been given a mandate to fight 'serious financial crime', rather than serious or complex fraud. The brief covers the existing work on serious and complex fraud, the contribution to OFCANZ, a contribution to the work on civil forfeiture under the Criminal Proceeds (Recovery) Act 2009, a possible greater focus on anti-corruption work, and, in particular, a contribution to the development of financial crime expertise in other agencies through training and developing work. It recognises the role of the Serious Fraud Office as New Zealand's incubator for the development of a talented and skilled resource capable of detecting, investigating and prosecuting serious financial crime. It is consistent with the Minister's expectations that the Serious Fraud Office will maintain its current conviction rate, while responding to a likely increase in demand for services, and reduce the impact of serious financial crime on victims.

The outcomes sought under the statement of intent are for fewer fraudsters and less serious financial crime. Those outcomes imply that the amount of serious financial crime

and the number of fraudsters are measurable. New Zealand has some way to go before reliable estimates of the amount of serious financial crime and the number of fraudsters can be assessed with any reliability. Nonetheless these outcomes have been deliberately chosen to encourage work to develop appropriate methodology for enabling such measurement. The task is difficult but, if able to be done, will then offer the prospect of identifying the extent to which the Serious Fraud Office has been able to effect the intended outcomes. New Zealand is not alone in seeking to measure the impact of financial crime. Counterpart agencies in the United Kingdom, particularly the National Fraud Authority, have embarked on a similar activity and I anticipate that New Zealand will be able to borrow from Britain elements of the way in which the British have attempted to identify the amount and impact of serious financial crime.

The brief to focus on serious financial crime offers a real prospect for the Serious Fraud Office to develop its capability in a more rounded fashion than has been the case so far. In particular, it will better enable, in due course, the Serious Fraud Office to identify its own cases rather than relying on referrals alone. To achieve that objective, the Serious Fraud Office would benefit from a better resourced and more substantial intelligence capability than is presently available. Intended enhancements in information communications and technology are proposed to deliver such benefits over the next three to five years.

As part of the preparation for the expanded brief that the statement of intent requires, I commissioned three activities that will assist the Serious Fraud Office flesh out its mandate and develop appropriate infrastructure to deliver the Minister's expectations.

The information communications technology resource available to the Serious Fraud Office has been subject to a strategic review. The Serious Fraud Office has been innovative in the use of technology. It remains a leader in New Zealand in the criminal justice system in the delivery of information to defendants under disclosure obligations by electronic means. The Serious Fraud Office first developed this capability more than a dozen years ago and its use of Summation litigation support software has enabled a comprehensive document management system to operate and provide defendants with full disclosure via a DVD or CD. As well, the Serious Fraud Office more than five years ago utilised 'Sanction' software to enable the presentation of documents electronically in court thus speeding up the delivery of cases and resulting in efficiencies in use of court and counsel resources. The comprehensive disclosure of case information probably contributes to the high number of early guilty pleas the Serious Fraud Office gets, which itself provides a saving to the criminal justice system. It was timely to review the state of resources and likely needs in information communication and technology and proposals are being developed that will feed into the Office's baseline review.

As well, the corporate support area within the Serious Fraud Office was reviewed in order to be sure that the delivery of support functions was as efficient as it could be and best configured to meet the expanded mandate under the statement of intent.

I also commissioned a 'stocktake' exercise where the Serious Fraud Office has engaged with people it works with, including other law enforcement agencies, members of the defence and prosecution Bar, victims, Government agencies and others, to obtain information about others' perception of the way the Serious Fraud Office works, its effectiveness and its place in the law enforcement environment.

The outcomes of all these reviews will be part of the Serious Fraud Office's baseline review process and contribute to the development of strategic planning.

I expressed concerns to the Law and Order Select Committee in its financial review of the Serious Fraud Office in November 2008 that there was a real risk that the decrease (in real terms) in funding the Serious Fraud Office over the previous ten years had constricted resources to the point where capability was threatened. It is necessary to address these issues and it is hoped that this will be done in the current baseline review process.

This year staff made several presentations to specialist audiences. Key were:

- Major banks received presentations on how to identify mortgage fraud;
- The Securities Commission was provided with a 2-day training programme on forensic investigations techniques;
- The Auckland District Law Society received a presentation on SFO investigations and prosecutions;
- The Chief Prosecutor, Anita Killeen, gave the conference of the International Association of Prosecutors a presentation on the SFO's briefing matrix, a process we use as part of case preparation to ensure efficient and effective witness briefing;
- I gave the 27th International Symposium on Economic Crime a paper outlining the approach the Serious Fraud Office will take in prosecuting directors of failed finance companies who have misused investors' funds.

These aspects of community outreach are likely to be significantly developed and systematised as part of implementing our statement of intent.

International lessons

The Assistant Director and I visited counterpart agencies in the United States and United Kingdom in May and June 2009. We met with staff and senior management at the Federal Bureau of Investigation, the Securities and Exchange Commission, the Office of the United States Attorney for the Southern District of New York, and with the District Attorney for Manhattan in New York. As well, we had contact with the National White Collar Crime Centre, an agency that provides training and development work for law enforcement agencies combating white collar crime. In London we met with the City of London Police, which is the national lead Police force for fraud, the Serious Fraud Office, the National Fraud Authority, and the Serious Organised Crime Agency. We discussed with these agencies the operation and application of civil forfeiture regimes, methods for measuring performance and operation, trends in relation to the investigation and prosecution of serious financial crime, and the use of technology as part of the operational delivery of investigation and prosecution functions.

Last year I reported that the New Zealand Serious Fraud Office compared favourably with the English Serious Fraud Office, the District Attorney of New York and the Southern District of New York in the application of resources and the effective investigation and prosecution of serious fraud. Although the New Zealand Serious Fraud Office is a very small agency by comparison, our visit confirmed the impression the statistical data had given and, as well, indicated that in the use of technology, in particular, the New Zealand Serious Fraud Office is ahead of other agencies in the comprehensive approach to document management and electronic presentation of cases in court.

The operation of civil forfeiture regimes in the United States and United Kingdom is ahead of New Zealand and so lessons learned may be applicable for New Zealand when our regime commences on 1 December 2009. A key message for agencies concerned with civil forfeiture was that it is critical to commence a consideration of the forfeiture dimensions of the case at the outset when the fraud investigation begins. Otherwise, there is a real risk

that information relevant to a forfeiture application will not have been obtained during the investigation phase. Some United States civil forfeiture regimes provide for victims of offending to have recourse to the assets seized under civil forfeiture. Such a policy means that victims do not have to bring civil proceedings to recover; the State becomes the proxy collector of money they might be owed. In New Zealand, at present, victims of fraud have to sue to recover or hope to get a discretionary order for reparation when the offender is sentenced. There is merit in considering whether the New Zealand forfeiture regime should have such a victim orientation introduced.

The United Kingdom's efforts to combat serious financial crime as part of organised crime have been very extensive. The Serious Organised Crime Agency (SOCA) was established in 2005 to be the flagship organization to attack organised crime. It is the agency with national responsibility for forfeiture, since it had the Assets Recovery Agency merged into it in 2006. It has the powers of the Commissioner of Inland Revenue and of the Director of the Serious Fraud Office to obtain information and conduct examinations. As well, since 2007 new orders have been available to be imposed by the court at the time of sentencing an offender. New Zealand might give consideration to these orders. A financial reporting order can be imposed where the Court considers there is a risk of serious offending. Such an order can require the person to whom it applies periodically to report their financial circumstances to a law enforcement agency, often SOCA. It is expected that from such information can come the possibility of applications for orders to confiscate assets should the reports enable the discovery of wealth not previously disclosed at the time of conviction. A serious crime prevention order can be made where the offender is identified at risk of committing serious crime whether in the United Kingdom or abroad. Such an order can impose a very wide range of restrictions on the activities the person can undertake, such as to movement, residence, types of work or investment activity, restrictions on whom the person may associate with, and so on. These orders were identified as valuable to restrict organised criminals from continuing to operate and develop their criminal organisations even when incarcerated.

SOCA recognises the critical importance of embedding specialist financial investigative expertise in every organised crime operation and appreciates the extra dimension that financial crime reconstructions brings to its work.

Work being done in New Zealand to develop more informative performance measures for the Serious Fraud Office was signaled in the statement of intent. Discussions with colleagues at counterpart agencies indicated that they too are in the process of developing such measures. I expect that continued collaboration between us and them will be mutually beneficial as meaningful measures become developed.

Civil forfeiture

The Serious Fraud Office had initially been given the function of acting as the recovery agency under the civil forfeiture regime when it came into force. The allocation of responsibility for this function shifted to New Zealand Police in 2008. The Serious Fraud Office is nonetheless able to assist in civil forfeiture work and has offered the Police assistance in developing and implementing the regime and in providing resources for applications for forfeiture. The expertise in financial investigation possessed by the Serious Fraud Office is not replicated elsewhere in the law enforcement community in New Zealand and I am keen to see the Serious Fraud Office assist "New Zealand Inc" make the best of the regime that we can.

Finance company collapses

Since reporting last year that four finance companies were under investigation, a further four investigations have been opened. In the year under review, two cases were successfully prosecuted (see below at pages 23 - 24 for details). The Serious Fraud Office has continued to work closely with the Securities Commission and the National Enforcement Unit of the Ministry of Economic Development in coordinating investigations and, as appropriate, prosecutions. For example, in prosecuting Warren Pickett, the director of Waipawa Finance Limited and Waipawa Holdings Limited, the Serious Fraud Office laid charges on behalf of the Securities Commission for breach of the Securities Act 1978.

The active collaboration between the three agencies has been beneficial, not only to the coordination or work in relation to finance company collapses but in bringing regulatory and law enforcement agencies closer together, in particular to give each a better sense of the role, functions and scope of the others. The two-day training programme facilitated by the Serious Fraud Office with the Securities Commission in March 2009 is another practical example of agencies working together to enhance capability.

Finance company directors who have misused investors' funds by treating the company's money as if it were their own private bank will be pursued by the Serious Fraud Office. Section 220 of the Crimes Act 1961 makes it an offence to use money subject to requirements otherwise than accordance with those requirements. In appropriate cases, the Serious Fraud Office will prosecute such offending, which represents an egregious breach of investors' trust. The first such prosecution will proceed in the 2009-2010 year.

Our people

The 2008-2009 year will probably be a unique year in the history of the Serious Fraud Office. The year commenced with an expectation that the Serious Fraud Office's days were numbered; it was expected to be simply a case of identifying the actual date that the transition into OFCANZ would occur. As time passed after the initially intended July 1 merger date and the Abolition Bill had still not passed the House, it then became a question not of when but of whether the transition would occur. When it became apparent that the House would not be able to pass the Bill before it rose for the general election, it then became a time of limbo as the outcome of the election was awaited and with it an indication whether the policy would continue or not. The announcement by the new Prime Minister of his Cabinet provided the first official intimation that the policy for transition would not proceed. The staff of the Serious Fraud Office are to be commended for the way in which they stuck professionally to their task throughout this time of uncertainty and despite some high profile media attention associated with the inquiry into donations to the New Zealand First political party. The organisation has been able, notwithstanding the uncertainty and pressure, to continue to deliver results. Details are provided through the below at pages 15 to 29, but it is noteworthy that no prosecution commenced since 2005 has failed. This is a credit to the thoroughness of the investigative and prosecutorial practices of the Serious Fraud Offices and to the professionalism of the staff.

