
PERFORMANCE IMPROVEMENT FRAMEWORK

Review of the Serious Fraud Office (SFO)

MAY 2014

State Services Commission, the Treasury and the Department of the Prime Minister and Cabinet

Lead Reviewer's Acknowledgement

As Lead Reviewer for this Performance Improvement Framework Review for the Serious Fraud Office (SFO) I would like to acknowledge the thoughtful and generous input made by SFO staff and the Senior Leadership Team (SLT). In addition, I had considerable input from a cross section of SFO's external partners and stakeholders, who were equally committed to building stronger collaboration in the future. I also had the benefit of input from officials from the Department of the Prime Minister and Cabinet, the State Services Commission and the Treasury.

SFO recognised this as an opportunity to identify and make performance improvements. There was open and robust engagement in the process and I note that, even as I undertook the assessment, the SLT began responding to issues under active discussion. This bodes well for the future.

I note that the partnership of which I am a member, PricewaterhouseCoopers New Zealand (PwC), does work for the SFO from time to time. Engagements are with our insolvency or technology security teams, separate business units within PwC to my own, which is the consulting practice. No actual or perceived conflicts arose during the course of this Review.

**Performance Improvement Framework
Review: Serious Fraud Office**

**State Services Commission, the Treasury, and the Department of the Prime Minister and Cabinet
Wellington, New Zealand**

**Published May 2014
ISBN 978-0-478-40985-7
Web address: www.ssc.govt.nz/pif**

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AGENCY'S RESPONSE

The SFO has found the Performance Improvement Framework (PIF) process and the insights of the Lead Reviewer as to the steps required to achieve our Four-year Excellence Horizon invaluable. The report has come at a pivotal time for us with both the finalisation of the large tranche of work required by the finance company collapses and the arrival of a new Director. The SFO has an enviable record but we welcome the challenges to our approach and the informed and robust discussions that have taken place, as we recognise we must constantly review our strategy and structure if we want to maintain those results in a changing and challenging operational environment.

While we expect to work our way systematically through the recommendations, as a small organisation we will need to focus our efforts on the fundamental issues identified to ensure that the appropriate foundation is in place for the achievement of our longer-term objectives.

We have a number of actions already under way. For example, in preparing for this PIF Review and Report, SFO staff have agreed and finalised three core principles that will guide our work. The first is *Excellence*, an aspiration to be a world class anti financial crime and corruption agency. The second is *Pride*, in the work we do and our contribution to New Zealand. The final one is *Connect*, recognising our own strengths and opportunities and those arising from close collaboration with and connections across agencies and sectors. It is with these core components that we are approaching the work ahead of us to bring the Four-year Excellence Horizon to reality/fruitition.

We have also sought to clarify the scope of the training required to achieve and maintain the expertise of our investigators, accountants and lawyers in particular and across the office more generally and to meet the demands of increasingly complex investigations.

Over the next twelve months we have prioritised the following core areas:

- determining the best operating model to respond to our future purpose and targets
- connecting with partners
- taking a system-wide approach to financial crime intelligence
- developing a strategic response to financial crime.

Operating model

We are about to embark on an expenditure review, which together with this Report, will assist in identifying the 'right size' for the SFO. We will consider how best to structure the SFO to meet our future challenges and to continue to leverage the effectiveness of multi-disciplinary investigation teams while maintaining maximum flexibility and promoting the continued development of the expertise of our investigators, lawyers and accountants in conducting complex financial crime investigations. We will also look to improve use of our practice management tools to more clearly understand the resource and cost requirements of our operations. This will include:

- identifying and putting in place the best structure for the operations of the SFO, to allow the SLT to work sufficiently on the business, as well as within it
- understanding the core staffing level required to undertake the anticipated level of investigations and prosecutions
- creating a flexible staffing model that will provide capacity to work across agencies

- keeping connected with alumni and building relationships with other agencies with an investigative capacity to enable ramping up to respond to new ‘waves’ of financial crime.

Connecting with partners

The SFO believes that its success depends in large part upon the strength and depth of its connections with government and the private sector and aims to develop a stakeholder model that allows the Director to lead the agency and also attend to statutory duties. The Director’s role must be supported by our general managers who will also have roles in creating strategic relationships with government and the private sector to ensure we are well connected at all levels. Our stakeholder relationships must ensure that, together with our fellow public sector agencies with responsibilities in this area, we can deliver a coordinated, effective and efficient response to financial crime. Our relationships also need to support us in our role as a part of the public service to ensure we deliver excellent value across the whole breadth of our operations.

We will closely examine our stakeholder relationships to identify opportunities to create multi-party strategic alliances with the aim of contributing to a strategic, system-wide approach to financial crime. The steps taken to connect with our partners will include:

- seeking to establish a high-level private sector advisory panel to allow the Director to establish ongoing relationships with private sector leaders
- taking advantage of existing opportunities to connect with government sector chief executives and senior staff, as well as forming stronger bonds with mentors and strategically important partners from the government sector
- consolidating our private sector relationships at the general manager level to create strategic groupings reflecting the structure of the advisory panel
- looking to connect our general managers with their peers in law enforcement agencies and across government more generally
- actively looking for secondment opportunities at the general manager level to and from other agencies to create broader relationships, get a better understanding of government and bring that knowledge into the SFO.

Taking a system-wide approach to financial crime intelligence

The SFO agrees there would be great benefit in a system-wide approach to financial crime intelligence; this would assist both the SFO and the significant number of other agencies that have an interest in this area. A functional leadership-type approach would be well-suited to providing a systematic and strategic focus on financial crime intelligence. To this end, we are developing an intelligence strategy that will be designed or can be adapted to sit within a system-wide strategy. We have already commenced work on identification of elements of a strategy to assess the serious and complex fraud threat landscape (threatscape) including:

- what information we need
- the sources of that information
- how we are going to collect that information.

Developing a strategic response to financial crime, including prevention

Particular cases of financial crime can often fall both within and across the remit of a number of agencies. The Lead Reviewer identified a number of system or sector-wide improvements that might enable government agencies to be better connected, more integrated and effective in our cross-sector response to financial crime.

Given our limited statutory remit and specialised area of expertise in investigations and prosecutions, the SFO proposes to focus its contribution to the goal of prevention of crime on deterrence and in sharing what we learn and the insights we have about the reasons why financial crime occurs. Some specific actions we are considering include:

- providing better and more sophisticated information to courts on the impact of financial crime both generally and in relation to the matter before the court to support higher sentences (where appropriate).
- assisting the preventative measures taken by other agencies by sharing the lessons we learn from our investigations and prosecutions about the reasons for financial crime such as systemic weaknesses that allow fraud to occur and the reasons why investors (either generally or from particular demographics) invest in fraudulent or risky schemes.

We will also look to identify other avenues to support the preventative programmes established by other agencies.

Julie Read
Director

THE FOUR-YEAR EXCELLENCE HORIZON

This PIF review considered: “What is the contribution that New Zealand needs from the SFO and, therefore, what is the performance challenge? And if the agency is to be successful at meeting the future performance challenge, what would success look like in four years? And does it have the change capability to get there?”

Background

The SFO is a specialist law enforcement agency responsible for addressing serious and complex financial crime in New Zealand. The Director of the SFO has statutory independence; operational decisions are made without ministerial direction. The SFO has particular statutory powers to compel the production of documents and to require witnesses and suspects to answer any question put to them without recourse to the right of silence.

Unlike the focus of other parts of the justice sector on managing high volumes of offending and reducing numbers in the justice pipeline, the SFO is concerned with reducing relatively low volume but high cost and high impact offending. While its cases may be few, they are often significant in terms of the value of the fraud, the number of persons affected and the impact on public confidence in either the integrity of our financial markets or the administration of our justice system.

All allegations of criminality are assessed by the SFO to determine whether they merit involvement. If the SFO’s criteria are not met, the allegations may be referred to a more appropriate agency. The SFO is not restricted to acting on complaints and can act on its own initiative to undertake investigations.

The SFO works closely with (and sometimes its activities parallel) the Financial Markets Authority (FMA) and the New Zealand Police (especially its fraud squads and the Organised and Financial Crime Agency New Zealand (OFCANZ)) in particular, but unlike these agencies, it has a dedicated and highly specific mandate to address complex and serious financial crime.

Stakeholders observed that in its early years the SFO was seen as a somewhat retiring and esoteric agency, with some questions around its performance, such as those arising during the ‘Winebox’ inquiry of the 1990s. The SFO has undergone considerable change in management and personnel since 2010. In recent years its management has adopted a more proactive communications style and it has been thrust into public view with a number of largely successful high profile prosecutions such as those arising from the collapse of finance companies post the Global Financial Crisis (GFC).

For each of the last three years the SFO has operated with a baseline of around \$10 million following a ‘top up’ to address the finance company collapses. For the 2014/15 financial year the SFO will revert to its 2009 baseline funding of \$7.6 million. The agency is currently undertaking an expenditure review (with governance from the central agencies and the justice sector).

Environment

Serious financial crime, often referred to as ‘white collar’ crime, is insidious and ever changing. Its victims can be numerous and its impact as profound as violent crime. Few New Zealanders do not know of such victims, particularly as a result of the recent finance company collapses where many elderly New Zealanders lost all or part of their life savings. The opportunity to seek reparation or restitution is often minimal and losses the more bitter because the perpetrators were often hiding in plain sight as hitherto trusted advisors.

In difficult economic times, people facing financial pressure may be driven to commit financial crime out of desperation. Businesses may be tempted to hide losses through false accounting and/or other types of fraudulent activities. Economic pressures may also mean that resources are diverted away from anti-fraud controls within organisations. In more affluent times fraudsters exploit growth in innovative products and services and benefit from a more bullish appetite for risk that can allow fraudulent activity to remain undetected.

With the growth of on-line banking and electronic transactions, financial crime is now more prevalent in the virtual world than the physical. As well as allowing greater separation between offenders, their victims and law enforcement agencies, technology facilitates the replication of scams and provides a mechanism to draw in a wider net of victims. The rapid movement of money and people across borders exacerbates these problems.

