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Report of the

# **SERIOUS FRAUD OFFICE**

**TE TARI HARA TĀWARE**

for the year ended  
30 June 2006

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Hon. Dr Michael Cullen  
Attorney-General

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 2006.

A handwritten signature in black ink, appearing to be 'DJ Bradshaw', written in a cursive style.

DJ Bradshaw  
Director

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## STATEMENT OF PURPOSE

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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.

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## DIRECTORY

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Location:	Level 2, Duthie Whyte Building Cnr Mayoral Drive and Wakefield Street Auckland City
Postal Address:	PO Box 7124, Wellesley Street, Auckland
Telephone:	(09) 3030 121
Freephone:	0800 109 800
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Email:	<a href="mailto:sfo@sfo.govt.nz">sfo@sfo.govt.nz</a>
Auditor:	Audit New Zealand on behalf of the Controller and Auditor-General
Bankers:	Westpac, Government Branch, Wellington

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# ***Departmental Scene Setting***

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## **CHIEF EXECUTIVE'S OVERVIEW**

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The people of New Zealand are well served by those that are responsible for law enforcement in all of its different forms. Whilst there is always scope for reflection on how the overall system might be improved there is no question that the majority of people working within the criminal justice system are dedicated to the tasks assigned to them and perform them efficiently and effectively.

Much of the activity in keeping the criminal justice system operating goes unseen by the general public. Thus, for example, the work in bringing together just one jury trial, co-ordinating the movements of the Judge, the jury, the Court assistants, the prosecution, the defence team, the defendant, and all of the witnesses, takes a considerable amount of planning by several different agencies. Such trials are occurring daily at courts throughout the country with very few hiccups – and equally, very few accolades for those responsible for the smooth running of the cases.

In a Serious Fraud Office investigation of average size and complexity, the investigation team will have gathered together many thousands of documents and it will have interviewed numerous witnesses. Should the case become a prosecution, the Serious Fraud Office has to arrange for the relevant documentation to be collated in a way that will best assist the Judge and the jury to understand the prosecution case. Witnesses have to be organised (including those from overseas) so that they will be available to give their evidence at the appropriate time during the trial.

Most Serious Fraud Office prosecutions involve a degree of complexity both as to the nature of the arrangements under scrutiny and as to the application of the criminal law to those arrangements. Defendants are almost always represented by senior and experienced defence counsel. It is incumbent upon the Serious Fraud Office to prove the guilt of the defendants “beyond reasonable doubt”. The scope for defendants to argue “reasonable doubt” is greater in complex fraud cases than in many other types of crime. The financial arrangements may often be difficult for a jury (or even a Judge sitting alone) to fully comprehend especially when the material has to be presented to them in a short period of time and in an adversarial system that allows little room for jurors to raise matters to help them to understand the case. There can be a fine line between a scheme that is dishonest and one that merely involves sharp practice or is perhaps morally reprehensible. The Serious Fraud Office may take a year or so to fully understand a financial arrangement and the involvement of various persons in that financial arrangement. A jury has to try to understand it in just a few weeks. Add to this that few, if any, professional people get to be on a jury due to a combination of factors including the exemption from jury service given to many professional people, and the ability of defence counsel to “challenge” potential jurors requiring that they must then stand aside. The Serious Fraud Office has but one shot at establishing the criminal dishonesty of the defendant(s). The Office has no right of appeal against an acquittal. A defendant on the other hand if found guilty can appeal against the conviction.

Against that background the fact that over the past 16 years the Serious Fraud Office has consistently maintained a conviction rate of over 90% for its prosecution cases is a commendable achievement. It reflects well on the thoroughness and skill of the investigative work, and the presentation of the cases to the Courts. It also reflects well on the foresight of the legislators back in 1989-90 in providing special powers to enable the Director to obtain as much evidence as possible during the investigation stage before determining whether or not to commence a prosecution. To put this continuing achievement into

perspective, the proportion of all criminal prosecutions in New Zealand resulting in a conviction over the period from 1995 to 2005 has been around 65-70%. (Refer Ministry of Justice Report on Conviction and Sentencing.)

I do not expect many of the general public to be interested in this level of detail regarding criminal proceedings. Fortunately the majority of the public are law abiding citizens who will have very little direct contact with the criminal justice system and even less contact with the Serious Fraud Office. But the way that our criminal justice system operates does have a significant bearing on the nature of the society in which we live, and that affects everyone, one way or another.

Maintaining public confidence in the integrity of our criminal justice system must be a top priority. The media has a key role to play in achieving this. The media provides an important link between the public and any investigations and prosecutions by law enforcement agencies. The media's role will differ from agency to agency and from case to case but in all instances the media will be, for most people, the main source of information about the criminal justice system. A strong and competent media is a critical component to a successful criminal justice system.

In my experience most members of the media act independently and responsibly in their reporting of law enforcement issues. I recognise that they are operating in a commercial environment, and face considerable time pressures in the reporting of events. What is news today may be a dead issue 24 hours later. Also, different considerations apply as between the print media and radio and television.

Determining the appropriate level of interaction between a law enforcement agency and the media is a challenge for the chief executive of a law enforcement agency. There is no "one-size-fits-all" approach. White collar crime in most cases is document based and can be investigated without the need for an appeal to the general public for information. In most instances the Serious Fraud Office has the name or names of the possible offenders and is concerned to reconstruct financial transactions to determine whether or not there has been any criminality. To publicise the fact that a company or organisation is under investigation by the Serious Fraud Office could be the kiss of death commercially for that company or organisation notwithstanding that ultimately the investigation may not establish any criminal offending. For this reason the Office has a "neither confirm nor deny" policy to any media inquiries as to whether or not it is conducting an investigation into any particular person, company or organisation. Contrast this with the Police who for many investigations do not know at the outset the identity of who they are looking for. The Police will often enlist the assistance of the media to obtain information about a crime from the general public. For both the law enforcement agency and the media, there are also very important issues regarding fairness in relation to any publicity given to a case during the investigation stage and after charges have been laid.

As the Director of the Serious Fraud Office I am well aware of the influence that the media can have on public opinion. The damage that can be caused to the integrity of an institution by one negative headline should not be underestimated. The fact that the headline, and the article to which it relates, or both, may not present the full picture is of little consolation to the institution once published. And rarely will any correction be given the same prominence as the original article. Identifying areas for justified criticism is important, but equally important is the need for the media to maintain an appropriate balance when reporting such matters. I am confident that the media does not deliberately set out to undermine the integrity of key agencies working in the criminal justice sector. However, the consequences for the agency are the same irrespective of the intention.

In relation to the Serious Fraud Office, there will always be people who are willing to talk to the media criticising the Office without any in-depth knowledge of the Office. How the media deals with such

comments will inevitably affect how some of their audience views this agency. Thus, for example, a Queen's Counsel who has had very little contact with the Serious Fraud Office during the 8½ years that I have been the Director, was recently quoted in a newspaper as saying that the Serious Fraud Office's record in prosecutions in recent years was "extraordinarily poor". He called for an independent investigation of the powers of the Serious Fraud Office stating "I don't know whether they [the Serious Fraud Office] have a sufficient degree of responsibility to be accountable for them". The article had the headline "Top lawyer calls for an investigation after Serious Fraud Office fails again". Nowhere in the article was there any reference to the Serious Fraud Office's record on prosecutions, which, with a better than 90% success rate, would be the envy of most prosecutorial agencies both in New Zealand and overseas. Nor was there any evidence given to support his questioning of the powers of the Office. This was perhaps not surprising as there have not been any significant allegations against the Serious Fraud Office for abuse of its powers in my time as Director. Nor to the best of my knowledge were there any abuses in the 8 years prior to my appointment.

It is also interesting to see the reaction to the few Serious Fraud Office prosecutions where acquittals result. The response to an acquittal of a white collar defendant is often quite different to that of persons charged with crimes such as theft, child abuse, or even murder. White collar defendants usually present as respectable citizens. In the trial of a white collar defendant the facts about what occurred, and the involvement of the defendant, are rarely at issue. The documents attest to that. What is at issue in most instances is whether the conduct or transactions in question were criminally wrong as opposed to being merely sharp practice or being morally reprehensible. This is in contrast to other criminal trials where the defence case will often challenge that the defendant had any involvement at all with what is alleged to have happened. Yet the acquitted white collar defendant tends to be treated as a victim of a flawed or out-of-control prosecution system to a far greater extent than say the acquitted gang member.

