

Performance Improvement Framework

STATE SERVICES COMMISSION
TE KAWA MATAAHO



Review for the Serious Fraud Office Te Tari Hara Tāware

March 2020



New Zealand Government

SFO 
SERIOUS FRAUD OFFICE
Te Tari Hara Tāware

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Introducing the Lead Reviewers



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Ms Bestwick chairs the Resilience to Nature's Challenges National Science Challenge and is on the Board of the Tertiary Education Commission, New Zealand Qualifications Authority, Arrow Irrigation Company and the Development West Coast Advisory Board. Previously she served on the Boards of Southern Response Earthquake Services Limited and Tourism New Zealand and she chaired the Ara Institute of Canterbury, including during recovery from the Canterbury earthquakes.

Ms Bestwick has been a Lead Reviewer for PIF Reviews of Education New Zealand, the Ministry of Health, the Ministry for the Environment and Land Information New Zealand.



Dr Paul Reynolds, QSO

Dr Reynolds is a professional director and is currently Chairman of the Eastland Community Trust, Deputy Chair of Landcare Research Ltd, Acting Chair of AgResearch Ltd, and he chairs the Sir Peter Blake Trust and Our Land and Water National Science Challenge.

He was Chief Executive at the Ministry for the Environment from 2008 to 2015, when he also led the Natural Resources Sector Group of Chief Executives and served as Chair of the Leadership Development Centre and the Advisory Board to the Victoria University of Wellington School of Government. Previous senior public service roles were at the Ministry of Agriculture and Forestry and the Ministry of Research, Science and Technology. He holds a PhD in Biochemistry from the University of Otago.

Dr Reynolds has been a Lead Reviewer for PIF Reviews of the Ministry for Pacific Peoples, Crown Law Office, Ministry of Transport, New Zealand Transport Agency, and a PIF Follow-up Review for the Ministry of Culture and Heritage.

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The Performance Improvement Framework (PIF) supports State sector leaders to drive organisational improvement, building positive outcomes for New Zealand.

PIF is designed for agencies in the New Zealand State sector.

PIF Reviews challenge and support leaders to drive organisational change, to deliver better public services.

Independent reviewers lead each PIF Review. They have significant leadership experience across New Zealand's public and private sectors. Their fresh perspective helps to stimulate 'new thinking' amongst agency leaders as they grapple with the critical issues and challenges that lie ahead for their agency.

The Review is a future-focused exercise; it is not an audit or assessment of current performance. The reviewers consider the questions: what is the contribution New Zealand needs from this agency and what is the performance challenge to make that contribution over the next four years? The four-year horizon for performance improvement encourages medium-term strategic thinking and helps leaders and agency staff understand what success would look like. By considering current plans and capability to meet future challenges, the reviewers evaluate the agency's preparedness for the future and describe its performance improvement priorities.

Each PIF Review delivers a published report, ensuring transparency and supporting accountability to New Zealanders.



Peter Hughes
State Services Commissioner

PIF Reviews challenge and support leaders to drive organisational change, to deliver better public services.

Performance Improvement Framework

Four-year Excellence Horizon

What is the agency's performance improvement challenge?

Delivering Government Priorities

How well is the agency responding to government priorities?

Delivering Core Business

In each core business area, how well does the agency deliver value to its customers and New Zealanders?

In each core business area, how well does the agency demonstrate increased value over time?

How well does the agency exercise its stewardship role over regulation?

Organisational Management

How well is the agency positioned to deliver now and in the future?

 Leadership and Direction	 Delivery for Customers and New Zealanders	 Relationships	 People Development	 Financial and Resource Management
Purpose, Vision and Strategy Leadership and Governance Values, Behaviour and Culture Review	Customers Operating Model Collaboration and Partnerships Experiences of the Public	Engagement with Ministers Sector Contribution	Leadership and Workforce Development Management of People Performance Engagement with Staff	Asset Management Information Management Financial Management Risk Management



Accepting the Challenge

In this section:

Serious Fraud Office commitment

Central Agency support

Serious Fraud Office commitment

Introduction

We welcome this PIF Review, which is particularly timely for the Serious Fraud Office given the anti-corruption work we have undertaken over the last two years and the organisational challenges we face. We want to thank the reviewers for the insights that they have provided, and also thank our stakeholders who have supported the review process and provided their own views on the SFO, how we can be best positioned for the future and New Zealand's financial crime and corruption landscape.

The state and performance of the SFO is substantially different to that described in the 2014 PIF Review. The SFO has made considerable investment in its operating model, particularly new case and evidence management systems, together with people and culture changes – including new values of Pride, Excellence and Connect. Over the last five years, while we accept there is further work to be done, the SFO has focused on improving its connections across the public sector. This focus is demonstrated in the SFO's leadership of the Anti-Corruption Work Programme, together with the Ministry of Justice.

Our performance challenge

The reviewers articulate well what New Zealand needs from the SFO and demonstrate a clear understanding of the financial crime and corruption landscape. They also set out the challenges that New Zealand faces from the complex and changing threat of financial crime and corruption and how these interact with system issues. They identify system challenges in which the SFO can demonstrate leadership adopting a multi-agency, public and private sector approach to protect all New Zealanders from financial crime and corruption.

We do note that the PIF Review sets out challenges in a system where the SFO is not the lead agency with mandated responsibility for addressing those challenges, however, the SFO needs the system to be optimised to enable it to make the best contribution to New Zealand. This review sets a bold challenge for the SFO and its partners, stakeholders and the wider system.

The reviewers' conclusions can be seen as a call to arms to address complacency and ambivalence towards the risk of financial crime and corruption in both the New Zealand public and private sectors. That risk creates not only an increased financial risk to the well-being of individuals and businesses but also a significant risk to our international reputation. The reviewers have identified that doing nothing is not an option, but the question is what to do.

The SFO recognises the opportunities for New Zealand and the SFO in the PIF Review and acknowledges that many of the actions required to produce a cogent system response sit with others. Accordingly, while the SFO supports the recommendations, our primary actions resulting from the PIF Review will be addressing the areas within our control and financial means, while continuing to work to influence wider system change.

We also note that the proposed public sector reforms could create opportunities for the SFO and other agencies to work more effectively across sectors on the complex issues of financial crime and corruption.

This review sets a bold challenge for the SFO and its partners, stakeholders and the wider system.

Responding to our performance challenge

In our view, the outcome challenges sit in three interconnected areas:

- Retaining our reputation in the world
- Developing a National Financial Crime and Corruption Strategy; and
- Everyone understanding the risks.

We consider that the first and last challenges can be constructively addressed through the SFO working with partners on developing a National Financial Crime and Corruption Strategy. We note the 2014 SFO PIF Review's recommendation that a national financial crime strategy be implemented was not picked up, so these issues are not new. In part, there was no progress from 2014 because the SFO lacked the system mandate to pursue it.

The SFO agrees that a fundamental building block to maintaining NZ's reputation for low levels of financial crime and corruption is the multi-agency development of a National Financial Crime and Corruption Strategy. The Anti-Corruption Work Programme, while under-resourced and still embryonic, has been important in identifying the risks of corruption and alerting agency partners to those risks, while also demonstrating the viability of a cross-agency approach solution.

The reviewers correctly suggest that the SFO needs to gain the support of stakeholders for system change. Over the next three months the SFO, working with others, plans to consider how a National Financial Crime and Corruption Strategy could be established with options for Ministers and other stakeholders being developed. The reviewers recognised that the SFO is well-placed to take a leading role in the development and delivery of the strategy and working with a wide range of partners will be crucial to success. Initial discussions centre around working in partnership with the Ministry of Justice to develop a work programme as a first step and seeking a funding commitment to deliver the programme. An exemplar is the National Cyber-Crime Strategy developed by the Department of the Prime Minister and Cabinet in 2015.

We suggest that a key part of any prevention strategy would be anti-corruption and financial crime education and advice, the development of high quality, transparent integrity systems and intelligence-led activities to improve understanding of how to avoid or mitigate risks. Such outputs would address the challenge of helping everyone understand the risks arising from financial crime and corruption and practical steps to minimise those risks.

Working on ourselves

The SFO agrees that it must address the following three challenges if it is to play a greater role in tackling the threat of financial crime and corruption in New Zealand:

- Coming in from outer space – establishing strong and embedded relationships with other public sector agencies
- Securing support for a system-wide leadership role in anti-corruption – establishing wider support for the SFO as operational lead and ensure it is adequately resourced to raise the level of activity and drive the ACWP work programme
- Defining the SFO's ecosystem - moving beyond the SFO's current relatively 'distanced' approach and defining the ecosystem that can assist it to have a wider impact in prevention and detection of serious fraud and corruption.

These system challenges identified by the reviewers are closely aligned with the outcome challenges discussed above, and the SFO intends to meet these challenges. The SFO has always operated at the fringe of the New Zealand public sector, despite efforts by the organisation over the last five years to develop closer links. Part of this is geographic, being the only Auckland-based Government agency with no Wellington presence, and partly the SFO's size and largely singular purpose, with no policy function.

Anti-Corruption Work Programme

The SFO will continue to advance the Anti-Corruption Work Programme, jointly with the Ministry of Justice, with a Cabinet report-back planned for April 2020. This will outline potential next steps and funding options. While funding is critical to advancing the Anti-Corruption Work Programme further, the SFO will continue to seek opportunities to show leadership in this important area, noting that risk of corruption is included in the National Risk Register, to further the conversation so that others can understand the risks and possible mitigations. We recognise that the SFO must continue to develop support for a lead role in anti-corruption.

An outward focus

To be a successful organisation, strong relationships with customers, partners and stakeholders are critical. Over the next six months the SFO will focus on ways we can be more outward-facing. We will develop a stakeholder management programme with a particular focus on establishing stronger and embedded relationships with other public sector agencies. This will involve better consideration of our operating ecosystem to ensure we have the right touchpoints for detection and prevention of serious fraud and corruption. A good foundation has been laid with the work already underway with the Anti-Corruption Work Programme. We note our size, funding and geographical challenges however recognise that this is an area where we can do better.

We will also focus on how we can better define the SFO customer experience, providing more visibility and clearer expectations around investigation and prosecution activities. This could involve developing a customer charter that provides information about the process of investigation and gives those involved up-to-date information about the progress and expected timeframes of an individual investigation.

Building on our strengths

Over the next 12 months the SFO will seek to maximise its funding options to address the business as usual cost pressures that challenge our day-to-day operations. While the funding pressures create real constraints, the SFO will look to extract further efficiencies from its existing investigation core business to optimise our investigations pipeline. Steps are already in place to develop more agile project planning and resourcing approaches to maximise returns on the investment in our case and evidence management systems. We do note that while the reviewers consider our operating model to be strong but in need of greater investment, we should still make ourselves as efficient as possible.

We are keenly aware that the SFO's people are its greatest asset. We will continue to place special focus on the SFO's culture to ensure it remains a 'great place to work' and supports the strong common purpose felt by our employees despite being challenged by a competitive salary market. We will seek opportunities for staff to pursue professional development and remain engaged with the challenges of tackling financial crime.

The way forward

We would like to thank the reviewers for their insights. The PIF Review has helped the SFO to better understand our priorities and direction and as well as provide assurance that the work we have undertaken over the last four years has been well-directed and recognised. The PIF Review, together with the work to address the challenges, will play an important part in development of the SFO's Strategic Plan for 2020-2024. In fact, we need to address the challenges laid out so that we can form a clear vision and plan of action for the SFO.

Lastly, while the SFO has lived and breathed the world of financial crime and corruption for many years, we also hope that the PIF Review will help us with our stakeholders and partners, along with the wider system, identify and recognise the threat of financial crime and corruption and how we can work together to combat that threat. This collective effort is necessary to ensure New Zealand's reputation for low levels of financial crime and corruption continues to be an asset for New Zealand in the world economy and to protect the financial and social wellbeing of all New Zealanders.



Julie Read
Director

Central Agency support

Importance of the agency role

This Review highlights the importance of SFO's role in supporting the financial and social wellbeing of all New Zealanders and our reputation as a largely corruption-free country.

The Review indicates the SFO is regarded as 'best in class' by most for its core functions of investigation and prosecution of serious and complex fraud and as our lead agency for corruption investigation. The SFO has significant system value beyond its core functions, including through its work with international agencies to address cross-jurisdictional fraud and corruption and to improve counter-fraud and anti-corruption practice. In the last year it has demonstrated operational leadership in developing and delivering the Anti-Corruption Work Programme.

The SFO is considered efficient in use of resources and continues to improve its efficiency. It is resource-constrained yet faces the same challenges as counterparts offshore: increasing complaints of fraud and corruption and increasing complexity in investigating and prosecuting cases.

What good looks like

The SFO is well-placed to play a key role in deterring fraud and leading anti-corruption work. The Reviewers recommend that, to improve its effectiveness as a small operational agency, the SFO needs to be more connected to the system, with better

support from other agencies. It needs to improve communication about its work to business partners, customers and the wider public and lift engagement with private sector stakeholders to improve detection, investigation and prevention of fraud and corruption.

System opportunities

With a rapidly changing technological, social and financial landscape, the nature of complex and serious fraud and corruption is constantly evolving. This presents risks for New Zealand and risks and opportunities for the SFO and the wider Public Service. In this context, we note New Zealand's international commitments to the United Nations and the OECD on anti-corruption and public integrity.

The Review identifies scope for government agencies to act collectively alongside the SFO, including to close system gaps in investigating and prosecuting fraud and corruption and to increase public and private sector awareness of, and actions to prevent, fraud and corruption. The Reviewers consider this collective effort needs an overarching cross-agency strategy to combat fraud and corruption.