The Serious Fraud Office has in the past been criticised for allegedly 'cherry picking' its cases, by which it is said that the Serious Fraud Office takes on only easy cases. My observations over my period of time at the Serious Fraud Office refute that criticism. The cases that the Serious Fraud Office has not succeeded in achieving convictions, such as DigiTech, which was a very complex scheme relating to investments primarily for taxation advantages, themselves demonstrate that this criticism is wrong. I know too, moreover, from my observation of and participation in the processes of case selection that cases are

assessed for investigation purely on their merits. A number of cases after investigation do not proceed for prosecution. This is invariably after a process of thorough review. A prosecution will not proceed if either there is insufficient evidence to warrant a prosecution (and this may indeed be because a complaint turns out to be of no substance as well as in cases where a complaint may be believed to have substance but there exists insufficient evidence to constitute a prima facie case) or the application of the criteria in the Solicitor-General's prosecution guidelines means that a prosecution is not appropriate. Cases that I have seen where a prosecution has not proceeded have nearly all been in the category where a credible prosecution case of at least prima facie standard could not be mustered. Not prosecuting such cases is not an 'easy out'; rather it is the responsible application of the guidance law enforcement agencies are provided by the Solicitor-General. Prosecutors should put forward only those cases they have assessed to be credible and with a good prospect of success. Prosecutors should not 'take a punt' and leave the case to the Court's judgement. That would be quite unfair to defendants who, on a proper assessment of the case, should not be proceeded against. It would not be responsible to drag such people through a Court process in circumstances where the prosecutor was not satisfied that they had a case to answer. I am confident that should a request be made to review the decision making processes used by the Serious Fraud Office, an independent reviewer would find that cases are selected on their merits, investigated properly and professionally, and proper and fair judgements made whether to proceed to prosecution.

This is my second and final report as Director and Chief Executive. I was appointed to effect the transition of the Serious Fraud Office into OFCANZ and my contract here, unusually, had two termination clauses; my appointment would terminate either on the passage of the abolition legislation or at the end of two years. The legislation did not pass and the two years are up and I depart the organisation in November 2009 for the United Kingdom. I leave the organisation in good heart, I believe, with a strong and competent group of professionals, dedicated to New Zealand's fight against serious financial crime, and with the organisation positioned, in my assessment, for a new future with a broader brief to combat financial crime, and with the infrastructural and relationship dimensions readied for this next phase. I wish the staff and the new Director every success.

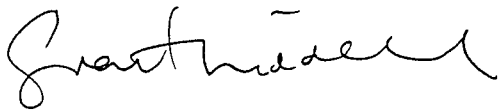
Grant Liddell
Director and Chief Executive

STATEMENT OF RESPONSIBILITY FOR THE YEAR ENDED 30 JUNE 2009

In terms of the Public Finance Act 1989, I am responsible, as Chief Executive of the Serious Fraud Office, for the preparation of the Department's financial statements and statement of service performance, and the judgements made in them.

I have the responsibility of establishing, and I have established a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial reporting.

In my opinion, these financial statements and statement of service performance fairly reflect the financial position and operations of the Department for the year ended 30 June 2009.



Grant Liddell
Director and Chief Executive
30 September 2009



Gib Beattie
Assistant Director
30 September 2009

AUDIT REPORT

TO THE READERS OF THE SERIOUS FRAUD OFFICE'S FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2009

The Auditor-General is the auditor of the Serious Fraud Office (the Office). The Auditor-General has appointed me, John O'Connell, using the staff and resources of Audit New Zealand, to carry out the audit. The audit covers the financial statements and statement of service performance included in the annual report of the Office for the year ended 30 June 2009.

Unqualified Opinion

In our opinion:

- The financial statements of the Office on pages 30 to 47:
 - comply with generally accepted accounting practice in New Zealand; and
 - fairly reflect:
 - the Office's financial position as at 30 June 2009;
 - the results of its operations and cash flows for the year ended on that date;
 - its expenses and capital expenditure incurred against each appropriation administered by the Office and each class of outputs included in each output expense appropriation for the year ended 30 June 2009; and
 - its unappropriated expenses and capital expenditure for the year ended 30 June 2009.
- The statement of service performance of the Office on pages 15 to 29:
 - complies with generally accepted accounting practice in New Zealand; and
 - fairly reflects for each class of outputs:
 - its standards of delivery performance achieved, as compared with the forecast standards included in the statement of forecast service performance adopted at the start of the financial year; and
 - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses included in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 30 September 2009 and is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Director and the Auditor, and explain our independence.

Basis of Opinion

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed the audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements

and statement of service performance did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements and statement of service performance. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

The audit involved performing procedures to test the information presented in the financial statements and statement of service performance. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- verifying samples of transactions and account balances;
- performing analyses to identify anomalies in the reported data;
- reviewing significant estimates and judgements made by the Director;
- confirming year-end balances;
- determining whether accounting policies are appropriate and consistently applied; and
- determining whether all financial statement and statement of service performance disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements and statement of service performance.

We evaluated the overall adequacy of the presentation of information in the financial statements and statement of service performance. We obtained all the information and explanations we required to support our opinion above.

Responsibilities of the Director and the Auditor

The Director is responsible for preparing the financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Office as at 30 June 2009 and the results of its operations and cash flows for the year ended on that date.

The financial statements must also fairly reflect the expenses and capital expenditure incurred against each appropriation administered by the Office and each class of outputs included in each output expense appropriation for the year ended 30 June 2009. The financial statements must also fairly reflect the Office's unappropriated expenses and capital expenditure for the year ended on that date.

The statement of service performance must fairly reflect, for each class of outputs, the Office's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year.

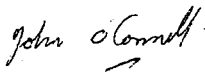
The Director's responsibilities arise from sections 45A and 45B of the Public Finance Act 1989.

We are responsible for expressing an independent opinion on the financial statements and statement of service performance and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and section 45D(2) of the Public Finance Act 1989.

Independence

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

Other than the audit, we have no relationship with or interests in the Office.



John O'Connell
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

SERVICE PERFORMANCE

Class of output: 1 - Investigation and Prosecution of Serious or Complex Fraud

1 Summary of total cases for the year ended 30 June 2009

A total of 60 cases were on hand at the beginning of the year at assessment, detection, full investigation or prosecution stages. During the year a further 56 new cases were assessed and 1 case was reinstated. This gave the Office an overall caseload of 117 files. At the end of the financial year there were 69 cases on hand - 13 at assessment or detection, 32 at full investigation and 24 prosecutions.

Note:

| | |
|---------------|--|
| Assessment | complaints undergo an initial assessment to determine whether the matter has reached the statutory threshold for further consideration under either the detection or investigation provisions of the Serious Fraud Office Act 1990. |
| Detection | some complaints require further consideration of all the documentary material to determine whether the complaint should proceed to a full investigation. |
| Investigation | involves obtaining and analysing documents, researching financial transactions and interviewing potential witnesses and suspects to determine whether charges are to be laid. |
| Prosecution | involves preparing the prosecution files, briefing evidence and conducting the prosecution. Prosecution cases do not include cases where appeals have been lodged. Nor do they include related Court proceedings such as judicial reviews or costs applications. |

2 Output measures

Description

The output class involves the investigation of suspected cases of serious or complex fraud brought to the attention of, or detected by, the Serious Fraud Office, and the prosecution of those cases where the Director is satisfied that a prosecution should be commenced.

Following investigation, the Director makes a decision whether criminal charges should be laid.

The prosecution of the case requires the preparation of a well-researched and documented case. This encompasses the filing of all court documents; the preparation, researching and collating of all documentary and oral evidence; and appearing as counsel at all preliminary court hearings and as junior counsel at trial.

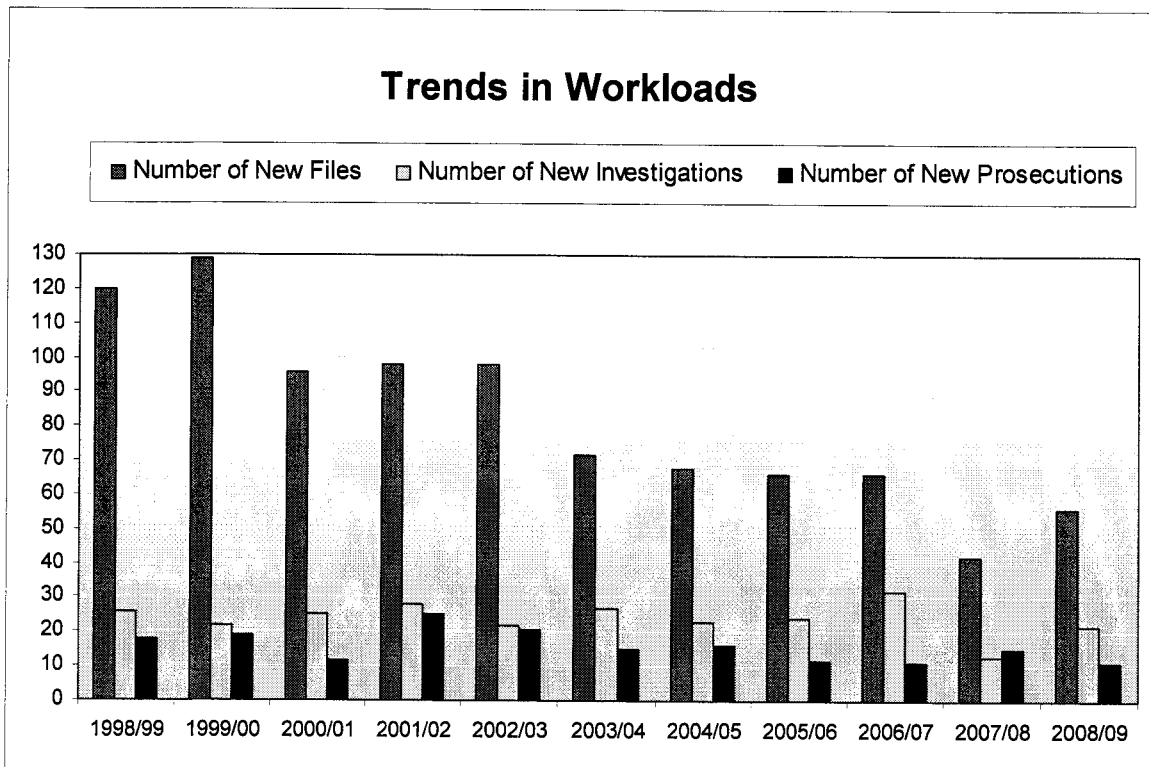
This output class includes the briefing of the outside counsel engaged for the trials, the giving of evidence at trials and the provision of expert advice throughout the course of trials.

Outcome

To combat serious and/or complex fraud offending.

Details of complaints and investigations

In the current year, 59 complaints were assessed. Over the past few years a higher proportion of the complaints have met the threshold for a full investigation. Between 25% and 30% of new complaints in the past five years have resulted in a full investigation compared to around 18% to 20% in the period 2000-2003. In the past 12 months out of 59 complaints 17 were assessed as warranting a full investigation from the outset (29%), seven were assessed as warranting further detection (12%), 5 complaints went initially to the detection stage but later when more information was available became full investigations. Some complaints fall outside the "serious or complex" category and are more properly referred to other agencies. Where that decision is able to be made by the Complaints Officer at the outset, the matter will not be formally recorded as a matter assessed by the Director. Only those matters placed before the Director to determine whether or not the case meets the statutory threshold are recorded as complaints for statistical purposes.



During the reporting period;

- 11 investigations were completed and proceeded to prosecution;
- 5 investigations were completed but did not proceed to prosecution;
- 18 complaints were referred to other more appropriate agencies, namely:
 - 12 to the New Zealand Police
 - 1 to the Commerce Commission
 - 2 to the Securities Commission
 - 1 to the Ministry of Education
 - 1 to the Ministry of Agriculture and Fisheries
 - 1 to a local government body;
- 29 complaints were closed following consideration and assessment as they were found not to justify further action;
- 6 complaints remain at the assessment stage;
- 7 cases remain at the detection stage;
- 32 cases remain at the full investigation stage;
- 24 cases remain at the prosecution stage.