The rebuild of Christchurch over the next few years presents particular risks. The mix of transitional organisations and structures, an enormous volume of complex insurance claims, unprecedented levels of procurement and construction in a relatively small geographic location and pressure to deliver results quickly, will create conditions highly conducive to financial crime.

The importance of vigilance over white collar crime is underscored by the excellent reputation brand New Zealand has in the wider world for transparency, integrity and fair-mindedness and lack of corruption. New Zealand regularly scores at the top of the *Transparency International* rankings. Its public service is known to be one of the highest integrity services in the world. Its foreign policy and trade strategies often rely on these associations between brand New Zealand and integrity, which have allowed us to punch above our weight. Alertness to early detection and effective prosecution of serious and complex financial crime is a key element in protecting this almost unique country brand. A key message to our trading partners and the wider world is that in New Zealand, fraudulent or corrupt behaviour in financial markets or commerce will be found out and punished.

Somewhat ironically, in priding ourselves on our corruption-free status in the world, we may risk the kind of complacency or naiveté that itself gives rise to the opportunity for corruption. Serious financial crime impacts public confidence and the integrity of New Zealand's financial and commercial markets and the administration of its justice system. Strong institutional integrity, including a commitment to the rule of law and procedural fairness are the foundations that enable economic security. They also underpin New Zealand's desire to build its economic prosperity through export growth. Our positive brand associations add value to our export goods. We have recently seen the impact on exports of any hint of poor practices or lack of transparency.

All of these environmental pressures place a premium on high quality information sharing and intelligence to inform threat assessment and to support the targeting of preventive and investigative tools and treatments for maximum efficiency and effectiveness. Technology supported intelligence tools can be applied to identify criminal connections and to manage large or complex forms of data, while international intelligence, practices and relationships can be used to improve the efficiency of response in New Zealand. International and local experience teaches us that corruption and fraud flourish where there is any lack of 'joined-up-ness' in the business or regulatory environments and where gaps in information and intelligence sharing can be exploited.

A challenge for New Zealand is that white collar crime is addressed by a wide range of agencies in New Zealand, within and beyond the justice sector. This means that any one agency, including the SFO, only holds a subset of intelligence information and sees the subset of complaints that pertain to its own remit. The current security and intelligence governance mechanisms that operate across this crowded agency landscape do not appear to have a systematic or strategic futures focus on

white collar crime. SFO, while mandated to do so, is primarily an investigation and prosecution agency, without policy remit or capability and with very limited intelligence capacity.

From a public sector management viewpoint, the risk is that the lack of joined-up intelligence works against systematic and anticipatory threat assessment for financial crime. This makes it difficult for the SFO (and related agencies, such as the FMA and OFCANZ) to undertake their stewardship roles by developing medium-term strategies for early detection and planning for future capability and capacity requirements.

From the perspective of brand New Zealand and overall economic security and prosperity, a more joined-up approach also seems imperative. White collar crime, by its very nature, hides in the interstices between agency mandates and exploits blind spots in intelligence sharing.

Finally, in recent years, the SFO has been subject to a number of reviews with respect to its continued existence as a standalone agency. This has given rise to some internal instability, which was exacerbated by a prolonged period under an acting Director. While, as identified in the preceding paragraphs, some system level adjustments might be required to allow the SFO to better plan and target its work, the agency and its new Director have now been given the opportunity to focus on the value the SFO can deliver over the long term.

Performance Challenge – Outcomes

The SFO faces a key strategic issue in its inability to assess, off its own resource base and its own complaints base, the threatscape within which it works. As a tiny agency within the complex landscape described above, the SFO sees only a narrow slice of the financial crime complaints made to and intelligence generated by all Crown agencies. This creates a significant challenge in setting medium-term strategy and attempting to right size the agency, especially now, that the peak of financial company crime has passed and the nature and extent of the next white collar crime wave is uncertain.

I suggest it may be timely to develop a mechanism to encourage shared understanding of the medium-term threatscape. This is likely to assist the SFO (and other agencies) to be clearer about their respective mandates and strategies. This would also help to inform the optimal resourcing model for the SFO. Even if all existing New Zealand agencies were better joined up, the collective intelligence may still be insufficient to allow us to maintain proactive and targeted approaches to white collar crime. Some form of intervention may be required.

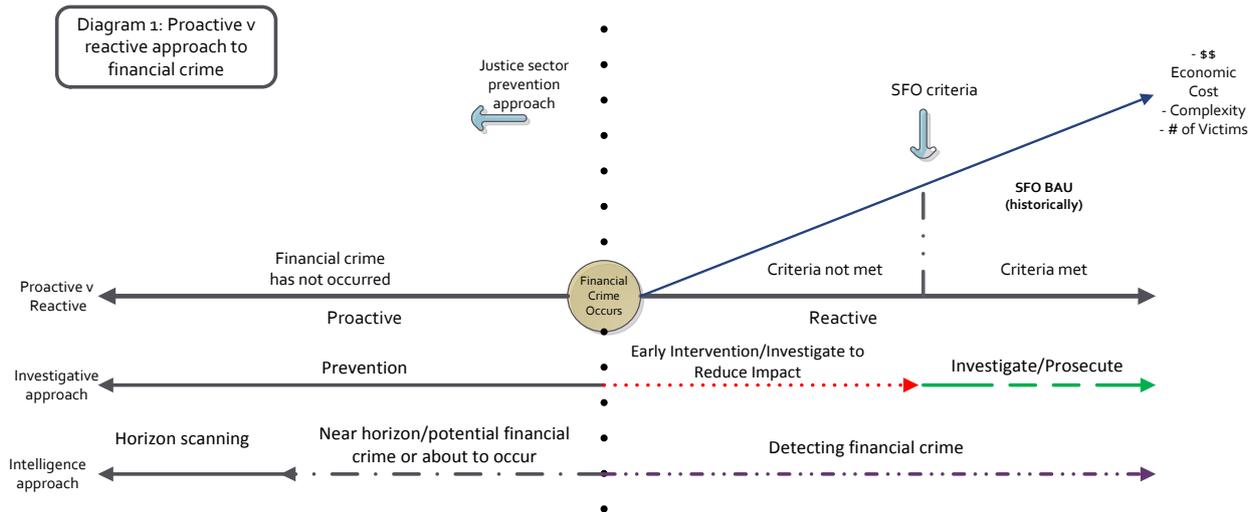
For example, in the United Kingdom, (where the UK SFO is of a proportionate size) this challenge was responded to by the development of a whole-of-government National Fraud Strategy. The strategy was developed on the basis of shared evaluation of specific emergent threat types as well as blue skies scanning for the medium to long term. A National Fraud Authority has been established along with a National Fraud intelligence Bureau (within the City of London Police) which sifts through the raw intelligence, searching for distinct patterns of fraudulent activity and behaviour and notifying the appropriate law enforcement agency(ies) of its findings.

I have suggested that as part of her external stakeholder relationship role the Director seeks to establish relationships with public sector colleagues that enable a more integrated mechanism to be developed.

A second strategic challenge relates to the justice sector's current goal to focus more effort on crime prevention and to operate in a more victim-centric manner. This is not part of the SFO's current mandate and has not been its role or focus to date. Currently, as shown in the diagram below, the

SFO intervenes *after* a serious financial crime has occurred, when the economic cost has been incurred and that cost is likely to grow further. Accordingly, SFO capability is currently configured to detect, investigate and prosecute these crimes.

The SFO is currently considering whether it has a role in prevention: what this role would be; how it would work with other public and private sector stakeholders; what sort of capability might be required to do this effectively; and what the balance should be between an *ex ante* prevention role and its more traditional *ex post* detection, investigation and prosecution role. It is also challenging itself to think creatively about its relationship with the victims of financial crime.



Almost all interviewees in this Review felt the core value proposition of the SFO lay in its deep and specialist expertise in financial investigation, forensic accounting and prosecution strategy for serious and complex financial crime cases. Much of this capability is difficult to recruit and replicate, with staff requiring time to become proficient in the complex triage, prosecution strategy and courtroom presentations required in SFO case management. The SFO is thus best viewed as operating at the *ex post* and retributive end of the spectrum in terms of the Crown’s response to financial crime. Better access to intelligence could support earlier detection and cause a flattening of the steepness of the blue line shown in the diagram above, but preventive and policy related activity is not supported by the agency’s statutory mandate and probably better done by others.

The strongest preventive element of the SFO’s activity lies in its deterrent effect through its highly respected investigative capability and strong track record of successful prosecutions. International literature shows that white collar crime is more amenable to deterrence than most. In the quality of its investigative and prosecutorial work the SFO represents something of a ‘sentry on the ramparts’ of New Zealand for financial crime. It is viewed as an elite team of specialists and inspires considerable fear by virtue both of its powers and its record, in a manner somewhat akin to the FBI or the Securities and Exchange Commission in the United States. Though someone may be entirely innocent, they do not want the SFO interested or on the premises, as some reputational taint is likely.

The ‘victimology’ of financial crime is challenging, in that most victims must be satisfied with a guilty plea or successful prosecution rather than with financial reparations. The SFO currently appears to do a good job in keeping victims with active cases informed and up to date within the constraints placed by the courts. Its communications regarding often unpopular decisions not to proceed are also generally viewed as open and reasonable. Proactive communications on the risks of fraud are probably the purview of other agencies.

Given the respect which the SFO’s core value proposition inspires, it is important that, as it clarifies its strategy and defines its business as usual baseline funding, this does not become diluted, for example by stretching its activities remit into less serious types of financial crime and corruption. Given that part of its contribution to New Zealand’s economic security and prosperity derives from its institutional cachet, the SFO should never be viewed as an agency in search of a purpose.