How central agencies will help

The State Services Commission leads the State sector in all matters related to integrity and conduct: setting standards; providing advice to staff and investigating matters of integrity and conduct in the State Services.

This is an important partial underpinning for the SFO's role, with the current reform of the protected disclosures legislation a relevant current project. Equally important underpinnings are the Department of the Prime Minister and Cabinet's role overseeing advice to the Government on the priorities for management and mitigation of national risks to New Zealand and the Treasury's role to monitor and manage the Government's finances.

The Ministry of Justice is the Government's policy lead on reducing crime in New Zealand and is preparing the report-back on the first phase of the Anti-Corruption Work Programme. This phase has identified priorities to better support New Zealanders' efforts to guard against corruption as well as to support more focus on detection and prosecution to deter corrupt practice. The Ministry of Justice will work alongside the SFO to provide further advice to the Government.

Central agencies recognise the value of maintaining and enhancing New Zealand's reputation as largely free of fraud and corruption. We will assist the SFO and the Ministry of Justice, ensuring that the SFO is supported and better-connected with other Wellington-based agencies to make its best contribution to New Zealand.

Peter Hughes
State Services Commissioner

Dr Caralee McLiesh
Secretary to the Treasury

Dr Brook Barrington
Chief Executive
Department of the Prime Minister
and Cabinet

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The Challenge

In this section:

Four -year Excellence Horizon
Performance challenge
What will success look like?

Four-year Excellence Horizon

In undertaking this PIF Review the Lead Reviewers considered: “What is the contribution that New Zealand needs from the Serious Fraud Office (SFO) and, therefore, what is its performance challenge? And, if the SFO meets the performance challenge, what would success look like in four years?”

Scope

For this review the Lead Reviewers examined:

- the context and environment for the SFO’s work, including local and international trends in complex financial crime and corruption and how equivalent agencies in similar jurisdictions are performing to address those trends
- in light of that context, how well is the SFO responding to government priorities and delivering value for New Zealanders and where should it focus to lift its performance in the medium-term
- how well the SFO contributes now and the role it might play in future towards the Justice Sector’s objective of reducing crime – particularly in regard to prevention of crime and corruption.

Context

Internationally, serious financial crime¹ is increasing in complexity and scale. The technologies that enable us to communicate seamlessly from anywhere in the world, access our bank accounts whenever we want, purchase goods globally and satisfy many of our regulatory compliance obligations, also facilitate serious financial crime on a global scale. Financial crime and anti-corruption agencies around the globe are reporting increasing complexity in the nature of the offending they investigate, as the perpetrators of those crimes increasingly operate in a borderless cyber world, adapt to responses in prevention and law enforcement and take advantage of new technologies.

For this review the Lead Reviewers focused on trends in financial crimes that are perpetrated through serious and complex fraud² and/or corruption³. Public agencies here and overseas report increasing complexity in detecting and prosecuting these crimes.

Internationally, serious financial crime is increasing in complexity and scale.

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- 1 While there is no legal definition of financial crime, this behaviour usually involves an intentional act accompanied by the use of deception or dishonesty to obtain an unjust or illegal advantage. It is usually interpreted as including fraud and corruption, as well as money laundering, terrorist financing, bribery and corruption, and market abuse and insider trading. The term ‘financial crime’ is generally used more widely by international agencies than ‘fraud’. Financial crime is sometimes referred to as ‘economic crime’.
 - 2 The House of Lords in *Scott v Metropolitan Police Commissioner* said that the essence of fraud was to deprive a person dishonestly of something which is theirs, or to which they might, but for the perpetration of the fraud, be entitled. The SFO investigates fraud that is criminal in nature and is considered serious due to the impact, scale, complexity and public interest.
 - 3 There is no legislative definition of corruption in New Zealand, but the Supreme Court in *R v Field* defined ‘corruptly’ as knowingly receiving benefits provided in connection with official actions. The Court said it was not necessary to prove an improper act on the part of the official. Transparency International states: “Corruption is the abuse of entrusted power for private gain. It can be classified as grand, petty and political, depending on the amounts of money lost and the sector where it occurs.”

Internationally, public agencies tasked with combatting serious financial crime and corruption report experiencing increasing complexity in detecting and prosecuting these crimes. Complexity in this instance is driven by several factors discussed below.

Serious fraud and corruption are increasing in complexity

Factors that contribute to increased complexity for investigation of serious fraud and corruption are:

- the volume and density of data involved in every case has increased exponentially
- the legal process risk has increased due to the volume and scope of evidence/information involved
- increasingly, fraudulent and corrupt activities, like other financial crimes, involve international trans-border transactions and asset flows
- perpetrators of these crimes are more sophisticated both in how they commit crime and in their defence of their actions through legal processes.

Volume and density of data

Over the last 10 years, and the last five in particular, the way in which people communicate and transact has changed dramatically. We've gone from paper and analogue to digital for practically everything we do. As individuals we have multiple digital devices, phones, tablets, laptops and we communicate and transact seamlessly across each of them daily. The impact for investigators of serious fraud or corruption is that the volume of information seized in their investigations has increased exponentially.

Gone are the days when an investigation would involve seizing a filing cabinet complete with its contents. Investigators nowadays are faced, regularly, with seizing and cloning over 50 devices such as computers, tablets and mobile phones; these often contain up to one million individual records traversing all elements of individuals' lives. While artificial intelligence and machine learning can assist in identifying which records may be relevant to the investigation, there is still considerable additional work to understand the nature of the material retrieved and develop search parameters to which artificial intelligence can be applied.

Legal process risk

As the nature and volume of evidence seized has changed, so has the legal process risk. Navigating the management of chain of custody of evidence, legal privilege and legal disclosure has increased in complexity commensurate with the

increase in volume of information. The recent introduction of machine learning assists in processing and assessing data and information, however the Courts' expectations regarding the introduction of evidence assessed using these technologies are still relatively undeveloped, and hence uncertain. This increases the evidential burden on the prosecutor once the case gets to trial.

International transactions

It is now commonplace to find cases where elements of the offending occurred in another country and assets were either sourced or transferred to bank accounts overseas as part of the chain of transactions.

Organisations investigating serious financial crime usually have a mandate to investigate only in their own country (subject to other country-to-country agreements in place). Where an element of the suspected offending is committed in another jurisdiction, the investigating agency will normally make a Mutual Assistance Request to that country to collect relevant information and evidence. In New Zealand, Mutual Assistance Requests are issued by the Solicitor-General under delegation from the Attorney-General. Mutual Assistance Requests may take several months or even years to be fulfilled by the receiving country. For example, the SFO has an outstanding request to one country that was issued four years ago and has yet to be satisfied. The delays in receiving information under the Mutual Assistance Request⁴ process have a significant impact on the timeliness and complexity of an investigation.

4 In New Zealand, mutual legal assistance across international borders is largely governed by the Mutual Assistance in Criminal Matters Act 1992 (MACMA). MACMA governs both requests made by New Zealand to other countries and requests made by other countries to New Zealand.

Whether or not elements of the alleged crime occurred offshore, it is now becoming commonplace for personal and business documents and correspondence to be stored in the Cloud. With many of the global Cloud and other technology platforms being domiciled overseas (e.g. Google, What's App, Office365) the number and frequency of Mutual Assistance Requests is increasing as financial crime investigation agencies globally are forced to chase evidence stored on overseas servers.

Increased offender sophistication and legal challenges

Serious financial crime is big business, often with millions of dollars involved. As preventative controls have become more sophisticated, so has the nature of the offending. Such offenders are well-resourced to fight and attempt to frustrate investigation and prosecution of their activities. The investigating/prosecuting team must commit ever increasing resources to evidence management to maintain its high standards and stewardship of robust legal processes.

Other features of the New Zealand context

Our role in international networks

Several of New Zealand's partners (including our Five Eyes partners) have established, or are establishing or strengthening, dedicated serious financial crime and anti-corruption agencies in response to increased awareness of the risk and incidence of serious fraud and corruption in their jurisdictions. The United Kingdom of Great Britain and Northern Ireland (UK), Australia and Canada have made significant progress introducing comprehensive functions and agencies covering the spectrum of financial crime through to anti-corruption specific agencies. The UK has also introduced a clearing-house function to coordinate the handling of serious financial crime across the range of UK agencies working in this area.

With the increasingly international nature of serious fraud and corruption, competent authority to competent authority relationships become more important. The SFO is New Zealand's representative at a number of international serious financial crime forums and the designated agency to manage many of New Zealand's international relationships for this work. As other countries scale up to fight and prevent serious fraud and corruption within and across their borders, there are increasing demands on the SFO to participate in international working parties (e.g. for the International Public Sector Fraud Forum). While it is undoubtedly valuable for New Zealand to be involved in these forums, there is an inevitable resource impact for the SFO.

New Zealand's reputation in the world

New Zealand is viewed as a country with a well-functioning democratic system including strong democratic and public institutions and low levels of fraud and public sector corruption. New Zealand is rightly proud of this reputation. For several years, New Zealand has been ranked at or near the top of the Transparency International's Corruption Perceptions Index, for its low levels of public sector corruption. In the 2018 index⁵, New Zealand scored 87 out of 100, dropping one point behind Denmark, the lead country.

Our location in the Asia-Pacific region and developments in cross-border crime, coupled with changes in our national demographic and in international trade partners, means we must be awake to the increased risk of corrupt and fraudulent practices being introduced to our New Zealand way of doing business.

As a nation, New Zealanders are generally trusting and honest. However, our small population and relative isolation means we tend to be complacent regarding overseas threats, and naïve about their potential to impact adversely on our culture and way of doing business. As an export nation, we are increasingly trading in countries with different cultural norms regarding corruption and bribery. No country is immune from fraud and corruption regardless of demographics or perceived 'national' cultural norms. The high number of SMEs, and corresponding relatively unsophisticated control mechanisms, means that our businesses are ripe for exploitation.

The New Zealand public sector

Our public sector is widely respected for its transparency and integrity, although the same level of complacency exists in our stewardship of public spending with relatively low levels of independent scrutiny of grant-making, investment or procurement processes for integrity and corruption risk. There has been an increased emphasis on integrity in the public sector in recent years and a strengthening of procurement practices.

New Zealand does not have an anti-corruption function operating across the public sector (including local government) and no agency has a clear view of the quality of integrity systems or the robustness of prevention and detection of fraud and corruption in the sector. By contrast the UK and more recently Australia have made considerable progress in this area, resulting in a greater understanding of the extent and nature of corruption present in the public sectors of both countries. Work undertaken in the UK indicated that undetected fraud, corruption and error in the UK public sector (including distribution of public monies) accounts for somewhere between 0.5-5% of total public spending⁵. Based on the current level of public spending in New Zealand, this suggests that somewhere between \$504 million and \$5.04 billion of government expenditure may not be reaching those in our community who most

need it and may be being fraudulently removed from the public system for criminal benefit.

Our serious financial crime detection, investigation and prosecution landscape is populated with agencies with fragmented and tangled mandates. The SFO, Financial Markets Authority, Commerce Commission, Inland Revenue and New Zealand Police (Police) have varying levels of interests and resourcing available to pursue financial crime offenders. Some mandates appear to overlap whilst in other areas effective gaps exist in responding to complaints of financial crime due to resourcing constraints and/or competing resourcing priorities. The purposes, powers and penalties vary across agencies resulting in inconsistency of approach and outcome depending on which agency pursues the offending.

Established in 1990, the SFO is a small but important and unique agency in the New Zealand system, mandated to investigate and prosecute serious and complex fraud offending in both the public and private sectors. The SFO is also New Zealand's lead agency for corruption investigation. The agency has limited resources (i.e. \$9.6 million pa total funding) to fulfil this role in the system. Accordingly, it must be ruthless in prioritising investigation of complaints and has capacity to pursue court action in only a very limited number of important serious fraud cases each year.

The growing complexity of cases outlined above further compounds the challenge for the SFO in deploying its limited resources.

Possibly the most concerning issue is the impact of a combination of organisational focus and boundaries, limited resourcing and capability constraints. This has created an effective gap whereby, for suspected fraud of a certain profile or financial threshold, no agency is resourced or able to prioritise investigation and prosecution. Complaints of fraudulent activity received by the public sector may go un-investigated and/or prosecuted. Research tells us that perpetrators of fraud often start small and grow the size of their offending as their competence increases. Failing to address lower- to mid-level offending through prevention, detection or prosecution, or dealing with it in a way that avoids adverse publicity represents a downstream risk we are currently blind to.

5 Transparency International's Corruption Perceptions Index 2018, see: <https://www.transparency.org/cpi2018>

6 Presentation by Lyn McDonald, Director Fraud, Error, Debt & Grants, Cabinet Office, UK Government, at Fraud and Corruption Conference 2019, Auckland, New Zealand. See: <https://www.sfo.govt.nz/file/850>

Summary

In summary, New Zealand's reputation as a high trust, corruption-free society is at risk. Our apparent complacency and ambivalence towards the risk of corruption and fraud in both the public and private sectors not only creates increased financial risk to individual businesses but also risk to our international reputation and economy. Increased complexity of information and sophistication of offending mean that we are exposed. Our Five Eyes partners have each experienced the national humiliation of a major fraud or corruption scandal involving its public sector and/or public funding before taking decisive action to increase prevention and detection of fraud and corruption. In the absence of intervention, it must surely be only a matter of time before New Zealand experiences something similar and suffers serious reputational damage.