I am not suggesting that the Serious Fraud Office should be immune from criticism. Far from it. Well-informed constructive criticism and discussion is invaluable in ensuring that any government agency continues to perform well. I believe that the Serious Fraud Office today is a robust agency that has widespread public support for its achievements. The nature of its work, however, means that there will always be a few who for their own ends, would prefer not to see a strong Serious Fraud Office. Indeed it could be argued that it is in the interests of fraudsters that there is on-going criticism in the media of an agency like the Serious Fraud Office. If the comments are repeated often enough, whether or not they are true becomes irrelevant. Such an environment may then be exploited by counsel for defendants in the hope that potential jurors may have been influenced, whether consciously or not, by earlier incorrect and damaging statements about the Office. Were the roles reversed a defendant would almost certainly succeed in a claim that a fair trial was not possible.

How then should the Serious Fraud Office react, if at all, to the occasional incorrect statements about the Office in the media, recognising that misinformed comments about the Office will inevitably undermine the standing of the Office in the eyes of some people?

One approach would be for the Serious Fraud Office to employ a media relations officer and to be more pro-active in providing information to the media about its prosecutions, and in rebutting incorrect information about the Office. I would be reluctant to see scarce resources intended for combating serious or complex fraud being diverted into a public relations exercise for the Office. But even more importantly I believe that such an approach would be wrong in principle. Individuals being investigated or prosecuted by the Office are entitled to know that the Office will not discuss the details of their individual cases with the media for the purpose of promoting or even defending the actions of the Office. This has been a consistent policy of the Office under my directorship. Our website ([www.sfo.govt.nz](http://www.sfo.govt.nz))

provides the basic information on prosecutions and future hearing dates but that is largely the extent of our public comment on most cases.

The intricacies of our prosecution system are not always well understood by those outside of the system. My responsibility as Director is to make an independent and impartial assessment of the evidence in each case and to determine whether or not a prosecution against any individual or individuals should be commenced. I must satisfy myself that there is sufficient admissible and reliable evidence that could result in a properly directed jury delivering a guilty verdict. Where that test is met I must then determine whether it is in the public interest that a prosecution proceed. This is a standard approach applying across most Commonwealth criminal justice jurisdictions and set out in New Zealand in guidelines from the Solicitor General. I am required to weigh up any numbers of factors. One factor, but not the only factor, is the likelihood of a conviction. Ordinarily a prosecution should not be taken unless it is more likely than not that it will result in a conviction. In cases of doubt I need to decide whether the matter ought to be put before the Court as the final arbiter on guilt or innocence. My decision will always be made on a far greater information base than available to virtually any other person. Once a prosecution has been commenced, the defendant at any stage either before or during the trial has the right to ask the Court to rule under section 347 of the Crimes Act 1961 that there is insufficient evidence for him or her to stand trial. Section 347 applications are made in a high percentage of Serious Fraud Office prosecutions where the defendant(s) do not plead guilty. These various provisions provide safeguards against abuse of the prosecution process.

No prosecuting agency in New Zealand can guarantee a 100% conviction rate on its prosecutions. The final decision as to guilt is rightly beyond the control of the prosecutor. When the Serious Fraud Office did achieve a 100% conviction rate for a number of years the criticism was made that the Office was prosecuting only the easy cases. There are in fact no “easy” cases in our line of work. Having now had acquittals in two or three cases over the past few years, criticism of the Office remains – only now with a different slant to it. Interestingly, in the so-called high profile cases that have seen the Serious Fraud Office recently criticised (namely the Powdergate prosecution, the Auckland Rescue Helicopter Trust prosecution and the Digitech prosecution) section 347 applications were declined by the Court in the Powdergate and Auckland Rescue Helicopter Trust prosecutions, and no section 347 application was brought in the Digitech case.

The media determines the extent of its coverage of any particular Serious Fraud Office prosecution. It is the media that decides which Serious Fraud Office cases will be treated as high profile cases. The prosecutions that the media elects to give the most coverage to are not necessarily more significant than other fraud prosecutions being taken by the Office. The cases that tend to attract the most media coverage are those involving a prominent person or a very significant amount of money. Many other cases though involve more complex frauds, more difficult investigations, or have had a more serious impact on the victims or on society generally.

I do not believe that the interests of justice are well served by sensationalising the work of the Serious Fraud Office or its prosecutions. To this end the Office very rarely makes any media releases on prosecutions, preferring instead that the media should obtain its information as far as possible from the actual Court records. This approach has greatly assisted the Office in being able to assure people about the confidentiality of information passed to the Office. The public can also be assured that decisions as to which matters will be investigated and/or prosecuted by the Serious Fraud Office are made on the basis of the evidence available and the seriousness of the criminality rather than on how much publicity the Office will be able to achieve, or how much criticism it might have to endure.

The Office has a culture of on-going self-improvement. We take seriously any criticism and where appropriate look to improve our performance for the future. Most of the proposals for change over the

years have come from our internal self-analysis, with some real benefits for the criminal justice system. Thus, for example, the Office has developed a portable 'electronic court' that uses computer monitors to put the exhibits electronically before the jurors, counsel, the Judge, the defendant, the prosecutor, and the media. Thousands of copies of documents have been replaced by electronic access to these documents within the Court – saving the time and cost of making numerous copies of these documents, and ensuring that all parties in any trial are all looking at the same document at the same time. Unlike computer systems that have been used on an ad hoc basis in the Courts in one or two prosecutions taken by agencies other than the Serious Fraud Office, the Serious Fraud Office system forms a part of the Office's overall document management system thereby ensuring the maximum efficiency gains from this system.

The public can have trust and confidence in the dedication, commitment and professionalism of the great majority of persons working in our criminal justice system. There is no need to be afraid of trusting law enforcement agencies with powers that go beyond the traditional law enforcement powers. The Serious Fraud Office stands as a good example of what can be achieved with the proper tools, a committed staff and an approach that I believe strikes a fair balance between the privacy interests of those being investigated and the need for openness in our criminal justice system once persons are facing charges before the Courts.

### **The Past Year**

The statistics contained in this Report attest to the fact that the Office has had another good year. The number of investigations and prosecutions has remained at a similar level to the past few years. A difference this year, however, was the number of prosecutions that went to trial. Of the 15 completed prosecutions 12 of those cases went to trial. Of the two partly completed prosecutions one case went to a trial. Clearly there is considerably more work required for the Office when the defendant does not enter a guilty plea and the prosecution goes the full distance.

The Office continues to work closely with overseas law enforcement agencies. In the South Pacific the Office has provided operational support and training in both the investigation and the prosecution of serious and complex fraud to a number of countries.

A project team has been established within the Office to ensure that the Office is ready to implement the civil forfeiture aspects of the new policy on recovery of the proceeds of crime. Planning is now well-advanced. The Office is well-placed to be able to provide advice to the Government and to the Select Committee as the legislation proceeds through Parliament. Once the legislation is passed the Office is in a position to be able to implement the civil forfeiture aspects of the law almost immediately.

No Annual Report would be complete without an acknowledgement by me of the tremendous work done by the staff of the Office at all levels, the support from the families of staff members, the professionalism and skill of the members of the panel of prosecutors, and the friendly and co-operative attitude of the many people in the different parts of the criminal justice system who have worked with or assisted the Office over the past year. As I said at the beginning of this overview New Zealanders are well served by those responsible for law enforcement in this country.



DJ Bradshaw  
Director

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**STATEMENT OF RESPONSIBILITY FOR THE YEAR ENDED 30 JUNE 2006**

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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 the judgements made in the process of producing those statements.

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

In my opinion, these financial statements fairly reflect the financial position and operations of the Department for the year ended 30 June 2006.



DJ Bradshaw  
Director  
29 September 2006



Anne Smith  
Chief Financial Officer  
29 September 2006

**AUDIT REPORT**  
**TO THE READERS OF**  
**THE SERIOUS FRAUD OFFICE'S**  
**FINANCIAL STATEMENTS**  
**FOR THE YEAR ENDED 30 JUNE 2006**

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 of the financial statements of the Office, on his behalf, for the year ended 30 June 2006.

**Unqualified opinion**

In our opinion the financial statements of the Office on pages 13 to 39:

- comply with generally accepted accounting practice in New Zealand; and
- fairly reflect:
  - the Office's financial position as at 30 June 2006;
  - the results of its operations and cash flows for the year ended on that date; and
  - its standards of delivery performance achieved, as compared with the forecast standards outlined 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 outlined in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 29 September 2006, 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 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. 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. 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 disclosures are adequate.