The Management Team formally reviewed all the cases on hand at least monthly to assess progress and to ensure that investigations were focusing on the key issues.

Performance Targets

Assessment of Complaints

- Within 14 days of receipt of a complaint a preliminary assessment will be completed to determine whether it meets the criteria of the Serious Fraud Office Act 1990.

The Complaints Officer receives all complaints. Many matters raised with the Complaints Officer are clearly not matters falling within the jurisdiction of the Office but are more properly addressed by another agency. A complaint to the Police, a complaint to the Serious Fraud Office must reach an evidential threshold before the Director can open a case, which sometimes requires further information before a decision can be made on the complaint.

Almost all complaints received a preliminary assessment within 14 days of being received in the Office. A small number of complaints fell outside of the 14 days.

- Within six months, a decision will be made whether to abandon preliminary work or to proceed to a full investigation. During the period:

- 65 cases were at the assessment or detection stage during the year;
- 13 cases were at assessment or detection stage at 30 June 2009;
- 3 cases exceeded 6 months at the detection stage.

Of the 6 detection cases on hand at 1 July 2008, two remain in detection phase, and four were moved to full investigations in the period under review. Five of the six exceeded the 6 months performance target due to the complexity of investigations and delay in obtaining determination information.

Of the 7 detection cases opened in the period under review, five remain in detection phase, one was closed and one was moved to a full investigation. Three of the seven files exceeded the performance target of 6 months, due to the difficulties in obtaining information.

Investigations

- That in 80% of the cases sufficient work will have been completed within 12 months to reach the prosecution decision point.

During the reporting period a total of 48 cases were at the investigation stage and of these:

- 5 were completed but did not proceed to prosecution;
- 11 resulted in prosecution;
- 32 remain under investigation.

It was anticipated that the Office would complete approximately 25 investigations during the year.

- Of the 26 full investigations on hand at the beginning of the financial year, 13 remain under investigation, nine proceeded to prosecution and four were completed without any prosecution authorised.
- Of the 13 that remain under investigation, all exceed the 12 month period. Of the nine that were prosecuted, seven exceeded the 12 month target although three of these took between 14 – 16 months. Of the four cases completed without prosecution, three exceeded the 12 month target.
- Of the 22 full investigations commenced in the current year, 19 remain open. One was completed without prosecution and took 9 months. Two cases proceeded to prosecution and each took 8 months.
- Of the 48 investigations open in the year under review, 23 (48%) exceeded the 12 month target.

Prosecutions

During the year ended 30 June 2009, 11 new prosecutions were commenced in addition to the 26 prosecutions that were under action at the beginning of the year. 13 prosecutions were concluded during the year. Some cases involved a number of defendants.

At the end of the reporting period there were 24 prosecution cases under action.

For the period from the inception of the Office in 1990 to 30 June 2009 the Office has a 91.09% success rate for cases it has prosecuted, and an 83.4% success rate in relation to individuals with those cases.

On all occasions dates set by the courts have been met. The Office works closely with the courts in an attempt to ensure the smooth running of the prosecution process.

General

- To maintain the highest quality of investigative work, case preparation and case presentation.

The Office continues to receive favourable comments about the high quality of investigative work, case preparation and case presentation. The overall professionalism of the case investigation, preparation and presentation by the Office is a factor in the successful determination of the cases. Prosecution cases are debriefed as a part of ensuring that the Office maintains the highest standards in its prosecutions.

There were no adverse comments from the judiciary or panel counsel during the year in relation to any of the investigative work or case preparation undertaken by the Office.

The progress of each case was reviewed at least monthly by the Director and the senior managers to ensure the timeliness and thoroughness of all investigations and prosecutions.

3 Use of Statutory Powers

Target

- To report on all instances where the Director has exercised his powers in accordance with the Serious Fraud Office Act 1990.

The breakdown of the use of the statutory powers during the year was as follows:

SFO, Act, Part 1: Detection of serious or complex fraud

| | | 2008/09 | 2007/08 | 2006/07 | 2005/06 | 2004/05 |
|-----------|--------------------------------|------------|-----------|-----------|-----------|------------|
| s 5(1)(a) | Requiring documents | 209 | 56 | 91 | 44 | 118 |
| s 5(1)(b) | Requiring answers to questions | 1 | 5 | 4 | 16 | 13 |
| s 6 | Search warrant obtained | Nil | Nil | Nil | 1 | Nil |
| | TOTAL | 210 | 61 | 95 | 61 | 131 |

SFO, Act, Part 2: Investigation of suspected offences involving serious or complex fraud

| | | 2008/09 | 2007/08 | 2006/07 | 2005/06 | 2004/05 |
|-----------|--------------------------------|------------|------------|--------------|------------|------------|
| s 9(1)(d) | Requiring answers to questions | 36 | 84 | 258 | 123 | 101 |
| s 9(1)(e) | Requiring information | 103 | 82 | 113 | 129 | 69 |
| s 9(1)(f) | Requiring documents | 412 | 409 | 669 | 547 | 560 |
| s 10 | Search warrant obtained | Nil | Nil | 7 | 4 | 5 |
| | TOTAL | 551 | 575 | 1,047 | 803 | 735 |

Performance

The Director or the Assistant Director signs all notices requiring persons to attend to answer questions. To ensure that requisite grounds exist for the exercise of these powers an internal control procedure is followed before the notices are referred for signature.

Search warrants are issued on written application to a District Court judge. The Director, or the Assistant Director, must be notified in advance of any request for a search warrant. There were no warrants sought in the period to 30 June 2009.

4 SFO prosecutions determined by the courts in the year to 30 June 2009

Case 1: Husain Al Saffaf

Al Saffaf was a property developer, based at Albany. He sought to develop a premium Parnell site, which he purchased for \$3,420,000, with a view to building four top-of-the-range apartment units valued at \$11,840,000 in total. In 2003 he used documents to obtain finance of some \$8,730,000 from the ANZ and Structured Finance (NZ) Limited in relation to the property development at Parnell. Al Saffaf made representations as to the existence of pre-sale agreements in respect of units in the development, while dishonestly failing to disclose side agreements which provided for purchase price reductions.

Al Saffaf pleaded guilty to all charges and was convicted and sentenced to 10 months home detention.

Case 2: Glen Erkkila and Brent Cowan

Erkkila ran a small accounting business in Lower Hutt called Intrepid Bookkeeping which was later renamed Intrepid Taxation Consultants ("ITC"). Erkkila employed Brent Cowan as his marketing manager.

Lumley Finance (NZ) Ltd ("Lumley") provided finance to clients of accounting and other professional firms to wholly or partially fund professional fees that the clients had incurred. It was called the fee funder scheme. Lumley accepted an application by Erkkila for ITC to become an authorised distributor of the fee funder financing facility. Under this scheme Lumley paid to ITC fees owed by clients of ITC. The client would then repay Lumley the amount of the fees plus interest and an establishment fee. To formalise this arrangement Lumley and the client would enter into a loan agreement recording the amount of the loan and the terms concerning the instalments to be paid by the client to Lumley.

Erkkila dishonestly obtained a number of loans from Lumley Finance (NZ) Ltd through the fee funder scheme. He then fraudulently obtained further loans, claiming that they were for the expansion of his tax/accountancy business ITC. The total net loss to Lumley was \$424,566.32.

On five occasions, Erkkila also stole money properly due to either his clients or the IRD. The thefts total \$24,373.66. A third category of offending involved the dishonest use of GST returns to obtain GST refunds from the IRD. \$14,690.42 was dishonestly obtained from the IRD from a total of \$33,212.45 claimed.

Brent Cowan was a party to Erkkila's offending in respect to 8 of the Lumley fee funder loans. Cowan pleaded guilty to all 8 counts and was convicted and sentenced to 12 months home detention. Erkkila pleaded guilty to 58 counts and was convicted and sentenced to 4 years and 2 months imprisonment.

Case 3: Blair Fitzsimons

Fitzsimons was an employee and minor shareholder in Pioneer Insurance Company Limited ('Pioneer'), a Napier based company specialising in the provision of motor vehicle insurance, which was incorporated in August 2002.

Fitzsimons was also a shareholder in CRM Motor Limited, later renamed Risk Administration Services ('RAS'). RAS provided administration and operations services to Pioneer. Pioneer, RAS and a third company, Policy Factoring Limited, operated as a group trading in the insurance market.

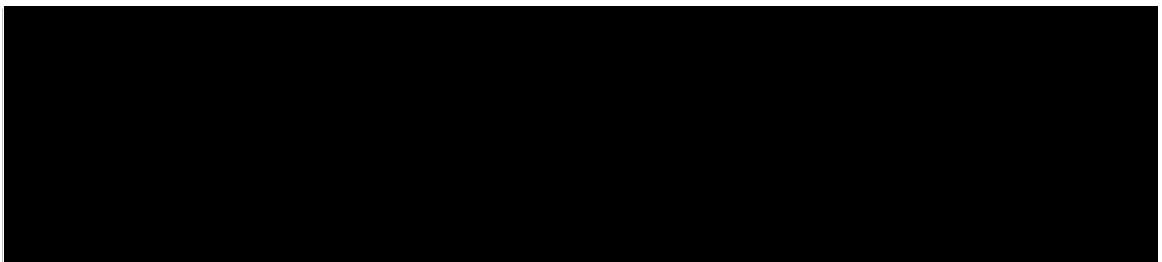
Fitzsimons had directorial and managerial responsibilities for RAS. Whilst he did not have signing authority on all Pioneer bank accounts, in practice he was given a significant degree of autonomy within the Pioneer business structure, acting as general manager, and he regularly signed Pioneer cheques.

Between December 2005 and November 2006, Fitzsimons dishonestly obtained a total of \$3m from Pioneer for his own use. Subsequently, on three occasions between March 2006 and April 2007, he used forged GE Finance documents to cover-up his misappropriations.

In May 2006, Fitzsimons dishonestly used a Marac Finance loan application form to dishonestly obtain \$586,625, the loan being secured against what purported to be Pioneer assets. The application was made without the knowledge or consent of the Pioneer directors and shareholders, and the funds were used for Fitzsimons' own purposes.

In June 2007, Fitzsimons dishonestly used a Taranaki Savings Bank cheque tendered to Westpac, leading to a \$500,000 loss to Westpac.

Fitzsimons pleaded guilty to 8 charges and was convicted and sentenced to 4 years 6 months imprisonment with a minimum non-parole period of 2 years 6 months imposed. The sentence was upheld on appeal.



Case 5: Katherine Henry

Katherine Henry was employed by the Business School of the University of Auckland as a project manager within the Mira Szaszy Research Centre between August 2003 and January 2007.

Henry misappropriated a total of \$609,509.92 from the University over a three year period. On some occasions she presented false invoices with bank account details linked to her for payment. After obtaining access status to financial computer systems, Henry entered false invoice data directly onto the computer and used colleagues' passwords to both enter invoice details and approve payment. Henry obtained 110 separate payments using these methods.

Henry pleaded guilty on all charges and was convicted and sentenced to 2 ½ years imprisonment.

Case 6: Cherie Mackey

Cherie Anne Mackey was employed as a payroll clerk by Tapper Transport Limited, a transport company based in Onehunga. Between February 2003 and March 2007, Mackey misappropriated a total of \$191,585.70 from her employer by manipulating electronic documents in the Tapper Transport computer payroll system.

Mackey was responsible for entering employee hours into the timesheet and payroll system from handwritten timesheets given to her by employees. She had a large degree of autonomy in dealing with the timesheet and payroll system and was in a position of considerable trust.