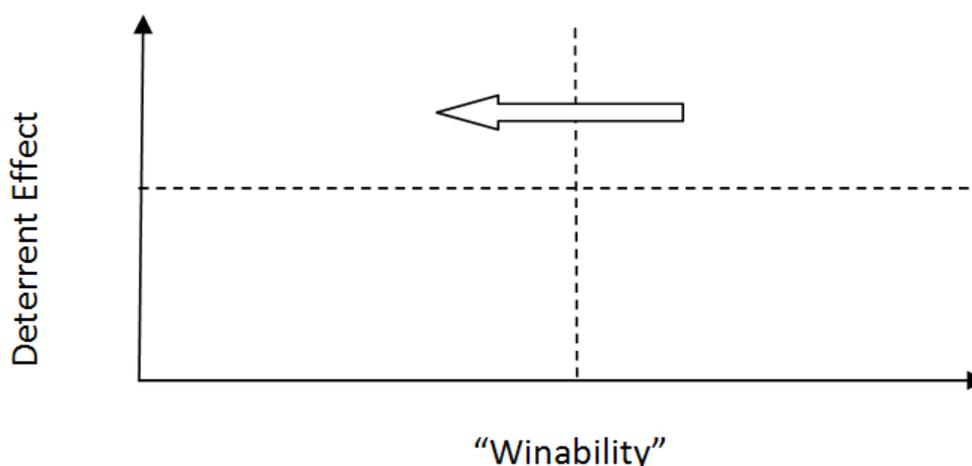
A third strategic challenge concerns leveraging the SFO’s core competence in detection, investigation and prosecution of financial crime across the wider State sector and where appropriate the private sector. The SFO’s core competence is based around maintaining a critical mass of skills in forensic accounting and financial investigations and prosecutions. The value of this capability is considerable and could be used more widely by the sector and system. Given its small size, career progression within the SFO is limited and the agency’s talent management strategy also needs to be viewed on a multi-agency and multi-sector basis. Such arrangements could also be made to enable the SFO to temporarily ramp up its activities when required without needing to make short-term changes to its baseline funding as was required to address the finance company cases.

As the SFO’s new leadership works over the next few months to clarify its strategy and operating model for the medium term, it will be important it does so inclusively, with both staff and stakeholders from across the justice, security and economic development sectors. While the SFO is widely respected, as an Auckland based agency it is not well known and its relationships, particularly with Wellington, tend to be transactional rather than strategic. Many of the challenges raised in this section are as much about how the State sector system and the private sector see and engage with the SFO as they are about what the SFO can do alone. There is a significant opportunity to enrol the public and private sectors in ongoing strategic discourse on the detection and prevention of white collar crime.

Performance Challenge – Agency

i Purpose and Targets

Now that the large finance company prosecutions are winding down, a key challenge for the future will be to operate the SFO case-load on a more explicit portfolio basis, see the graphic below. How far to move the dotted line down and left within available resources while operating in accordance with the Solicitor General’s prosecution guidelines, will always be a complex judgement for the Director and her SLT. The SFO has, so far, avoided the contention and complications faced by its UK counterpart. Juggling the likely need to operate a somewhat less conservative portfolio across new crime types with the need to protect a sterling record will be a difficult balance.



ii Business Strategy

It is essential that the Director is strongly focused on reconnecting with stakeholders and being a key player to drive a more integrated approach to combating financial crime. Key public and private sector stakeholders are receptive and keen to take the relationship to a more strategic level. Rather than continuing to operate through bilateral MOUs or very specific joint operations, the SFO should prioritise establishing standing multi-lateral approaches and agreements. The SSC is working with some agencies in the justice and economic sectors on an 'integrated sector model'. This is likely to require changes to leadership and governance styles and structure within the SFO.

Internally it will be important the SLT balances working on the business with working in it; always a challenge in an agency of this size. As the baseline normalises, the management structure probably needs flattening and consideration given to the implementation of a professional services model, where staff are organised by technical or professional expertise rather than, as now, by crime type. Staff, including team leaders, would be assigned to cases as appropriate.

A recent review of the future structure for the SFO suggested shared corporate services functions with another agency such as the Department of Corrections or the FMA. Outsourcing could be considered to better access strategic human resources (HR) support but otherwise, given the small scale and current good order of the SFO's corporate functions, could prove a distraction.

iii Operating Model

Even in the absence of the more joined-up approach to serious financial crime suggested above, it is likely the SFO will need to operate using a 'peace time army' model with the ability to ramp up for particular crime waves or major cases. This model is followed in the UK, where the recent Libor banking crisis has resulted in a significant but temporary lift in 'blockbuster' personnel and funding for the SFO. Such a ramp up/ramp down model is likely to require a very agile, professional services style operating approach, with the ability to form and reform teams within and across agencies. This will entail more explicit and systematic use of practice management tools within the SFO, such as more formal time attribution and stronger links between case economics, client satisfaction and staff performance management.

The passion and pride of SFO staff provides a strong platform from which to build more systematic people management practices and a more explicit approach to culture. Once medium-term strategy is better articulated, it will be important there is clear line of sight between strategy, the required intra and interpersonal behaviours and staff development plans. Career path management on a cross-sector basis (including the private sector) is, as noted above, essential to providing better career progression for SFO staff, building multi-lateral agency relationships, leveraging the unique technical skills of SFO staff across the wider system and providing the basis for ramping up resources quickly to deal with temporary increases in case-load.

While the SFO's information technology/information management (IT/IM) systems and capabilities are currently highly internally focused, they appear to be sound. There have been some innovative approaches taken to case management such as the use of new Wynyard software. Document management and data security appear to be strengths. There will, however, be real challenges in maintaining a technical edge on electronic search and seizure (fundamental to many of SFO's cases) in the fast moving world of cyber crime. There are also major issues to be confronted, under a more integrated inter-agency approach, on data sharing and joined-up intelligence, while also ensuring the security of sensitive information.

Given its core business, effective case management is fundamental to the SFO's operating model. All the evidence points to sound practice, with consistently favourable comment on both the efficiency and effectiveness of SFO prosecution processes. Panel counsel report good rigour being applied to stop/go decisions, both at initial triage and prior to proceeding with a prosecution. With a 100% success rate for prosecutions over the last two years (a slightly misleading statistic as it includes guilty pleas and convictions on some rather than all charges in a prosecution), I pressed hard for any perceptions amongst stakeholders that the SFO was cherry picking cases or pursuing flawed charging strategies. The general view was that the agency is being sufficiently ambitious in both taking on cases and laying the most appropriate charges, in spite of the fact that a 70-80% conviction rate for white collar crime is the norm in other jurisdictions. It seems the SFO's practice of involving counsel early in the process assists greatly with the robustness of prosecutions.

iv Implementation (including Change Capability)

At present the change management capacity within SFO is low; particularly as senior managers have significant operational involvement. The agency needs to find ways to free up its senior managers to allow them to take the lead on embedding the new operating model.

I am concerned that the change management requirements entailed in the imminent 're-baselining' of the SFO are likely to be well beyond the capacity of the SLT and in-house corporate staff and that additional interim support may be needed from a partner agency. This not just a technical HR matter in that the decisions around the 'peace time standing army' organisational model, which maximises agility in the event of a need to ramp up resources for new crime types or a significant case will require some sophisticated thinking on operating model design and organisational structure.

Change capability also needs to be applied to better understanding and networking with other Wellington-based agencies, as the new Director works toward a more integrated and embedded cross-sector model.

What will success look like?

In four years time the SFO will remain respected and even feared for its specialist expertise in detecting, investigating and prosecuting serious and complex financial crime. The SFO value proposition will be very clear, and its story will be something New Zealanders understand, are proud of and link to a feeling of confidence in our financial institutions and the justice system. It will be seen as iconic and as a key element in New Zealand's protection of its international reputation as a country of high integrity in which corruption and fraud will be found out and held strongly to account.

Through its detection, investigation and prosecution activities, the SFO will be actively contributing to offshore investor confidence and to the maintenance of a confident onshore business community where the risks and impact of financial crime are minimised for investors. In this respect its purpose will be closely aligned with the ability of the Government to deliver a competitive and productive economy, as well as the economic development goals of the Ministry of Business, Innovation and Employment (MBIE).

While something of a beacon of integrity and expertise in its own right, the SFO will also be deeply integrated into the justice and economic sectors and will operate on shared intelligence and embedded multilateral agreements. It will have built strong collaborative relationships across the finance and banking sectors, with professional services companies as well as regulatory and law enforcement agencies and these will facilitate information sharing and early detection. Information sharing and productive strategic exchanges with international counterparts will allow the SFO to keep abreast of global trends and initiatives.

It will be porous in terms of its people, in that it will remain famous for its deep pool of technical expertise in financial crime investigations and prosecutions and forensic accounting, while also being an agency that people want to be seconded into for a short spell. SFO staff will also be seconded to other agencies, both public and private, on the basis of carefully designed personal development plans. As a result, it will be developing strong alumni or 'army reservists' networks that, should a major case occur, greatly assist it to ramp up its resources quickly.

The SFO agency brand will have considerable cachet; the culture of the organisation will continue to reflect positive behaviours and beliefs (personal integrity, pride in getting results for victims, adherence to the highest quality, investment in relationships with clients, victims and stakeholders), with any negative aspects of elitism actively discouraged by management.

The SFO will consistently demonstrate both efficiency and effectiveness in high impact investigations and prosecution of serious financial crime. It will be activist, and known to take on challenging and complex cases, which may be difficult to prosecute some of which it will lose, without damaging public or investor confidence.

While the SFO will remain at the aftermath of crime end of the justice sector spectrum, it will be well connected to the preventive efforts of *other* agencies and will feed the insights and lessons learned from investigations and prosecutions into a comprehensive and dynamic fraud intelligence system. Other agencies will leverage the SFO's recognised expertise in undertaking complex financial investigations. This competence will be applied at a range of intervention points along the financial crime pipeline; from detection through to asset recovery. It will also be contributing to the work of other agencies to educate and warn the public about emerging financial crime and exhorting vigilance in certain investment or commercial situations that may create the conditions in which white collar crime can flourish.

