



---

Report of the  
**SERIOUS FRAUD  
OFFICE**

TE TARI HARA TĀWARE

for the year ended  
30 June 2005

---

*Presented to the House of Representatives pursuant to the  
Public Finance Act 1989*



Hon. Dr Michael Cullen  
Attorney-General

In accordance with the Public Finance Act 1989 I submit the following report on the operations and financial performance of the Serious Fraud Office for the year ending 30 June 2005.

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

DJ Bradshaw  
Director

## CONTENTS

	PAGE
STATEMENT OF PURPOSE	6
CHIEF EXECUTIVE'S OVERVIEW	8
STATEMENT OF RESPONSIBILITY	12
REPORT OF THE AUDIT OFFICE	13
PERFORMANCE INFORMATION	15
Statement of Objectives and Service Performance	16
Summary of Total Cases	17
Output Measures	18
Use of Statutory Powers	23
Prosecutions Completed	25
Statement of Accounting Policies	29
Statement of Financial Performance	32
Statement of Movements in Taxpayers' Funds	33
Statement of Financial Position	34
Statement of Cash Flows	35
Statement of Commitments	36
Statement of Contingent Liabilities	36
Statement of Departmental Expenditure and Appropriations	37
Statement of Unappropriated Expenditure	37
Notes to Financial Statements	38
MANAGEMENT PERFORMANCE INFORMATION	42
Corporate and Collective Interest Management Report	43
INFORMATION ABOUT THE DEPARTMENT	46
Policy on Acceptance of Cases	47
Management and Structure	50
Serious Fraud Office Act – Panel of Prosecutors	51
Public Relations	52

**DIRECTORY**

<b>Location:</b>	Level 2 Duthie Whyte Building Cnr Mayoral Drive and Wakefield Street Auckland City
<b>Postal Address:</b>	PO Box 7124, Wellesley Street, Auckland
<b>Auditor:</b>	Audit New Zealand on behalf of the Controller and Auditor- General
<b>Bankers:</b>	Westpac, Government Branch, Wellington

## **STATEMENT OF PURPOSE**

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

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

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

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

***Departmental  
Scene Setting***

## CHIEF EXECUTIVE'S OVERVIEW

This Annual Report provides a timely opportunity to reflect on what can be achieved in the fight against crime where there is a will in Parliament to address serious issues of criminal offending by amending principles of our criminal justice system that have existed for many years.

It is 15 years since the Serious Fraud Office was established in New Zealand. The most notable, and controversial, aspects of the Act creating the Serious Fraud Office were

- (1) The power given to the Director to conduct compulsory interviews at which the right of persons to refuse to answer questions was set aside, and
- (2) Allowing the Director to go behind all relationships of confidentiality with the exception of legal professional privilege.

These provisions have proved invaluable, indeed essential, in ensuring that white collar offenders are now much more likely to be held accountable for their actions.

A large number of people assume that the Office uses the removal of the right to silence as a means of obtaining confessions from offenders. That is a fallacy. Very few of the offenders prosecuted by the Office admit to their offending during a compulsory interview. In any event, the removal of the right to silence comes with certain safeguards. Any self-incriminating statements made at a compulsory interview are not able to be produced in evidence by the Office unless the person making them subsequently gives a different account in Court. The advantage of the compulsory interview lies in the ability of the Office to ask an offender for an explanation of events to "tie" the offender to that explanation, and most importantly to obtain relevant information from third parties associated with the matter who for one reason or another would not be prepared to provide that information to the Serious Fraud Office voluntarily. For example, an offender's accountant would probably not provide information to the Office without this power of compulsion and the setting aside of the confidentiality associated with the client relationship. These provisions enable the Director to be much better informed about the matter under investigation. It necessarily follows that the likelihood of a person being wrongfully charged is significantly reduced; and the chances of an offender being brought to trial are greatly enhanced.

Accountability at all levels in our society has become a key issue over the past two decades. The actions of law enforcement agencies are no exception. Serious Fraud Office actions, to varying degrees, are examined by Parliament, by Select Committees, by the various Courts, by the media and by the public in general. In many instances it will be an occasional failure, shortcoming or mistake that attracts the attention – not the hundreds of other occasions where things are done well. As a law enforcement agency we accept the need to maintain the highest standards in serving the public, and to operate within the law. The Serious Fraud Office is committed to seeing that where there is a case to answer the matter will be put before the Courts in the fullest and fairest manner. Equally the Office is committed to ensuring a thoroughness in its investigations that minimises the prospect of any person being put on trial where there is no real likelihood of a conviction.