Mackey would initially enter the hours correctly and generate payslips based on the actual hours worked. She would then go back and alter information in the system, inflating the hours worked for particular employees. She would then set up direct credit payroll payments for the additional hours, but rather than this payment being to the employee's account, it would be to an account controlled by Mackey. She also manipulated timesheets in relation to holiday pay. Mackey would alter information in the system so that an amount equivalent to an employee's regular wages would be credited to one of her accounts.

The money taken was used for personal expenditure, including overseas trips, and to service personal loans and car loans.

Mackey pleaded guilty to all charges and was convicted and sentenced to 10 months home detention.

Case 7: George and Jennifer McIntyre

The McIntyres worked together selling insurance. Using Mr McIntyre's former Army contacts, the McIntyres gave presentations and promoted themselves as budget and financial advisers. The McIntyres offered their clients the opportunity to invest money with them. Investors received loan agreements from the McIntyres, but investors' funds were not invested in any meaningful way. The McIntyres and their companies were in a financial position such that it was highly unlikely that the investors' funds would be returned with the interest promised. Any loan or interest payments they made were from money lent by new investors.

The McIntyres misled the investors, through the misrepresentations they made and by their omission to disclose the true picture. The combined effect of the representations they made as to the returns that would be provided and their silence as to the poor financial circumstances of their companies was a misrepresentation of the true financial position. The McIntyres received \$1,438,100. Repayments of \$441,749 were made to investors, resulting in a loss of \$996,341. Jennifer McIntyre pleaded guilty to all counts and was convicted and sentenced to 2 years and 8 months imprisonment. George McIntyre was found guilty on all counts and was convicted and sentenced to 3 years and 3 months imprisonment.

Case 8: Albert Numanga

Numanga worked in the Auckland Tourism Office (ATO) for the Cook Islands Tourism Marketing Corporation (CITMC) from 1998 to October 2007. He left after an inquiry by the Cook Islands Audit Office.

Numanga's work involved the promotion and marketing of the Cook Islands in New Zealand. He was required to travel throughout New Zealand and liaise with other tourism operators, suppliers, travel agents and travel wholesalers.

Numanga was the sole signatory and operator of the Cook Islands Tourism accounts: an ANZ cheque account, a savings account and a credit card account. He was in sole charge of preparing approving and disbursing payments. He was also responsible for the monthly cashbook reporting, which he was required to account monthly for to the CITMC Head Office in Avarua, Rarotonga.

The only documentation the CITMC got from Numanga was the monthly cash book report. He told the Audit Office he destroyed all accounting records (invoices, cheque butts) used to support the reporting because of a lack of space in his office.

Numanga misappropriated \$1,001,475 from two Cook Islands Tourism accounts by two methods. He banked cheques from their cheque account into his bank account, and also made electronic transfers from their bank accounts to his. He covered up the misappropriations by false accounting. The money was spent on luxury items such as international travel, meals, accommodation and expensive clothing.

Numanga pleaded guilty to 4 charges and was convicted and sentenced to 3 years and 9 months imprisonment.

Case 9: Warren Pickett

Pickett was the sole shareholder and director of Waipawa Holdings Limited ("Waipawa Holdings") and the largest shareholder and sole director of Waipawa Finance Company Limited ("Waipawa Finance"). The finance companies accepted deposits and provided loans to individuals and businesses known to him.

Pickett was a well-known, trusted and respected member of the Waipawa community. He was a marriage celebrant, a Justice of the Peace, a trustee of a number of family trusts for clients of his accounting practice and he was involved in local sporting and community groups.

On 7 August 2008, Waipawa Holdings and Waipawa Finance were placed into liquidation. At that time the finance companies owed close to \$20 million to 220 investors. The estimated recovery of funds (as at the date of sentencing) was 19.4 cents per \$1 for Waipawa Finance investors and 9.2 cents per \$1 for Waipawa Holdings investors. The losses to the investors were significant.

Pickett admitted to the Serious Fraud Office that he had misappropriated investors' funds over approximately 20 years and had used deceptive accounting practices to conceal the money he was taking from the finance companies.

Pickett stole funds to cover losses that had accumulated in business ventures dating as far back as the late 1980's. One of the ventures involved the borrowing of funds offshore and on-lending the funds in New Zealand to make a profit on an interest rate differential. This venture lost money due to exchange rate movements on loans and exchange rate losses on contracts taken out to manage the foreign exchange risks. Pickett believed he could recoup those losses and took advances from the finance companies to do so.

Pickett provided very little information and documentation to investors other than a manual receipt regarding their investment. There was no prospectus, investment statement, trust

deed, published financial statements nor any independent trustee appointed. Pickett was charged with two counts under section 59 of the Securities Act 1978 that as the principal officer of both finance companies he offered securities to the public without an investment statement, registered prospectus, trust deed or appointed trustee.

The investors trusted Pickett implicitly to protect their deposits. He credited interest to the investors' ledger accounts and advised investors in a monthly statement to that end. Mostly interest was added to investments rather than being paid out. Investors believed their deposits were on call and would be available for withdrawal when requested.

However, on the collapse of sub prime financial markets Pickett wrote to investors in October 2007 reassuring them as to the situation to give them confidence their money was safe. He made false statements about the position of the companies. He wrote again on 31 March 2008 making further false statements saying the situation was essentially unchanged from October 2007 and at that point offered increased interest rates for deposits. In reality, Pickett did not have funds available to meet the interest payment commitments, let alone any payments of principal.

Investors assumed the lending was secured, essentially on the basis that the Pickett was an experienced accountant and that adequate security would be of paramount importance to someone of Pickett's background.

Pickett's offending has had significant impact on the individual investors and the Waipawa and Norfolk Islands communities. Many describe having lost all of their savings and, in some cases, having to work instead of enjoying retirement. Two victims had more than \$5,000,000 invested with Pickett.

Pickett pleaded guilty to 8 charges and was convicted and sentenced to 5 years imprisonment and a minimum non parole period of 2/3 of the sentence was imposed. Pickett has appealed his sentence.

Case 10: Joan Roberts

Joan Roberts was the chief executive officer of AMES (Aotearoa Mature Employment Service) and Roberts stole more than \$300,000 in cash that she was required to account for to AMES. She also used a \$58,000 AMES cheque to get money that she was not entitled to. She put the money towards the purchase of a house on Waiheke for herself and a friend. She used forged documents to mislead auditors and cover her defalcations. Furthermore, Roberts twice obtained funds by deception when she re-financed the mortgage on the Waiheke property, in a separate transaction, arranged to purchase the Island's Hammer Hardware store.

Roberts pleaded guilty to two counts and was found guilty of the remaining 5 counts in the indictment and was convicted and sentenced to 10 months home detention and 300 hours community service.

Case 11: Amar Singh, Ranjeet Prasad, Stephen D'Villiers, Boni Roy and Jennifer Lacurtz

Amar Singh (Mobile Mortgage Manager, Westpac), Ranjeet Prasad (Real Estate Agent, Ask First National), Stephen D'Villiers (Property Developer), Boni Roy and Jennifer Lacurtz (partner and niece of D'Villiers respectively) together dishonestly used loan application forms and property sale and purchase agreements dishonestly to obtain mortgage finance.

Prasad and D'Villiers recruited innocent persons to purchase South Auckland residential properties and misled financial institutions as to the assets and salary of the borrowers and

also as to the real price of the properties by the use of misleading applications, forged documents and price ramping through same day on-sales and loan applications submitted on behalf of the purchasers. The financial institutions were induced to lend 100% of the purchase price. The purchasers were often told by the defendants that they could arrange 100% finance for their purchase. Applications were also submitted using false identities and in the defendants' own names.

There were 28 separate applications and the loans sought totalled more than \$7 million.

Amar Singh pleaded guilty and was convicted and sentenced to 18 months imprisonment and \$13,000 reparation. The sentence was confirmed on appeal. Ranjeet Prasad pleaded guilty and was convicted and sentenced to 8 months home detention, 400 hours community work and paid reparation of \$80,000. Stephen D'Villiers pleaded guilty during the trial and was convicted and sentenced to 5 years imprisonment and a minimum non-parole period of 2 1/2 years imprisonment was imposed. Jenifer Lacurtz pleaded guilty during the trial and was convicted and sentenced to 6 months community detention and ordered to pay \$8,000 in reparation. Boni Roy was discharged without conviction on 3 counts.

Case 12: Michael Swann and Kerry Harford

Michael Swann was the Chief Information Officer and member of the senior executive team of the Otago District Health Board ("ODHB"). He set up a system whereby invoices from Sonnford Solutions Limited ("Sonnford"), which were representative of a supposed insurance type service, were paid by ODHB.

Kerry Harford (a surveyor who was based in Queenstown) was joint director and shareholder of Sonnford. He had no specific IT knowledge or experience and had not been involved in the IT industry in any way previously. He was a friend of Swann's.

The invoices were produced by Harford on the instructions of Swann, and Swann received them personally, authorised their payment and passed them on to the ODHB accounts section for payment.

Between 1 September 2000 and 18 August 2006, ODHB paid \$16,902,145.27 to Sonnford and its predecessor, Harford Sonntag and Associates.

Swann had justified these payments by producing 16 contracts between ODHB and Sonnford for the supposed provision of IT and software licensing and maintenance services. The contracts were signed by Swann, outside his authority mandate and in breach of the delegation of authority and code of conduct policies, and by Harford. The contracts were not disclosed to the ODHB Board until September 2006, and only then as a result of queries about the payments by the CFO. The contracts were false.

No actual work or services was ever performed by Sonnford which could justify the payments. Of the payments received, Sonnford passed 90% on to another entity, Computer South. The 10% withheld was used by Harford.

Computer South's shareholders were friends of Swann's. All money into Computer South's bank account from Sonnford was expended on lifestyle purposes for Swann, including the purchase of numerous boats, cars and property.

Swann and Harford perpetrated a fraud on the ODHB in 3 ways:

- using the entity Harford Sonntag & Associates, they used 4 invoices to fraudulently obtain \$237,885.17 from the ODHB for services supposedly but not actually supplied, contrary to section 229A of the Crimes Act,
- using the entity Sonnford Solutions Ltd, they used 75 invoices to fraudulently obtain \$5,056,932.94 from the ODHB for services supposedly but not actually supplied, contrary to section 229A of the Crimes Act, and
- using the entity Sonnford Solutions Ltd, they used 119 invoices to fraudulently obtain \$11,607,328.16 from the ODHB for services supposedly but not actually supplied, contrary to section 228 of the Crimes Act.

The SFO's investigation commenced in October 2006. It involved the identification, collection and analysis of in excess of 14,000 documents and many interviews of witnesses, experts and the two suspects. Swann and Harford were arrested in June 2007. A Dunedin High Court jury trial took place in November and December 2008.

Swann and Harford were found guilty of all 6 counts. Swann was convicted and sentenced to 9 years and 6 months imprisonment and a minimum period of imprisonment of 4 years and 6 months imprisonment was imposed, the highest sentence ever imposed in a Serious Fraud Office prosecution. Swann has appealed his sentence. Harford was convicted and sentenced to 4 years and 3 months imprisonment. Since sentencing, the Office has worked to assist the Crown in the forfeiture by Swann of the proceeds of his crime. The work is ongoing.

Case 13: Brent Todd, Malik Wijeyeratne, Hugh McGahan, Douglas Rollerson, Richard Arnott, Geoffrey Thompson and Kay McKirdy

Brent Todd and Malik Wijeyeratne owned taverns in Auckland operating pokie machines. They submitted grant applications to the operating charitable trusts on behalf of the public. Together with Douglas Rollerson (CEO, North Harbour Rugby) and Richard Arnott and Geoffrey Thompson (Touch New Zealand), gaming machine grants were submitted and on average 50% of the money was used to pay 'kickbacks' to Wijeyeratne and Todd. Of the grant money received by North Harbour and Touch NZ, North Harbour paid \$1.019M and Touch NZ paid \$1M in kickbacks.