SFO's activities, while offender-centred by the nature of its mandate, will not blind its people to the feelings and needs of the victims of white collar crime and it will continue to, either directly or via other agencies, to communicate case strategy and progress to victims openly and empathetically.

Debbie Francis

Lead Reviewer

CENTRAL AGENCIES' OVERVIEW

The SFO is a small agency which is expected to play a significant role in protecting New Zealand's financial markets and our reputation for being a country largely free from corruption. It does this by operating at the sharp end of the compliance pyramid, using independent statutory powers focused primarily on the detection, investigation and prosecution of serious financial offending. The activities of the Office support outcomes relating to law and order, economic growth, the integrity of our systems and institutions and national security.

As a small agency its primary deterrence impact flows from the effectiveness of its investigation and prosecution functions. The Review has found that to a large extent the SFO is meeting the expectations we have of it. By comparison to other similar agencies overseas it has a very good track record of successful prosecution outcomes. The Lead Reviewer rightly notes however that the SFO will continue to need to get the balance right in taking on the right cases and should not be judged solely on its win-lose record.

Two significant challenges will need to be met in order to achieve on the SFO's Four-year Excellence Horizon. Financial Markets are dynamic and, as the Lead Reviewer has noted, those who commit fraud and other financial crimes exploit the gaps between regulatory regimes and agencies. New threats will emerge. The SFO's strategies, operating model, and capabilities will need to be geared to respond to new or increased demands of it. A "fund up fund down" model creates a lag in response times and problems in recruiting and retaining the right capabilities. To be effective the SFO will need to operate as part of a broader network of agencies, including regulators and the private sector, operating with a dynamic "intelligence led" approach to respond to any emerging threats in an integrated way. We will continue to support this approach and work with the SFO to ensure all agencies understand the need to operate collectively to protect New Zealand's reputation and overall interests.

Secondly, given its relatively small size, maintaining the right level of specialist capability to undertake effective investigative and prosecutorial activities will require a strategic and agile workforce strategy. As this PIF Review identifies, the SFO will need to maintain a base workforce of highly respected specialists whilst operating a "porous" approach with other roles being filled with staff rotating through the Office to meet its ongoing capability demands. As well as delivering up-skilled staff back into other parts of the system this approach to meeting SFO's future capability needs reflects how we see the capability across the broader system of public services operating under the reforms currently underway.

Finally we note that this Review identified the high levels of intrinsic motivation and passion of the staff to be real strength of the SFO. This is pleasing to note and will be important to maintain as the Office works together to meet the challenges set out in this Review.

Iain Rennie
State Services Commissioner

Gabriel Makhoul
Secretary to the Treasury

Andrew Kibblewhite
Chief Executive, Department of
the Prime Minister and Cabinet

SUMMARY OF RATINGS

Results

GOVERNMENT PRIORITIES	RATING
Target serious financial crime and corruption	
Improved prosecution management, including efficiency and alternatives to prosecution	
Early detection of fraud in Canterbury earthquake recovery	
Awareness raising about financial crime	

CORE BUSINESS	RATING (EFFECTIVENESS)	RATING (EFFICIENCY)
Detection of serious financial crime and corruption		
Investigation of serious financial crime and corruption		
Prosecution of serious financial crime and corruption		
Prevention of serious financial crime and corruption		
	RATING	
Regulatory Impact	NA	

Rating System

 Strong	 Well placed	 Needing development	 Weak	 Unable to rate/not rated
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Organisational Management

LEADERSHIP, DIRECTION AND DELIVERY	RATING
Purpose, Vision and Strategy	
Leadership and Governance	
Values, Behaviour and Culture	
Structure, Roles and Responsibilities	
Review	

EXTERNAL RELATIONSHIPS	RATING
Engagement with the Minister(s)	
Sector Contribution	
Collaboration and Partnerships with Stakeholders	
Experiences of the Public	

PEOPLE DEVELOPMENT	RATING
Leadership and Workforce Development	
Management of People Performance	
Engagement with Staff	

FINANCIAL AND RESOURCE MANAGEMENT	RATING
Asset Management	
Information Management	
Improving Efficiency and Effectiveness	
Financial Management	
Risk Management	

Rating System

 Strong	 Well placed	 Needing development	 Weak	 Unable to rate/not rated
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AGENCY CONTEXT

The SFO was established in 1990 to administer the Serious Fraud Office Act 1990 (the Act). That Act gives the Director special powers relating to the detection, investigation and prosecution of serious or complex fraud cases.

Section 8 of the Act provides that:

“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:

- there are multiple victims (usually investors) of the suspected fraud
- the sum of money lost exceeds \$2,000,000
- the alleged criminal transactions have significant legal or financial complexity beyond the resources of most other law enforcement agencies.

Priority cases for the SFO include:

- multi-victim investment fraud
- fraud involving those in important positions of trust (eg, lawyers)
- matters of bribery and corruption
- any other case that could significantly damage New Zealand’s reputation for fair and free financial markets minus corruption.

In 2011/12 the SFO received additional funding over three years to investigate and, where appropriate, prosecute alleged offenders resulting from the collapse of a number of finance companies.

The SFO contributes to the Government’s broad outcomes of a stronger and enduring economy and maintaining the rule of law. Its enforcement role helps New Zealand maintain a:

- confident business environment that is largely free of serious financial crime
- safe and just society that is largely free of fraud and corruption.

Through the detection, investigation and prosecution of serious or complex financial crime, the SFO contributes to the achievement of the following four outcomes:

- business and investor confidence in the integrity of our financial markets is increased
- the regulatory environment minimises the risks and impacts of financial crime

- public and victims' confidence that those who commit financial crime are held to account is increased
- New Zealand maintains its international reputation for very low levels of corruption and bribery.

The SFO currently has 51 full-time equivalent (FTE) employees, 84% of whom are focused on the investigation and prosecution of financial crime. A small team of 8.5 FTEs provides corporate services and support to operational employees.

Note: Serious Fraud baseline is approximately \$7.5 million per annum. Additional funding of \$7.5 million was allocated from 2011/12 to rebuild the organisation and to quickly resolve a legacy of complex cases. This increase was subsequently spread across three years to fund increased investigative capacity and prosecutions related to the collapse of finance companies. Funding levels will return to a baseline of \$7.6 million from 2014/15 and to gradually decline in out-years.

SFO	2012/13	2013/14	2014/15	2015/16	2016/17
Current operating expenditure baseline	\$10.170m	\$10.170m	\$7.670m	\$7.527m	\$7.240m

60% of the SFO's expenditure is on personnel costs. Of the balance, about one-third is spent on specialist support to investigations and prosecutions (legal and forensic accounting skills in particular) and a further third on accommodation.

RESULTS SECTION

Part One: Delivery of Government Priorities

This section reviews the agency's ability to deliver on its strategic priorities agreed with the Government. While the questions are ex-post and guide Lead Reviewers to retrospective and current performance the final judgements and ratings are necessarily informed by scope and scale of the performance challenge.

The ratings in this and the following section are driven by my view, outlined in the Four-year Excellence Horizon above, that it is inconsistent with the SFO's mandate and the deterrent effect of its brand for the SFO to undertake preventive and educative activity. The ratings thus reflect issues with respect to the wider system, as opposed to delivery problems within the agency per se.

Government priority 1: Target serious financial crime and corruption

Performance Rating: **Needing development**



The SFO is in the closing stages of a significant surge effort responding to the finance company failures triggered by the GFC. Those failures related to on-going offending that commenced well before the GFC. The largest remaining prosecution is the South Canterbury Finance case, shortly to commence.

This priority requires the SFO to have a proactive approach, and to scan the horizon to identify possible sources and new types of serious financial crime and corruption. The lack of external context for this work is highlighted in the Four-year Excellence Horizon section of this Report. Internally, the SFO also has relatively limited intelligence capacity embedded within its initial complaint triage capability. This enables an oversight and analysis of the narrow range of complaints it receives (some 400 – 450 per year) with limited opportunity for wider environmental scanning and internal agency liaison.

That said, SFO has initiated proceedings from its analysis of potential risks and it has worked with relevant stakeholders to consider the risks of fraud, bribery and corruption in the context of the Christchurch rebuild and recovery (see below). The SFO developed but was unable to get system support for a more structured way of analysing and responding to the risks in the Canterbury rebuild that are acknowledged but not yet fully emergent.

As noted previously, the ability to develop a current (let alone medium to long-term) threatscape required to proactively target high priority serious financial crime and corruption does not exist within the SFO. Understanding of the risk environment currently depends on the relationships that it has with its private sector stakeholders and public sector regulatory and law enforcement colleagues (which, while positive, tend to be ad hoc, transactional and based on personal relationships).

The rating for this priority is based on my view that the agency is not able, as currently mandated and configured, to deliver on preventive and intelligence-led activity across the wider sector. SFO's ability to operate with more heft in this area is both of arguable appropriateness and only partly within its control. It:

- will require a more strategic and structured approach to the development and maintenance of relationships within the regulatory and law enforcement community
- could benefit from a more strategic and integrated approach to white collar crime across the justice, economic development, security and trust in government sectors.

Government priority 2: Improved prosecution management, including efficiency and alternatives to prosecution

Performance Rating: Well placed
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As noted above, the SFO's comparatively high conviction rate may suggest its strategy for determining which cases to prosecute is somewhat conservative. Panel counsel are involved in the key decision points in determining whether to take a case forward to prosecution and good use is made of peer review processes to test the robustness of prosecution files. Most stakeholders felt that the SFO has in recent years, been reasonably ambitious in its prosecution strategy and had achieved a good balance between the public interest and impact of cases and adherence to the Solicitor General's guidelines for the sufficiency of prosecution files.

Going forward, now that the high value financial company cases are winding down, the SFO will have to pay careful attention to the portfolio of cases being progressed, as outlined in the Four-year Excellence Horizon above. Whether to prosecute less certain cases within available resources and while remaining in accordance with the Solicitor General's guidelines will always be a complex matter of judgement for the Director and the SLT. The SFO has, so far, avoided the contention and complications faced by its UK counterpart. Juggling the likely need to operate a somewhat less conservative portfolio across new crime types with the need to protect a sterling record will be a difficult balance.