On the other hand our current criminal law procedures offer very little real incentive for offenders in serious matters to accept accountability for their actions even when the evidence is

overwhelming. By not co-operating with an investigation an offender will hope that insufficient evidence will be uncovered for the matter to go to trial. But, if prosecuted, an offender may instruct their counsel to argue as many technical points as possible in an attempt to avoid accountability for his or her actions. We do see Courts, from time to time, throw out cases, or rule out important evidence, on quite technical grounds with the consequence that a person charged with a serious offence may not be held to account for his or her actions. Mistakes by law enforcement agencies should never be condoned, but unless the action has been totally abhorrent, perhaps it is time to take another look at the proportionality of the outcomes to determine whether the current approach meets the expectations of the community. The Court of Appeal signalled such a stance in the Shaheed<sup>1</sup> decision, but there are still serious prosecutions that are dismissed on technicalities. Ironically the crimes where the technical arguments seem to occur most are the ones that are amongst the most damaging to society – drugs, drink-driving offending and serious economic crimes.

A number of reforms are currently being proposed for our criminal justice system. In considering such reforms Members of the incoming Parliament would do well to reflect on what has been achieved over the past fifteen years in the field of serious and complex fraud as a result of the bold steps taken by their predecessors. The Serious Fraud Office Act 1990 has not led to widespread abuse of the powers given to the Director or a breakdown in the rule of law. To the contrary it has seen the development of a culture within the Serious Fraud Office that values the trust that Parliament reposed in it, which respects the rule of law, and which ensures that the statutory powers are exercised with integrity and restraint. It has also seen in New Zealand a law enforcement agency that rates with the best in the world for its investigative techniques, its prosecutorial ability, and its results.

### ***Proceeds of Crime***

During the year the government announced proposed changes to the Proceeds of Crime legislation. The most significant change was the intention to remove the necessary link to a conviction before any “tainted” assets are able to be forfeited. The proposal is that where it can be established to the civil standard of proof (the balance of probabilities) as opposed to the criminal standard (beyond reasonable doubt) that assets are the proceeds of any major criminal offending then they will be able to be confiscated. It will no longer be necessary to link the confiscation to an actual prosecution or conviction. This approach is consistent with the approach that has been taken in a number of overseas jurisdictions for several years, notably the United Kingdom, Ireland, South Africa and several states of Australia.

It became apparent from enquiries made by the Serious Fraud Office of these overseas jurisdictions that the new approach would require a different skill-set from the current proceeds of crime activities. There will be a far greater emphasis on forensic accounting and the reconstruction of financial records than on traditional crime inquiries.

Cabinet decided to locate the new function within the Serious Fraud Office. That decision reflected the requirements of the new role, the skills available within the Serious Fraud Office, and the experience of overseas agencies as to the importance of the role of the forensic accountant in determining the extent of the tainted assets. The role of the Police was also recognised with the intention that at any one time several members of the Police would be seconded to the Serious Fraud Office to work alongside the Serious Fraud Office staff in the new role.

Once implemented the new policy should go a long way towards ensuring that serious criminal offending does not pay. The Proceeds of Crime Act 1991 was aimed largely at drug dealers. It enabled property to be restrained upon an arrest, or where an arrest was imminent. It did not, however, allow for any restraining action to be taken where an investigation could take many months, thereby effectively negating the legislation in relation to most white collar offending. Nor did it allow for any action to be taken to recover benefits clearly obtained from crime where charges failed for technical rather than substantive reasons. That will change under the new policy. The revised proceeds of crime legislation will be able to be used effectively in a much wider range of situations.

There will understandably be opposition to this new approach, largely driven on the basis of inconsistencies with the right of individuals under the New Zealand Bill of Rights Act 1990. It will be argued that a conviction should remain a prerequisite condition to the confiscation of any assets. And there will be opposition to the Serious Fraud Office having any special powers in relation to this work, notwithstanding that the policy is aimed at addressing the most serious of criminal offending. Parliament will have to address issues very similar to those that it faced fifteen years ago when passing the Serious Fraud Office Act 1990. The success of the new proceeds of crime policy will depend as much upon the boldness of the legislators as it will upon the skill and commitment of the Serious Fraud Office.