The fraudulent mechanism was via use of false invoicing for such services as consultancy, training, functions and building work. The services were never delivered nor intended to be delivered. Hugh McGahan, an associate of Brent Todd, was recruited to submit false invoices using his events and promotions company, Lateral Vision. Kay McKirdy, a travel agent, was also recruited and submitted false travel invoices using her travel company, Landmark Travel.

The charges related to conspiracy in the use of documents (the invoices). Douglas Rollerson was also separately charged with false accounting. The charges against Rollerson relating to conspiracy to use documents and false accounting were later converted to two secret commissions charges.

Brent Todd pleaded guilty and was convicted and sentenced to 2 yrs imprisonment, then substituted by 12 months home detention. Malik Wijeyeratne pleaded guilty and was convicted and fined \$450,000. \$400,000 of this was paid to Touch New Zealand. Hugh McGahan pleaded guilty and was convicted and sentenced to 275 hours community work. Richard Arnott and Geoffrey Thompson pleaded guilty and were convicted and discharged

and made a combined donation of \$7,500 payable to Touch New Zealand. Douglas Rollerson pleaded guilty and was convicted and discharged. Kay McKirdy pleaded guilty and was discharged without conviction and undertook 60 hours community work.

Other: Tuariki Delamere

Mr Delamere stood trial in the High Court at Auckland in early 2007 on seven counts of using a document with intent to defraud, four counts of dishonestly using a document and nine counts of forgery. On 2 March 2007 he was found not guilty by a jury on 14 of those counts, the other six having earlier been dismissed by the judge following closing addresses.

The charges related to the assistance that Mr Delamere, who headed the immigration consultant company Tuariki Delamere & Associates Limited, provided to seven Chinese nationals in their attempts to gain New Zealand residence. The Serious Fraud Office alleged that Mr Delamere’s actions were dishonest in that the method he employed bypassed the requirements of the immigration policy, he misled the New Zealand Immigration Service by providing false ‘evidence’ of compliance, and later created false documents intended to cover his tracks and give his actions an air of legitimacy.

Mr Delamere applied for an order for costs against the Crown. The High Court dismissed that application. The Court of Appeal dismissed his appeal, the Court saying that this was a “strong” SFO case.

Statement of Output Performance Measures and Standards

| Performance Measures | 2008/09 | | 2007/08 |
|---|---------|-----------------|---------|
| | Actual | Budget Standard | Actuals |
| Number of full investigations completed to the point where the Director of Serious Fraud decides whether or not criminal charges should be laid | 16 | 20-30 | 21 |
| Number of prosecution cases concluded | 13 | 15-20 | 10 |
| Percentage of cases investigated to enable the Director to decide whether to prosecute the alleged offender(s) completed within 12 months* | 37.5% | 80% | 57% |
| Progress of all cases is reviewed at least monthly by the Director | 100% | 100% | 100% |

*The method used to report results against these performance measure differs from that used in previous years, by counting results only in completed cases in the year under report. The average time for investigations to proceed to a decision to prosecute or close was 14.87 months. Substantial finance company and mortgage fraud cases imposed resource pressures in the period that affected the Office’s ability to meet the performance target.

Statement of Cost of Services (GST exclusive)

| | 30/06/09 | 30/06/09 | 30/06/09 | 30/06/08 |
|------------------------------|-----------|-----------|-----------|------------|
| | Actual | Main | Supp. | Actual |
| | | Estimates | Estimates | |
| | | (\$000) | (\$000) | (\$000) |
| Revenue Crown | 5,560 | 5,360 | 5,560 | 5,060 |
| Revenue departments | 101 | 120 | 101 | 108 |
| Revenue other | - | 9 | 9 | 1 |
| Total income | 5,661 | 5,489 | 5,670 | 5,169 |
| Expenses | 5,649 | 5,489 | 5,670 | 4,965 |
| Net surplus/(deficit) | 12 | - | - | 204 |

The appropriation for this output class increased by \$0.181 million in the Supplementary Estimates.

This was due to a \$0.200 million fiscally neutral transfer from the Civil Forfeiture of Criminal Assets output expense to meet cost pressures, which was offset by a \$0.019 forecast reduction in cost of employer superannuation contributions.

The baseline for this output class increased from 2007/08 to 2008/09 by \$0.300 million, approved in the 2007 Budget.

Class of Output: 2 - Civil forfeiture of criminal assets

Scope of Appropriation

The scope of this appropriation is for the cost of investigating and where appropriate restraining and/or forfeiting assets derived from criminal activity under the civil forfeiture provisions of the relevant legislation.

The Office did not undertake any cases under this output class during the year as the legislation had not been enacted.

Statement of Output Performance Measures and Standards

| Performance Measures | 2008/09 | | 2007/08 | |
|--|---------|----------|-------------------|-----------------|
| | Actual | Standard | Budgeted Standard | Actual Standard |
| Number of cases where investigation is commenced | 0 | | 10-30 | - |
| Percentage of cases investigated to enable the Director of Serious Fraud to decide on forfeiture orders completed within 12 months | 0 | | 80% | - |
| Progress of all cases is reviewed at least monthly by the Director | 0 | | 100% | - |

Statement of Cost of Services (GST exclusive)

| | 30/06/09 Actual (\$000) | 30/06/09 Main Estimates (\$000) | 30/06/09 Supp. Estimates (\$000) | 30/06/08 Actual (\$000) |
|------------------------------|-------------------------------|--|---|-------------------------------|
| Revenue Crown | 2 | 1,890 | 100 | 92 |
| Revenue departments | - | - | - | - |
| Revenue other | - | - | - | - |
| Total Revenue | 2 | 1,890 | 100 | 92 |
| Expenditure | 2 | 1,890 | 100 | 92 |
| Net surplus/(deficit) | - | - | - | - |

Substantive work on civil forfeiture is governed by the Criminal Proceeds (Recovery) Act 2009, which comes into force on 1 December 2009.

The appropriation for this output class was reduced in the Supplementary Estimates when \$0.200 million funding was transferred to the Investigation and Prosecution of Serious or Complex Fraud output expense to meet cost pressures.

An additional \$0.400 million was transferred to provide the Serious Fraud Office with a capital injection to enable it to complete office renovations and upgrade IT systems. Another \$1.190 million was accounted for as a saving to the Crown.

Financial Statements for the year ended 30 June 2009

Statement of Financial Performance for the year ended 30 June 2009

| | Note | 30/06/09 Actual (\$000) | 30/06/09 Main Estimates (\$000) | 30/06/09 Supp. Estimates (\$000) | 30/06/08 Actual (\$000) |
|---------------------------------------|------|-------------------------------|--|---|-------------------------------|
| Income | | | | | |
| Crown | | 5,562 | 7,250 | 5,660 | 5,152 |
| Other | 2 | 101 | 129 | 110 | 109 |
| Gains | 3 | 6 | - | 6 | - |
| Total Income | | 5,669 | 7,379 | 5,776 | 5,261 |
| Expenditure | | | | | |
| Personnel costs | 4 | 3,732 | 4,139 | 3,630 | 3,374 |
| Depreciation and amortisation expense | 8,9 | 167 | 184 | 164 | 135 |
| Capital charge | 5 | 29 | 51 | 29 | 29 |
| Other operating costs | 6 | 1,723 | 3,005 | 1,947 | 1,519 |
| Total Expenditure | | 5,651 | 7,379 | 5,770 | 5,057 |
| Net surplus/(deficit) | | 18 | - | 6 | 204 |

The accompanying accounting policies and notes form part of these financial statements

Statement of Movements in Taxpayers' Funds

| | Note | 30/06/09 Actual (\$000) | 30/06/09 Main Estimates (\$000) | 30/06/09 Supp. Estimates (\$000) | 30/06/08 Actual (\$000) |
|--|------|-------------------------------|--|---|-------------------------------|
| Taxpayers' funds at 1 July 2008 | | 387 | 387 | 387 | 387 |
| Net surplus/(deficit) for year | | 18 | - | 6 | 204 |
| Total recognised revenues and expenses for the year | | 18 | - | 6 | 204 |
| Capital contributions | | 690 | 290 | 690 | - |
| Repayment of surplus to the Crown | 11 | (18) | - | (6) | (204) |
| Taxpayers' funds at 30 June | | 1,077 | 677 | 1,077 | 387 |

The accompanying accounting policies and notes form part of these financial statements

Statement of Financial Position
as at 30 June 2009

| | Note | 30/06/09 Actual (\$000) | 30/06/09 Main Estimates (\$000) | 30/06/09 Supp. Estimates (\$000) | 30/06/08 Actual (\$000) |
|----------------------------------|-----------|-------------------------------|--|---|-------------------------------|
| Taxpayers' funds | 13 | 1,077 | 677 | 1,077 | 387 |
| Total Taxpayers' Funds | 13 | 1,077 | 677 | 1,077 | 387 |
| Represented by Assets | | | | | |
| Current assets | | | | | |
| Cash and cash equivalents | | 855 | 693 | 684 | 681 |
| Debtors and other receivables | 7 | 53 | 34 | 25 | 29 |
| Prepayments | | 53 | 3 | 18 | 18 |
| Total current assets | | 961 | 730 | 727 | 728 |
| Non-current assets | | | | | |
| Property, plant and equipment | 8 | 792 | 365 | 755 | 236 |
| Intangible assets | 9 | 2 | 2 | 2 | 5 |
| Total non-current assets | | 794 | 367 | 757 | 241 |
| Total Assets | | 1,755 | 1,097 | 1,484 | 969 |
| Less: Liabilities | | | | | |
| Current liabilities | | | | | |
| Creditors and other payables | 10 | 359 | 302 | 230 | 184 |
| Repayment of surplus | 11 | 18 | - | 6 | 204 |
| Employee entitlements | 12 | 297 | 118 | 171 | 188 |
| Total current liabilities | | 674 | 420 | 407 | 576 |
| Non-current liabilities | | | | | |
| Employee entitlements | 12 | 4 | - | - | 6 |
| Total liabilities | | 678 | 420 | 407 | 582 |
| Net Assets | | 1,077 | 677 | 1,077 | 387 |

The accompanying accounting policies and notes form part of these financial statements

Statement of Cash Flows

| | Note | 30/06/09 Actual | 30/06/09 Main | 30/06/09 Supp. | 30/06/08 Actual |
|---|-----------|--------------------|------------------|-------------------|--------------------|
| Cash flows from operating activities | | (\$000) | (\$000) | (\$000) | (\$000) |
| Receipts from Crown | | 5,563 | 7,250 | 5,661 | 5,151 |
| Receipts from revenue other | | 71 | 123 | 113 | 129 |
| Payments to suppliers | | (1,694) | (3,022) | (2,001) | (1,572) |
| Payments to employees | | (3,554) | (4,096) | (3,564) | (3,302) |
| Payments for capital charge | | (29) | (51) | (29) | (29) |
| Goods and services tax (net) | | (22) | 8 | 11 | 1 |
| Net cash from operating activities | 14 | 335 | 212 | 191 | 378 |
| Cash flows from investing activities | | | | | |
| Receipts from sale of property, plant & equipment | | 31 | - | 31 | 25 |
| Purchase of property, plant and equipment | | (678) | (290) | (705) | (56) |
| Purchase of intangible assets | | - | - | - | - |
| Net cash from investing activities | | (647) | (290) | (674) | (31) |
| Cash flows from financing activities | | | | | |
| Capital contributions | | 690 | 290 | 690 | - |
| Repayment of surplus | | (204) | - | (204) | (22) |
| Net cash flows from financing activities | | 486 | 290 | 486 | (22) |
| Net increase/(decrease) in cash | | 174 | 212 | 3 | 325 |
| Cash at beginning of the year | | 681 | 481 | 681 | 356 |
| Cash at the end of the year | | 855 | 693 | 684 | 681 |

The GST component of operating activities reflects the net GST paid and received from the Inland Revenue Department. The GST component has been presented on a net basis, as the gross amounts do not provide meaningful information for financial statement purposes.