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

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

### **Responsibilities of the Director and the Auditor**

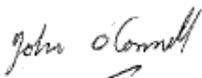
The Director is responsible for preparing financial statements in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Office as at 30 June 2006 and the results of its operations and cash flows for the year ended 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 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

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# *Performance Information*

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## SERVICE PERFORMANCE

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### 1. SUMMARY OF TOTAL CASES FOR THE YEAR ENDED 30 JUNE 2006

A total of 60 cases were on hand at the beginning of the year at assessment/detection, full investigation or prosecution stage. During the year a further 65 new cases were assessed and 1 case was reinstated. This gave the Office an overall caseload of 126 files. At the end of the financial year there were 56 cases on hand – 5 at assessment/detection, 24 at full investigation and 27 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

### **Class of Output: Investigation and Prosecution of Serious or Complex Fraud**

#### ***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 on whether or not any criminal charges should be laid.

The prosecution of the case requires the preparation of a well-researched and documented prosecution 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.

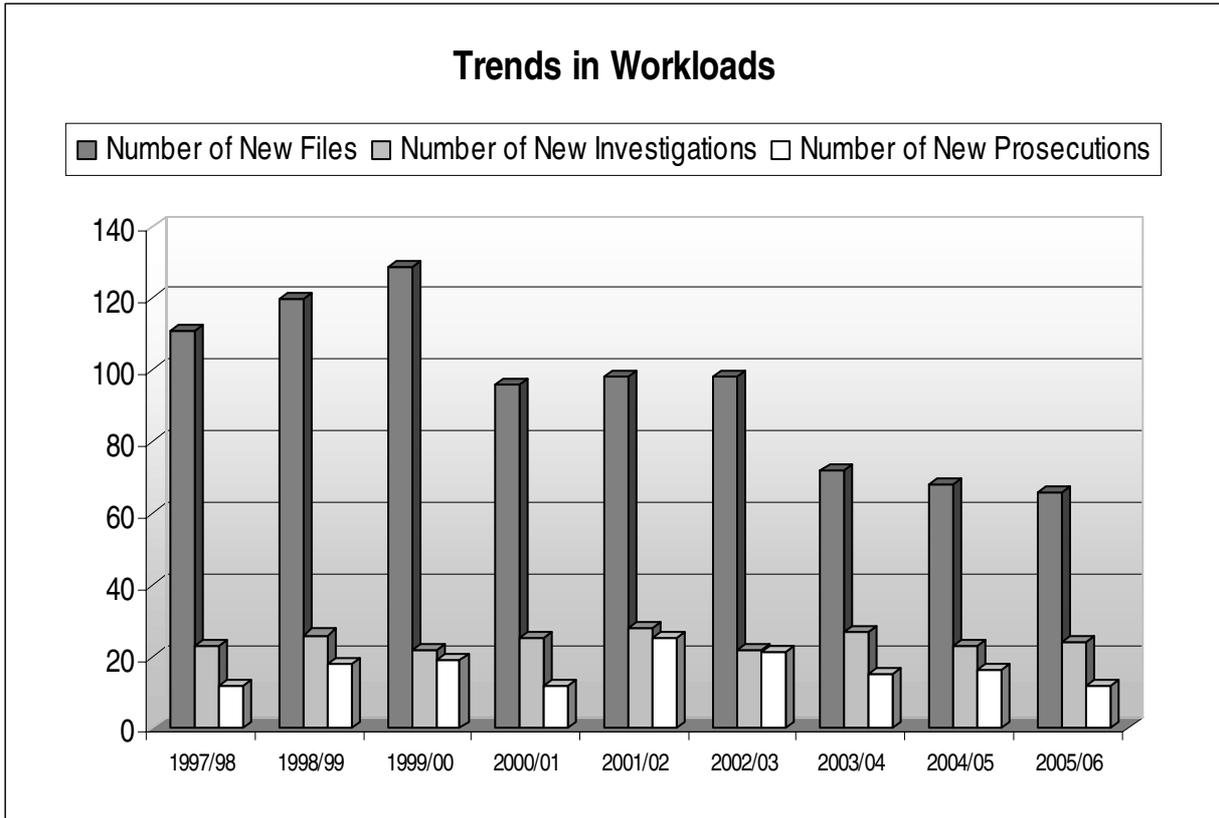
#### ***Outcome***

To combat serious and/or complex fraud offending.

#### ***Details of Complaints and Investigations***

As the trend in the diagram on the following page indicates, the number of new complaints considered by the Director over the past few years has been relatively stable at around 65-70 complaints per year. This reflects a downward trend from the period 2000-2003. The number of new complaints, however, is not a sound measure of workload as the nature of each complaint can vary significantly.

Over the past few years a higher proportion of the complaints considered have met the threshold for a full investigation. Between 25% and 30% of new complaints in the past three years have resulted in a full investigation compared to around 18% to 20% in the period 2000-2003. Moreover, 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;

- 12** investigations were completed and proceeded to prosecution;
- 8** investigations were completed but did not proceed to prosecution;
- 9** cases were referred to other more appropriate agencies, namely:
  - 3** to the New Zealand Police
  - 1** to the Commerce Commission
  - 1** to the Securities Commission
  - 1** to the National Enforcement Unit
  - 1** to the Ministry of Justice
  - 1** to the Ministry of Education
  - 1** to the Department of Internal Affairs
- 40** cases were closed following consideration and assessment as they were found not to justify further action;
- 5** cases remain at the assessment or detection stage;
- 24** cases remain at the full investigation stage;
- 27** cases remain at the prosecution stage.

The Management Team formally reviewed all the cases on hand at least monthly to ensure that the desired level of momentum was sustained and that the investigations were focusing on the key issues.

## Performance Targets

### Assessment of Complaints

- ***To focus the assessment and/or detection stage and decide within six months whether to abandon preliminary work or to proceed to a full investigation.***

75 Cases at the Assessment/Detection stage during the year

5 Cases at Assessment/Detection Stage at 30th June 2006

3 Cases exceeding 6 months at the Assessment/Detection stage.

The performance target was met in all but three cases with the decision point being reached well within the timeframe, usually within two to four weeks depending on the level of detail that accompanied the initial complaint. Of the three cases that exceeded six months, two cases were placed on hold waiting for various matters associated with related proceedings. The delay in the third case arose from the need for additional consultation with the complainant.

### 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 44 cases were at the investigation stage and of these:

8 were completed but did not proceed to prosecution

12 resulted in prosecution

24 remain under investigation.

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

In the 12 cases where the investigations were concluded and preceded to a prosecution, the average length of time from the receipt of the complaint to the prosecution commencing was around 8½ months. Two investigations fell outside of the 12-month period. One investigation took 13 months, the delay being caused by a claim of legal professional privilege which was subsequently withdrawn. The other case took 18 months, the delay arising largely from the need to obtain search warrants in Hong Kong, and to interview persons in Hong Kong. We had the full co-operation of the Hong Kong authorities but the associated applications took time to process.

Of the eight investigations that were completed but did not result in a prosecution five cases exceeded the 12-month period. Two of these cases involved investigations where overseas law enforcement agencies were conducting the prosecutions in their respective jurisdictions. The files remained open during the period that the assistance of the New Zealand Serious Fraud Office was required. The other three cases were completed in 15 months, 13 months and 15 months respectively. In two cases the 12 month period was exceeded due to difficulties in obtaining evidence or arranging interviews. In the third case the investigation was prolonged due to the large number of transactions that had to be considered.

Of the 24 cases on hand at the investigation stage, seven cases have been under action for more than 12 months. One of those cases involves a prosecution being taken overseas by an overseas law enforcement agency where the New Zealand Serious Fraud Office has been providing assistance. One case is currently the subject of separate but relevant appeal proceedings in relation to certain tax arrangements that are associated with the alleged fraud. Three cases involve delays arising from legal challenges to the exercise by the Serious Fraud Office of its powers under the legislation. The remaining two cases involve complex transactions but both are now nearing completion after 19 months and 13 months.

Overall, 14 cases out of the total of 44 (32%) exceeded the 12-month target. Whilst it is useful to have a guideline for the timely completion of investigations that target must never be allowed to replace properly considered decisions based on sound evidence and a careful assessment of the law. Interestingly of the 14 cases that have exceeded the 12-month target, the delay in over 50% of those cases has been beyond the control of the Serious Fraud Office. Three cases involve prosecutions by overseas agencies, and five cases have been delayed as a consequence of Court action affecting the investigation.