Performance Challenge

Performance challenge - system outcomes

Outcomes challenge 1 - Retaining our reputation in the world

The performance challenge for New Zealand is to retain and strengthen its reputation as a safe, corruption-free country – a country with strong public institutional settings that ensure our democratic processes, public sector and private sector operate free from financial crime, including corruption and fraud. We need to build heightened awareness, understanding and ownership across both the public and private sector of effective controls and integrity systems that prevent fraud and corruption.

New Zealand cannot afford not to invest in raising awareness and competence in integrity systems, anti-corruption and fraud prevention. New Zealand's reputation as a corruption-free, transparent and high integrity country underpins much of our global proposition as a security partner, trading nation, investment partner, visitor and migrant destination. Maintaining that reputation is far easier than rebuilding it, as many of our international partners have found to their cost. The challenge for us as New Zealanders is to overcome the inertia and complacency that currently underpins our misguided belief that fraud and corruption do not reside, and cannot find traction, in New Zealand.

Outcomes challenge 2 - Unifying behind a National Financial Crime and Corruption Strategy

To achieve this, a fundamental building block is the multi-agency development of a National Financial Crime and Corruption Strategy. A key component of that strategy needs to be the design of an end-to-end anti-corruption and financial crime education, prevention, detection and prosecution system. Building upon the existing elements of our current system, the strategy needs to clarify roles and responsibilities of existing agencies, establish new responsibilities for education and prevention of corruption in the public and private sectors. It must document a system operating model that enables effective and efficient system management and delivery across both public and private sectors.

The strategy needs to:

- highlight the importance of New Zealand's public sector being a proactive and accomplished leader in anti-corruption, counter-fraud and integrity systems that sets the national standard of what is expected when transacting in New Zealand and with offshore business partners and demonstrates effective stewardship over government spending
- provide frameworks and clarify roles and responsibilities across public sector agencies to ensure they can work in partnership towards providing visible, excellent, consistent leadership across all areas of activity and influence
- consider the policy and regulatory landscape that attaches to the system addressing financial crime and corruption and ensure the range of powers, interventions

and penalties are appropriate, aligned and applied appropriately to respective system functions to ensure optimal functioning of the system

- support collaboration between the public and private sectors, especially professional bodies and industry leaders, to ensure a seamless, effective approach to prevention, deterrence and early detection of financial crime and corruption.

Resourcing to implement the strategy is essential. This investment is justified based on results for overseas jurisdictions that have invested in fraud detection and prevention and anti-corruption activities in the public sector. The UK's Cabinet Office reports returns of between 1:20 and 1:100 for every pound spent and NZ\$11.35 billion in savings across their Departments since the introduction of its Counter Fraud function in 2014. More broadly, what's the price of our reputation as a transparent and corruption-free trading nation? How much are we prepared to invest as a nation to continue to enjoy the benefits of that reputation?

New Zealand's reputation as a corruption-free, transparent and high integrity country underpins much of our global proposition as a security partner, trading nation, investment partner, visitor and migrant destination.

The SFO has a key role to play in partnership with other Justice Sector agencies in the delivery of the strategy. As New Zealand's expert body on serious fraud and corruption, it is the natural and competent party to play a lead role in developing New Zealand's fraud prevention and anti-corruption capability and frameworks. Its core functions are the logical platform from which to leverage an adequately resourced SFO expertise in the medium term. This will contribute to the Justice system's key objective of reducing crime.

Outcomes challenge 3 – Everyone understands the risk

It is crucial that New Zealand continues to investigate allegations and prosecute incidences of serious fraud and corruption. Having appropriate prosecutions in the public eye is an important deterrent in our system and will be essential for a new end-to-end integrated system to prevent financial crime and corruption. However, New Zealand cannot rely on 'holding to account' as the only deterrent and control in our system.

New Zealand needs to be awake to, and acknowledge, the weaknesses in our own systems and the risk to our businesses of being complacent regarding corruption and financial crime. Business owners, employees, citizens all need to share the responsibility for ensuring the systems, processes, values and actions we are exposed to, and participate in, are designed to maintain and strengthen New Zealand's integrity and reputation. Whether in commercial and

community activities, or electoral or wider democratic processes, New Zealanders need to know what excellent, transparent and high-integrity systems look like.

This will require the development and professionalisation of risk management professionals specialising in integrity and anti-corruption education, advice and frameworks for business, community and public entities.

While current emphasis in the private sector is largely on detection and investigation, protection of our reputation and trade settings relies on us to investigate and detect serious fraud and corruption where it occurs and implement integrity and anti-corruption frameworks across our industries and sectors. This requires investment by the private sector to respond to increased demand for advice and expertise.

Our system must remain current and awake to emerging risk profiles. It needs to be a learning system, using the experience of our international anti-corruption and serious fraud networks, as well as intelligence from our prevention, detection and investigation activities to inform and continuously improve public understanding of how to avoid or minimise exposure to new risks.

Performance challenge – agency System operating model

The SFO currently operates very much at the fringe of the New Zealand public and private sectors. It is a small Auckland-based, operational agency with single purpose, all-encompassing legislation, largely facing the private sector. The SFO is not well connected into the wider public sector and has only limited private sector touchpoints.

Its lack of a policy function, single-purpose focus on serious fraud and small size means it is often overlooked or is not well-equipped to participate in strategic discussions or work programmes in the Justice Sector. Despite the efforts of the Director and other Senior Leadership Team members, the SFO is hampered by the lack of a 'Wellington mode' to its operations. This situation, coupled with the lack of any mutual interdependencies with other core public sector agencies, means it is easy for the SFO to be forgotten or overlooked.

Its recent work leading the Anti-Corruption Working Group has raised the SFO's profile in Wellington to a certain extent, however the limited, finite funding attached to the programme has undermined engagement by other agencies and reduced the quantum of work able to be progressed.

If the SFO is to play a greater role in serious fraud and anti-corruption in New Zealand it needs to overcome the following three system challenges.

Challenge 1 – Coming in from outer space

The SFO needs to establish strong and embedded relationships with other public sector justice agencies. It needs to be a regular and skilled contributor to wider Justice Sector issues, able to participate in both policy and operational discussions relating to combatting financial crime and corruption. While maintaining its primary focus on investigation and prevention of serious fraud, it needs to demonstrate its ability to contribute to wider policy agendas in relation to financial crime and corruption.

The quid pro quo is that other players in the Justice Sector need to be more open to and understanding of perspectives of a smaller operational agency such as the SFO and lean-out to the agency in the interest of system cohesion.

Challenge 2 – Securing support for a wider system leadership role for SFO – Serious Fraud and Anti-Corruption

The SFO put up its hand as operational lead for the Anti-Corruption Working Group mandated by Cabinet⁷ and has done an admirable job of maintaining momentum across a work programme that has suffered from the lack of any additional resource allocation. Given the lack of resourcing and limited commitment by other agencies, a laudable amount has been achieved over the last year with some useful tools and projects being delivered by the working group. Despite this work, progress is insignificant when

compared to the magnitude of the challenge of establishing effective anti-corruption practices.

The SFO has demonstrated its commitment and capability to lead a resourced operational anti-corruption function focused on the public sector (in partnership with the State Services Commission and Ministry of Justice). It must now secure support from other public sector agencies to develop a multi-agency budget bid outlining a co-ordinated programme of work to establish effective anti-corruption and integrity frameworks and systems across the New Zealand public sector.

There are useful reference models in the UK, Australia, Hong Kong and Canada to guide system design in New Zealand and offers of support and assistance from established 'sister' agencies in those countries.

This is a crucial area of work to protect and strengthen New Zealand's international reputation and is mandated by Cabinet. It is essential there is wider support for the SFO as the operational lead and to ensure it is adequately resourced to raise the level of activity and drive the work programme.

7 Cabinet Minute (CAB-18-MIN-0353.02) - In July 2018 Cabinet approved the first phase of the Anti-Corruption Work Programme and identified eight specific areas of focus over the next twelve months.

Challenge 3 – Define the SFO ecosystem

The SFO faces and delivers services for the public sector and the private sector. It relies on and engages with multiple professional parties across the financial, legal and risk management sectors. However, it does so on a relatively ad hoc or transactional basis and with little wider impact.

The challenge for the SFO is to move beyond its current relatively ‘distanced’ approach and define the ecosystem that can assist it to have a wider impact in prevention and detection of serious fraud and corruption. As the Government’s operational lead in serious fraud and corruption education, prevention and detection, the SFO can only ever achieve a certain level of system reach, if it operates in isolation.

Establishing an ecosystem that extends and leverages its reach is critical to achieving an effective level of system penetration. A range of professional bodies (e.g. CAANZ⁸, RITANZ⁹) have functions relating to professional standards, ethics and professional development for their members. These could potentially

form part of a collaborative effort and focus on raising awareness and capability in prevention and detection of serious fraud and corruption. The opportunity exists for the SFO to build a strong ecosystem of interested and connected parties around it that extends its effective shadow and leverages the expertise and intelligence within these other organisations for broader impact.

Over time, with a relatively modest level of effort and by building strong connections and knowledge-sharing pathways, the SFO could establish a cascading knowledge transfer network with a significant ripple effect into the wider business community. In the first instance, this has started under the auspices of the Anti-Corruption Work Programme.

8 Chartered Accountants Australia & New Zealand

9 Restructuring Insolvency & Turnaround Association New Zealand Incorporated

SFO's operating model

The SFO has significantly updated its operating model and information systems in recent years and adopted leading edge machine learning/ artificial intelligence technology in its core forensic evidence and case management systems. It has been smart in how it has implemented these systems, using the opportunity to redesign and continuously improve business processes and systems for increased efficiency. To date limited resourcing has meant the agency has only partially implemented the full range of functionality available in its new Relativity and ServiceNow systems. The challenge for the SFO is to leverage its new technology for ever greater efficiency and broader impact.

The SFO is an efficient organisation that applies resources wisely. With its very limited budget it will be difficult to make much progress on any of the following challenges without either additional funding or compromising itself by further reduction in its core case workload. Notwithstanding this, the Lead Reviewers believe the following challenges are very real and represent significant opportunities for the SFO if it is to deliver its best contribution for New Zealand.

Challenge 4 – Continue to evolve systems for organisational efficiency

Relativity and ServiceNow provide the SFO with powerful tools and information to better manage their investigations and wider workflow. The challenge for the agency from this point is to determine where are the greatest opportunities to further improve efficiency. By investing a relatively modest amount and with the newly secured internal resource, the SFO is well-positioned to continue to evolve its enterprise management tools. Using operating models from professional services and project management firms as comparators/ benchmarks may help the agency to identify further areas for improvement in productivity and utilisation.

Should it be resourced to do so, the new systems will enable the SFO to apply up-to-date project management approaches and methodologies to its fraud and anti-corruption work including real-time resource monitoring and charging capabilities. Given the SFO has not operated in this mode before, it would be wise to consider private sector models in the design of any such function.

Challenge 5 – Define the customer journey and experience

While the SFO rightly invokes its extensive statutory powers to successfully prosecute serious fraud, it is not always aware of the impact on those involved in, or peripheral to, an investigation. It has very little understanding of its immediate customers' communication needs or the significant negative impact of its activities on those individuals peripheral to, or under, investigation. Because of the reasonably significant nature of its powers, it is even more important to exercise those powers in a way that is mindful of the impact on others. Given the central assumption of the criminal justice system that an individual is innocent until proven guilty, the SFO must also consider the justification of use of its powers and the duration of their application in proportion to both the evidence and nature of alleged offending.

While highly motivated to do the right thing for the New Zealand public, the SFO could significantly improve its approach to working with its customers as it undertakes its core investigations and prosecution activities. Providing more visibility and certainty of timeframes for complainants, victims and those under investigation would make a marked difference in those customers' abilities to manage their lawful interests through the process.

The challenge for the SFO is to gain insights from its customers (which include complainants, victims and those under investigation) to understand their engagement, communication and commercial needs and to design customer journeys that ensure the SFO's processes deliver against them whilst not undermining its core investigative and prosecutorial functions. Adopting an ethos of appropriate customer-centricity that ensures that justice is timely and efficacious, and that investigative processes only impact on customers to the extent that is necessary, will be critical to ensuring the SFO retains the respect and goodwill of the wider New Zealand public and business community.

Supplying customers with comprehensive information regarding process, timeframes and stages for an investigation and where to seek additional advice and support will help the SFO's customers understand and navigate what is inevitably a lengthy, complex and stressful process. Such support will contribute to public confidence in the SFO and its work.

Challenge 6 – Lean in to its social licence to operate – be more outward-facing

The SFO's culture is strongly grounded in doing what's right for New Zealand and New Zealanders. This ethos underpins the motivation of all the staff the Lead Reviewers spoke to and is impressive in its motivational impact for people who work at the SFO.

The nature of its work requires it to be highly professional and confidential in the handling of information, its dealings with its customers and wider New Zealand. One result is that the agency tends towards a largely introspective culture; the majority of staff are focused quite myopically on the cases in front of them. Only a very small number of senior managers provide any outreach to or engagement with the wider public.