The accompanying accounting policies and notes form part of these financial statements

Statement of Commitments

At balance date, the Serious Fraud Office has a non cancellable operating lease commitment in respect of accommodation in Auckland. The lease runs to 29 February 2016 and provides for right of renewal and for escalation. The amounts disclosed below as future commitments are based on the current rental rates.

Capital commitments are the aggregate amount of capital expenditure contracted for the acquisition of property, plant and equipment and intangible assets that have not been paid for or not recognised as a liability as at balance date.

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|--|-------------------------------|-------------------------------|
| Non-cancellable operating lease commitment | | |
| Not later than one year | 554 | 423 |
| Later than one year and not later than five years | 2,215 | 1,693 |
| Later than five years | 923 | 1,211 |
| Total non-cancellable operating lease commitments | 3,692 | 3,327 |
| Capital commitments | | |
| Property, plant and equipment - Office renovations | - | 70 |
| Total commitments | 3,692 | 3,397 |

The Serious Fraud Office has a non-cancellable sublease with the New Zealand Police. The total minimum future sublease payments expected to be received under this lease at 30 June 2009 is \$428,778 (2008: Nil).

Statement of Contingent Liabilities and Contingent Assets as at 30 June 2009

The Serious Fraud Office had no contingent liabilities or contingent assets as at 30 June 2009 (2008: Nil).

The accompanying accounting policies and notes form part of these financial statements

**Statement of Departmental Expenses and Capital Expenditure against Appropriations
for the year ended 30 June 2009**

| | 30/06/09 | 30/06/09 | 30/06/08 |
|--|--------------|---------------|--------------|
| | Actual | Appropriation | Actual |
| | | Voted * | |
| | (\$000) | (\$000) | (\$000) |
| Vote Serious Fraud | | | |
| Appropriations for output expenses | | | |
| Investigation and Prosecution of Complex or Serious Fraud | 5,649 | 5,670 | 4,965 |
| Civil Forfeiture of Criminal Assets | 2 | 100 | 92 |
| Total for outputs | 5,651 | 5,770 | 5,057 |
| Departmental capital expenditure | | | |
| Serious Fraud Office - Capital Expenditure (PLA) | 745 | 705 | 42 |
| This appropriation is limited to the purchase or development of assets by and for use of the Serious Fraud Office, as authorised by section 24(1) of the Public Finance Act 1989 | | | |
| Total departmental expenses and capital expenditure and appropriations | 6,396 | 6,475 | 5,099 |

*This includes adjustments made in the Supplementary Estimates and any transfers made under Order in Council under section 26A of the Public Finance Act 1989.

**Statement of Unappropriated Expenses and Capital Expenditure
For the year ended 30 June 2009**

The Serious Fraud Office did not incur any expenses or capital expenditure without appropriation or other statutory authority for the year ended 30 June 2008. Additionally the amount of net asset holdings in the Serious Fraud Office did not exceed the amount of projected net assets asset holdings at the end of the financial year as set out in the Appropriation (2007/08 Supplementary Estimates) Act 2008.

The accompanying accounting policies and notes form part of these financial statements

Notes to the Financial Statements for the year ended 30 June 2009

Note 1: Statement of accounting policies for the year ended 30 June 2009

Reporting Entity

The Serious Fraud Office is a government department as defined by section 2 of the Public Finance Act 1989 and is domiciled in New Zealand.

The primary objective of the Serious Fraud Office is to provide services to the public rather than making a financial return. Accordingly, the Serious Fraud Office has designated itself as a public benefit entity for the purposes of New Zealand equivalents to International Financial Reporting Standards (NZ IFRS).

The financial statements of the Serious Fraud Office are for the year ended 30 June 2009. The financial statements were authorised for issue by the Chief Executive of the Serious Fraud Office on 30 September 2009.

Basis of preparation

The financial statements of the Serious Fraud Office have been prepared in accordance with the requirements of the Public Finance Act 1989, which includes the requirement to comply with New Zealand generally accepted accounting practice (NZ GAAP).

These financial statements have been prepared in accordance with, and comply with, NZ IFRS as appropriate for public benefit entities.

The accounting policies set out below have been applied consistently to all periods presented in these financial statements.

These financial statements have been prepared on a going-concern basis and the measurement base applied is historical cost.

The financial statements are presented in New Zealand dollars and all values are rounded to the nearest thousand dollars (\$'000). The functional currency of the Serious Fraud Office is New Zealand dollars.

Standards, amendments, and interpretations issued that are not yet effective and have not been early adopted

Currently the only standard issued but not effective that has not been early adopted, and which is relevant to the Serious Fraud Office is as follows:

NZ IAS 1 Presentation of Financial Statements (revised 2007) replaces NZ IAS 1 Presentation of Financial Statements (issued 2004) and is effective for reporting periods beginning on or after 1 January 2009.

The revised standard requires information in financial statements to be aggregated on the basis of shared characteristics and to introduce a statement of comprehensive income. This will enable readers to analyse changes in equity resulting from transactions with the Crown in its capacity as "owner" separately from "non-owner" changes.

The revised standard gives the Serious Fraud Office the option of presenting items of income and expense and components of other comprehensive income either in a single statement of comprehensive income with subtotals, or in two separate statements (a separate income statement followed by a statement of comprehensive income).

The Serious Fraud Office expects it will apply the revised standard for the first time for the year ended 30 June 2010, and it is yet to decide whether it will prepare a single statement of comprehensive income or a separate income statement followed by a statement of comprehensive income.

Budget Figures

Main Estimates refers to the figures presented in the 2008/09 Main Estimates of Appropriations.

Supplementary Estimates ("Supp. Estimates") refers to the figures presented in the 2008/09 Supplementary Estimates of Appropriations, and any transfers made by Order in Council under section 26A of the Public Finance Act 1989.

Revenue

The Serious Fraud Office derives revenue through the supply of outputs to the Crown and from the State Services Commission (as agent for Crown) for the recovery of State Sector Retirement Savings Scheme and KiwiSaver employer contributions. Revenue is measured at the fair value of consideration received, is recognised when earned and reported in the financial period to which it relates.

Debtors and other receivables

Debtors and other receivables are initially measured at fair value and subsequently measured at amortised cost using the effective interest rate, less impairment changes.

Operating Leases

The Serious Fraud Office leases office premises. As the lessor retains all the risks and benefits of ownership, these leases are classified as operating leases. Operating lease costs are recognised as an expense on a straight-line basis over the lease term.

Property, plant and equipment

Property, plant, and equipment consist of operational assets which are computer equipment, office furniture, fixtures and fittings, office equipment, and motor vehicles.

Property, plant, and equipment assets are shown at cost or valuation, less accumulated depreciation and impairment losses.

Additions

The cost of an item of property, plant, and equipment is recognised as an asset if, and only if, it is probable that future economic benefits or service potential associated with the item will flow to the Serious Fraud Office and the cost of the item can be measured reliably.

Disposals

Gains and losses on disposals are determined by comparing the proceeds with the carrying amount of the assets. Gains and losses on disposals are included in the statement of financial performance.

Subsequent Costs

Costs incurred subsequent to initial acquisition are capitalised only when it is probable that future economic benefits or service potential associated with the item will flow to the Serious Fraud Office and the cost of the item can be measured reliably.

Depreciation

Depreciation is provided on a straight-line basis on all property, plant and equipment at rates that will write off the cost (or valuation) of the assets to their estimated residual values over their useful lives. The useful lives and associated depreciation rates of major classes of assets have been estimated as follows:

| | | |
|--------------------------------|-----------|---------|
| Office furniture and equipment | 5 years | (20%) |
| Computer equipment | 3 years | (33.3%) |
| Motor vehicles | 6-7 years | (15%) |

Leasehold improvements (included in Office Furniture, fixtures and fittings) are depreciated over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is shorter.

The residual value and useful life of an asset is reviewed, and adjusted if applicable, at each financial year end.

Intangible assets

Computer software acquisition and development

Acquired computer software licenses are capitalised on the basis of the costs incurred to acquire and bring to use the specific software.

Costs associated with maintaining computer software are recognised as an expense when incurred. Costs that are directly associated with the development of software for internal use by the Serious Fraud Office, are recognised as an intangible asset. Direct costs include that software development, employee costs incurred in the development of software and an appropriate portion of relevant overheads.

Staff training costs are recognised as an expense when incurred.

Amortisation

The carrying value of an intangible asset with a finite life is amortised on a straight-line basis over its useful life. Amortisation begins when the asset is available for use and ceases at the date that the asset is derecognised. The amortisation charge for each period is recognised in the statement of financial performance.

The useful lives and associated amortisation rates of major classes of intangible assets have been estimated as follows:

| | | |
|-----------------------------|---------|---------|
| Acquired computer software | 3 years | (33.3%) |
| Developed computer software | 3 years | (33.3%) |

Capitalisation threshold

Individual assets, or groups of assets, are capitalised if their cost is greater than \$1,000 (excluding GST). The Value of an individual asset that is less than \$1,000 (excluding GST) and is part of a group of similar assets is capitalised.

Impairment of non-financial assets

Non-financial assets are property, plant and equipment and intangible assets.

Intangible assets that have an indefinite useful life are not subject to amortisation and are tested annually for impairment. An intangible asset that is not yet available for use at the balance sheet date is tested for impairment annually.

Property, plant and equipment and intangible assets that have a finite useful are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. If an asset's carrying amount exceeds it recoverable amount the asset is impaired and written down to the recoverable amount. An impairment loss is recognised in the statement of financial performance for the amount by which the asset's carrying amount exceeds it recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and value in use.

Value in use is depreciated replacement cost for an asset where the future economic benefits or service potential of the asset are not primarily dependent on the asset's ability to generate net cash inflows and where the entity would, if deprived of the asset, replace its remaining future economic benefits or service potential.

The reversal of an impairment loss is recognised in the statement of financial performance.

Creditors and other payables

Creditors and other payables are initially measured at fair value and subsequently measured at amortised cost using the effective interest method.

Employee Entitlements

Short-term employee entitlements

Employee entitlements that the Serious Fraud Office expects to be settled within 12 months of balance date are measured at nominal values based on accrued entitlements at current rates of pay.

These include salaries and wages accrued up to balance date, annual leave and long service leave earned but not taken at balance date, and sick leave.

The Serious Fraud Office recognises a liability for sick leave to the extent that absences in coming year are expected to be greater than the sick leave entitlements earned in the coming year. The amount is calculated based on the unused sick leave entitlement that can be carried forward at balance date, to the extent that the Serious Fraud Office anticipates it will be used by staff to cover those future absences.

Long-term employee entitlement

The entitlement for unvested long service leave, payable beyond 12 months, has been calculated on an actuarial basis. The calculation is based on:

- likely future entitlement based on years of service, years to entitlement, the likelihood that staff will reach the point of entitlement and contractual entitlements information; and
- the present value of the estimated future cash flows. The discount rates used are the interest rates on NZ government bonds which have terms to maturity that match the estimated future cash outflows.