### **Prosecutions**

It was anticipated that the Office would complete around 15 prosecution cases in the financial year.

During the year ended 30 June 2006, 12 new prosecutions were commenced in addition to the 31 prosecutions that were under action at the beginning of the year. Fourteen prosecutions were concluded during the year. Several of these cases involved a number of defendants. Convictions were obtained in 11 of the 14 cases. One prosecution case was closed during the year after the defendant died during the trial.

Two cases during the year saw several defendants convicted but others from that case still awaiting trial. In the 'Powdergate' case six out of the seven defendants pleaded guilty. The trial of the seventh defendant is scheduled for May 2007. In a mortgage fraud case in Christchurch two defendants pleaded guilty. The case against the remaining four defendants was heard in March/April 2006. It resulted in one defendant being acquitted but the jury was unable to reach a unanimous decision on the other three defendants. The case against these three defendants will be reheard in October 2006.

During the year two appeals against conviction and sentence, and one appeal against conviction only, were heard. All the appeals were dismissed.

At the end of the reporting period there were 27 prosecution cases under action. There were also four cases where appeals had been lodged but had yet to be determined as at 30 June 2006.

For the period from the inception of the Office to 30 June 2006 the Office has a 90.1% success rate with prosecution cases, and an 82.6% success rate in relation to individuals prosecuted by the Office.

- ***To meet the dates set by Courts.***

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. Assessment will continue to be carried out by observation by the Director, peer review and judicial comment. Where appropriate prosecution cases are debriefed as a part of ensuring that the Office maintains the highest standards in its prosecutions.

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

- *That the outputs are provided within the appropriated sum.*

Statement of Cost of Services (GST exclusive)	2005/06 Main Estimates (\$000)	2005/06 Final Estimates (\$000)	2005/06 Actual (\$000)	2004/05 Actual (\$000)
Revenue – Crown	4,760	4,760	4,760	4,760
Revenue – other	114	114	45	19
Profit on Sale of Assets	-	-	3	-
<b>Total revenue</b>	<b>4,874</b>	<b>4,874</b>	<b>4,808</b>	<b>4,779</b>
Expenses	4,874	4,874	4,795	4,607
<b>Net surplus</b>	<b>-</b>	<b>-</b>	<b>13</b>	<b>172</b>

### 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.

#### Delivery

- In the 12 months to 30 June 2006, effective use of the Office’s powers has continued.
- In total, 982 Notices (861 in 2004/05 and 1074 in 2003/04) were issued requiring people to give information and/or produce documents.
- Five (five in 2004/05) search warrants were executed.

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

#### **SFO Act, Part I**

##### **Detection of Serious or Complex Fraud**

		2005/06	2004/05	2003/04
S5A	Requiring documents	44	118	58
S5(b)	Requiring answers to questions	16	13	Nil
S6	Search warrant obtained	1	Nil	Nil

#### **SFO Act, Part II**

##### **Investigation of Suspected Offences Involving Serious or Complex Fraud**

		2005/06	2004/05	2003/04
S9(d)	Requiring answers to questions	123	101	205
S9(e)	Requiring information	129	69	140
S9(f)	Requiring documents	547	560	671
S10	Search warrant obtained	4	5	17

#### **Performance**

The Director (or an Assistant Director in the Director’s absence) personally signs all Notices requiring persons to attend to answer questions. An Assistant Director under delegated authority signs notices requiring the production of documents. 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 an Assistant Director, must be notified in advance of any request for a search warrant.

There is, therefore, an audit process in place in all instances of the exercise of these statutory powers to ensure that the provisions of the Serious Fraud Office Act 1990 are met.

## **Enforcement of Statutory Powers**

Just occasionally the Office is challenged as to the exercise of its statutory powers. In most instances these challenges are turned away by a quiet word to the lawyer in question who may not have fully understood the powers of the Director, or by the Director being prepared to allow additional time for information to be provided or to rearrange the date of a compulsory interview. Where an individual is believed to be deliberately seeking to frustrate an investigation the Serious Fraud Office Act 1990 allows for a prosecution to be taken against that individual. Each situation has to be addressed on its merits, but ultimately the law must be upheld.

During the last financial year the Office did not commence any prosecutions against any individuals for failing to comply with the requirements of the Serious Fraud Office Act. In one case a person claimed “spousal immunity” as a lawful excuse for not responding to questions asked by the Serious Fraud Office regarding her husband. This was a new claim and in the circumstances the Office sought a declaratory judgment from the Court as to the correct legal position rather than prosecuting the individual for non-compliance. The Court held that spousal immunity did not apply and that the Office was within its rights to require answers to its questions.

Of the two prosecutions for breach of the Serious Fraud Office Act 1990 that had been commenced but not concluded in the previous year the Courts found the defendants guilty on each of the charges. One defendant who had faced two charges was sentenced to six months imprisonment; the other defendant facing just the one charge was sentenced to three months imprisonment. (See cases 11 and 9 in Prosecutions Completed.)

## 4. PROSECUTIONS COMPLETED

### Case 1

#### **David Charles Adams**

David Adams, an accountant, was convicted after a trial in the Auckland District Court of using documents with intent to defraud (section 229A Crimes Act 1961) in relation to a complex scheme to defraud the Department of Inland Revenue. He was sentenced to 3¾ years imprisonment. He appealed against both his conviction and sentence, but both appeals were dismissed.

### Case 2

#### **Allan Cliff Armitage**

Allan Armitage obtained finance by making fraudulent claims in loan applications. He pleaded guilty in the Auckland District Court to charges of using a document with intent to defraud (section 229A Crimes Act 1961) and was sentenced to 2½ years imprisonment. He was also ordered to pay \$90,000 reparation.

### Case 3

#### **Brian Joseph Fay**

Brian Fay was a solicitor who used a power of attorney to steal funds from a vulnerable elderly client over the course of 6½ years. He was convicted in the Christchurch District Court on charges of theft including theft by a person holding a power of attorney (sections 223 and 220 Crimes Act 1961) and was sentenced to 4 years imprisonment.

### Case 4

#### **Andrew John Gummer**

Andrew Gummer was found guilty at Auckland District Court of 23 counts of using documents with intent to defraud (section 229A Crimes Act 1961) in respect of an arrangement whereby the odometers of vehicles imported to New Zealand from Japan were knowingly 'wound back' before being sold to the public and other traders. The judge sentenced him to 175 hours of community work. Gummer appealed the conviction but the appeal was dismissed.

### Case 5

#### **William Raymond Harris, Murray Athol Osmond and Raymond Stanley Smitheram**

The defendants were convicted in the Auckland District Court following a trial on a charge of conspiracy to defraud (section 257 Crimes Act 1961) in relation to a dishonest scheme to mislead a financier company in a transaction involving the purchase of a quarry. Osmond was sentenced to 2¾ years imprisonment, Harris to 2¼ years and Smitheram to 1¼ years (with leave to apply for home detention). Harris and Osmond have appealed their convictions and sentences.

Case 6**Donna Awatere Huata and Wi Te Tau Huata**

Donna Awatere Huata and Wi Huata were found guilty in the Auckland District Court of using documents with intent to defraud and attempting to pervert the course of justice (sections 229A and 117 Crimes Act 1961) in respect of the use of Pipi Foundation monies for their own purposes. Donna Awatere Huata was sentenced to a total of 2¾ years imprisonment and ordered to pay reparation of over \$15,000. Wi Huata was sentenced to 2 years imprisonment with leave to apply for home detention. He paid reparation of \$40,000. Both have appealed their convictions and sentences.

Case 7**Jonathan Alexander Kerr**

Jonathan Kerr pleaded guilty in the Auckland District Court to obtaining by deception and forgery (sections 240 and 256 Crimes Act 1961) after defrauding his employer. He was imprisoned for 2¾ years.

Case 8**John Peter Leeder**

John Leeder was acquitted after a trial at the Christchurch District Court on charges of conspiracy to defraud Westpac, ANZ and BNZ and being a party to the use of documents with intent to defraud (sections 257 and 229A Crimes Act 1961). This was the final trial in a wide-ranging investigation that had resulted in convictions against 7 persons for mortgage frauds. (See Annual Report 2003/04)

Case 9**Phyllis Erena Mareroa, Tina Marie West, Stephen Pokere and Donna Marie Héra Frost**

Phyllis Mareroa and Tina West were found guilty in the Auckland District Court of a conspiracy to defraud investors through a company named FF Traders Ltd (section 257 Crimes Act 1961). Most of the victims were friends and family of the defendants. Stephen Pokere and Donna Frost pleaded guilty to the same conspiracy. Frost also pleaded guilty to another charge of conspiracy to defraud through a company named T & T Property Investors Ltd, and a charge under the Serious Fraud Office Act 1990 of refusing to answer questions during the investigation. West was also convicted in respect of the T & T Property Investors Ltd conspiracy. Mareroa was sentenced to 3½ years imprisonment, West to a cumulative total of 7¾ years (which included other offending – see Annual Report for 2004/05), and Frost and Pokere were both sentenced to 2½ years imprisonment.