### ***The Past Year***

The Serious Fraud Office continued its work of investigating and prosecuting serious fraud. Full details of our work during the year are contained in the body of this Report. The statistics alone, however, can never tell the full story. Each investigation or prosecution presents its own particular challenges. Very few of our cases are straight forward. I am fortunate in having a team around me whose dedication and professionalism is second to none. The Office's workload has increased steadily over the past 15 years, yet the number of staff employed has remained relatively constant. The increasing efficiency has been pleasing, and gratifying to me personally, especially as it has not impacted adversely on our results. The Office is also well served by a panel of prosecutors drawn from outside of the Office who act as lead counsel in defended hearings. I thank each member of the staff and each panel member for the invaluable contribution that they have made to the work of the Office.

An increasing number of our cases now involve an overseas component. This adds to both the complexity of the investigation and the time taken to bring the case to a conclusion. The Office has excellent relationships with many law enforcement agencies abroad. The value of these relationships can not be overstated. During the year the Office also provided assistance to several overseas agencies in their fight against fraud, significantly so in the Pacific region.

The Office also works closely with other agencies within New Zealand. A new initiative during the year was a successful education campaign "Protect yourself from Fraud", carried out in Tauranga and the Western Bay of Plenty, jointly with the Securities Commission. This formal campaign complemented the numerous speaking engagements that the Office accepts each year in an endeavour to educate the public against fraud. The Office developed two new brochures – on Investment Scams and Housing Fraud – for the Bay of Plenty campaign. These brochures are now made available regularly to such places as Citizens Advice Bureaux. They are also available on our website.

The Serious Fraud Office with a staff of just 35 employees is one of the smallest components of our criminal justice system. The results that it achieves, not just in the investigation and prosecution of serious and complex fraud in New Zealand but in the development of new initiatives, and in the sharing of its expertise both at home and abroad, far exceeds its size.

We look forward to meeting the challenges that lie ahead for the Serious Fraud Office both in its existing role dealing with serious and complex fraud, and in its new role implementing the changes to the proceeds of crime legislation. I am confident that the Office has the capability to continue to achieve excellence in all that it does.



DJ Bradshaw  
Director

<sup>1</sup>R v Shaheed [2002] 2NZLR 377 (C.A).

**STATEMENT OF RESPONSIBILITY  
FOR THE YEAR ENDED 30 JUNE 2005**

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

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

In my opinion, these financial statements fairly reflect the financial position and operations of the Department for the year ended 30 June 2005.



DJ Bradshaw  
Director  
30 September 2005



Shareez Farouk  
Chief Financial Officer  
30 September 2005



Audit New Zealand

## AUDIT REPORT

### TO THE READERS OF THE SERIOUS FRAUD OFFICE'S FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2005

The Auditor-General is the auditor of the Serious Fraud Office (the Office). The Auditor-General has appointed me, H C Lim, using the staff and resources of Audit New Zealand, to carry out the audit of the financial statements of the Office, on his behalf, for the year ended 30 June 2005.

#### ***Unqualified opinion***

In our opinion the financial statements of the Office on pages 16 to 41:

- comply with generally accepted accounting practice in New Zealand; and
- fairly reflect:
  - the Office's financial position as at 30 June 2005;
  - the results of its operations and cash flows for the year ended on that date; and
  - its service performance achievements measured against the performance targets adopted for the year ended on that date.

The audit was completed on 30<sup>th</sup> September 2005, and is the date at which our opinion is expressed.

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

#### ***Basis of opinion***

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

We planned and performed our audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements did not have material misstatements, whether caused by fraud or error.