This culture, along with the increasing length of time it takes to bring cases to court and a lack of customer-centricity, is starting to draw into question the SFO's social licence to operate. It is technically true that the SFO, as a product of statute with extensive powers to support it in its work, does not need a social licence to operate. In practice, to be effective the SFO relies on the public, trusts, companies, professional services organisations, banks and peer public sector agencies to bring complaints to it and to work alongside it on investigations and prosecutions. If the SFO is seen as too hard, too

slow, too unresponsive, too much of a black box, it risks complainants seeking other pathways for justice, or simply not bothering to raise their concerns, particularly when a driver for a complaint could be the recovery of the loss.¹⁰

The challenge for the SFO is to become more aware of its wider operating environment and more outwardly connected. The intelligence and educative value of much of the SFO's work is hugely valuable to a vast range of organisations from not-for-profit through to publicly listed companies and banks. Establishing the value proposition of the SFO to a broader constituency will help it ensure it remains relevant to the majority, rather than only the minority who find themselves involved in SFO's investigations. This will require the agency to think beyond its current case-specific contexts and develop the ability to distil trends and intelligence to inform external organisations' awareness of what serious fraud looks like and effective fraud and corruption prevention frameworks look like.

By operating in this space, the SFO will nurture significant goodwill, profile and ultimately increase its impact as a key deterrent in the New Zealand context. It also supports and aligns with the ethos the agency will be required to bring to any wider Anti-Corruption education and prevention activities it is charged with implementing.

10 The SFO has no mandate to recover the proceeds of crime though it can make proceeds of crime referrals to Police.

Challenge 7 - Optimise the investigation pipeline - pragmatic and timely decision-making

The SFO has recently introduced internal decision-making protocols to assist it to better manage its caseload pipeline. Its new technology enables better visibility of case management activity and supports more active consideration at key case gateway points within the pipeline. This practice is relatively new and the SFO's leadership is rightly taking a cautious approach to making further changes due to the wider impact of such decisions on public confidence in the agency.

The challenge for the SFO is to reach a position where it can optimise its decision-making about cases and caseload to maximise its own productivity and the productivity of its partner agencies.

This requires the SFO to examine whether its current processes need to always operate at the 100% percentile of the range of investigative activities or whether it can at times apply more pragmatic approaches to its triage and decision-making. For example, could the SFO continue to build on its current new scoping initiative to make earlier decisions on which cases it will not progress or will refer to others due to scope or merit (under both Part 1 and 2 of its legislation)? This would allow acceleration of the cases where for reasons of deterrence it is important SFO fully investigates and ultimately prosecutes.

Understanding its optimal case capacity and caseload profile will help the SFO achieve more timely investigations, even though some aspects of its investigative timeframes are not within its control, for example Mutual Assistance

Requests and Court appearance timings. Strengthening its processes in this way will support organisational productivity and public trust and confidence in its performance.

Challenge 8 - The Operational Lead for Anti-Corruption in the Public Sector

Given its small size and limited resourcing, the SFO has shown admirable operational leadership of the Anti-Corruption Working Group. It had demonstrated its ability to achieve a number of valuable and innovative outputs relevant to the anti-corruption agenda with little resource or committed support. Regrettably this level of commitment is not sustainable without additional resource.

The SFO's input into international work programmes such as for the International Public Sector Fraud Forum has been well received and valued by forum members around the world in countries with far greater levels of dedicated resource in the area, e.g. its work on the use of artificial intelligence in investigation of serious financial crime and its input into a guide to managing fraud for public bodies. In short, the SFO's credentials to establish and lead a broad anti-corruption programme across the New Zealand public sector as the competent body are not disputed.

The challenge for the SFO (linked to System Challenge Two above) is to secure adequate funding in conjunction with other agencies (e.g. the State Services Commission and Ministry of Justice) to develop a counter-fraud and anti-corruption workplan/framework that supports public sector agencies to introduce integrity frameworks and counter-fraud and anti-corruption policies

and practices. Such a role is quite different in nature to the SFO's current activity and will require the SFO to evolve its operating model to include this expanded area of activity. Depending on the shape of such an extended role, it should look to professional advisory services and professional-body operating models for insights into the operating model required.

Any such anti-corruption role is likely to operate in an advisory capacity in the preventative and educative space with the potential to deploy SFO's investigative capability where fraud or corruption is identified. It will be essential to consider:

- how the two distinct functions of the agency would relate and interface
- the nature of additional resource required
- the operating ethos and cultural change required where the SFO will most likely have few hard levers and be required to operate on a largely softer, influencing basis than is its current mode.

While such a role would require a different skillset and approach, the overarching values and work ethos dominant in the SFO is strongly aligned with such an extended function. The professionalism, almost polar attraction to 'doing what's right for New Zealand' and a whole-hearted belief in the values and integrity of public service is ingrained in its DNA and demonstrable in its work ethic.

With support from other agencies and resource, there is no question the SFO would provide strong operational leadership and stewardship of an anti-corruption function across the New Zealand public sector.

Challenges – final thoughts

The challenges facing the SFO are complex and varied. If the SFO is to be confined to its current role and scope, potentially it need not pursue all the challenges to the same endpoint but must still address the majority of them to some extent.

To remain effective in its core function, the SFO must work with others to attract additional resource. Even with impressive and on-going efforts to improve its efficiency, it is currently going backwards in terms of actual resourcing given the nature and growing complexity of its work. Before long, if the number of cases the SFO is able to resource through to prosecution continues to decline, it will reach a tipping point where it is no longer able to carry the respect of the system to provide an effective deterrent to those who seek to perpetrate serious financial crime.

Furthermore, if the public sector does not soon adopt an emphasis on anti-corruption our reputation in the world for transparency and good public sector stewardship is likely to decline in the face of significant preventative efforts by others. The SFO is the best-placed agency to lead this work.

In short, the status quo is not an option. The SFO must work on the areas within its current control and resourcing, and at the same time reach out to its fellow Justice Sector agencies for assistance in attracting additional resource and realising system challenge outcomes. This will further stretch an already stretched resource and capability in the short-term but is the goal the SFO must realise if it is to make its greatest contribution to New Zealand.

What will success look like?

If the SFO and wider system coalesce in meeting the challenges outlined above, New Zealand will continue to retain and build its international reputation as a transparent, safe and corruption-free nation. It will be seen as a leading nation in proactive prevention and management of fraud and corruption risk.

New Zealand will remain a competitive and attractive country to those who wish to trade, study, migrate or invest internationally as a result of our high integrity reputation and high transparency settings.

Our increased emphasis on education and prevention of corruption and fraud will ensure our business community is more aware and better equipped to prevent and detect instances of fraud and corruption and consequently enjoys greater certainty of business processes and transaction security.

Socially, our tolerance of corrupt and fraudulent practices will be low, ensuring that our New Zealand cultural beliefs prevail regarding: honesty; 'doing the right thing' and maintaining transparent systems and processes. Our New Zealand community will have a greater appreciation of the role our key democratic institutions have in preserving our democracy and way of life.

All those who engage with our public sector will benefit from the integrity of its people, systems and processes. Heightened awareness and competence in designing and delivering public services in high-integrity settings will drive higher productivity from public spending and ensure that every dollar of public monies spent ends up where intended, helping those New Zealanders who need it most.

For those New Zealanders who choose to breach New Zealand's trust and accountability systems and commit serious fraud and corruption, the SFO's highly expert and efficient teams will continue to investigate and prosecute, bringing offenders to justice swiftly and efficiently. The SFO's prosecutions will reinforce New Zealand's zero tolerance for serious fraud and corruption. Those involved in investigations will have greater visibility of the process and progress of the investigations as a result of the SFO's commitment to achieving its customer service standards.

The SFO will not be operating alone. It will form a critical function embedded within a joined-up justice and wider regulatory system response to financial crime and corruption. Agency mandates, operating models and protocols will ensure that

New Zealand's system response to dealing with financial criminal activity is co-ordinated, collaborative and co-operative. Together, agencies will form a vanguard for an effective national deterrent to international criminal interests and reduce New Zealand's risk of being targeted for financial crime.

If the SFO and wider system coalesce in meeting the challenges outlined above, New Zealand will continue to retain and build its international reputation as a transparent, safe and corruption-free nation.

3

Strengths and Opportunities

In this section:

Overview

Strengths and opportunities in detail

Overview

The Four Year Excellence Horizon in this report sets out the SFO’s performance challenge for the future. These ratings indicate the agency’s current preparedness to meet that future challenge.

The Lead Reviewers wish to acknowledge the challenges the SFO faces due to its size and limited resourcing. There are any number of areas where the SFO could legitimately expand its operations to good effect to better deliver against its full mandate. As its funding does not permit this, the SFO is constrained in its ability to deliver against the Government’s Priorities and areas of Core Business outlined below. The effective flat-lining of the SFO’s funding over recent years, means that in real terms this agency is going backwards in its ability to deliver against its core function. This said, the Lead Reviewers believe the SFO demonstrates agility and efficiency in deployment of its limited resource.

Delivering Government Priorities

Rating

Anti-Corruption Work Programme



Delivering Core Business

Rating
(Value to customers
& New Zealanders)

Rating
(Increased value
over time)

Detecting serious and complex fraud



Investigating and prosecuting serious and complex fraud



Preventing serious and complex fraud



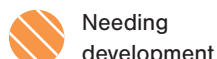
Investigating and prosecuting corruption



Strong



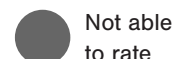
Well-placed



Needing
development



Weak



Not able
to rate

The ratings’ descriptions can be found in the appendices.

Organisational Management

Leadership and Direction

Rating

Purpose, Vision and Strategy



Leadership and Governance



Values, Behaviour and Culture



Review



Delivery for Customers and New Zealanders

Customers



Operating Model



Collaboration and Partnerships



Experiences of the Public



Relationships

Engagement with Ministers



Sector Contribution



People Development

Leadership and Workforce Development



Management of People Performance



Engagement with Staff



Financial and Resource Management

Asset Management



Information Management



Financial Management



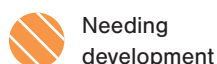
Risk Management



Strong



Well-placed



Needing development



Weak



Not able to rate

The ratings' descriptions can be found in the appendices.

Strengths and opportunities in detail

Delivering Government Priorities

This section focuses on the SFO's response to, and delivery on, the Government's priorities for the agency. While the Lead Reviewers consider past and current performance, their findings and ratings take into account the scope and scale of the challenge to deliver on the Government's priorities over the next four years.

Anti-Corruption Work Programme

Rating



No specific priorities have been given by the Government to the SFO. Some of their work does link loosely to priorities given to others in the Justice Sector, for example, contributing to:

- developing a work programme to tackle organised crime; and
- the justice reform agenda.

One of the possible impacts or threats arising from organised crime is that of corruption and the corrupting of institutions. In 2017, corruption was recognised by the DPMC-based National Security Group as one of the top 20 risks¹¹ to New Zealand, the first time the issue has appeared on this list.

In its work supporting the justice reform agenda, the SFO has contributed to work:

- modernising and consolidating New Zealand's offence framework – improving the clarity, coherence and consistency of the bribery and corruption offences; and

- leveraging its connection to the UK's SFO to provide input into the use of deferred prosecution agreements.

One of the Government's priority areas (Priority 9) is "Delivering transparent, transformative and compassionate Government" with a sub-goal of "ensuring institutions are free of corruption and are transparent and trusted". Under this priority Cabinet approved an Anti-Corruption Work Programme in July 2018, with the Ministry of Justice as overall, and the SFO as operational, leads. A report-back to Cabinet is due in July 2019¹².

For the purposes of this review the Lead Reviewers considered the ACWP to be the SFO's explicit government priority.

The operational part of the work programme covers a number of areas. These are consistent with the disruption steps to reduce the threat organised crime poses to New Zealand:

- develop a shared understanding of corruption in New Zealand and the

vulnerabilities inherent to specific sectors or spheres of economic activity

- review whether controls for the allocation and expenditure of public money (central and local government) for the provision of services, grants and programmes are effective in preventing fraud and corruption
- work with Auckland Council to test procurement controls following recent changes to their procurement procedures, along with a review of case examples, with a view to sharing the outcomes of that review with Local Government New Zealand
- design a framework to measure the value of the savings and non-economic benefits to government (central and local) that can be attributed to prevention efforts; and
- build on previous work the SFO has carried out in the private sector to implement an engagement programme with industry groups.

11 Noted in 2018. See Cabinet paper: <https://www.justice.govt.nz/assets/Documents/Publications/cab-an-anti-corruption-work-programme-for-new-zealand.pdf>

12 The report-back to Cabinet on the Anti-Corruption Work Programme is now planned for April 2020.

Progress on this programme of work has been steady with a range of participants from other departments including the Ministry of Justice, Ministry of Business, Innovation and Employment (MBIE), State Services Commission, Department of the Prime Minister and Cabinet (DPMC), Inland Revenue and the Office of the Auditor-General. Participants reported that the SFO ran a good process setting up and defining the programme of work and are committed to driving it forward. Progress has been compromised by the availability of agencies to commit resource, given that the mandate for the work was given to the SFO with no dedicated funding stream. Additionally, the Lead Reviewers noticed that some agencies were not involved directly in the 2018 Cabinet-mandated work programme (Commerce Commission, Financial Markets Authority, New Zealand Customs Service (Customs)).

As the work programme has proceeded a number of issues have been identified including:

- the fragmented approach to addressing anti-corruption across government; some agencies have their own mandates and approach to addressing the issue (e.g. Inland Revenue and tax, MBIE and immigration corruption and procurement)
- issues with sharing of information amongst agencies (some of these driven by legislative requirements)
- the absence of a coherent framework or strategy governing the work
- the need for better alignment between work by the State Services Commission on integrity and the ACWP

- poor understanding of impacts of corruption, particularly in the regulatory system
- the critical importance of an agreed framework to measure and explain the impacts of corruption so that future investment can be justified and the returns on that investment can be defined
- an anti-corruption lens that is not strong enough - there is no mandated leading agency and limited capability.