Case 10**William Papple**

William Papple was convicted after a trial in the District Court at Rotorua of conspiracy to defraud (section 257 Crimes Act 1961) for his part in a scheme that misappropriated monies received from investors through Lakeland Wealth Creators Ltd and Wespap Ltd. He was sentenced to 2 years imprisonment, with leave to apply for home detention. The other participants in the conspiracy, Tina Marie West and Margarite Huia Papple, were previously convicted and sentenced to 5 years imprisonment (see Annual Report for 2004/05).

Case 11**Alister Porter and Murray Hewitt**

Alister Porter and Murray Hewitt were convicted in the Auckland District Court on charges under section 229A of the Crimes Act 1961 and section 378 of the Companies Act 1993 in relation to a GST fraud. Porter was also convicted on two charges of obstructing the Serious Fraud Office investigation (section 45 Serious Fraud Office Act 1990). Porter was sentenced to a total of 4 years imprisonment and Hewitt to 3 years. Porter appealed against his conviction and his sentence. Both appeals were dismissed.

Case 12**Wayne Porter, Peter Pharo, Malcolm Beattie and Stewart Romley**

The defendants were charged with 2 counts of conspiracy to defraud in relation to a scheme whereby gaming machine money was allegedly returned to pubs through the device of purported advertising payments by the ChildFlight and the Auckland Rescue Helicopter Trusts. All four were acquitted on both counts in the High Court at Auckland.

Case 13**Donald Moris Rea**

Donald Rea was the subject of an SFO investigation into an alleged fraud on investors. He was charged with misappropriating funds held under a direction that such funds be invested (section 224 Crimes Act 1961). Rea died during the trial which was taking place at the Tauranga District Court.

Case 14**X (name permanently suppressed)**

X was acquitted in the Wellington District Court of using documents with intent to defraud (section 229A of the Crimes Act 1961) in respect of an alleged fraud on the Legal Services Agency.

Case 15**Yong Joon Shioong (Rick Yong)**

Rick Yong was a manager at the BNZ. He fraudulently obtained monies from his employer and clients over nearly 3 years and forged a document in an attempt to conceal his offending. He pleaded guilty to various offences of dishonesty in the Auckland District Court (sections 229A, 228(b), 264 and 249 Crimes Act 1961) and was imprisoned for 3 years.

### **Partly Completed Cases**

(i.e. Where the charges against one or more defendants in the same case have still to be determined.)

#### **Paul Henry Marra, Malcolm Alexander McCowan, Terence David Walter, William Ross Cottee, Stephen Ross Wackrow, William Geoffrey Winchester and Sean Robert Miller.**

All the defendants except Miller pleaded guilty in the Auckland High Court to charges under section 204 of the Customs and Excise Act 1996. The offending concerned the setting up of a scheme to bypass the statutory monopoly existing at the time in favour of the NZ Dairy Board with regard to the export of dairy product. The scheme involved the deliberate mislabelling of dairy product as animal product and the export of that product through a separate company set up specifically for that purpose. The offenders included individuals within the Kiwi Co-op Dairy Group. Marra was fined \$15,000, McCowan and Cottee \$12,000 each, Walter \$7,500 and Wackrow and Winchester \$6,000 each. Miller's trial is scheduled for May 2007.

#### **W. (name suppressed), Todd Raymond Reinke, Jason Murray Wood, Daryl Frederick de Latour, Christine Marilyn Mason, and Peter Connor.**

The defendants were charged with conspiracy to defraud (section 257 Crimes Act 1961) and use of a document with intent to defraud charges (section 229A Crimes Act 1961) in relation to alleged mortgage fraud affecting a number of properties.

The charge against O'Connor (one charge under section 229A Crimes Act 1961) was severed from the main trial. O'Connor pleaded guilty to the charge and was fined \$10,000.

Wood pleaded guilty to using a document with intent to defraud and was sentenced to 200 hours community service.

The charges against the remaining four defendants went to trial in March/April 2006. The Judge discharged the conspiracy charges under section 347 Crimes Act at the close of the Crown's case. This had the effect of acquitting Reinke who faced only the conspiracy charges. The jury was hung in relation to the other charges. The retrial of the remaining three defendants is scheduled for October 2006.

### **Appeals**

#### **Patricia Walsh**

Patricia Walsh appealed against her conviction and sentence for frauds on investors, forgery and mortgage fraud (see Annual Report for 2004/5). Both limbs of the appeal were dismissed.

**Note:** See also results of appeal in Cases 1, 4 and 11 above.

**FINANCIAL PERFORMANCE**

**STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2006**

	<b>2005/06 Actual (\$000)</b>	<b>2005/06 Budget (\$000)</b>	<b>2004/05 Actual (\$000)</b>	<b>2003/04 Actual (\$000)</b>	<b>2002/03 Actual (\$000)</b>
<b>Output</b>					
Investigation and Prosecution of Serious or Complex Fraud	4,795	4,874	4,607	4,747	4,588
<b>Total (excluding GST)</b>	<b>4,795</b>	<b>4,874</b>	<b>4,607</b>	<b>4,747</b>	<b>4,588</b>

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

## STATEMENT OF ACCOUNTING POLICIES FOR THE YEAR ENDED 30 JUNE 2006

### ***Reporting Entity***

The Serious Fraud Office is a government department as defined by the Public Finance Act 1989.

The Serious Fraud Office's financial statements have been prepared in accordance with the Public Finance Act 1989.

The Serious Fraud Office does not administer any Crown activities or trust monies.

### ***Measurement System***

These financial statements have been prepared on the basis of modified historical cost except for certain items with specific accounting policies outlined below.

### **Accounting Policies**

#### ***Budget Figures***

The budget figures are those presented in the Budget Night Estimates as amended by the Supplementary Estimates and any transfer made by Order in Council under the Public Finance Act 1989.

#### ***Revenue***

The Serious Fraud Office derives revenue through the provision of outputs to the Crown. Such revenue is recognised when earned and is reported in the financial period to which it relates.

#### ***Cost Allocation***

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

#### ***Cost Allocation Policy***

Direct costs are charged directly to significant activities. Indirect costs are charged to significant activities based on cost drivers and related activity/usage information.

#### ***Criteria for Direct and Indirect Costs***

"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 Assigned to Output***

Direct costs are charged directly to outputs. Personnel costs are charged by recording the time spent on each output.

***Basis for Assigning Indirect Corporate Costs to Outputs***

Indirect costs are allocated to outputs according to the proportion of time spent on each output.

***Receivables***

Receivables are recorded at estimated realisable value, after providing for doubtful and uncollectable debts.

***Operating Leases***

Leases where the lessor effectively retains substantially all the risks and benefits of ownership are classified as operating leases. Payments under these are expensed in the period in which they are incurred.

***Fixed Assets***

The initial cost of a fixed asset is the value of the consideration given to acquire or create the asset and any directly attributable costs of bringing the asset to working condition for its intended use.

Fixed assets, or groups of assets forming a network or which are material in aggregate, costing more than \$1,000 are capitalised and recorded at historical cost.

***Depreciation***

Depreciation of fixed assets is provided on a straight line basis so as to allocate the cost of assets, less any estimated residual value, over their useful lives.

The useful lives and associated depreciation rates for major classes of assets are:

Furniture, fixtures and fittings	5 years	20%
Office equipment	5 years	20%
Motor vehicles	6 years	15%
Computer equipment and software	3 years	33.3%

The cost of leasehold improvements is capitalised and amortised over the unexpired period of the lease or the estimated remaining useful lives of the improvements, whichever is shorter.

***Provision of Employee Entitlements***

Provision is made in respect of the Office’s liability for annual leave entitlements. The provision has been calculated on an actual entitlement basis at current rates of pay. In terms of employees’ contracts, there is no provision for retirement or long service entitlements.

***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 Office and record cash payments made for the supply of goods and services.

*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.