Stakeholders indicated that the SFO has efficient processes in place to manage, analyse and present the evidence it collects. It also takes an extremely structured approach to case management, including the critical triage and stop go points. There was a clear awareness of costs on the part of staff and a strong awareness of the need to think about the costs and benefits of investigations and prosecutions.

More could be done to improve the robustness of the SFO's time management system to assist it to internally benchmark efficiency and to improve its ability to forecast the resource implications of the cases it investigates and prosecutes. There also needs to be a clearer link between case economics and performance management for SFO staff, just as there would be in a professional services operating model.

The SFO is an investigative and prosecutorial agency. Alternatives to prosecution include bringing suspicious activity to the attention of other regulatory agencies. In future, SFO might consider making greater use of warnings letters to the subjects of its investigations not prosecuted.

Government priority 3: Early detection of fraud in Canterbury earthquake recovery

Performance Rating: **Needing development**



The SFO has identified and worked with relevant stakeholders to consider and respond to the risks of fraud, bribery and corruption in the context of the Christchurch rebuild and recovery. It brought the international lessons learned from other natural disasters to the attention of the Government, community and relevant parties in Christchurch. The SFO developed a business case but was unable to get system support for a more structured intelligence capability to analyse and respond to the risks acknowledged in the region. Whether or not the idea was a good one, this probably reflects the SFO's challenges in networking effectively with other agencies (particularly in Wellington) for results.

Notwithstanding this, the SFO continues to work with the Canterbury Earthquake Recovery Authority (CERA) and other regulatory and law enforcement agencies in Canterbury. High levels of fraud and corruption are not yet apparent but it is early in the rebuild and offshore experience suggests they will occur. It is incumbent on all agencies in the justice, economic security and trust in government sectors to be alert to these.

Once again, the rating here reflects my view that while Government agencies generally need to be very alert to the risks entailed in large scale construction procurement, (which could equally apply to Auckland at present), it is not the role of the SFO to take a proactive lead.

Government priority 4: Awareness raising about financial crime

Performance Rating: **Needing development**



The SFO is funded to detect, investigate and prosecute serious financial crimes and this specifically includes activities directed at making the commission of financial crimes more difficult, and detection and prosecution more effective.

The SFO does not have specific capability for awareness campaigns and, as outlined above, I do not believe it should. That said, through its (limited) intelligence capability and from the insights it gains through its analysis and investigation activities it is able to and does inform stakeholders about risks and opportunities to manage risks which will achieve both those objectives. This tends, at present, to be somewhat ad hoc and relationship-based, as opposed to systematic and strategic.

I do not believe that an enhanced educative function sits well alongside SFO's investigative and prosecutorial activities. However, there is room for improvement in the SFO's strategic communications, such as its website. More important than strengthening its own capability, however, will be deeper strategic relationships with other agencies in the justice/law enforcement, economic development, national security and government institutions sectors (and, as suggested above, some improvement in system governance in this area). This would enable an improved whole-of-government and whole-of-financial services system approach to risk awareness of this type of crime with appropriate agencies playing their parts in awareness raising with investors and the wider public.

RESULTS SECTION

Part Two: Delivery of Core Business

This section reviews the agency’s effectiveness and efficiency in delivering its core business. While the questions are ex-post and guide Lead Reviewers to retrospective and current performance the final judgements and ratings are necessarily informed by scope and scale of the performance challenge.

Core business 1: Detection of serious financial crime and corruption	
Performance Rating (Effectiveness): Well placed	
Performance Rating (Efficiency): Needing development	

There has generally been an overall upward trend in the number of complaints received by the SFO post GFC, with a slight flattening in 2013, when 435 complaints were received compared with 465 in 2012. These increases are attributed to greater levels of public awareness about the SFO’s work. However, a large number of complaints do not meet the SFO’s mandate. The SFO attributes this to a more active approach to integration with the financial and investment sectors and building trust in the business community.

All complaints are assessed against set criteria (see Agency Context) to determine whether an inquiry should commence. Where the criteria are not met these complaints are referred to the appropriate body, including the Commerce Commission, FMA and New Zealand Police. In 2012, 49 referrals were made – in excess of the benchmark of 20.

A formal evaluation is conducted when a complaint meets the SFO criteria. This entails gathering evidence, without resorting to the SFO’s statutory powers, to determine whether the matter warrants formal investigation. Comments were made both internally and externally that greater use could be made of the SFO’s Part 1 powers at this stage. In addition to complaint driven matters, the SFO has become more proactive in investigating financial crime. In 2013 it undertook 24 self initiated evaluations (against a standard of 20) drawing upon intelligence gathered by the SFO and its partners, doubling the number from 2012. This triage process has increased efficiency in that key evidential tests are applied early, prior to the launch of a full-scale investigation.

The quality of the complaints triage process is unclear, given there are currently no legal resources in the complaints area. While the SFO appears efficient at assessing complaints I was not persuaded that this work is of a comparable standard to the formal investigation and prosecutions work.

The recruitment of a new senior intelligence analyst has increased engagement with a range of public and private sector intelligence groups, including the Combined Law Agency Group (CLAG) and the financial crime analysts group. The SFO has also invested in a range of tools, including a new intelligence database, and is currently developing an intelligence strategy. While the SFO would like to invest further at the time of writing, see the comments in the Four-year Excellence Horizon section about the potential benefits of investment on a system or whole-of-government basis to gather the richest possible data set to support analysis for proactive planning and targeting of interventions and treatments.

In recent years the SFO has also sought to take a more strategic approach to financial crime. While its *Cost of Economic Crime* report was widely regarded by stakeholders as somewhat inappropriate use of resources outside a policy agency, the justice and economic sectors need to consider how joined-up policy thinking might be generated in the white collar crime area.

Efficiency

While there is quite a palpable internal ‘culture of efficiency’ the SFO does not explicitly measure the efficiency of particular elements of its supply chain or operating model and could do more to measure the efficiency of its activities overall and improve the sophistication of key performance indicators (KPIs) in general. It will be important that future prioritisation and trading off between various deterrent impacts is based on sound evidence.

The table below suggests the SFO has become more efficient in complaints evaluation, albeit against a somewhat weak metric.

	2010	2011	2012	2013
Complaints received	134	440	465	435
Complaints assessed within time	43%	97%	81%	91.5%

Core business 2: Investigation of serious financial crime and corruption	
Performance Rating (Effectiveness): Strong	
Performance Rating (Efficiency): Well placed	

Given its modest resources, it is essential that SFO investigations provide a very robust basis to support good decisions about which complaints, or self identified opportunities, to prosecute. I am satisfied that the SFO has processes and capability to make good decisions in this context.

Investigation of serious or complex fraud is the SFO’s reason for being. The Act provides special (some say extraordinary) powers to investigate serious or complex fraud.

The SFO case investigation teams are made up of investigating lawyers, forensic accountants and investigators as appropriate. This team structure is good practice for the type of complex investigations the SFO undertakes. Stakeholders recognise the SFO has developed strong technical competence related to forensic accounting and financial investigations and prosecutions, which are the basis of the SFO business model. Both public and private sector organisations that work alongside the SFO acknowledge the high calibre of their investigators and lawyers and the results attained. Investigations are an area where marked improvement in performance has been achieved in recent years.

The recent additional ‘blockbuster’ funding has enabled the backlog of detailed investigations to be cleared and in the meantime the number of new cases opened has grown.

Significant improvements in timeliness and quality have also been attained. In 2012, 86% of cases were completed within prescribed timeframes. The average length of an investigation was 185 days, compared to 279 days in 2010. In the last five years there has been a 70 % reduction in investigation timeframes.

Moreover, there is evidence of improving objectivity and expediency in undertaking investigations

and in more tactical approaches to charging. Where previously the SFO might have sought to identify each criminal transaction and laid a multitude of charges resulting in lengthy investigations, the practice now is more pragmatic, with little impact on the success of its prosecutions. This results from improved stop/go rigour, better use of peer review and involvement of counsel early when deciding the charging strategy. Parties involved in the prosecution process from different perspectives all felt that the standard of the SFO investigation files was exemplary, albeit, post the GFC, in a somewhat prosecution-friendly environment.

The SFO continues to develop and refine its business processes. Steps have been taken to improve evidence management and the SFO has invested in new case management software.

In the future, and with the coming reduction in baseline funding, it will be important for the SFO to protect and maintain the core investigative skill sets in forensic accounting and investigation so critical to its recent successes and to strengthen these through effective leveraging across the wider system, both public and private.

Efficiency

As noted already the SFO does not measure the efficiency of the elements of its business and could do more to measure the efficiency of its activities over all.

The following table suggests improved efficiency

	2010	2011	2012	2013
Investigations commenced	15	34	40	30
Investigations completed in time	18%	84%	86%	83%

Core business 3: Prosecution of serious financial crime and corruption	
Performance Rating (Effectiveness): Strong	
Performance Rating (Efficiency): Well placed	

Prosecution decisions are made by the Director on the basis of the Solicitor General’s Prosecution Guidelines and the SFO’s own assessment tool to ensure each case conforms to the purpose and role of the organisation. Estimates are made of the cost of the prosecution and evidential and public interest tests are applied. Prosecution Panel Counsel review the proposed charges and provide independent advice. This helps ensure that the strongest charges are selected relative to the admissible evidence of a case.

The SFO has enjoyed an extraordinarily successful run of prosecutions (100% conviction rate in 2012). I tested whether the SFO was being overly cautious in its prosecution decisions, for example in not prosecuting cases with a high public interest element where the risk of loss was present. Experienced Counsel suggested that a success rate as low as 70% from time to time would be acceptable. I note this is the rate achieved by the SFO’s UK counterpart.