It is difficult to talk about future focus for the SFO in this priority area of work in advance of government decisions on how it wishes to proceed in the policy area. From the Lead Reviewers' work, though, some challenges have become manifest.

Firstly, other countries with which New Zealand compares itself, are paying progressively more attention to the issue of anti-corruption, notably the UK, Australia and Canada. The Scandinavian countries continue with their programmes of continuous improvement. Without explicit work New Zealand risks falling well down the rankings of the Transparency International Corruption Perceptions Index. A number of countries have had watershed fraud events that have driven this attention. For example, significant weaknesses in the integrity of Australia's childcare payment regime resulting in potentially \$700 million of non-compliant payments, corruption cases currently before the court system alleging large scale corruption by large Canadian engineering firm SNC-Lavalin and the high-profile "Fat Leonard" procurement corruption scandal in the US military. Waiting for such a scandal to drive action here risks

serious damage to our international reputation.

Secondly, getting to grips with corruption seems to be an area in which public sector leadership is essential. For this to be executed effectively will need consideration of where leadership should reside. This leadership should not preclude the legislatively mandated responsibilities that individual departments might have for combating corruption in their areas of responsibility, but it should drive action and accountability. The four-year excellence horizon in this report articulates a potential future for the SFO in this area. Notwithstanding where that leadership ultimately comes from in the NZ state sector, it will need to be transparent in the approaches taken, have some teeth (for example, the UK system ties new funding for government departments to visible savings from anti-corruption and anti-fraud interventions) and be adequately resourced.

Thirdly, for resources to be given, and the overall architecture of Government's approach to the anti-corruption agenda decided, an overarching strategy is required. Such a strategy was called for in the 2014 PIF Review of the SFO but is yet to emerge.

Delivering Core Business

This section focuses on how well the SFO delivers value to customers and New Zealanders and how well the SFO has positioned its services to deliver increased value over time. While the Lead Reviewers consider past and current performance, their findings and ratings take into account the scope and scale of the challenge to improve the value delivered over the next four years.

Core Business 1: Detecting serious and complex fraud

Rating (Value to Customers and New Zealanders)



Rating (Increased Value Over Time)



Although the SFO sees detecting serious and complex fraud as part of its present core business, the Lead Reviewers did not see it playing that role at this time. Its current, largely passive, detection role sits within the legislative framework of Part 1 of its Act. It relies on receiving complaints directly from members of the public or from organisations that have detected a possible fraud or corruption. On occasion, cases are referred to the SFO by the Police, another regulatory agency such as FMA or an accounting firm.

There has been a significant lift in the number of complaints received, with the number doubling between 2015 and 2019. SFO has changed its processes to ensure, despite this increasing volume, it continues to identify and investigate the matters it should, with no suitable matters overlooked. The number of matters that the SFO needs to investigate is higher than at any time in the agency's history including during and after the global financial crisis.

The majority of complaints do not meet the SFO's mandate for investigation and are referred to the

most appropriate agency able to assist. Occasionally complaints are referred back to the SFO when other parties bring forward new information.

The agency tends to operate in isolation from other actors in the system. At present there are no mechanisms in place for proactive conversations between Police, Financial Markets Authority, Commerce Commission, MBIE and Inland Revenue on fraud detection.

Future focus for: Detecting serious and complex fraud

There are opportunities for the SFO in the future, should it be resourced to take a more proactive role in detection. To be effective the agency cannot just be court-facing. It should be looking outward and raising the profile of fraud and corruption. A significant part of the detection puzzle will be solved by a greater awareness of, and preparedness to call out, instances of fraud or suspected fraud.

In addition, it will be important for the SFO to have partners and to be able to share information with them and receive information from them.

This may require more flexibility in a system that tends to hold information tightly. There is a need for the agency to continue to refresh and remain relevant. International links are particularly important, given the increasing internationalisation of, particularly, serious frauds.

The SFO is putting effort into its fraud analytics and has made recent investments to increase its capability. In particular, it is starting down the path to use technologies such as artificial intelligence and machine learning. Should this capacity be further resourced, there will be an opportunity for the agency, together with its partners, to undertake proactive, high-level, all-of-economy analytics that could pinpoint places where fraudulent activity, previously undetected, is present.

Core Business 2: Investigating and prosecuting serious and complex fraud

Rating (Value to Customers and New Zealanders)



Rating (Increased Value Over Time)



Investigation and prosecution of serious or complex fraud is the SFO's core business. The SFO operates under the Serious Fraud Office Act 1990, which provides the powers needed to investigate serious or complex fraud.

The SFO's case investigation teams are made up of investigating lawyers, forensic accountants, investigators and electronic forensic investigators as appropriate. This team structure is accepted international good practice for the type of complex investigations the SFO undertakes and is based on the 'Roskill Model'¹³ which led to the establishment of the UK Serious Fraud Office. The SFO has developed strong technical competence related to forensic accounting, electronic forensics and financial investigations and prosecutions, which are the basis of the SFO business model.

Early introduction of prosecuting counsel into the team is also a feature of the way in which the SFO runs its cases (from the Roskill Model). This innovation is particularly important in highly complex cases in which issues of privilege are highly contested. Early engagement of the prosecutor in the team contributes to the robustness and ensures prosecutor alignment at an early stage for actions brought by the SFO.

SFO expects to open 14-16 Part 2 investigations (cases more likely to go forward to prosecution) and to commence prosecutions on 10-12 cases each year¹⁴. Its funding to support that volume of work has

not changed in the last five years, despite the increase in matters needing investigation and increased complexity of investigations. The number of prosecutions it opens each year is lower than pursued following the Global Financial Crisis (when it received additional funding to support those complex prosecutions).

The SFO needs to continually innovate to manage its workload. In late 2017 new case and evidence management systems were introduced (funded by Budget 2017). The case management system, using ServiceNow software, was needed to enable a cross-business view of resourcing, task allocation and reporting. The evidence management system, using international standard e-discovery software, Relativity, was required to replace an aging legacy system and to bring the SFO evidence processing up to internationally accepted standards. This formed a key part of the SFO's systems transformation to reflect the increased reliance on, and volume of, electronic evidence and the need to review it in a holistic and efficient manner.

There is general agreement that the technology transformation that the agency has undertaken has gone well, created efficiencies and positioned it well for the future. Having said that, it is clear the SFO has squeezed hard for increased cost-effectiveness of its processes. It has now reached a point where some cases that meet its (already restrictive) criteria will not be taken forward due to resource constraints. It may be time to consider

approaches to this problem that are taken elsewhere. For example, the UK's SFO has access to additional Treasury funding for large cases. Referred to as 'Block Buster Funding' the UK's SFO has access to funding from HM Treasury for any case that meets its threshold for investigation and that is going to take more than 5% of its budget.

The SFO is being challenged by increased timeframes to complete investigations. The average length of cases *on hand* has increased from 297 days in 2014 to 453 days in April 2019. The average length of investigations *completed* has trended upwards from 2015 to date. There is no doubt that the complexity of cases is increasing at a fast rate. This is an international phenomenon driven in part by the increasing internationalisation of fraud as a crime and the increasing volume of data to be examined.

A decision on whether to commence a prosecution is made by applying the Prosecution Guidelines issued by the Solicitor-General. The decision is also supported by the advice of Prosecution Panel Counsel and the SFO team assigned to the investigation. The Panel member provides the Director with their opinion on the proposed prosecution and reviews proposed charges (including during the investigation stage as stated above).

This helps ensure that the strongest charges are selected relative to the admissible evidence of a case.

13 The 'Roskill Report' (Fraud Trials Committee Report) published by the UK Parliament in 1986.

14 The UK Serious Fraud Office – the most directly comparable overseas agency – reports it opens a similar number of investigations and prosecutions annually.

It is clear that SFO thinks carefully about which cases it should prosecute, taking into account matters such as:

- likelihood of successful prosecution given scarcity of resourcing (including whether it can obtain information from overseas through Mutual Assistance Requests and the like)
- importance of legal precedent/visibility and messaging of prosecution
- magnitude of alleged offending
- public interest and confidence.

There is general agreement as to the quality of prosecutions brought forward by the SFO. Its cases are regarded as best in class by most and it is achieving a high success rate. Indeed, there is consensus that making visible the prosecuting of large, complex high-profile fraud and corruption cases is a powerful signal that fraud is not tolerated. In a context of scarce resourcing resulting in a very limited number of cases being able to be pursued, the importance of successful prosecution

may understandably attract a more significant weighting in decision making regarding case selection than would otherwise be the case if more cases were able to be pursued.

Having said that, the selection criteria to decide which cases are advanced to the prosecution phase are not clear to external partners, causing some confusion as to what the SFO will or will not take on, varying views as to which cases SFO should prioritise and suggestions in the media that SFO may be too risk-averse in its prosecution decisions. In a system sense and in the community, there is not a shared understanding of what is “serious and complex” fraud and corruption, and what is SFO’s role and the role of other agencies.

Alongside all of this sits the issue of gaps in the system. If the SFO cannot resource a case, or it falls outside of the criteria, it is referred elsewhere. This assumes a capacity in the overall system that is simply not there and to the public it appears the SFO is failing to address an ever-increasing number of complaints. There is a danger that perpetrators of fraud

will come to understand that there is a ‘sweet spot’ in which they can operate largely unfettered because of this combination of gaps and lack of capacity in the system.

The length of time that prosecutions take is a source of consternation for many parties interviewed. Blame is levelled at the SFO that may not be entirely reasonable. For example, serious fraud cases are criminal, not civil matters and the burden of proof is higher. Cases are often bitterly contested from the outset with lengthy legal wrangles over admissibility of evidence occurring before a case even gets to the Court. There are other processes, such as Mutual Assistance Requests (obtaining evidence from other jurisdictions) and obtaining leave through Crown Law Office to take corruption cases to court, that can cause significant delays, let alone delays in confirmation of court hearing times.



Courtesy of Serious Fraud Office

Future focus for: Investigating and prosecuting serious and complex fraud

To stay strong, and to lift its rating for increased value over time, it will be important for the SFO to ensure that it is seen to be, and acts as, part of a system responsible for taking action against fraud.

Relationships with its partners will be increasingly important. At present this is a bit of a mixed bag. There seems, by way of example, to be a particularly effective working relationship between Customs and the SFO. The two agencies have a Memorandum of Understanding for assistance in electronic forensics. There could be much more 'clubbing' in this area. This is all about good practice and a centre of excellence. The full range of tools needs to be brought to bear and this needs to be done in a far more joined-up fashion.

Partnerships need to be seen in their widest context. For example, there are actors in the private sector, such as CAANZ, that need to be seen much more as part of the system. One of the consequences of cases taking such a long period of time is that fraudulent activity can continue unabated. Others in the system have tools that could potentially be used to mitigate some of this risk.

Increasing transparency, without compromising its role or contravening its legislation, will need to become a feature of the way in which the SFO works. There is never going to be enough resource in the system

to fight everything at every level. This makes it more important that nothing falls between the cracks without that being visible to key prosecuting actors and without the consequences of an action being dropped being understood by all.

A more pragmatic approach to the way in which cases are taken could provide an opportunity to focus on targeting a prosecution to a less complex aspect of a case while keeping the deterrent effect.

Core Business 3: Preventing serious and complex fraud

Rating (Value to Customers and New Zealanders)



Rating (Increased Value Over Time)



The SFO has not traditionally had a full prevention role with its activities focused towards deterrence through strong enforcement action (once again limited by resourcing). Any education activity has been led by deterrence messaging in media releases or in rather ad hoc 'set piece' stakeholder events, such as the SFO biennial conference, or presentations in response to stakeholder requests. The SFO 2017 Stakeholder Survey, indicated that stakeholders are looking for more engagement with it to deal with fraud and corruption, but the SFO is frustrated by the lack of resource to do this work in a well-structured manner to meet demand.

The environment in which the SFO operates is evolving with an increasing focus on prevention of the harm caused by criminal activity. This is consistent with a Government focus on wellbeing, in this case financial wellbeing. Indeed, the Government has asked for work in the anti-corruption area (which has relevance to fraud prevention) and this is discussed in *Government Priorities – Anti-Corruption Work Programme* above.

The approach to financial crime in New Zealand is generally disjointed and ad hoc. Each agency operates in its own sphere of legislative mandate or interest. For example, the Police's financial crime focus is on organised crime and money laundering, the Commission for Financial Capability has some education activities and agencies such as the Ministry of Social Development, Inland Revenue and MBIE, focus on fraud within their own portfolios. There is no overarching financial crime strategy that provides a place for, and resourcing

of, prevention of fraud and corruption.

The prevention of fraud and economic crime is an international undertaking. The SFO, together with its Five Eyes counterparts, is a member of the International Public Sector Fraud Forum led by the UK's Cabinet Office which shares expertise to save public money by enhancing prevention actions. Working with this international forum provides New Zealand with the opportunity to maximise the learnings from the experiences of other jurisdictions, rather than start a New Zealand approach from scratch.

Future focus for: Preventing serious and complex fraud

To be effective, countering fraud and corruption will need to move beyond the current approach that relies largely on detection and investigation. Such an approach would:

- be consistent with international best practice, in which designated responsibility and resourcing for anti-fraud and corruption action is the norm; and
- move away from New Zealand's current complacent and naïve approach that relies on willing compliance with cultural norms for fraud and corruption prevention in a small society where a level of patronage, nepotism and cronyism is unavoidable.

The future scope of any approach to preventing fraud and corruption will need to include education, engagement and capability building across the public (including local government), private and not-for-profit sectors and must be appropriately resourced.