### ***Financial Instruments***

The Office is party to financial instruments as part of its normal operations. These financial instruments include instruments such as bank balances, investments, accounts receivable and accounts payable. All financial instruments are recognised in the Statement of Financial Position and revenues and expenses in relation to all financial instruments are recognised in the Statement of Financial Performance.

All financial instruments are shown at their estimated fair value.

### ***Goods and Services Tax (GST)***

The Statement of Unappropriated Expenditure and the Statement of Departmental Expenditure and Appropriations are inclusive of GST. The Statement of Financial Position is exclusive of GST, except for Creditors and Payables, or Debtors and Receivables and which are GST inclusive. All other 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 Payables or Debtors and Receivables (as appropriate).

### ***Taxation***

Government departments are exempt from the payment of income tax in terms of the Income Tax Act 1994. Accordingly, no charge for income tax has been provided for.

### ***Commitments***

Future payments are disclosed as commitments at the point a contractual obligation arises, to the extent that there are equally unperformed obligations.

### ***Contingent Liabilities***

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

### ***Taxpayers' Funds***

This is the Crown's net investment in the Office.

### ***Changes in Accounting Policies***

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

**STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2006**

	Note	30/06/06 Actual (\$000)	30/06/06 Main Estimates (\$000)	30/06/06 Supp. Estimates (\$000)	30/06/05 Actual (\$000)
<b>Revenue</b>					
Crown		4,760	4,760	4,760	4,760
Other	1	48	114	114	19
<b>Total revenue</b>		<b>4,808</b>	<b>4,874</b>	<b>4,874</b>	<b>4,779</b>
<b>Expenditure</b>					
Personnel costs		3,194	3,150	3,078	3,017
Operating costs		1,030	1,172	1,245	1,026
Loss on Disposal of Assets	8	-	-	-	1
Depreciation	2	166	156	156	160
Audit fees		19	25	24	22
Rental and leasing costs		355	340	340	350
Capital charge	3	31	31	31	31
<b>Total expenses</b>		<b>4,795</b>	<b>4,874</b>	<b>4,874</b>	<b>4,607</b>
<b>Net surplus</b>		<b>13</b>	<b>-</b>	<b>-</b>	<b>172</b>

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

**STATEMENT OF MOVEMENTS IN TAXPAYERS' FUNDS FOR THE YEAR ENDED 30 JUNE 2006**

	Note	30/06/06 Actual (\$000)	30/06/06 Main Estimates (\$000)	30/06/06 Supp. Estimates (\$000)	30/06/05 Actual (\$000)
Taxpayers' funds as at 1 July		388	388	388	388
Net surplus		13	-	-	172
<b>Net surplus/total recognised revenues and expenses for the period</b>		<b>13</b>	<b>-</b>	<b>-</b>	<b>172</b>
Provision for repayment of surplus to the Crown	5	(13)	-	-	(172)
<b>Taxpayers' funds as at 30 June</b>		<b>388</b>	<b>388</b>	<b>388</b>	<b>388</b>

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

**STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2006**

	Note	30/06/06 Actual (\$000)	30/06/06 Main Estimates (\$000)	30/06/06 Supp. Estimates (\$000)	30/06/05 Actual (\$000)
<b>Taxpayers' funds</b>		<b>388</b>	<b>388</b>	<b>388</b>	<b>388</b>
Represented by:					
<b>Current assets</b>					
Cash and bank balances		418	426	472	393
Receivables		12	-	14	2
Prepayments		7	25	19	19
<b>Total current assets</b>		<b>437</b>	<b>451</b>	<b>505</b>	<b>414</b>
<b>Non-current assets</b>					
Fixed assets	4	365	360	491	503
<b>Total non-current assets</b>		<b>365</b>	<b>360</b>	<b>491</b>	<b>503</b>
<b>Total assets</b>		<b>802</b>	<b>811</b>	<b>996</b>	<b>917</b>
<b>Current liabilities</b>					
Payables and provisions		311	317	503	252
Provision for repayment of surplus to the Crown	5	13	-	-	172
Provision for employee entitlements	6	90	106	105	105
<b>Total current liabilities</b>		<b>414</b>	<b>423</b>	<b>608</b>	<b>529</b>
<b>Net assets</b>		<b>388</b>	<b>388</b>	<b>388</b>	<b>388</b>



DJ Bradshaw  
Director  
29 September 2006



Anne Smith  
Chief Financial Officer  
29 September 2006

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

## STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2006

	30/06/06 Actual (\$000)	30/06/06 Main Estimates (\$000)	30/06/06 Supp. Estimates (\$000)	30/06/05 Actual (\$000)
<b>Cash flows – operating activities</b>				
Cash was provided from:				
Supply of outputs to				
- Crown	4,760	4,760	4,760	4,760
- Departments	48	105	95	-
- Other	-	9	7	49
	4,808	4,874	4,862	4,809
Cash was applied to:				
Produce outputs				
- Personnel	3,085	3,150	3,042	3,018
- Operating	1,448	1,537	1,394	1,473
- Net GST paid	22	-	-	15
- Capital charge	31	31	31	31
	4,586	4,718	4,467	4,537
<b>Net cash inflow from operating activities</b>	<b>222</b>	<b>156</b>	<b>395</b>	<b>272</b>
<b>Cash flows – investing activities</b>				
Cash provided from:				
Sale of fixed assets	11	-	11	9
Cash disbursed for:				
Purchase of fixed assets	36	56	155	398
<b>Net cash outflow from investing activities</b>	<b>(25)</b>	<b>(56)</b>	<b>(144)</b>	<b>(389)</b>
<b>Cash flows – financing activities</b>				
Cash disbursed for:				
Payment of surplus to Crown	172	-	172	15
<b>Net cash outflow from financing activities</b>	<b>(172)</b>	<b>-</b>	<b>(172)</b>	<b>(15)</b>
Net increase/(decrease) in cash held	25	100	79	(132)
Add opening total cash balance	393	326	393	525
<b>Closing cash balance</b>	<b>418</b>	<b>426</b>	<b>472</b>	<b>393</b>

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

**STATEMENT OF COMMITMENTS AS AT 30 JUNE 2006**

	<b>30/06/06 Actual</b>	<b>30/06/05 Actual</b>
	<b>(\$000)</b>	<b>(\$000)</b>
<b>Operating lease commitments</b>		
Less than one year	336	342
One to two years	224	342
Two to five years	-	228
More than five years	-	-
<b>Total commitments</b>	<b>560</b>	<b>912</b>

**STATEMENT OF CONTINGENT LIABILITIES AS AT 30 JUNE 2006**

The Serious Fraud Office had contingent liabilities of \$90,000 as at 30 June 2006 (2005: Nil), which related to matters concerning continuing court cases.

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

**STATEMENT OF DEPARTMENTAL EXPENDITURE AND APPROPRIATION  
FOR THE YEAR ENDED 30 JUNE 2006**

	<b>30/06/06 Expenditure Actual (\$000)</b>	<b>30/06/06 Appropriation Voted* (\$000)</b>
<b>Classes of outputs to be supplied by the department</b>		
Investigation and prosecution of serious or complex fraud	4,795	4,874
<b>Total appropriation</b>	<b>4,795</b>	<b>4,874</b>

\* This includes adjustments made in the Supplementary Estimates and transfers under the Public Finance Act 1989.

**STATEMENT OF UNAPPROPRIATED EXPENDITURE**

There was no unappropriated expenditure for the year ended 30 June 2006 (2005: Nil).