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

Our audit involved performing procedures to test the information presented in the financial statements. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

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

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

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

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

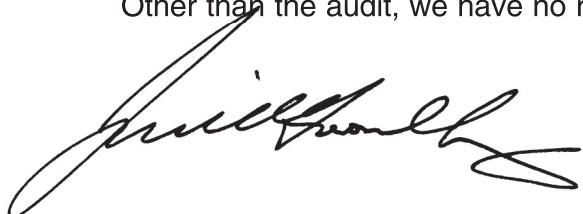
The Director is responsible for preparing financial statements in accordance with generally accepted accounting practice in New Zealand. Those financial statements must fairly reflect the financial position of the Office as at 30 June 2005. They must also fairly reflect the results of its operations and cash flows and service performance achievements for the year ended on that date. The Director's responsibilities arise from the Public Finance Act 1989.

We are responsible for expressing an independent opinion on the financial statements and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and the Public Finance Act 1989.

### ***Independence***

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

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



H C Lim  
Audit New Zealand  
On behalf of the Auditor-General  
Wellington, New Zealand

***Performance  
Information***

**STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE  
FOR THE YEAR ENDED 30 JUNE 2005**

2001/02 Actual \$000	2002/03 Actual \$000	2003/04 Actual \$000		2004/05 Actual \$000	2004/05 Budget \$000
			<b>Output</b>		
			Investigation and Prosecution of Complex and Serious Fraud		
4,444	4,588	4,747		4,607	4,820
<u>4,444</u>	<u>4,588</u>	<u>4,747</u>	<b>Total (excluding GST) .....</b>	<u>4,607</u>	<u>4,820</u>

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

## STATEMENT OF SERVICE PERFORMANCE

### 1. SUMMARY OF TOTAL CASES FOR THE YEAR ENDED 30 JUNE 2005

A total of 57 cases were on hand at the beginning of the year at assessment/detection, full investigation or prosecution stage. During the year a further 67 new cases were assessed and 1 case was reinstated. This gave the Office an overall caseload of 125 files. At the end of the financial year there were 60 cases on hand – 10 at assessment/detection, 19 at full investigation and 31 prosecutions.

**Note:**

<i>Assessment</i>	complaints undergo an initial assessment to determine whether the matter has reached the statutory threshold for the further consideration under either the Detection or Investigation provisions of the Serious Fraud Office Act 1990
<i>Detection</i>	some complaints require further consideration of all the documentary material to determine whether the complaint should proceed to a full investigation
<i>Investigation</i>	involves obtaining and analysing documents, researching financial transactions and interviewing potential witnesses and suspects to determine whether charges are to be laid
<i>Prosecution</i>	involves preparing the prosecution files, brief evidence and conducting the prosecution

## 2. OUTPUT MEASURES

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

#### ***Description***

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

Following investigation, the Director makes a decision on whether or not any criminal charges should be laid.