Core Business 4: Investigating and prosecuting corruption

Rating (Value to Customers and New Zealanders)



Rating (Increased Value Over Time)



In 2017 corruption was recognised by the DPMC-based National Security Group as one of the top 20 risks to New Zealand. This led to the creation of the ACWP of which the SFO is the operational lead. The ACWP is specifically addressed above in the Government Priorities section of this report.

The SFO is New Zealand's lead agency for corruption investigation. This role is assisted by a Memorandum of Understanding with Police under which the two agencies consult over corruption complaints and determine which agency should lead. An example was a recent political party donations matter that was referred by Police to the SFO.

Thirty percent of the SFO's current caseload involves corrupt conduct. Matters involving corrupt conduct have increased, from eight prosecutions between 2013 and 2017 to 19 current open matters which feature corrupt conduct.

The SFO has had a particular emphasis on alleged corrupt behaviour by public sector officials in positions of authority. As a result, the number of cases involving central and local government agencies has increased by 46% since July 2015. Corruption offences and fraud offences are similar; it is often difficult to distinguish between the two when a complaint is made. Internationally, it is recognised that many offences constitute both fraud and corruption.

The SFO has prosecuted significant corruption cases in recent years. Of note were:

- the Auckland Transport Prosecution – three people convicted of corruption charges in 2015

- the prosecution of Ministry of Transport senior manager Joanne Harrison in 2017.
- In addition, more fraud cases involve elements of corrupt conduct by trusted individuals, such as:
 - kickbacks paid to a bank employee to expedite mortgage frauds in the Kang Huang prosecution
 - a lawyer abusing his position to make false representations to a bank in the Emily Projects prosecution.
- Along with corruption investigations and prosecutions the SFO fulfils several international corruption-related obligations due to its operational expertise, rather than as a policy function. These include:
 - OECD – Convention against Bribery of Foreign Officials
 - United Nations - Convention Against Corruption
 - APEC - Anti-Corruption and Transparency Working Group.

The SFO also has an employee as New Zealand's representative at the International Anti-Corruption Coordination Centre hosted by the National Crime Agency in London. This person is the New Zealand investigative contact point for matters of grand corruption.

Much of the commentary regarding prioritisation, partnership and transparency rehearsed in *Core Business 2: Investigating and prosecuting serious and complex fraud* applies equally here. The SFO's actions in investigating and prosecuting corruption are highly valued. The public sector is seen as a key target for the SFO in this work.

There are concerns about corruption in local government and the SFO

is already doing some work in this area. The agency has open two investigations and three prosecutions involving fraud and/or corruption in this sector. As part of the Anti-Corruption Work Programme, the SFO is working with Local Government NZ, the Society of Local Government Managers, Auckland Council and other agencies on local government corruption awareness.

Future focus for: Investigating and prosecuting corruption

While it is critical for the SFO to keep prosecuting cases of corruption, there is a lot of work to be done in combatting what appears to be a considerable degree of complacency in New Zealand over the presence and impact of domestic corruption. The big opportunity for the agency probably lies in the prevention domain, in which work is done to prevent corruption from occurring in the first place. This is different to the deterrent effect of taking prosecutions, which is a post hoc approach to the problem.

Getting the public sector attuned to this issue and taking concerted action on it will have a powerful normative effect. For this work to be done, decisions are required on leadership, approach and resourcing that lie outside the SFO's current mandate, resourcing and abilities.

Organisational Management

This section focuses on how well the SFO is positioned to deliver now and in the future. The Lead Reviewers look at current organisational capability and performance and consider how the agency ensures it is fit for the future. Their findings and ratings take into account the scope and scale of the performance improvement challenge.

Leadership and Direction

Rating

Purpose, Vision and Strategy

- How well do the staff and stakeholders understand the agency's purpose, vision and strategy?
- How well does the agency consider and plan for possible changes in its purpose or role in the foreseeable future?



Leadership and Governance

- How well does the senior team provide collective leadership and direction to the agency and how well does it implement change?
- How effectively does the board lead the Crown entity? (For Crown entities only)



Values, Behaviour and Culture

- How well does the agency develop and promote the organisational values, behaviours and culture it needs to support its strategic direction and ensure customer value?



Review

- How well does the agency encourage and use evaluative activity?



Purpose, Vision and Strategy

The SFO is working to a strategic plan developed in 2016. The plan has a vision of: "A productive and prosperous New Zealand safe from financial crime, bribery and corruption". There is evidence that the plan has been effectively used to drive the agency forward. In particular, the systems transformation programme has implemented new case and evidence management applications to provide the tools to better manage the increasingly complex cases investigated by the SFO.

Those parts of the strategy that envisaged better system collaboration and alignment and the sharing of intelligence between agencies have

not gained as much traction. The SFO's aspiration to prevent financial crime through education and advice has leveraged *ad hoc* opportunities. To be fair to the SFO, meeting its targets in these areas has been compromised by system issues of mandate and resourcing (both inside the agency and in its partner agencies).

At all levels of the agency, staff understand the strategy and are clearly aligned to its purpose. There is not so much evidence that people outside the agency have that understanding, particularly in areas of the strategy that demand their engagement.

It is probably time for a refresh of the strategy in light of the increasing budgetary pressures on the SFO,

the need for better system integration and coordination, an increasing international focus on prevention of fraud and corruption and the need for a stronger outward focus. However, such a refresh will be strongly dependent on decisions taken elsewhere regarding mandate and resourcing.

Leadership and governance

The Senior Leadership Team (SLT) of the SFO is small, consisting of the Director (Chief Executive), the General Counsel, General Manager Investigations and General Manager Evaluation and Intelligence (with responsibility for business services). Such a small team combined with the flat management structure means the SLT is heavily involved in the 'doing' as well as in exercising its strategic governance role.

Staff like the flat structure and the absence of hierarchical barriers and vertical reporting lines. They believe it usefully drives the multidisciplinary team environment and allows flexibility as cases evolve. This approach does put some pressure on the SLT with most of the staff reporting directly into that team. The General Manager Investigations carries a significant part of this load.

Given the statutory powers of the Director of the SFO, the structure ensures good access as required to the Director and leadership regarding the appropriate use of those powers.

Values, behaviour and culture

There is a strong cooperative and professional culture operating inside the SFO driven off its values of Excellence, Pride and Connect that align strongly to its current strategic plan. A recent Ask Your Team (AYT) survey showed 81% of employees understood the purpose, mission

and values of the agency. Staff are strongly motivated by the "beneficial impact SFO has for New Zealand".

The narrow, focused mandate of the agency reinforces a similar mind-set and focus. It appeared to us that the excellence and pride values are dominant in the culture.

In the recent AYT survey 83% of the staff reported: "The SFO is a great place to work". Our interactions with the staff throughout this review was consistent with the stated culture and values of the agency, which were variously described as:

- small and tightknit with like-minded people dedicated to a common cause
- egalitarian with a high-trust environment
- highly professional
- a place where there are good training and development opportunities.

The SFO stepped away from formal team building events a couple of years ago and now relies on the informal culture within the agency. The current culture and approaches to nurturing it suit the current, relatively isolated agency working to a mandate demanding it be 'best in class' in a highly technical and intellectually challenging business.

To stay strong in this area, the SFO will need to project its culture outside and improve its linkages with other organisations in its wider ecosystem. Other comments to this effect are in the *Collaborations and Partnerships* and *Sector Contributions* sections below.

Review

The SFO is an operational agency, largely focused on its pipeline of cases delivering successful prosecutions. It is fair to say that a culture of 'evaluation' *per se* is not strongly embedded – the results of its work are manifest.

What it does do is what you would expect of such an agency; it conducts post-investigation and post-prosecution reviews for all matters, feeding the learnings back into the investigation teams. It has developed an Investigation Management Framework that has been incorporated into the newly launched case management system, which governs case management, tasking and activities.

It is worth noting that the SFO responded well to the PIF Review published in 2014, achieving organisational and operational improvements, though progress on more strategic matters has been constrained by lack of a broader sector strategy.

Future focus for: Leadership and Direction

With increasing demands on the SFO to be more of a participant in the system, and the aspirations of its strategy to exercise leadership in that system, the SLT will need to create more bandwidth for itself to function at the strategy level. The Director has been working hard to create more of those linkages, particularly into the Wellington bureaucracy and with the SFO's international partners.

Going forward, if the SFO's scope of activity was to widen, and it were to become a larger agency with a broader range of people and skillsets, then more deliberate approaches to maintaining and developing values, behaviour and culture would be needed.

If the SFO's work were to expand, for example into activities with a strong anti-corruption focus, then its work would move from a focus on the current case pipeline to a boarder canvas. That canvas would see the SFO working closely with other partners using a broader range

of direct interventions and 'nudge' approaches aimed at changing the behaviours of organisations and of individual New Zealanders. This would mean that evaluative expertise would need to be embedded in the agency so that the effectiveness of the approaches taken could be understood.



Delivery for Customers and New Zealanders

Rating

Customers

- How well does the agency understand who its customers are and their short and longer term needs and impact?
- How clear is the agency's value proposition (the 'what')?



Operating Model

- How well does the agency's operating model (the 'how') support delivery of government priorities and core business?
- How well does the agency evaluate service delivery options?



Collaboration and Partnerships

- How well does the agency generate common ownership and genuine collaboration on strategy and service delivery with partners and providers?
- How well do the agency and its strategic partners integrate services to deliver value to customers?



Experiences of the Public

- How well does the agency employ service design, continuous improvement and innovation to ensure outstanding customer experiences?
- How well does the agency continuously seek to understand customers' and New Zealanders' satisfaction and take action accordingly?



Customers

While the agency understands its various customer segments at a high level, it is not developed in its approach to understanding each customer segment's needs or impact.

At the highest level the SFO understands its value proposition for the New Zealand public is to prosecute and deter serious financial crime. It interprets its obligations to the public in this regard as being to communicate via media its progress in prosecuting serious fraud and having sufficient profile to act as an effective deterrent. To this end it issues a reasonably limited programme of structured media releases at certain milestones during investigations and prosecutions. Given the nature of its work, the SFO is reasonably assured of media interest.

To understand wider public awareness and confidence in its services, the SFO undertakes customer surveys from time to time and monitors changes in survey outcomes.

Its delivery for customers becomes slightly more complex in relation to its 'direct customer' segment - those using, subject to or participating in its

investigations. The majority of these customers across all sub-segments expressed concerns regarding the SFO's lack of understanding of their needs and the impact SFO processes were having on their day-to-day business activities. Complainants, victims and those under investigation frequently cited the lack of transparency regarding investigation process and progress, lack of timely communication and lack of timeliness in progressing investigations as having significant productivity implications on their business activities and beyond. While section 36 of the Serious Fraud Office Act 1990 requires SFO officials to maintain strict confidence relating to information obtained either directly or indirectly in pursuit of its powers, it does not appear to prevent the SFO from providing information on the progress of its cases to those who are directly involved in an individual investigation. There is significant opportunity for the SFO to improve its delivery for direct customers in this regard. Failure to do so risks negatively impacting on the SFO's social licence to operate. For instance, professional advisors (particularly financial and legal) as well as more experienced commercial

players may seek alternative redress for financial crime that they perceive as more timely and delivers some level of commercial outcome. If this trend gains momentum it represents a threat to the SFO's ability to profile serious fraud through its investigative processes.

Operating model

The SFO's operating model is largely aligned to its workflow and has recently evolved to incorporate features of the operating models of project management and professional services firms. Given its small size and level of resourcing, the agency's thinking regarding its operating model is relatively mature. Largely fit for purpose, the operating model's two underpinning ideas are that continuity of lead/principal investigator throughout the life of an investigation is critical to the quality of that investigation and that a multi-disciplinary team (based on the Roskill Model) ensures increased efficiency and quality to the investigation.

The SFO operates a pipeline approach with two major gating points that determine whether investigations

progress or not. On receiving a complaint, a principal investigator is assigned to evaluate it and determine whether it should proceed to a full investigation and the appropriate scope. The agency then assembles an appropriate multi-disciplinary team for each full investigation. While the team may change throughout the investigation depending on the competencies required, the principal investigator remains with the investigation throughout.

Over the last four years, there have been some structural changes – strengthening the Evaluation and Intelligence team, moving to one Investigation team – which have improved the model. Overall the operating model – the multi-disciplinary team structures – has proven to be appropriate over a number of years. Nonetheless, the SFO continues to work on its operating model, and given the issues around case timeliness, some modifications are being considered. While a final decision is yet to be made, and may be initiated as a pilot, these changes are likely to include greater case leadership for the Principal Investigators, larger case teams working on fewer cases and dedicated project management resources.

Recently introduced information systems are contributing to the agency's on-going refinement of its operating model (e.g. strengthening its electronic forensic investigations capability and refining its investigation scoping processes).

Collaboration and partnerships

For strategy and service delivery, the SFO has focused on building closer relationships with other public sector agencies. These efforts are described in more detail in the next section *Relationships – Sector Contribution*. In 2018 the SFO established a club-funded electronic forensic investigator in collaboration with other agencies. Examples of excellent partnership, with Customs, and opportunities for partnership, with professional bodies such as CAANZ, are described in *Core Business 2: Investigating and prosecuting serious and complex fraud*.

The SFO has many contact points across a broad range of private sector organisations and there is potential for the agency to leverage those contact points to good effect. Some professional bodies and those in legal and risk management networks expressed interest in working more closely with the SFO, particularly in the prevention and education areas. They see opportunities to increase awareness of fraudulent and corrupt practices by establishing more proximal relationships to share knowledge and intelligence more widely and raise the level of competence across broader financial, legal and risk management sectors. However, as with so many of the SFO's non-core activities, resourcing limits the level of activity able to be maintained by the agency. While the

agency works hard to respond to requests for engagement, it is limited in its capacity to do so. That said the SFO has prioritised a small number of private sector initiatives to pursue.