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

**NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2006**

**Note 1: Other revenue**

	Note	30/06/06 Actual (\$000)	30/06/06 Main Estimates (\$000)	30/06/06 Supp. Estimates (\$000)	30/06/05 Actual (\$000)
Departments		45	105	105	6
Net gain on sale of fixed assets	8	3	-	-	-
Other		-	9	9	13
<b>Total other and departmental revenue</b>		<b>48</b>	<b>114</b>	<b>114</b>	<b>19</b>

**Note 2: Depreciation**

	30/06/06 Actual (\$000)	30/06/06 Main Estimates (\$000)	30/06/06 Supp. Estimates (\$000)	30/06/05 Actual (\$000)
Furniture and fittings	58	40	27	38
Office equipment	29	28	34	32
Computer hardware	43	57	56	55
Computer software	24	18	23	22
Motor vehicles	12	13	16	13
<b>Total depreciation</b>	<b>166</b>	<b>156</b>	<b>156</b>	<b>160</b>

**Note 3: 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 was 8.0% for the 2005/06 financial year (2005: 8.0%).

**Note 4: Fixed assets**

	30/06/06 Actual (\$000)	30/06/05 Actual (\$000)
<b>Furniture and fittings</b>		
At cost	735	735
Accumulated depreciation	(558)	(500)
<b>Net book value</b>	<b>177</b>	<b>235</b>
<b>Office equipment</b>		
At cost	355	355
Accumulated depreciation	(302)	(273)
<b>Net book value</b>	<b>53</b>	<b>82</b>
<b>Computer hardware</b>		
At cost	414	414
Accumulated depreciation	(380)	(337)
<b>Net book value</b>	<b>34</b>	<b>77</b>
<b>Computer software</b>		
At cost	126	126
Accumulated depreciation	(103)	(79)
<b>Net book value</b>	<b>23</b>	<b>47</b>
<b>Motor vehicles</b>		
At cost	98	90
Accumulated depreciation	(20)	(28)
<b>Net book value</b>	<b>78</b>	<b>62</b>
<b>Total fixed assets</b>		
At cost	1,728	1,720
Accumulated depreciation	(1,363)	(1,217)
<b>Total carrying amount of fixed assets</b>	<b>365</b>	<b>503</b>

**Note 5: Provision for repayment of surplus to the Crown**

	30/06/06 Actual (\$000)	30/06/05 Actual (\$000)
Net surplus	13	172
<b>Total provision for repayment of surplus</b>	<b>13</b>	<b>172</b>

**Note 6: Provision for employee entitlements**

	<b>30/06/06 Actual (\$000)</b>	<b>30/06/05 Actual (\$000)</b>
<b>Current liabilities</b>		
Annual leave	90	105
<b>Total provision for employee entitlements</b>	<b>90</b>	<b>105</b>

**Note 7: Reconciliation of net surplus to net cash flows from operating activities for the year ended 30 June 2006**

	<b>30/06/06 Actual (\$000)</b>	<b>30/06/06 Main Estimates (\$000)</b>	<b>30/06/06 Supp. Estimates (\$000)</b>	<b>30/06/05 Actual (\$000)</b>
<b>Net operating surplus</b>	<b>13</b>			<b>172</b>
<i>Non-cash items</i>				
Depreciation	166	156	156	160
<b>Total non-cash items</b>	<b>179</b>	<b>156</b>	<b>156</b>	<b>332</b>
<b>Movements in working capital items</b>				
(Increase)/decrease in receivables	(10)	-	(12)	32
(Increase)/decrease in prepayments	12	-	-	(14)
(Increase)/decrease in payables and provisions	59	-	251	(77)
(Increase)/decrease in employee entitlements	(15)	-	-	(1)
<b>Working capital movements</b>	<b>46</b>	<b>-</b>	<b>239</b>	<b>(60)</b>
<b>Movement in investment activities</b>				
Net gain on sale of fixed assets	(3)			
<b>Investing activities movements</b>	<b>(3)</b>			
<b>Net cash flow from operating activities</b>	<b>222</b>	<b>156</b>	<b>395</b>	<b>272</b>

**Note 8: Net gain/(loss) on sale of fixed assets**

	30/06/06 Actual (\$000)	30/06/06 Main Estimates (\$000)	30/06/06 Supp. Estimates (\$000)	30/06/05 Actual (\$000)
Motor vehicles	3	-	-	(1)
<b>Net gain/(loss) on sale of fixed assets</b>	<b>3</b>	<b>-</b>	<b>-</b>	<b>(1)</b>

**Note 9: Financial Instruments**

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

*Credit Risk*

In the normal course of its business the Serious Fraud Office incurs credit risk from trade debtors, and transactions with the New Zealand Debt Management Office (NZDMO).

The Office does not require any collateral or security to support financial instruments with the NZDMO, as this entity has a high credit rating.

*Fair Value*

The fair value of financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

*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.

**Note 10: Contingencies**

The Serious Fraud Office does not have any contingent assets as at 30 June 2006 (30 June 2005: Nil). Contingent liabilities are separately disclosed in the statement of Contingent Liabilities.

**Note 11: Related Party Transactions**

The Serious Fraud Office is wholly owned by the Crown, which is also its source of revenue.

If the Office enters into transactions with other government departments, these transactions are carried out on an arm's length basis. They are not considered to be related party transactions.

**Note 12: Major Budget Variances**

There were no major variances in financial statements compared to the Budget Night Estimates.

**Note 13: Transition to New Zealand Equivalents to International Financial Reporting Standards**

The Serious Fraud Office will be adopting New Zealand International Reporting Standards (NZ IFRS) for the first time in its audited financial statements for the year ending 30 June 2008. This timetable is in line with the adoption of New Zealand equivalents to IFRS in the consolidated financial statements of the Government reporting entity. The Serious Fraud Office will be adopting the accounting policies of the financial statements of the Government.

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# ***Management Performance Information***

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## **CORPORATE AND COLLECTIVE INTEREST MANAGEMENT REPORT FOR THE YEAR ENDED 30 JUNE 2006**

### **Integrity of the Public Service**

Staff of the SFO are aware of and observe the standards of behaviour required of them as public servants. A very high standard of professional conduct is "a must" for staff, who are also required to observe the secrecy provisions of the Serious Fraud Office Act 1990.

### **Inter-departmental Liaison**

The Office places considerable emphasis on maintaining sound working relationships with other law enforcement and regulatory agencies both within New Zealand and overseas. Senior staff have been allocated specific responsibilities for liaising with the appropriate agencies within New Zealand. Formal operating protocols have been developed with a number of key agencies such as the Police, Inland Revenue Department, the Customs Service and the Securities Commission.

The Office was able to secure the services of a computer expert from the United States to provide an advanced training course on the interrogation of computers. This is an area of particular interest to the Office. The Office invited selected personnel working in computer forensics in the Police, the Ministry of Fisheries, the New Zealand Security Intelligence Service, the Inland Revenue Department and the New Zealand Customs Service to join with the Serious Fraud Office staff on this advanced training course.

The Office continues to have a close association with many overseas agencies. There were a number of occasions during the year when the Serious Fraud Office responded to requests for assistance from overseas law enforcement officials. There were also a number of occasions when the Serious Fraud Office sought the assistance of its counterparts overseas. The importance of these relationships with overseas law enforcement agencies can not be stressed too strongly.

The Serious Fraud Office played a lead role in two overseas fraud seminars during the year. The Assistant Director (Prosecutions) was a key contributor to a fraud course held primarily for prosecutors from the Office of the Director of Public Prosecutions in Fiji. A forensic accountant from the Serious Fraud Office acted both as the co-ordinator and presenter at a training course on fraud and corruption in Apia attended primarily by government auditors from throughout the South Pacific.

The Office has been pro-active over the past few years in providing assistance to Police and other agencies in the South Pacific who often do not have the resources to fully investigate and prosecute serious or complex fraud. The Office is currently assisting the Police in the Cook Islands with an investigation. The Office is also assisting the Director of Public Prosecutions in Fiji in its preparation for a significant fraud trial.

The Office was represented on an OECD team appointed to review the Australian legislation dealing with economic crimes and money laundering.

The Director attended the biennial Heads of Prosecuting Agencies meeting (HOPAC) in Ireland in September. The Director, on this same trip, delivered a keynote address to the 23<sup>rd</sup> Cambridge International Symposium on Economic Crime.

**Accommodation**

The Office is located only in Auckland and occupies 1272 square metres spread over two floors of the Duthie Whyte Building at 120 Mayoral Drive, Auckland City. There is no vacant space as at 30 June 2006.

The rental costs for the year were \$354,771 (\$349,580 in 2004/05) including landlord operating expenses but excluding other utility costs such as cleaning and energy costs which were:

	2005/2006	2004/2005	2003/2004
<b>Energy Usage and Costs</b>			
<i>(excluding those included in the operating costs above)</i>			
Units Used (Kwh)	178,364	188,603	158,911
Cost	\$26,800	\$20,000	\$20,500
<b>Fuel Usage and Costs</b>			
Units Used (Km)	20,405	17,731	18,298
Cost	\$3,200	\$2,140	\$2,450
<b>Telecommunication Costs</b>	\$50,200	\$59,000	\$61,148
<b>Cleaning and Maintenance Costs</b>	\$30,600	\$20,000	\$17,108

**Management of Information**

The operational information held by the Serious Fraud Office relates to the investigation and prosecution of cases and, as it is “protected” in terms of the Serious Fraud Office Act 1990, very stringent security provisions apply.