I do not have a sense that the SFO has resisted taking any difficult cases where there was an element of evidential or legal uncertainty. I was advised that the large finance company prosecutions posed significant challenges when they were commenced and I have also noted that while prosecutions may be successful, they may not succeed on all charges or against all defendants.

Delivery of Core Business

	2010	2011	2012	2013
New prosecutions	11	14	14	16
Conviction rates (cases)	91%	100%	100%	92%

I received favourable comment about the competence of SFO staff when subjected to the test of cross examination. I also received favourable comments about the efficiency with which SFO prosecutions are managed through the Court system, including the innovative use of technology to support Counsel and the Court itself.

While the costs of investigation and prosecution are inherently uncertain (and highly dependent on the choices of the defendant) the SFO has worked with the Crown Law Office to increase its efficiency; including developing and implementing a partnership system for managing and forecasting prosecution costs. This process has assisted the Crown to bring the overspend on prosecutions under control in recent years. Analysis of case costs and resource requirements shows that the average cost of an investigation and prosecution is \$300,000-\$400,000. In future, the SFO will manage any peaks and troughs within a set appropriation and within the Crown prosecution budget through better case management and quality assurance. There are considerable uncertainties about the volume of lengthy trials, involving complex investigations and evidence.

Core business 4: Prevention of serious financial crime and corruption	
Performance Rating (Effectiveness): Needing development	
Performance Rating (Efficiency): Needing development	

The SFO operates at the top two levels of the compliance pyramid shown below; while other agencies, such as regulators and policy makers, work lower in the pyramid.

Figure 1



The deterrent effect of the SFO’s activities comes through its effectiveness in applying the full force of the law. As noted below, the SFO’s level of success in prosecutions undertaken and the penalties that have resulted will cause potential criminals to be concerned that if their offending is detected it will be prosecuted, with significant consequences.

A second element relates to the chance of detection, successful prosecution and the levels of sentence. It was reported from a number of stakeholders that there is a significant level of deterrence from the desire not to be the subject of an SFO investigation. As noted above, while the SFO does not and should not develop significant awareness capability, eg, using social marketing, it could do more through systematic relationships with stakeholders and other agencies, public and private, to improve the awareness of the risks and of appropriate mitigation measures. If in future a more systematic approach to white collar crime intelligence analysis was developed at system level, the lessons learned from successful investigation and prosecutions by the SFO could be usefully contributed to the joined-up analytic effort.

Efficiency

As noted already the SFO does not measure the efficiency of the elements of its business and could do more to measure the efficiency of its activities over all.

ORGANISATIONAL MANAGEMENT SECTION

This section reviews the agency’s organisational management. The questions focus on ex-ante and often guide Lead Reviewers to future and current performance. Final judgements and ratings are informed by the scope and scale of the performance challenge.

Part One: Leadership, Direction and Delivery

Purpose, Vision and Strategy

How well has the agency defined and articulated its purpose, vision and strategy to its staff and stakeholders?

How well does the agency consider and plan for possible changes in its purpose or role in the foreseeable future?

Performance Rating: **Needing development**



Leadership and Governance

How well does the senior team provide collective leadership and direction to the agency?

Performance Rating: **Needing development**



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?

Performance Rating: **Needing development**



Structure, Roles and Responsibilities

How well does the agency ensure that its organisational planning, systems, structures and practices support delivery of government priorities and core business?

How well does the agency ensure that it has clear roles, responsibilities and accountabilities throughout the agency and sector?

Performance Rating: **Well placed**



Review

How well does the agency monitor, measure, and review its policies, programmes and services to make sure that it is delivering its intended results?

Performance Rating: **Needing development**



The SFO’s purpose was clear to all who participated in this Review and the high level outcomes it seeks to achieve were also clear and appropriate. (See Figure 2.)

Figure 2

CAPABILITY	OUTPUTS	RESULTS	IMPACT	OUTCOMES	GOVERNMENT PRIORITIES
People	Detection of possible offending	➤ Financial crimes being detected earlier, thereby minimising the impacts on the economy and victims	Business and investor confidence in the integrity of our financial markets is increased	A confident business environment that is largely free of serious financial crime	Stronger and enduring economy
		➤ An improved level of corporate responsibility by businesses maintaining fraud prevention and detection systems			
Relationships and partnerships	Investigations	➤ Sharing of specialist skills across public sector agencies to create improved efficiencies across all government agencies addressing financial crime	The regulatory environment minimises the risks and impacts of financial crime	A just society that is largely free of fraud, corruption and bribery	
Technology		➤ Better use of public sector resources and more effective sharing of intelligence ensuring that investigations are effective and cost efficient			
Communication	Prosecutions	➤ Policies being developed which take into account the changing nature, scale and impact of financial crime in New Zealand	Public and victims’ confidence that those who commit financial crime are held to account is increased	New Zealand maintains its international reputation for very low levels of corruption and bribery	
		➤ Conviction rates and sentencing levels deterring future offending			
Systems and process	Contribution to policy development	➤ Public awareness being raised as to the impact of financial crime on society	An efficient and effective open market being maintained		Better, smarter public services
		➤ Business in New Zealand conducted in an honest and transparent environment			

That said the SFO is highly tactical in its operations. There is no apparent strategy for the achievement of the outcomes or results and no compelling collective ambition or story for the agency. Success metrics are adequate but unsophisticated. When asked about strategy most internal stakeholders simply repeated the statutory purpose of the SFO. External stakeholders sometimes struggled to define the SFO’s value proposition or role in the wider justice and economic systems.

This lack manifests itself in particular with respect to SFO’s ability to prioritise in the medium to long term and to focus on stewardship issues. The agency prioritises well at a tactical level, ie, when deciding what to investigate and prosecute, but it is not apparent that it develops and pursues longer-term strategies that enable it to focus its activities proactively or ensure that it has, or has access to, the capabilities it will require for the future.

During the peak of finance company prosecutions in recent times, and with top-up funding, it has been relatively easy for the SFO to be clear about what it does and does not do. Significant trading off with respect to strategic options has not been required. With the wind down of the financial company prosecutions and the projected return to former baseline funding levels, it is important the SFO develops an intelligence-based, shared strategy (internally and externally) for its future focus. As a part of this, it will need to resolve the extent to which it deals with lower value but higher volume crime types, such as corruption, without straying from its statutory remit or diluting its impact as an elite agency in the serious crime space.

The SFO has until recently been operating under interim leadership, with three members of the SLT in transitional roles, including an acting Director. As a consequence, (and this is also a common feature of small agencies generally) the SFO's SLT has been working at an operational level making tactical and technical decisions. During this Review the SLT undertook its first strategic planning session with the new Director.

There is strong alignment between role, function and structure. However, the reducing baseline and the need to be clear about future role and capability will require a rethink of the business model. I have suggested that a professional services model should be considered. It is also important that the Director is provided the 'space' to engage externally with other agency and private sector stakeholders.

Some changes to leadership and governance styles and structure within the SFO are likely to be needed. It is essential that the Director is strongly focused on reconnecting with stakeholders and acting as a key player to drive a more integrated approach to financial crime. Key public and private sector stakeholders are receptive to this and keen to take the relationship to a more strategic level. Rather than continuing to operate through bilateral MOUs or very specific joint operations, the SFO should prioritise establishing standing multi-lateral approaches and agreements. SSC is working with other agencies in the justice and economic sectors on such an 'integrated sector model'.

Internally, it will be important the SLT manages to balance working on the business with working in it; always a challenge in an agency of this size. As the baseline normalises, the management structure probably needs flattening and teams may be better organised by technical expertise rather than, as now, by crime type.

At present the change management capacity within SFO is low; particularly as senior managers are also active investigation leads. It will be important to consider how to free up senior managers to drive changes to the operating model.

The SFO's staff have a strong commitment (85% in the Employee Engagement Survey) to the purpose of the organisation and there is strong alignment between that purpose and the personal values of staff. The staff I spoke to were passionately committed to the purpose of the SFO, very proud of the professionalism and quality of their work and clear about its importance, not only for the victims of white collar crime, but for investors and the wider New Zealand public.

Recent work has been undertaken on developing new values, or 'principles' and SFO staff have all signed up to these. The organisation now needs to ensure that the behaviours of all staff are aligned with the values of the organisation. I heard of autocratic behaviour by some senior staff. This can now be actively addressed in the context of the new principles, just as aligned behaviours need to be celebrated.

This issue was also highlighted in the 2012 Employee Engagement Survey and it has not been completely resolved by subsequent changes to the organisational structure and reporting lines. Some SFO staff reported having limited opportunities for one-on-one discussions with their managers and called for greater involvement in strategic discussions. At the same time, despite anonymity, most staff have not responded to the opportunity to provide feedback on the leadership competence of managers during the performance management process. There is an opportunity to build an organisational culture where constructive criticism is promoted and valued. To this end, a session was recently held with all staff to discuss and refine the organisation's values/principles. The performance management framework reinforces the organisational culture by placing emphasis on the modelling of desired behaviours. It will be important going forward that managers consciously model the values/principles and that the leadership continues to promote and reinforce positive behaviours.

Employee accountabilities are clearly documented and well understood. Financial and human resource delegations are included in all position descriptions and these are updated when necessary. The SFO staff report feeling empowered to fulfil their responsibilities and delegations are considered appropriate. They also report clear lines of sight between their individual contributions and the outcomes the SFO delivers.

Operationally, senior SFO staff undertake quarterly reviews of all cases to provide quality assurance and post-investigation review. The post-prosecution review processes use a detailed checklist internally, as well as an assessment by Panel Counsel. The SFO is developing a system to track the implementation of any recommendations from these external reviews and the steps taken to improve its policies and procedures. A performance measure has also been adopted around the timeliness of completion of these reviews. The results from a range of surveys of complainants, victims, witnesses and the public will be used to monitor perceptions of the efficiency and effectiveness of the SFO's investigations and prosecutions. These changes should help embed a culture of continuous improvement.

The SFO has collaborated with the FMA in identifying the strategic lessons learnt from the collapse of a number of finance companies and applying these to early detection.