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

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

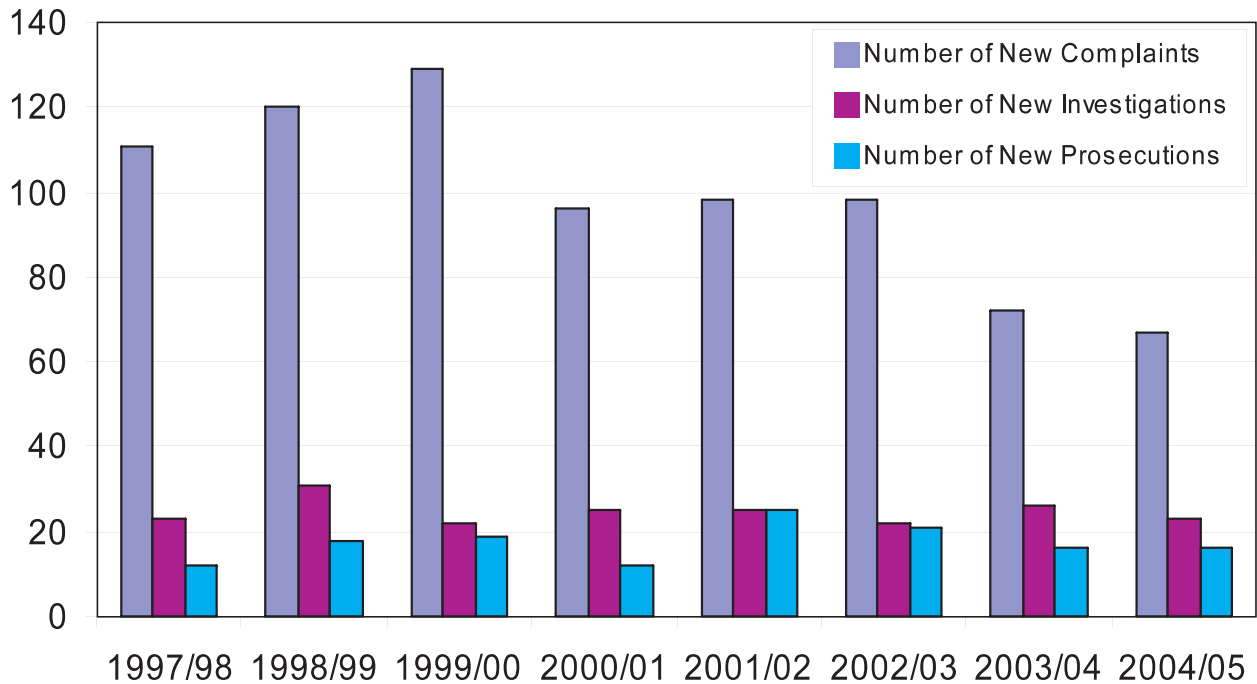
#### ***Outcome***

To combat serious and/or complex fraud offending.

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

As the trend in the diagram below indicates, the number of new complaints received over the past few years has been relatively stable. There was a slight drop in the number of complaints assessed this year. This statistic alone, however, is not a sound measure of workload as the nature of the complaints can vary significantly. Thus, for example, this year 19 of the 67 new complaints assessed (28.5%) were considered to meet the threshold for a full investigation. In the previous year 18 out of 72 new complaints (25%) were considered to have met the threshold for a full investigation. Moreover, some complaints fall outside the “serious or complex” category and are more properly referred to other agencies. Where that decision is able to be made by the Complaints Officer at the outset, the matter will not be formally recorded as a matter assessed by the Director. Only those matters placed before the Director to determine whether or not the case meets the statutory threshold are recorded as complaints for statistical purposes.

### Trend in Workloads



During the reporting period:

- 16** investigations were completed and proceeded to prosecution;
- 10** investigations were completed but did not proceed to prosecution;
- 16** cases were referred to other more appropriate agencies, namely:
  - 3 to the NZ Police
  - 3 to the NZ Immigration Service
  - 2 to the IRD
  - 2 to the Commerce Commission
  - 2 to the Securities Commission
  - 2 to the National Enforcement Unit
  - 1 to the Australian Police
  - 1 to the Official Assignee
- 38** cases were closed following consideration and assessment as they were found not to justify further action;
- 10** cases remain at the assessment or detection stage;
- 19** cases remain at the full investigation stage;
- 31** cases remain at the prosecution stage.

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

### ***Performance Targets***

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

Cases at the Assessment/Detection stage during the year.	74
Cases at Assessment/Detection Stage at 30th June 2005	10
Cases exceeding 6 months at the Assessment/Detection stage	5

The performance target was met in all but 5 cases with the decision point being reached well within the timeframe, usually within one month. Of the 5 cases that exceeded 6 months, 3 cases were placed on hold waiting for various matters associated with related Court proceedings, and the other 2 cases were delayed due to difficulties in obtaining information about aspects of the allegations.

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

During the reporting period a total of **45** cases were at the investigation stage and of these:

- 10** were completed but did not proceed to prosecution
- 16** resulted in prosecution
- 19** remain under investigation.

In the 16 cases where the investigations were concluded and proceeded to a prosecution, the average length of time from the receipt of the complaint to the prosecution commencing was around 8 months. One investigation fell outside of the 12-month period. That investigation involved a complex investment fraud. It took considerable time to reconstruct the financial basis of the scheme and to interview potential witnesses. The absence of the main suspect from New Zealand also delayed the completion of this investigation.

Of the 10 investigations that were completed but did not result in a prosecution four cases exceeded the 12-month period. One of these cases was delayed by legal privilege arguments; one case involved a joint investigation with the Australian Federal Police, and in the other two cases there were additional developments late in the inquiry that required further investigation.