Superannuation

Obligations for contributions to the State Sector Retirement Savings Scheme and Kiwisaver are accounted for as defined contribution schemes and are recognised as an expense in the statement of financial performance as incurred.

Statement of Cash Flows

| | |
|----------------------|--|
| Cash | means cash balances on hand and held in bank accounts. |
| Operating activities | include cash received from all income sources of the Serious Fraud Office and record cash payments made for the supply of goods and services, capital charge and personal costs. |
| Investing activities | are those activities relating to the acquisition and disposal of non-current assets. |
| Financing activities | comprise capital injections by, or repayment of capital to the Crown. |

Goods and Services Tax (GST)

The Statement of Financial Position is exclusive of GST, except for Debtors and Creditors which are GST inclusive. All other financial statements are GST exclusive.

The amount of GST owing to or from the Inland Revenue Department at balance date, being the difference between Output GST and Input GST, is included in Creditors and other payables or Debtors and other receivables (as appropriate).

Income Tax

Government departments are exempt from the payment of income tax as public authorities. Accordingly, no charge for income tax has been provided for.

Taxpayers' Funds

Taxpayers' funds are the Crown's investment in the Serious Fraud Office and are measured as the difference between total assets and total liabilities.

Capital charge

The capital charge is a levy on the Crown's investment in the Serious Fraud Office. The capital charge is recognised as an expense in the period to which it relates. The capital charge is not a borrowing cost in accordance with NZ IAS 23.

Commitments

Expenses yet to be incurred on non-cancellable contracts that have been entered into on or before balance date are disclosed as commitments to the extent that there are equally unperformed obligations.

Cancellable commitments that have penalty or exit costs explicit in the agreement on exercising that option to cancel are included in the statement of commitments at the value of that penalty or exit cost.

Contingent Liabilities

Contingent liabilities are disclosed at the point at which the contingency is evident.

Statement of cost accounting policies

The Serious Fraud Office has derived the costs of outputs shown in these statements using a cost allocation system which is outlined below.

Direct costs are those costs directly attributed to an output. Indirect costs are those costs that cannot be identified in an economically feasible manner, with a specific output.

Direct costs are charged directly to outputs. Indirect costs are charged to outputs based on cost drivers and related activity/usage information. Depreciation and capital charge are charged on the basis of asset utilisation. Personnel costs are charged on the basis of actual time incurred. Property and other premises costs, such as maintenance, are charged on the basis of floor area occupied for the production of each output. Other indirect costs are assigned to outputs based on the proportion of direct staff costs for each output.

There have been no changes in cost accounting policies, since the date of the last audited financial statements.

Note 2: Revenue other

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|---|-------------------------------|-------------------------------|
| Recovery of employer contributions to defined contribution plans from the Crown | 101 | 108 |
| Other | - | 1 |
| Total revenue other | 101 | 109 |

Note 3: Gains

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|---|-------------------------------|-------------------------------|
| Net gain on disposal of property, plant and equipment | 6 | - |
| Total gains | 6 | - |

Note 4: Personnel costs

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|--|-------------------------------|-------------------------------|
| Salaries and wages | 3,432 | 3,155 |
| Employer contributions to defined contribution plans | 102 | 109 |
| Increase/(decrease) in employee entitlements | 107 | 56 |
| Staff training and development | 41 | 31 |
| Fringe Benefit Tax | 6 | 8 |
| Other personnel costs | 44 | 15 |
| Total personnel costs | 3,732 | 3,374 |

Employer contributions to defined contribution plans include contributions to the State Sector Retirement Savings Scheme and KiwiSaver.

Note 5: Capital charge

A capital charge is paid to the Crown based on Taxpayers' Funds at 30 June and 31 December each year. The capital charge rate was 7.5% for the 2008/09 financial year (2007/08: 7.5%)

Note 6: Other operating expenses

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|---|--|--|
| Consultancy | 35 | 111 |
| Rental and operating leasing costs | 495 | 427 |
| Other occupancy costs | 75 | 68 |
| Legal fees | 185 | 103 |
| Travel expenses | 294 | 299 |
| Audit fees for the financial statement Audit | 32 | 21 |
| Audit fees for NZ IFRS transition | - | 2 |
| IT and telecommunications costs | 358 | 243 |
| Net loss on disposal of property, plant and equipment | - | 16 |
| Other operating expenses | 249 | 229 |
| Total other operating costs | 1,723 | 1,519 |

Note 7: Other receivables

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|--|--|--|
| Debtor Crown | - | 1 |
| Other receivables | 53 | 28 |
| Total debtors and other receivables | 53 | 29 |

The carrying value of debtors and other receivables approximates their fair value.

As at 30 June 2009 and 30 June 2008, the Serious Fraud Office debtors and other receivables are current.

Note 8: Property, plant and equipment

| | Office furniture, fixtures and fittings | Office equipment | Computer equipment | Motor vehicles | Total |
|---|--|---------------------|-----------------------|-------------------|--------------|
| | (\$000) | (\$000) | (\$000) | (\$000) | (\$000) |
| Cost | | | | | |
| Balance at 1 July 2007 | 735 | 436 | 502 | 98 | 1,771 |
| Additions | - | - | 39 | - | 39 |
| Disposals | - | - | (141) | (38) | (179) |
| Balance at 30 June 2008 | 735 | 436 | 400 | 60 | 1,631 |
| Balance at 1 July 2008 | 735 | 436 | 400 | 60 | 1,631 |
| Additions | 601 | 98 | 9 | 37 | 745 |
| Disposals | (112) | (72) | (4) | (24) | (212) |
| Balance at 30 June 2009 | 1,224 | 462 | 405 | 73 | 2,164 |
| Accumulated depreciation and impairment losses | | | | | |
| Balance at 1 July 2007 | 613 | 332 | 422 | 37 | 1,404 |
| Depreciation expense | 51 | 32 | 35 | 11 | 129 |
| Eliminate on disposal | - | - | (124) | (14) | (138) |
| Balance at 30 June 2008 | 664 | 364 | 333 | 34 | 1,395 |
| Balance at 1 July 2008 | 664 | 364 | 333 | 34 | 1,395 |
| Depreciation expense | 83 | 37 | 33 | 11 | 164 |
| Eliminate on disposal | (112) | (50) | (4) | (21) | (187) |
| Balance at 30 June 2009 | 635 | 351 | 362 | 24 | 1,372 |
| Carrying amounts | | | | | |
| At 1 July 2007 | 122 | 104 | 80 | 61 | 367 |
| At 30 June and 1 July 2008 | 71 | 72 | 67 | 26 | 236 |
| At 30 June 2009 | 589 | 111 | 43 | 49 | 792 |

Note 9: Intangible assets

| | Acquired software (\$000) |
|---|--------------------------------------|
| Cost | |
| Balance at 1 July 2007 | 134 |
| Additions | 3 |
| Disposals | (6) |
| Balance at 30 June 2008 | 131 |
| Balance at 1 July 2008 | 131 |
| Additions | - |
| Disposals | - |
| Balance at 30 June 2009 | 131 |
| Accumulated amortisation and impairment losses | |
| Balance at 1 July 2007 | 126 |
| Amortisation expense | 6 |
| Eliminate on disposal | (6) |
| Balance at 30 June 2008 | 126 |
| Balance at 1 July 2008 | 126 |
| Amortisation expense | 3 |
| Eliminate on disposal | - |
| Balance at 30 June 2009 | 129 |
| Carrying amounts | |
| At 1 July 2007 | 8 |
| At 30 June and 1 July 2008 | 5 |
| At 30 June 2009 | 2 |

There are no restrictions over the title of the Serious Fraud Office's intangible assets, nor are any intangible assets pledged as security for liabilities.

Note 10: Creditors and other payables

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|---|--|--|
| Creditors for operating activities | 64 | 4 |
| Creditors for property, plant and equipment | 67 | - |
| Accrued expenses | 161 | 94 |
| GST Payable | 12 | 34 |
| Other payables | 55 | 52 |
| Total creditors and other payables | 359 | 184 |

Creditors and other payables are non-interest bearing and are normally settled on 30-day terms, therefore the carrying value of creditors and other payables approximates their fair value.

Note 11: Repayment of surplus

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|-----------------------------------|-------------------------------|-------------------------------|
| Net surplus/(deficit) | 18 | 204 |
| Total repayment of surplus | 18 | 204 |

The repayment of surplus is required to be paid by 31 October of each year.

Note 12: Employee entitlements

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|--|-------------------------------|-------------------------------|
| Current employee entitlements are represented by: | | |
| Accrued salaries, performance pay, FBT and contributions to defined contribution plans | 149 | 33 |
| Annual leave | 131 | 138 |
| Sick leave | 10 | 2 |
| Long service leave (vested) | 7 | 15 |
| Total current portion | 297 | 188 |
| Non-current employee entitlements are represented by: | | |
| Long service leave (unvested) | 4 | 6 |
| Total employee entitlements | 301 | 194 |

Note 13: Taxpayers' funds

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|--------------------------------------|-------------------------------|-------------------------------|
| General funds | | |
| Balance at 1 July 2008 | 387 | 387 |
| Capital contributions from Crown | 690 | - |
| Net surplus/(deficit) | 18 | 204 |
| Repayment of surplus to the Crown | (18) | (204) |
| General funds at 30 June 2009 | 1,077 | 387 |

Note 14: Reconciliation of net surplus/(deficit) to net cash from operating activities

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|--|-------------------------------|-------------------------------|
| Net surplus/(deficit) | 18 | 204 |
| <i>Add/(less) non-cash items:</i> | | |
| Depreciation and amortisation expense | 167 | 135 |
| <i>Add/(less) (items classified as investing or financing activities:</i> | | |
| (Gains)/losses on disposal of property, plant and equipment | (6) | 16 |
| <i>Add/(less) movements in working capital items:</i> | | |
| (Inc)/dec in debtors and other receivables | (24) | 19 |
| (Inc)/dec in prepayments | (35) | (15) |
| Inc/(dec) in creditors and other payables | 108 | (37) |
| Inc/(dec) in employee entitlements | 107 | 56 |
| Net movement in working capital items | 156 | 23 |
| Net cash flow from operating activities | 335 | 378 |

Note 15: Financial instruments risk

The Serious Fraud Office is party to financial instrument arrangements as part of its everyday operations. These include instruments such as bank balances, accounts receivable, and accounts payable.

The carrying amounts of financial assets and financial liabilities in each of the NZ IAS 39 categories are as follows:

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|---|-------------------------------|-------------------------------|
| Loans and receivables | | |
| Cash and cash equivalents | 855 | 681 |
| Debtors and other receivables (note 7) | 53 | 29 |
| Total loans and receivables | 908 | 710 |
| Financial liabilities measured at amortised cost | | |
| Creditors and other payables (note 10) | 359 | 184 |

The Serious Fraud Office has a letter of credit facility of \$85,000 to allow for the payment of employee salaries by direct credit.

The Serious Fraud Office's activities expose it to a variety of financial instrument risks, including credit risk and liquidity risk. The Serious Fraud Office has policies to manage the risks associated with financial instruments and seeks to minimise exposure from financial instruments. These policies do not allow any transactions that are speculative in nature to be entered into.

Credit risk

Credit risk is the risk that a third party will default on its obligations to the Serious Fraud Office causing the Serious Fraud Office to incur a loss. In the normal course of business the Serious Fraud Office incurs credit risk from debtors, and bank deposits. The Serious Fraud Office is only permitted to deposit funds with Westpac, a registered bank with a high credit rating. For its debtors, the Serious Fraud Office has no concentrations of credit risk. The Serious Fraud Office maximum credit exposure for its financial instruments is represented by the total carrying amount of cash and bank deposits and debtors. There is no collateral held as security against these financial instruments.