At a strategic level the SFO has been the subject of a number of reviews (the latest to consider the appropriateness of its current form in 2012/13). As noted, it needs to develop a shared strategy to guide its future focus and development.

ORGANISATIONAL MANAGEMENT SECTION

Part Two: External Relationships

Engagement with the Minister(s)	
How well does the agency provide advice and services to its Minister(s)?	
Performance Rating: Well placed	
Sector Contribution	
How well does the agency provide leadership to, and/or support the leadership of other agencies in the sector?	
Performance Rating: Needing development	
Collaboration and Partnerships with Stakeholders	
How well does the agency generate common ownership and genuine collaboration on strategy and service delivery with stakeholders and the public?	
Performance Rating: Needing development	
Experiences of the Public	
How well does the agency meet the public's expectations of service quality and trust?	
Performance Rating: Strong	

The SFO submits monthly reports to the Minister, which provide a summary of performance and highlight any strategic issues. These reports are supported by monthly meetings that allow for shared understanding of expectations and discussions over the strategic direction of the SFO. Ministerial satisfaction has been achieved across a range of quality criteria, an excellent result given the lack of an internal policy function and the fact it is an Auckland-based agency.

Ministerial relationships are strong, and there is currently constructive discourse on the future model and medium-term strategic priorities for the SFO. More developed thinking on an integrated cross-sector model would assist the Minister to extend this discussion to her Cabinet colleagues.

The SFO is a part of the justice sector but it is critical that the agency is not viewed solely through that lens. Its role should also be of interest to economic growth, national security and institutions of government (trust and integrity) agencies and sectors.

MOUs have been developed with the FMA, the Inland Revenue Department (IRD), New Zealand Police and the New Zealand Customs Service (NZCS) to spell out areas of responsibility and accountability. These stakeholders have indicated that these MOUs tend to be operational and they look forward to working with the new Director to lift the arrangements to a more strategic level. For

example to get a better picture of the threatscape.

The agreement with the FMA establishes coordination procedures for both joint and separate investigations and prosecutions and employee secondments. It has been helpful in facilitating the joint prosecution of two recent cases involving failed finance companies and supporting five joint investigations. With new chief executives at both the SFO and FMA there is an opportunity to continue to strengthen this critical inter-agency relationship.

The SFO seeks to expand its formal relationships with other public sector organisations that might have periodic interest in financial crime incidental to their core functions. There are opportunities to better leverage SFO specialist competence in this area and to provide added value. In this regard, the SFO recently entered into an MOU with Victim Support, its relationships with the IRD and NZCS are under review and discussions are taking place with the Stock Exchange and the Reserve Bank of New Zealand.

In addition, the SFO collaborates with the following public sector organisations:

- Commerce Commission – financial crime identified as part of its competition law functions
- Department of Internal Affairs – criminal investigation arising from the regulation of gaming
- IRD – investigation and prosecution of tax fraud
- MBIE – financial investigation and prosecution incidental to its official assignee and regulatory functions.

In terms of its relationships with external stakeholders a comparison of results from 2011/12 and 2012/13 stakeholder surveys shows increased contact and communication with stakeholders (from 7.2 to 7.6 out of 10) as well as increasing effectiveness of investigations and prosecutions. The overall performance rating was maintained (7.3); however, there is a degree of variability between key informant groups. Private sector respondents held more favourable opinions than those from the public sector.

Developing and maintaining stakeholder relationships has been an important area of focus. Uncovering financial crime is contingent on good intelligence and systematic and long-run relationships with banking and financial institutions, professional services companies, regulators and law enforcement agencies. Enhanced communications with public and private sector organisations, along with a higher public profile, ensure that serious fraud complaints are directed to the SFO. A range of different tools have been deployed to increase stakeholder engagement, including stakeholder management plans, seminars, conferences and other events. The development of a regular newsletter has been welcomed by a number of partners but the agency's web presence and channel strategy both need attention.

The SFO maintains appropriate contacts with international counterparts. The ability to obtain information quickly from law enforcement agencies in other jurisdictions can be critical to certain investigations. These contacts are also useful from an intelligence perspective for scanning of emerging threats. Accordingly, the SFO is supporting the establishment of a network across financial crime authorities.

The SFO has direct contact with complainants and victims of financial crime. The number of complaints has grown in recent years, but the vast majority do not meet the SFO's mandate. This demonstrates the strength of the brand (79% of the public are aware of the SFO). It also reinforces the need for a formal triage process and effective networks so that these complaints can be referred

External Relationships

to the appropriate agency.

In 2012, the SFO commissioned a survey of victims of financial crime to ascertain whether service delivery matched expectations. All respondents believed that the actions of the SFO helped ensure that offenders were held to account. A further 97% felt the work of the SFO brought integrity to New Zealand's financial markets and/or legal system.

The SFO also currently has a high level of public support. A survey of public awareness found that 67% of respondents had trust and confidence in the SFO. A further 66% felt the SFO does a good job in bringing offenders to account.

ORGANISATIONAL MANAGEMENT SECTION

Part Three: People Development

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 capability requirements?

Performance Rating: **Needing development**



Management of People Performance

How well does the agency encourage high performance and continuous improvement among its workforce?

How well does the agency deal with poor or inadequate performance?

Performance Rating: **Needing development**



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?

Performance Rating: **Needing development**



The SFO is a small and highly technical organisation. Its core competence is based around maintaining a critical mass of skills in forensic accounting and financial investigations. The value of this capability is considerable and could be drawn on by the wider sector and system.

Given its small size, internal career progression is limited and the agency's talent management strategy also needs to be viewed on a multi-agency and multi-sector basis. For many of its staff, the SFO will be an agency they seek to work in to develop skills and experience for future roles in other agencies or sectors. A well tended alumni network in the wider State and private sectors will also be critical to moving to an agile resourcing model dependent on demand. This is a potential opportunity for the SFO but needs to be carefully managed.

Staff are encouraged to identify professional development opportunities that complement the agency's medium-term outcomes and strategy. This helps motivate staff and has resulted in tangible returns to the organisation. For example, staff members have recently pursued training opportunities or secondments with the FBI, UKSFO and with other domestic or international law enforcement agencies. Individuals benefit from these exchanges and the SFO is able to expand its networks. While there are performance incentives associated with some professional development opportunities, allocation is seen as being relatively equitable and transparent. That said, in a small organisation such opportunities are limited and it is important to ensure selection processes and focus are transparent. I heard evidence of concerns by some staff about how such decisions are made.

The move to a more explicit professional services model, where staff are organised by professional or technical expertise but assigned as appropriate to roles in case investigation teams, will assist in the development of parallel growth paths into management or technical expertise. Both options allow senior employees to share their experiences and to mentor recent recruits, reservists and secondees.

Performance agreements are linked to the behaviour and values the SFO is seeking to promote and there is alignment of individual targets with the SFOs KPIs. The SFO has started to put in place a mechanism to recognise good performance. Steps have been taken to address poor or inadequate performance, but this is still not seen as being dealt with in a consistently. Feedback mechanisms have also been included, but the power of this tool has yet to be fully realised. Employees do not feel it results in honest and constructive feedback, and worry about anonymity in such a small organisation (c.50 FTE on the enhanced baseline).

The performance management process is not uniformly applied. A number of the lowest rated questions from the Employee Engagement Survey (2012) relate to performance management and reporting relationships. Communicating objectives as well as providing regular feedback and coaching were all below public sector benchmarks. The SFO recognises that its performance management framework and practice remains a work in progress. Given the talent and commitment of its people, improvements need to be acted on with some urgency.

Staff were fully engaged in the revitalisation of the SFO and can see the value of the contributions they made to improving overall performance. Survey results show that more than 72% of staff believe the changes made the organisation more effective. Such a high level of endorsement is rare in public sector organisations that have been through a comparable period of significant change and uncertainty. The level of active disengagement at 7% is on the low side, for the State sector. Nevertheless, unusually in an organisation where staff show huge passion for and pride in their work, levels of ambivalence were high. Management attributes this to uncertainty in the recent past over the long-term status of the SFO, the Director role and the pending change to funding baselines. Given that these issues are now mostly resolved, I would be concerned if ambivalence persisted into the next period.

In all these areas of strategic HR, the SFO will need to consider opportunities for access to a shared service with other agencies. Given the modest size of its corporate functions, these challenges cannot be met from its current resource and capability base.

There is room to improve communication within the organisation and the SLT has been focusing on this issue. In a small organisation there can be a tendency to assume that employees are aware and informed of relevant issues. While regular and structured internal communications are provided by monthly all-team and weekly team meetings. There is a need going forward, to lift the strategic impact of these communications.

Engagement surveys reflect the strong connections between the SFO and its employees. Staff believe very strongly in the mandate of the organisation and are respectful of its brand and powers. They acknowledge the significant increase in the range and regularity of training opportunities and that some action has been taken to address poor performance. The value of informal activities and ones driven by the staff themselves, such as participation in sports teams and the social club, are not discounted. These serve as practical examples of the high degree of collegiality that exists across the SFO.

ORGANISATIONAL MANAGEMENT SECTION

Part Four: Financial and Resource Management

Asset Management

How does the agency manage agency and Crown assets, and the agency balance sheet, to support delivery and drive performance improvement over time?

Performance Rating: **Needing development**



Information Management

How well does the agency utilise information and communications technologies to improve service delivery?

Performance Rating: **Needing development**



Improving Efficiency and Effectiveness

How robust are the processes in place to identify and make efficiency improvements?
How well does the agency evaluate service delivery options?

Performance Rating: **Needing development**



Financial Management

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

Performance Rating: **Needing development**



Risk Management

How well does the agency manage its risks and risks to the Crown?

Performance Rating: **Needing development**



The PIF performance ratings are set against the systems expectations of public sector agencies in general. Small agencies inevitably find it difficult to develop critical mass of core competencies in some or all of these areas. The SFO has a very respectable back office to front office ratio and in terms of its day to day operations its capability is fit for purpose. It will need to access strategic HR capability and the baseline review will require access to strategic finance and planning capability it does not currently have in-house.