Of the 19 cases on hand at the investigation stage, the average age of the investigation is 9  $\frac{3}{4}$  months, with five cases having been under action for more than 12 months. Two of those cases involve investigations by overseas law enforcement agencies over which the New Zealand Serious Fraud Office has no control. One case (referred to last year in relation to problems with obtaining evidence from overseas) is currently the subject of appeal proceedings on a related tax issue. One case involving mortgage fraud has involved the investigation of a significant number of conveyancing transactions and numerous interviews and is now almost completed. The fifth case, and perhaps the most concerning, has been delayed due to Court challenges to the right of the Serious Fraud Office to certain information.

Overall, 10 cases out of the total of 45 (22%) exceeded the 12-month target. Whilst it is useful to have a guideline for the timely completion of investigations that target must never be allowed to replace properly considered decisions based on sound evidence and a careful assessment of the law.

During the year ended 30 June 2005, 16 new prosecutions were commenced in addition to the 29 prosecutions that were under action at the beginning of the year. Of these, 14 prosecutions were concluded during the year. Several of these cases involved a number of defendants. Convictions were obtained in 12 of the cases.

One case during the year saw two defendants found guilty but the jury was hung on the guilt of the third defendant. The retrial for this third defendant will occur in the 2005/2006 financial year. This case has not been included in the 14 completed prosecutions for the current financial year.

During the year four appeals against conviction and sentence, and one appeal against sentence only, were heard. In all but one instance the appeals were dismissed. In one case a sentence of 5 years imprisonment was reduced to 4 years imprisonment.

The Serious Fraud Office assisted the Cook Islands with an appeal lodged against conviction and sentence by Mr Drollett who had been convicted on secret commission and forgery charges the previous year following a joint Serious Fraud Office/Cook Islands Police prosecution. The appeal against the convictions was dismissed, but the sentence was reduced from 2 years to 16 months on the secret commission charges and from 3 months to 2 months on the forgery charge.

At the end of the reporting period there were 31 prosecution cases under action. These included several cases where action is being taken to extradite the offenders to stand trial in New Zealand.

For the period from the inception of the Office to the 30 June 2005 the Office has a 91.3% success rate with prosecution cases, and an 82.8% success rate in relation to individuals prosecuted by the Office.

### ***To meet the dates set by Courts***

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

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

The Office continues to receive favourable comments about the high quality of investigative work, case preparation and case presentation. The overall professionalism of the case investigation preparation and presentation by the Office is a factor in the successful determination of the cases.

There were no unsatisfactory reports. Assessment will continue to be carried out by observation by the Director, peer review and judicial comment.

Where appropriate prosecution cases are debriefed as a part of ensuring that the Office maintains the highest standards in its prosecutions.

***That the outputs are provided within the appropriated sum – financial performance  
Statement of cost of services (GST exclusive)***

	<b>Main Estimates \$000</b>	<b>Final Estimates \$000</b>	<b>Actual \$000</b>	<b>2003/04 Actual \$000</b>
Revenue - Crown .....	4,760	4,760	4,760	4,699
Revenue - other .....	9	60	19	63
Profit on Sale of assets .....	-	-	-	-
Total revenue .....	4,769	4,820	4,779	4,762
Expenses .....	4,769	4,820	4,607	4,747
Net surplus/(deficit) .....	-	-	172	15

### 3. USE OF STATUTORY POWERS

#### **Target**

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

#### **Delivery**

In the twelve months to 30 June 2005, effective use of the Office's powers has continued.

In total, 861 Notices (1074 in 2003/04 and 956 in 2002/03) were issued requiring people to give information and/or produce documents.

5 (17 in 2003/04 and 16 in 2002/03) search warrants were executed.

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

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

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

		<b>2002/2003</b>	<b>2003/2004</b>	<b>2004/2005</b>
S5A	Requiring documents	134	58	118
S5(b)	Requiring answers to questions	Nil	Nil	13
S6	Search warrant obtained	Nil	Nil	Nil

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

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

		<b>2002/2003</b>	<b>2003/2004</b>	<b>2004/2005</b>
S9(d)	Requiring answers to questions	85	205	101
S9(e)	Requiring information	197	140	69
S9(f)	Requiring documents	540	671	560
S10	Search warrant obtained	16	17	5

#### **Performance**

The Director (or an Assistant Director in the Director's absence) personally signs all Notices requiring persons to attend to answer questions. An Assistant Director under delegated authority signs notices requiring the production of documents. To ensure that requisite grounds exist for the exercise of these powers an internal control procedure is followed before the Notices are referred for signature.