The SFO partners with public and private partners (including Deloitte, Meredith Connell, ASB Bank, Accident Compensation Corporation and the Financial Markets Authority) to deliver the International Fraud Film Festival every 18 months. The mission of the Fraud Film Festival is to increase awareness about the impact of fraud by bringing together different networks from the public and private sectors and showing inspiring documentaries to stimulate debate and awareness. The SFO also hosts a biennial fraud and corruption conference attended by over 200 partners and stakeholders from the private and public sectors.



Courtesy of Serious Fraud Office

Experiences of the public

The SFO undertakes surveys of the public from time to time to understand levels of awareness and confidence in the agency and its function. It is not clear how these survey results inform or influence the SFO's engagement activities more widely.

In relation to its customers more broadly, the SFO has not embarked on any structured approach to gain customer insights to inform its customer service design. It has made some improvements to its complaints handling processes in recent years, however the agency does not have clearly articulated service standards relating to customer experience nor does it have processes in place to review and apply continuous improvement approaches to its customer service. This in part appears to be linked to a blind spot for the agency whereby it does not have a clearly articulated charter or other explicit statement of what its customers and the public can expect from the SFO. As discussed previously, this is not a sustainable practice.

The SFO needs to ensure its dedication to excellence in its investigation approach and processes

and to its secrecy obligations are matched by a high, well-defined level of customer service to those who are most closely engaged with it. This could be delivered without compromising the actual investigation and prosecution activity and ensure customers have greater confidence in the work and commitment of SFO.

Future focus for: Delivery for Customers and New Zealanders

To deliver for its direct customers, the SFO should develop a responsive customer engagement, communications and delivery framework that is informed by customer insights. This framework should document what customers can expect from the agency including transparency of timeframes, milestones and with clarity of what is required from the customer to ensure their obligations to the investigation are able to be met in a timely fashion. The SFO needs to continue its work to address scope and timeliness issues (to the extent they are within the agency's control). It should consider defining its customer service experience covering all aspects of engagement with the public through to those involved in its investigations and articulate the standards of service that every customer of the SFO can expect

to experience. This will help improve awareness of the SFO and support the SFO's social licence to operate.

The opportunity exists for the SFO to utilise its new technology to identify the 'ideal' or 'benchmark' investigation or set of investigations and in doing so further refine its operating model. The Lead Reviewers recognise that no two investigations are ever the same, but consider that disciplines, investigative steps and processes and information-gathering follow reasonably well-defined methodologies and approaches. It should be possible for the SFO to increase its understanding and visibility of variants from the benchmark and in doing so inform and continue to improve its performance.

Establishing a collaborative information-sharing network (recognising the secrecy provisions the SFO must operate within) to share insights and intelligence across the broader financial, legal and risk management sectors has the potential to raise awareness and vigilance of a broad range of professionals who engage with businesses all the time.

Over time, this will increase earlier reporting of suspected criminal activity as well as improving the visibility and value of good counter-fraud and corruption practices in the private sector.



Courtesy of Serious Fraud Office

Engagement with Ministers

- How well does the agency provide advice and services to Ministers?



Sector Contribution

- How effectively does the agency contribute to improvements in public sector performance?



Engagement with Ministers

The SFO is a public agency with Statutory Authority and significant coercive powers that has, since its inception, operated largely independently from Ministers. There has always been a Minister Responsible for the Serious Fraud Office.

The current Government, with its focus on wellbeing, has as one of its priority areas (Priority 9): “Delivering transparent, transformative and compassionate Government”, with a sub-goal being “ensuring institutions are free of corruption and are transparent and trusted”. Therefore, its Minister is taking direct interest in how the SFO is performing and this has meant that, for the first time since the Office was established in 1990, a private secretary has been employed to work in the Minister’s office. The SFO Director now meets the Minister regularly, providing a monthly report and regular briefing papers.

This is a new experience for the agency as it seeks to maintain its necessary statutory independence whilst keeping its Minister informed. This puts the agency on a journey in which it needs to be seen as a part of Government, not separate from it.

Sector contribution

As a small agency that takes its independence seriously and is housed in Auckland, the SFO’s ability to contribute to improvements in public sector performance through its relationships with other public sector agencies is relatively limited. The current leadership has done much in recent years to build links with relevant public sector agencies

and works hard to insert the SFO into Wellington discussions, but there is still some way to go. This would be greatly aided by the agency finding a way to have a policy presence in Wellington.

Elsewhere in this report the Lead Reviewers have talked about transparency and communication being important as the SFO seeks to optimise its links with other agencies in the wider Justice Sector. They have also noted that this is a hard ask for a small agency that is resource-constrained and working in an environment in which roles and responsibilities are not clearly defined.

Notwithstanding this, the SFO is firmly on a path to greater participation and contribution to sector performance. This is demonstrated by its:

- operational leadership of the ACWP. This has driven a much wider engagement of the SFO with other government agencies to focus on an area that needs greater public sector engagement
- assistance to Pacific Island nations dealing with issues of fraud and corruption
- representation of New Zealand at a range of international fora addressing corruption, as detailed in *Core Business 4 - Investigating and prosecuting corruption*
- active engagement in the International Public Service Fraud Forum
- over the last three years, employees have been seconded to agencies including the Financial Markets Authority, Commerce Commission, Police and Customs. Incoming secondments have come from MBIE and Customs.

The SFO has a Memorandum of Understanding with agencies such as Police, Customs, Inland Revenue and the Financial Markets Authority. These arrangements are maturing and reflect the effort the SFO has put into developing better relationships with a range of agencies. As an example, the relationship with the Office of the Auditor-General has evolved to incorporate six-monthly senior leadership meetings together with operational liaison meetings every quarter. This helps align the two agencies on matters of common interest. Since 2015 the Crown Law Office Auckland team has co-located within the SFO’s premises. This has helped developed closer ties between the two agencies.

The agency works disproportionately hard to be an active and contributing participant in the Justice Sector and wider public sector. SLT members join the Public Service Deputy Chief Executives’ meetings, Auckland Justice Sector meetings. The Director attends Justice Sector Leadership meetings and public sector Career Boards. While the SFO is a small player it endeavours to contribute by bringing a small operational agency perspective to the table or a perspective based on its specialist role. This perspective is not always an easy fit with more Wellington-centric policy-based forums. There appears to be scope for the wider justice system players to lean-out to the SFO a little more to strengthen system linkages and connection rather than requiring the SFO to make all the running.

Various SFO employees are connected into public sector networks such as Heads of Human Resources, Heads of Communications, All of Government ICT groups, the

Combined Law Agency Group (a General Manager is on the governance group), Government Legal Network and the Government Women's Network. The SFO has also recently joined the government corporate governance regulatory system group.

In non-investigative related collaboration, the SFO has led a group with the Financial Markets Authority and Commerce Commission so that they can all share learning about Relativity, especially from a database administration viewpoint. The agency has also demonstrated its new systems to multiple agencies, most recently Ministry of Primary Industries, allowing other agencies to leverage the SFO's journey and experience and obtain the best tools for their purposes.

Future focus for: Relationships

Should its mandate widen more deliberately into fraud and corruption prevention, the SFO will need to learn to respond to the direct requests of Ministers for action. Prevention approaches will require policy decisions from Ministers who will take a close interest in their implementation.

It will also need to bring a more strategic focus to its sector engagements, determining where its leverage points are and where its leadership opportunities are the most favourable.

Leadership and Workforce Development

- How well does the agency develop its workforce (including its leadership)?
- How well does the agency anticipate and respond to future capacity and capability requirements?



Management of People Performance

- How well does the agency encourage high performance and continuous improvement amongst its workforce?
- How well does the agency deal with poor or inadequate performance?



Engagement with Staff

- How well does the agency manage its employee relations?
- How well does the agency develop and maintain a diverse, highly committed and engaged workforce?



Leadership and workforce development

As a small agency, the SFO has had a dedicated Human Resource function for only two years. During this time the agency has made significant progress introducing a range of human resource management processes and disciplines.

The SFO has a relatively flat structure with the majority of staff reporting to tier 2 leaders. In recent years the agency launched an organisation-wide development plan which includes individual development plans for all staff, with opportunities to act up and perform other leadership functions made available as possible.

The agency has also introduced a 9-box grid talent mapping process which is undertaken annually to assist with identification of professional development needs and career planning.

The reality of being a small team with a flat structure means there are limited career pathways available to staff who seek progression. The SFO has actively sought secondment and other development opportunities for staff; in practice, staff often need to move to larger organisations to progress to more senior roles. As a consequence, the SFO has relatively high unplanned

turnover at 19% in 2018/19. However, it also attracts back former staff due to the unique nature and challenge of the work, and the deep involvement of investigating teams in ensuring a successful prosecution. While it cannot compete with higher salaries offered in the private sector, other benefits such as more flexible working arrangements are valued by returning staff.

The SLT is aware of the need to balance opportunities for staff with ensuring continuity in its handling of cases; it works hard to provide staff with a range of cases, for variety and development opportunities.

In the interests of efficiency, the SFO restructured its SLT in recent years and reduced its number. While laudable in intent, this is placing the current leadership team under significant pressure to manage a broad range of roles across the agency and external engagement. If, and when, resourcing allows, the Lead Reviewers encourage the SFO to consider whether its current leadership structure is too skinny to cover its operational and engagement aspirations.

The changing nature of the SFO's case work continues to have an impact on the shape of its workforce. The agency is increasingly competing for highly skilled technical resource that is scarce in the market. For

example, increasingly, electronic forensic capability is a critical skillset the SFO is struggling to attract. Senior forensic accountants are in scarce supply and often unaffordable for the SFO given they are employed mostly in private sector professional services firms. To combat this, the SFO is seeking to recruit more junior staff into roles and 'grow' the capability. While this represents a strain on a small organisation, given the resourcing challenges and remuneration ranges the agency operates in it is the most pragmatic solution available.

The SFO has plans to introduce a graduate internship programme to provide new graduates with opportunities to work in the agency for short periods, subject to affordability. This initiative is innovative, providing opportunities not only for the graduates but also relieving pressure on already stretched resource at the SFO, with potential to create a pool of talent to draw on over time.

Management of people performance

The culture at the SFO is that of a high-performing organisation. Commitment to technical excellence in investigation and prosecution of serious fraud is an underpinning ethos that is palpable in all engagements with staff. SFO staff are mission-oriented and highly motivated to do the right thing for New Zealand. This, coupled with the use of multi-disciplinary teams, ensures that staff are exposed to a full range of expertise across the agency to support high performance.

The SFO also has a healthy culture of challenge in its work. Investigative teams are encouraged to challenge each other to avoid 'group think' and to contribute to excellence in investigative process.

The recent introduction of new technology systems has provided the opportunity to review current practices and introduce improvements. Over time as staff become more familiar with the full functionality of the systems, further quality improvement opportunities are likely to be identified. The agency is working actively to achieve this.

The SFO appears to have standard performance management processes in place for the management of poor performance and follows these where poor performance occurs. As a small, high-performing organisation, poor performance stands out and causes frustration where other staff perceive that nothing is being done to address the issue. The concentration of reports at the second tier and the extended processes needed to ensure appropriate input from, for example, principal investigators,

make for a somewhat extended and clunky annual process in which the opportunity for high quality feedback may be compromised. Realtime feedback loops may be compromised leading to 'surprises' in the annual process. The agency has introduced online performance appraisal processes in the last 2 years and continues to evolve its performance management practice.

The recently introduced Human Resource Information System (HRIS) is enabling the SFO to put more structure around standard performance management processes. Some staff report this feels somewhat formulaic in a small organisation with limited career progression opportunities. Fine tuning such approaches is something the SFO must continue.

Engagement with staff

The SFO has a highly collegial and engaged workforce. Its small size means that every staff member knows every other staff member and senior leadership are very accessible at any time.

In 2015 the SFO commenced using AYT surveys to measure employee engagement. The AYT survey replaced an IBM tool and provides a more standardised approach and the ability to compare across the public sector. A survey is undertaken annually and was completed in April this year. This showed an overall engagement score of 70% which is an improvement from 65% in 2018. Benchmarked against other public sector agencies of a comparable profile, this result is at the approximate mid-point.

The survey shows evidence of strong employee commitment which feeds

into a positive culture with 89% of employees stating: "I enjoy working at the SFO" and "I am proud of the beneficial impact the SFO has for our country". Most employees (83%) said "The SFO is a great place to work".

In areas that do not rate as well, each year the SLT enquires further to understand any issues or potential blind spots (such as using Pulse surveys).

The employee engagement is driven in part by the clear focus of the SFO's mandate and is supported by communicating the SFO's values (81%), treating employees well and aligning performance goals to the SFO's priorities.

In addition, the agency's strong culture and active and accessible leadership mean that staff articulated high levels of engagement with both the mission and the agency. This is further evidenced by a number of return hires, despite salaries being lower than comparable roles in other public and private sector agencies.

To remain strong in this rating, the SFO needs to continue to increase its AYT ratings through intelligent enquiry into the areas of weakest performance and pragmatic action to address staff concerns.

Future focus for: People Development

Areas of focus for the SFO going forward include:

- continuing to seek opportunities for staff to pursue professional development, and
- consideration of the structure of the SLT to provide wider opportunity within the agency and to ensure manageable workloads for the incumbents.