The SFO has fixed assets (property, plant and equipment plus intangible/software assets) which cost \$2.376 million with a (depreciated) net book value of \$853,000. Most assets comprise of office

furnishings and equipment and IT assets. Apart from an IT strategy, the SFO does not believe a formal asset plan is needed for an organisation of this size and complexity. I agree. The SFO appears to have sufficient funds to achieve replacement when due. Asset planning occurs at the same time as other business planning.

The SFO developed an IT strategy in 2009 with a detailed implementation plan. The strategy was delivered and now SFO is at the point where the document should be reviewed and refreshed. A road map has recently been developed to guide future investment in IT and the replacement of existing technology. Moreover, the SFO is currently investigating the potential to outsource the provision and maintenance of its IT, aligning with the Government IT strategy.

The key tools used by the SFO are the electronic forensics tools used for investigation and prosecution. These are formally reviewed annually using outside expertise (most recently PwC). Upgrades occur regularly and software is current. Installation and maintenance is undertaken using a combination of in-house expertise and vendor support. Software is replaced when new products become available and which are superior to current tools. Employees seem satisfied with the specialist tools at their disposal.

To assist with intelligence management, the SFO has recently invested in a new complaints management database and an intelligence database. These have created efficiencies in information management at the detection level.

The SFO holds sensitive personal and evidential information. It has strong IT controls around data security and effective policies in place. A security review was recently completed and a number of recommendations implemented to enhance the controls in place. The SFO has a tested back-up and recovery plan.

As noted in the Four-year Excellence Horizon the SFO will face real challenges in maintaining a technical edge regarding electronic search and seizure (fundamental to many of its cases) and, under a more integrated inter-agency approach, with respect to data sharing and joined-up intelligence.

The SFO has maintained a 'very good' rating from Audit New Zealand for its management control environment. In 2011, it developed and implemented a new suite of policies, which are subject to on-going continuous improvement with regular review and refinement.

The SFO has fit-for-purpose budgeting and planning systems in place. The challenge of responding to a reducing baseline has been commented on earlier. As noted above I am not confident that the SFO has the strategic financial support that will be required to manage this challenge. It should consider seeking support from other better placed agencies within its sector.

The ratio of support and managerial employees relative to those engaged in detection, investigation and prosecution seems appropriate or light – 7.5 SFO employees support and manage approximately 42 operational FTEs, a ratio of approximately 1:7.

Time to complete a case is a key efficiency measure for the SFO. This is monitored and published in the Annual Report. Results have improved in recent years. The SFO also has benchmarked its performance against its counterpart in the UK and is performing well on key metrics.

The SFO maintains a strategic risk register and risk management policy, which are regularly reviewed

by SLT. The risk assessment takes a sector view and is not restricted to the SFO itself.

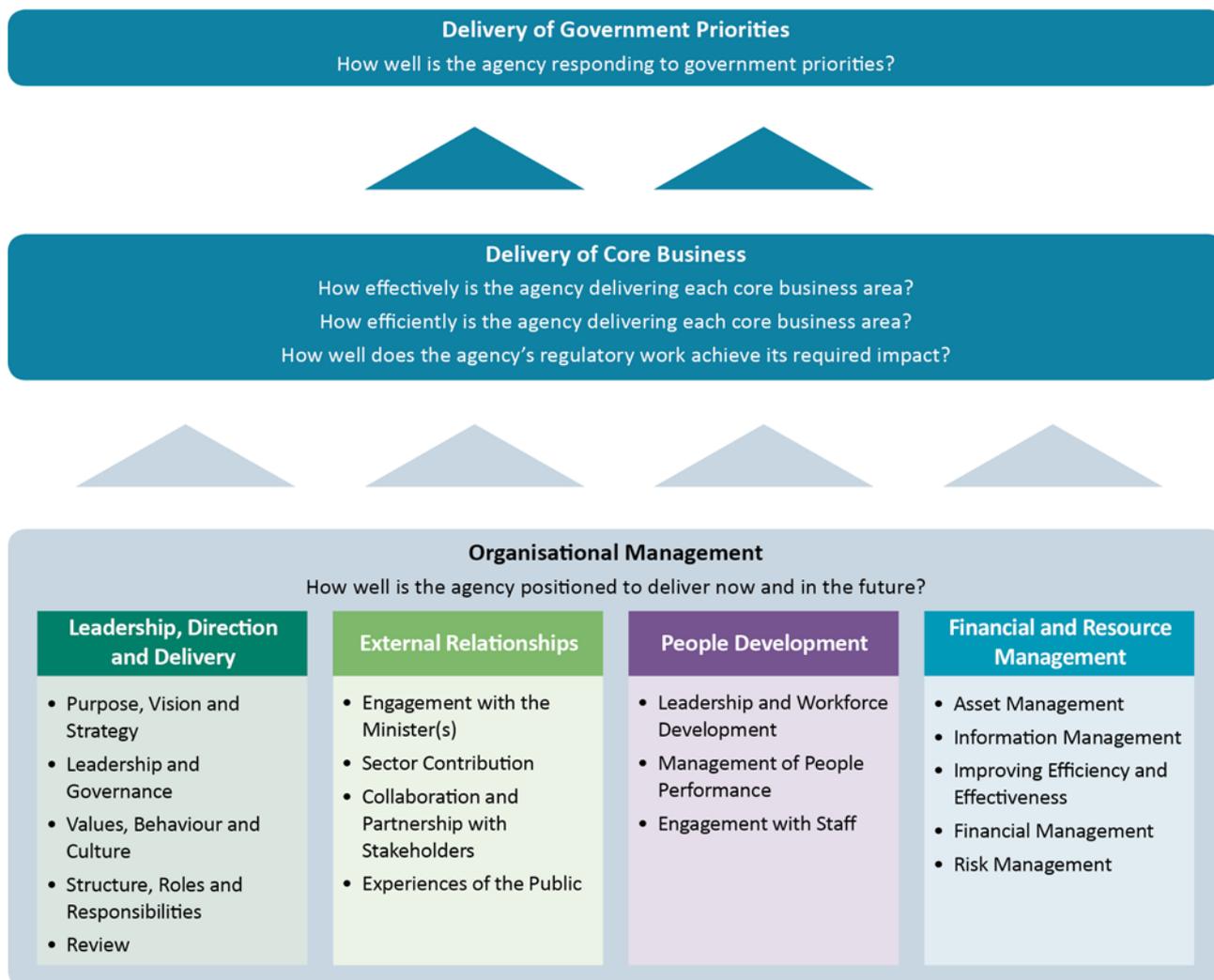
Potential areas of improvement the SFO has identified include:

- sharing of strategic risks with stakeholders, given that their understanding of the SFO is critical and their ability to influence risk mitigation
- a formal process of risk updating through regularly scheduled evaluations of risks and their mitigation in conjunction with other strategic planning activities.

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 on external audit. This seems appropriate for an entity of this size and complexity.

APPENDIX A

Overview of the Model



Lead Questions

Results

Critical Area	Lead Questions
Government Priorities	1. How well is the agency responding to government priorities?
Core Business	2. How effectively is the agency delivering each core business area?
	3. How efficiently is the agency delivering each core business area?
	4. How well does the agency's regulatory work achieve its required impact?

Organisational Management

Critical Area	Element	Lead Questions
Leadership, Direction and Delivery	Purpose, Vision and Strategy	5. How well has the agency articulated its purpose, vision and strategy to its staff and stakeholders?
		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?
		8. How well 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?
Structure, Roles and Responsibilities	10. How well does the agency ensure that its organisational planning, systems, structures and practices support delivery of government priorities and core business?	
	11. How well does the agency ensure that it has clear roles, responsibilities and accountabilities throughout the agency and sector?	
Review	12. How well does the agency monitor, measure, and review its policies, programmes and services to make sure that it is delivering its intended results?	
External Relationships	Engagement with the Minister(s)	13. How well does the agency provide advice and services to its Minister(s)?
	Sector Contribution	14. How well does the agency provide leadership to, and/or support the leadership of other agencies in the sector?
	Collaboration and Partnerships with Stakeholders	15. How well does the agency generate common ownership and genuine collaboration on strategy and service delivery with stakeholders and the public?
	Experiences of the Public	16. How well does the agency meet the public's expectations of service delivery quality and trust?
People Development	Leadership and Workforce Development	17. How well does the agency develop its workforce (including its leadership)?
		18. How well does the agency anticipate and respond to future capability requirements?
	Management of People Performance	19. How well does the agency encourage high performance and continuous improvement among its workforce? 20. How well does the agency deal with poor or inadequate performance?
Engagement with Staff	21. How well does the agency manage its employee relations?	
	22. How well does the agency develop and maintain a diverse, highly committed and engaged workforce?	
Financial and Resource Management	Asset Management	23. How well does the agency manage agency and Crown assets, and the agency balance sheet, to support delivery and drive performance improvement over time?
	Information Management	24. How well does the agency utilise information and communications technologies to improve service delivery?
	Improving Efficiency and Effectiveness	25. How robust are the processes in place to identify and make efficiency improvements?
		26. How well does the agency evaluate service delivery options?
	Financial Management	27. How well does the agency plan, direct and control financial resources to drive efficient and effective output delivery?
Risk Management	28. How well does the agency manage its risks and risks to the Crown?	

APPENDIX B

List of Interviews

This review was informed by input provided by a number of SFO and Central Agency staff, relevant Ministers, and by representatives from the following businesses, organisations and agencies.

Agency/Organisation
Canterbury Earthquake Recovery Authority
Commerce Commission
Crown Law Office
Deloitte
Department of Internal Affairs
Financial Markets Authority
Inland Revenue Department
Institute of Directors
The Judiciary
Ministry of Business, Innovation and Employment
Ministry of Justice
New Zealand Customs Service
New Zealand Law Society
New Zealand Police (including OFCANZ)
Office of the Auditor General
Prosecution Panel