Information is shared with other agencies only in very limited circumstances as permitted by the legislation and as required for the proper enforcement of the law, both in New Zealand and overseas. The over-riding consideration for the Office in all cases is to ensure that all information is accorded the level of confidentiality required by the Serious Fraud Office Act 1990. There is no “online” or similar access to any Serious Fraud Office operational information.

**Management of Human Resources**

The enhancing of investigative skills and techniques continued to be a priority for the Management Team to ensure that the Office keeps abreast of developments in relation to serious fraud offending and the investigative skills and tools needed to combat such crime. As mentioned previously the Office hosted an advanced training course on computer forensics, primarily for the Serious Fraud Office staff, but with invitees from other departments.

The Office conducts regular in-house training seminars on a range of topics. Presenters come from both within the Office and from outside of the Office.

Professional training for the lawyers and the accountants in the Office continued and the Office supported staff with part time relevant tertiary studies.

Prosecutors have the opportunity to obtain additional Courtroom experience through an arrangement with the Crown Solicitor in Auckland.

The pace of change and development, particularly in technology, is rapid and provides new fraud opportunities. The Office continues to keep abreast of international developments by maintaining close relationships with our counterpart overseas agencies and also by participation in inter-departmental working parties where appropriate. A staff member attended a conference in Canberra organised by the Australian High Tech Crime Centre.

Six full-time staff left the Office during the year. Whenever a vacancy arises in the Office the management team looks closely at the immediate and future staffing requirements. All of the vacant positions had been filled as at 30 June 2006 although two appointees were not scheduled to take up their appointments until after 30 June 2006. The Office does not have any difficulty in attracting high calibre applicants for its vacancies.

### **Equal Opportunities**

We are committed to equal opportunities for all our staff and to ensuring that the employment policies and practices support the recruitment and retention of the widest possible range of skills.

As a small, highly specialised department it is difficult to achieve a wide “mix” of ages, genders and cultural diversity. Furthermore there are relatively few vacancies occurring each year.

Including the Director, the staff complement as at 30 June 2006 is 35 – 18 men and 17 women.

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# ***Information about the Department***

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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***

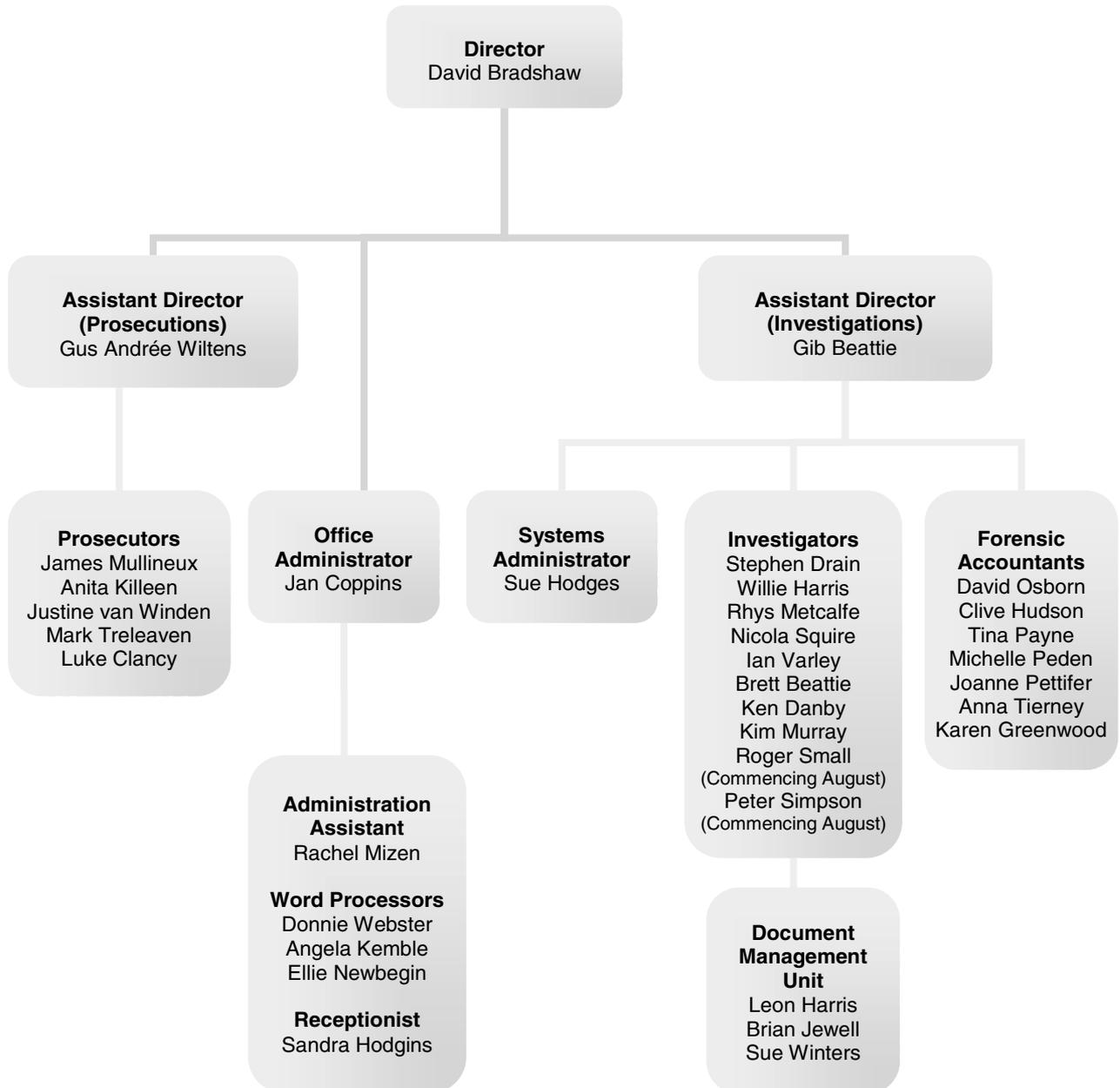
The Serious Fraud Office operates under the Serious Fraud Office Act 1990. All requirements of that Act have been met. In this Report under 'Use of Statutory Powers' (pages 19-20) there is an analysis of the Notices issued in terms of the provisions of the Act.

## MANAGEMENT AND STRUCTURE

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Five appointments were made during the year and six staff resigned. As at 30 June 2006 the staffing level is 35.

### Organisational Structure



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**SERIOUS FRAUD OFFICE ACT PANEL OF PROSECUTORS AS AT 30 JUNE 2006**

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**Auckland**

A P Duffy QC  
J A Farmer QC  
J C Gordon  
Dr R E Harrison QC  
M R Heron  
D P H Jones QC  
S J E Moore  
M J Ruffin  
LL Stevens QC  
M A Woolford

**Christchurch**

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

**Dunedin**

R J Bates  
Marie Grills  
W J Wright

**Hamilton**

P J Morgan QC

**Wellington**

R M Lithgow  
K P McDonald QC  
R B Squire QC  
K G Stone  
J O Upton QC

**Whangarei**

P J Smith

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## PUBLIC RELATIONS

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The goal of the Office in relation to public relations over the past few years or so has been to demystify the Serious Fraud Office without sensationalising the work of the Office. Information about the Office has been conveyed in a low-key manner whenever an appropriate opportunity has arisen.

The Office does not routinely provide media releases about cases that it has under investigation nor cases that it is prosecuting in the Courts. The general policy of the Office is to neither confirm nor deny whether the Office is investigating any matter, except where there is an over-riding public interest. Such an approach protects the integrity of the investigation and limits the potential harm, either commercial or personal, that can be done to an individual or an organisation if the Serious Fraud Office was to publicly announce that it was investigating their affairs.

Similarly with prosecutions, the Office does not generally regard it as its role to be making press releases about every prosecution. It will, however, assist the media in its coverage of Serious Fraud Office prosecutions by confirming the dates of Court appearances or details of charges, if requested. This information is available on the Serious Fraud Office website. In some cases name suppression affects the extent of the media coverage given to prosecutions brought by the Serious Fraud Office.

From time to time the Director may determine that there is a need to alert the public to a particular fraud or scam that is known to be affecting New Zealanders. The Office regularly responds to media enquiries concerning such matters as Nigerian letters and prime bank instrument scams during the year.

The Office's website provides details of not only how the Office operates but also a brief overview of pending prosecutions and outcomes. This is updated monthly.