Currency and Interest rate risk

The Serious Fraud Office has no material exposure to currency risk, and its financial instruments are not interest rate sensitive. Under section 46 of the Public Finance Act the Serious Fraud Office cannot raise a loan without Ministerial approval, and no such loans have been raised. Accordingly, there is no interest rate exposure for funds borrowed.

Liquidity risk

Liquidity risk is the risk that the Serious Fraud Office will encounter difficulty raising liquid funds to meet commitments as they fall due. In meeting its liquidity requirements, the Serious Fraud Office monitors its forecast cash requirements with expected cash drawdowns from the New Zealand Debt Management Office. The Serious Fraud Office maintains a target level of available cash to meet liquidity requirements. The table below shows the Serious Fraud Office's financial liabilities that will be settled based on the remaining period at balance date to contractual maturity date. The amounts disclosed are the contractual undiscounted cash flows.

| | Less than 6 months | Between 6 months and 1 year |
|--|-----------------------|-----------------------------------|
| | (\$000) | (\$000) |
| 2008 | | |
| Creditors and other payables (note 10) | 184 | - |
| 2009 | | |
| Creditors and other payables (note 10) | 359 | - |

Note 16: Capital management

The Serious Fraud Office's capital is its equity (or taxpayers' funds), which comprises general funds. Equity is represented by net assets and is the Crown's net investment in the Serious Fraud Office.

The Serious Fraud Office manages its revenues, expenses, assets, liabilities, and general financial dealings prudently. The Serious Fraud Office's equity is largely a by-product of managing income, expenses, assets, liabilities, and compliance with the Government Budget processes and with Treasury Instructions.

The objective of managing the Serious Fraud Office's equity is to ensure the Serious Fraud Office effectively achieves its goals and objectives for which it has been established, whilst remaining a going concern.

Note 17: Related party transactions and key management personnel

The Serious Fraud Office is a wholly owned entity of the Crown. The Government significantly influences the roles of the Serious Fraud Office as well as being its major source of revenue.

The Serious Fraud Office enters into transactions with other government departments, Crown entities, and state-owned enterprises on an arm's length basis. Those transactions that occur within a normal supplier or client relationship on terms and conditions no more or less favourable than those which it is reasonable to expect the Serious Fraud Office would have adopted if dealing with that entity at arm's length in the same circumstance are not disclosed.

Apart from the transactions described above the Serious Fraud Office has not entered into any related party transactions.

Key management personnel compensation

| | 30/06/09 Actual (\$000) | 30/06/08 Actual (\$000) |
|--|--|--|
| Salaries and other short-term employee benefits | 787 | 855 |
| Long-term employee benefits | - | - |
| Post-employment benefits | - | - |
| Termination benefits | - | - |
| Total key management personnel compensation | 787 | 855 |

Key management personnel include the Serious Fraud Office's Director and three members of the Senior Management Team.

Note 18: Major budget variances**Civil forfeiture of criminal assets**

Substantive work on civil forfeiture is governed by the Criminal Proceeds (Recovery) Act 2009, which comes into force on 1 December 2009. As this Act has not been in force during the 2008/09 year, SFO has not drawn down Crown funding or incurred the expenses that had been budgeted for.

Property, plant and equipment

An additional \$0.400 million capital injection was provided to the Serious Fraud Office to complete office renovations and upgrade IT systems.

CORPORATE AND COLLECTIVE INTEREST MANAGEMENT REPORT FOR THE YEAR ENDED 30 JUNE 2009

SFO people

The SFO has an official headcount of 40. Of these 33 are attached to Output Class 1 - Serious Fraud, while the remaining 7 are attached to Output Class 2 – Civil Forfeiture.

Of the 33 positions attached to Serious Fraud, 3 were vacant, with 2 filled by temporary staff.

Of the 30 people employed as at 30 June 2009, 13 were women and 17 men.

During 2009, 8 people resigned from the Office. Of these, 5 were women and 3 were men.

Equal opportunities

It is SFO policy to support equal opportunities for all staff, and to ensuring that SFO employment policies and practices support the recruitment and retention of the widest possible range of skills.

INFORMATION ABOUT THE DEPARTMENT

The Office is committed to the maintenance of high professional standards in the attainment of its objectives.

Policy on acceptance of cases

Selection

For the purposes of determining whether an offence involves serious and/or complex fraud, the Serious Fraud Office Act 1990 provides that the Director, among other things, may have regard to the following four factors:

- the suspected nature and consequences of the fraud;
- the suspected scale of the fraud;
- the legal, factual and evidential complexity of the matter;
- any relevant public interest consideration.

It is not possible to be specific as to the cases that will be investigated and prosecuted by the Serious Fraud Office. However, the following criteria are generally considered:

- all fraud involving over \$500,000;
- all fraud perpetrated by complex means;
- any other complaint of fraudulent offending which is, or is likely to be, of major public interest or concern.

The Director has complete discretion in the selection of cases.

Referral of cases

The Complaints Officer is available to be contacted by the public in the first instance. Complaints, and referral of cases, come from Government Departments, liquidators, receivers, statutory managers, professional associations and the general public. On occasions the Office is also pro-active in undertaking enquiries.

The Serious Fraud Office emphasises the need for expedition in enquiries relating to fraud and therefore encourages such contact at an early stage.

Where complaints are considered inappropriate for the Office, every endeavour is made to refer them to the relevant enforcement and/or regulatory body for further action.

Independence of Director

It is an important constitutional principle in New Zealand that decisions by law enforcement agencies on the investigation and prosecution of individuals should not be subject to political control or direction.

The Serious Fraud Office Act 1990 provides that, "in any matter relating to any decision to investigate any suspected case of serious or complex fraud, or to take proceedings relating to any such case or any offence against this Act (the Serious Fraud Office Act 1990), the Director shall not be responsible to the Attorney-General, but shall act independently".

Handling of cases

Every complaint received undergoes an initial assessment to determine whether it is a matter for the Serious Fraud Office. After this assessment, if the Director decides to act on a complaint, the first step is often a further consideration of all the documentary material – referred to as “the detection stage”.

At the completion of the detection stage the Director, after consultation with senior management, will then decide the next step. Some cases will be closed at this stage, others upgraded to a full investigation.

Some cases will move to the full investigation stage immediately after assessment, where the available evidence supports that step.

Experienced investigators and forensic accountants work together on investigations, under the overall supervision of the senior management team. Typically, potential witnesses and suspects are interviewed, documents obtained and analysed, and financial transactions researched. Investigation teams regularly exchange information and share experiences and expertise in order to maintain consistency.

Prosecutors are assigned to each investigation. They advise on legal issues, including the exercise of the powers of the Office.

Appraisal meetings are held regularly (usually monthly) to ensure that for each investigation and prosecution an appropriate level of resources is being applied, professional standards and disciplines are being adhered to, and proper progress and direction is being maintained. All current files being worked on are considered at these appraisal meetings.

On the completion of a full investigation the Director holds a review of that case attended by the investigation team and senior management. At the conclusion of the review, the Director determines whether a prosecution is appropriate.

The Serious Fraud Office Act 1990 provides for a panel of experienced barristers to conduct all prosecutions. The Director instructs a member of this panel to conduct a particular prosecution. The Office staff prepare the prosecution file, brief evidence and assist in the conduct of the prosecution.

Powers of the Serious Fraud Office

The powers of the Office are prescribed in the Serious Fraud Office Act 1990. The Director has wide powers to undertake the detection and investigation of serious or complex fraud.

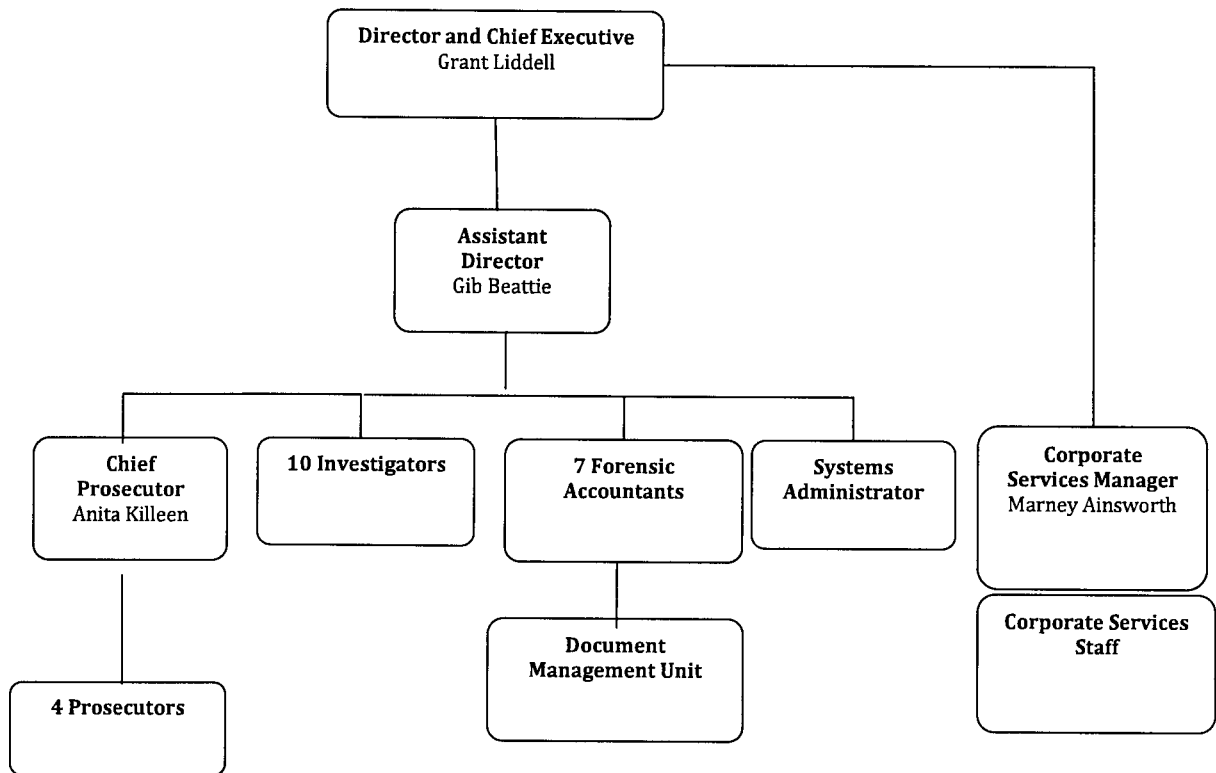
It is essential that the Serious Fraud Office obtains the necessary information to assess a complaint, carry out detection and decide whether an investigation should be commenced.

The powers for detection and investigation are far-reaching; it is not only persons suspected of offences that must provide information to the Director, but also anyone holding information which the Director considers may be relevant to an investigation. These powers of compulsion are a vital investigative tool in the area of serious fraud offending.

Legal responsibilities

The Serious Fraud Office operates under the Serious Fraud Office Act 1990. All requirements of that Act have been met. In this report under ‘Use of Statutory Powers’ (page 19) there is an analysis of the notices issued under the Act.

MANAGEMENT AND STRUCTURE



**SERIOUS FRAUD OFFICE ACT PANEL OF PROSECUTORS AS AT 30 JUNE
2009**

Auckland

J A Farmer QC
J C Gordon SC
M R Heron
D P H Jones QC
S J E Moore SC
M J Ruffin
M A Woolford

Christchurch

N R W Davidson QC
B M Stanaway
Nicholas Till QC
Tom Weston QC
M N Zarifeh

Dunedin

R J Bates
Marie Grills

Hamilton

P J Morgan QC

Wellington

R M Lithgow QC
K P McDonald QC
R B Squire QC
J O Upton QC
Grant Burston

Whangarei

P J Smith