Financial and Resource Management

Rating

Asset Management

- How well does the agency manage agency and Crown assets, and the agency's balance sheet, to support service delivery and drive performance improvement?



Information Management

- How well does the agency manage and use information as a strategic asset?



Financial Management

- How well does the agency plan, direct and control financial resources to drive efficient and effective output delivery?



Risk Management

- How well does the agency identify and manage agency and Crown risk?



Asset management

The SFO is not asset-rich. It has fixed assets (property, plant and equipment plus intangible/software assets) that cost \$2.28 million and carries (as at March 2019) a depreciated net book value of \$1.078 million.

The agency has an IT strategy and, apart from this, does not consider a formal asset plan is needed for an agency of its size and complexity. The Lead Reviewers agree with this. Planning for capital expenditure occurs during the fourth quarter as part of the annual financial planning process and proposed expenditure is approved on a case-by-case basis by the SLT.

The SFO has Permanent Legislative Authority (authorised by section 24(1) of the Public Finance Act 1989) to purchase and develop assets within its own means. There are sufficient funds to achieve replacement of assets when due, on average \$0.120 million per annum. However, additional capital would be required for any new projects such as was the case with the System Transformation Programme in 2017/18.

Information management

At the time of the 2014 PIF Review ICT infrastructure was onsite, not stable and not well supported. Since that

time, the SFO has made considerable progress, assisted by additional capital provided by Government for systems transformation in 2017/18.

The agency's IT strategy includes five 'strategic pillars' that drive the direction and focus of IT organisation, processes and systems:

- Information reliability and availability
- Making life easy
- Anywhere, anytime, access
- Maximise the value of IT
- Information is secure.

This strategy has driven the System Transformation Programme that has fundamentally changed the way the SFO manages and investigates its cases. The implemented new case and evidence management applications provide the tools to better manage the more complex cases the SFO is now investigating. These applications position it well for the future. This programme of work included addressing the culture change needed in the agency to fully utilise the new systems being implemented. SFO has a developer resource in place, enabling these new systems to be configured to suit business needs.

The SFO outsources the hosting, delivery and management of general IT services, maintaining in-house strategy development, contract management and project management

capability. It has adopted many of the Government's Common Capabilities. This has seen the agency move servers offsite to an All-of-Government Infrastructure as a Service environment, adopt Desktop as a Service and use modules from the Telecommunications as a Service offering. Firewalls are managed by an external service provider and are peer reviewed. The agency runs cyber and physical penetration testing.

It has a scheduled hardware replacement programme, providing users with up-to-date laptops, telephones and other technology. The SFO's roadmap for future projects includes adopting cloud services as directed by Cabinet in July 2016, adopting the Common Web Platform and upgrading onsite infrastructure. The pace at which this programme of work moves forward is dependent on budget, time and resource to implement.

For its size, the SFO is well-positioned for the future with systems able to respond to an increasing and more diverse workload.

Financial management

In response to the 2014 PIF Review the SFO has worked to improve its financial management performance. It obtains its finance system as a service through the Treasury's CASS team, which provides support. This works well for SFO and is at a reasonable cost. Indeed, in 2017 the finance system was upgraded and moved to a cloud-based solution, enabling faster and more efficient access. The SFO was the first CASS-supported agency to move to the cloud.

There has been some maturation of finance processes within the agency over the last two years. In 2016, it restructured the finance function, employing a Finance Business Partner to provide stronger strategic reporting. Cost centres have been established and an annual budgeting process put in place that allocates money to the general managers with only small budgets delegated below that. There is better financial oversight, control and understanding by SLT.

However, the system does not provide cost information by case at present. Managers do not have real-time access to it and are largely sheltered from the mechanics of budget management. This compromises

development of a real understanding of the cost of doing business. Overheads are not allocated out but are top-sliced. The agency relies heavily on its internal financial resource (two people), its small size and single focus of business for the finance system to deliver its assurances.

Risk management

The SFO does not have an audit committee and does not undertake internal audits on its activities. It relies on self-regulation, annual internal fraud review and a close working relationship with Audit New Zealand.

The agency operates a Risk, Security and Safety Committee that is responsible for managing risk, protective security and health and safety. Members of the SLT, including the Chief Security Officer and the Chief Privacy Officer, sit on the committee along with employee representatives.

The SFO sees its biggest areas of risk as ICT, cybersecurity and systems failure. Technology is used to manage risk in the analytical work of the agency. It has conducted external health and safety and security reviews. It maintains a risk register and a risk management policy, which are reviewed annually.

Future focus for: Financial and Resource Management

Should the SFO increase in size and complexity, considerable work will be required to further mature the finance system to be fit for purpose in, for example, an agency with delegated budgets, allocated overheads and a detailed understanding of the costs of the services it provides.

Given the SFO's role in setting the standard for high integrity systems, the Lead Reviewers think it is important for the SFO to have a designated Audit and Risk Committee and that this should be chaired by an external, independent person.

4

Appendices

In this section:

Lead Reviewers' acknowledgement

About the Serious Fraud Office

The performance story so far

Framework Questions

Ratings Scale

Interviews

Lead Reviewers' acknowledgement

We found this PIF Review for the Serious Fraud Office a thought-provoking assignment, given the agency's specific mandate and the national and international context in which it operates.

We appreciated the candid views offered by a wide range of external stakeholders and the open, warm, receptive and professional way SFO's leadership and staff engaged with us, in preparing for and during the review.

About the Serious Fraud Office

The Serious Fraud Office (SFO) was established in 1990 to administer the Serious Fraud Office Act 1990 (the Act). Under the Act, where the Director of the SFO has reason to suspect a serious or complex fraud has occurred, the Director has special powers to search for and collect information for the purpose of investigating and prosecuting the suspected fraud.

Section 8 of the Act states: *For the purpose of determining whether any suspected offence involves serious or complex fraud, the Director may, among other things, have regard to:*

- a. the suspected nature and consequences of the fraud;*
- b. the suspected scale of the fraud;*
- c. the legal, factual, and evidential complexity of the matter;*
- d. any relevant public interest considerations.*

In determining whether any matter is serious or complex the Director considers indicative criteria: the number of victims and sum of money lost, the level of legal or financial complexity and matters of bribery or corruption.

The agency is based in Auckland. As at 30 June 2019 it had 47 full-time equivalent (FTE) employees, around 80% of whom are focused on the investigation and prosecution of financial crime. A small team of six provides corporate services and support to operational employees.

Note: Serious Fraud baseline is currently \$9.614 million per annum. In Budget 2017 the SFO received additional funding of \$2.28 million over four years to implement new case and evidence management systems. Total output expenses since the last PIF Review have been:

Actual				Forecast	
2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
\$8.961M	\$8.945M	\$8.853M	\$9.418M	\$10.592M	\$9.619M

Personnel costs account for around 60% of the agency's expenditure, a further 11% is costs of consultants and contractors to support mainly core operations – outsourced evidence management, ICT contractors and private investigators. The SFO also appoints a lead for each of its prosecutions from a panel of senior prosecutors and Queen's Counsel; this expenditure is funded through an appropriation administered by Crown Law Office.

The SFO is part of the Justice Sector. In addition, it works on matters of common interest with regulatory agencies such as New Zealand Customs Service, Commerce Commission, the Financial Markets Authority and the Ministry of Business, Innovation and Employment.

The performance story so far

A previous PIF Review published in 2014 found the SFO was performing very well in its core functions of detection, investigation and prosecution of serious crimes. It faced a number of strategic challenges including:

- how to assess the financial crime 'threatscape' it faced in order to be able to set strategy and 'right size' the agency
- the role, if any, it should play in the prevention of crime
- leveraging its core competency across the wider State sector and private sector
- implementing an operating model that would support the maintenance of its 'deep critical competencies' and enable efficient, effective deployment of that resource as well as leveraging intelligence and capability of public and private sector stakeholders
- it had considerable opportunities to improve its organisational management.

Framework Questions

Four-year Excellence Horizon

What is the agency's performance improvement challenge?

Results

Government Priorities	1. How well is the agency responding to Government Priorities?
Core Business	2. In each Core Business area, how well does the agency deliver value to its customers and New Zealanders?
	3. In each Core Business area, how well does the agency demonstrate increased value over time?
	4. How well does the agency exercise its stewardship role over regulation?

Organisational Management

Leadership and Direction	Purpose, Vision and Strategy	5. How well do the staff and stakeholders understand the agency's purpose, vision and strategy? 6. How well does the agency consider and plan for possible changes in its purpose or role in the foreseeable future?
	Leadership and Governance	7. How well does the senior team provide collective leadership and direction to the agency and how well does it implement change? 8. How effectively does the Board lead the Crown entity? (For Crown entities only)
	Values, Behaviour and Culture	9. How well does the agency develop and promote the organisational values, behaviours and culture it needs to support its strategic direction and ensure customer value?
	Review	10. How well does the agency encourage and use evaluative activity?


Delivery for Customers and New Zealanders	Customers	11. How well does the agency understand who its customers are and their short- and longer-term needs and impact? 12. How clear is the agency's value proposition (the 'what')?
	Operating Model	13. How well does the agency's operating model (the 'how') support delivery of Government Priorities and Core Business? 14. How well does the agency evaluate service delivery options?
	Collaboration and Partnerships	15. How well does the agency generate common ownership and genuine collaboration on strategy and service delivery with partners and providers? 16. How well do the agency and its strategic partners integrate services to deliver value to customers?
	Experiences of the Public	17. How well does the agency employ service design, continuous improvement and innovation to ensure outstanding customer experiences? 18. How well does the agency continuously seek to understand customers' and New Zealanders' satisfaction and take action accordingly?

Relationships	Engagement with Ministers	19. How well does the agency provide advice and services to Ministers?
	Sector Contribution	20. How effectively does the agency contribute to improvements in public sector performance?

People Development	Leadership and Workforce Development	21. How well does the agency develop its workforce (including its leadership)? 22. How well does the agency anticipate and respond to future capacity and capability requirements?
	Management of People Performance	23. How well does the agency encourage high performance and continuous improvement amongst its workforce? 24. How well does the agency deal with poor or inadequate performance?
	Engagement with Staff	25. How well does the agency manage its employee relations? 26. How well does the agency develop and maintain a diverse, highly committed and engaged workforce?

Financial and Resource Management	Asset Management	27. How well does the agency manage agency and Crown assets, and the agency's balance sheet, to support service delivery and drive performance improvement?
	Information Management	28. How well does the agency manage and use information as a strategic asset?
	Financial Management	29. How well does the agency plan, direct and control financial resources to drive efficient and effective output delivery?
	Risk Management	30. How well does the agency identify and manage agency and Crown risk?

Ratings Scale

Rating	What it means
	Strong <ul style="list-style-type: none">• High level of capability and sustained and consistently high levels of performance• Systems in place to monitor and build capability to meet future demands• Organisational learning and external benchmarking used to continuously evaluate and improve performance.
	Well-placed <ul style="list-style-type: none">• Delivering to expectations with examples of high levels of performance• Evidence of attention given to assessing future demands and capability needs• Comprehensive and consistently good organisational practices and systems in place to support effective management.
	Needing development <ul style="list-style-type: none">• Adequate current performance – concerns about future performance• Beginning to focus on processes, repeatability, evaluation and improvement and management beyond and across units• Areas of underperformance or lack of capability are recognised by the agency• Strategies or action plans to lift performance or capability, or remedy deficiencies are in place and being implemented.
	Weak <ul style="list-style-type: none">• Significant area(s) of critical weakness or concern in terms of delivery and/or capability• Management focuses on tasks and actions rather than results and impacts• Agency has limited or no awareness of critical weaknesses or concerns• Strategies or plans to respond to areas of weakness are either not in place or not likely to have sufficient impact.
	Not able to rate <ul style="list-style-type: none">• No evidence upon which a judgement can be made; or• The evidence available does not allow a credible judgement to be made.

Note: There have been four significant upgrades to the PIF Agency Model since it was implemented in 2009. The first was the inclusion of the Four-year Excellence Horizon in October 2011. The second was the Strategic Financial Management upgrade in December 2012. The third was the Better Public Services upgrade in January 2014. The most recent is the Customer refresh. These upgrades affect comparability with previous PIF reports.

Interviews

The Lead Reviewers and the Serious Fraud Office are grateful to the following organisations for contributing insights for this Review:

New Zealand organisations

Auckland Council
Audit New Zealand
Australia and New Zealand Banking Group Limited
Business New Zealand
Chartered Accountants Australia and New Zealand
Commerce Commission
Crown Law Office
Deloitte New Zealand
Department of the Prime Minister and Cabinet
Electoral Commission
Financial Markets Authority
Inland Revenue Department
International Anti-Corruption Coordination Centre
KordaMentha
Luke Cunningham Clere
Meredith Connell
Ministry of Business, Innovation and Employment
Ministry of Justice
New Zealand Customs Service
New Zealand Police
New Zealand Security Intelligence Service
New Zealand Trade and Enterprise
Office of the Auditor-General
PricewaterhouseCoopers
Transparency International
University of Auckland
Waitangi National Trust (Treaty Grounds)
Westpac New Zealand

Overseas agencies

Attorney-General's Department (Australia)
Cabinet Office (United Kingdom)
Independent Commission Against Corruption (Hong Kong)
Serious Fraud Office (United Kingdom)

Other contributors

This PIF Review was informed by input from the Responsible Minister and officials of the Serious Fraud Office. Officials from State Services Commission, The Treasury, and the Department of the Prime Minister and Cabinet also contributed to the PIF Review. Some members of the Prosecution Panel for the Serious Fraud Office were also contributors.