Search Warrants are issued on written application to a District Court Judge. The Director, or an Assistant Director, must be notified of any request for a search warrant.

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

The Office had occasion to review its search warrant procedures following an unsuccessful challenge made against evidence seized under a warrant in a particular case. The observations made by the Court were carefully considered. An additional step has been included in the internal procedures to minimise the possibility of relevant papers being overlooked during the preparation of the search warrant application. The internal procedures have been further strengthened by the introduction of a checklist that has to be completed before an application is lodged with the Court.

### ***Enforcement of Statutory Powers***

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

During the last financial year the Office did not commence any prosecutions against any individuals for failing to comply with the requirements of the Serious Fraud Office Act. Of the prosecutions that had been commenced in the previous year the Courts recognised that the law had been broken on each occasion but the penalties differed markedly. At one extreme the Court acknowledged the seriousness of the non-compliance and imposed a 3 month term of imprisonment. At the other extreme the defendants were discharged without conviction.

## 4. PROSECUTIONS COMPLETED

### Case 1

#### **Donald Allen, Stuart Buckland, Dianne Christie and Murray Christie**

The defendants were charged with conspiracy to defraud in relation to a scheme to raise large sums of money by promising unattainable returns on investments. (section 257 Crimes Act 1961) These promises often followed attendance by the victims at off-shore promotions arranged by the defendants. A fifth person (Eugene Palmer) was also involved. He was convicted in the USA and sentenced to imprisonment. Messrs Palmer and Allen were the two principals behind the scheme. Buckland introduced many investors to the scheme. Mr & Mrs Christie were the major administrative officers of the scheme. All four defendants were found guilty. Allen was sentenced to 6 years imprisonment. The other three defendants all received prison sentences of 3 ¼ years. Messrs Allen and Buckland appealed, but their appeals were dismissed.

### Case 2

#### **Richard Gregory Beven**

Richard Beven worked for a company providing finance for motor vehicle purchases. On 8 occasions in 2002 and 2003 he used settlement authorities for fictitious or historical purchases and paid the money – around \$1million – into his own account. Beven pleaded guilty to defrauding his employer (section 229A Crimes Act 1961) and was sentenced to 3 ½ years imprisonment.

### Case 3

#### **Gary John Chapman**

Gary Chapman stole money from his employer, Thomas Cook, and falsified the accounts to cover up his theft. He pleaded guilty to one count of false accounting by an employee (section 253 Crimes Act 1961). He was sentenced to 12 months imprisonment with leave to apply for home detention. He was also ordered to pay \$25,000 costs on his release.

### Case 4

#### **James Chapman Eide**

James Eide used a private offer memorandum to induce persons to invest in a joint venture. The Serious Fraud Office alleged that Eide did not intend to put that investment money into the joint venture, but rather to channel it to himself and his interests. Eide was found guilty of using a document with intent to defraud (section 229A Crimes Act 1961) and sentenced to 2 ¼ years imprisonment. He appealed both his conviction and sentence. Those appeals were dismissed.

### Case 5

#### **Zhi Wei Fan**

Zhi Wei Fan was employed by a financial company. He manipulated the internal documentation so as to cause other employees to transfer funds to his bank account. He then obtained finance for a private property purchase on the basis that the stolen monies were the proceeds of a business he ran in China. Fan pleaded guilty to 18 charges of dishonesty (sections 229A and 228(b) Crimes Act 1961) and was sentenced to 3 years imprisonment.

Case 6**Tony King**

Tony King was a tax consultant who over a number of years misappropriated his clients' tax cheques and refunds and failed to invest clients' funds as directed. The offending involved approximately \$1.8million. He pleaded guilty to 2 counts of use of a document with intent to defraud (section 229A Crimes Act 1961) and 1 count of theft by a person required to account (section 222 Crimes Act 1961). He was sentenced to 5 ½ years imprisonment.

Case 7**Brett William Knock**

Brett Knock, a chartered accountant, defrauded his clients of around \$800,000 over a period of 10 years by manipulating their tax entitlements. Knock also faced charges relating to false information provided for the purpose of obtaining loans to the value of \$1.19million. Knock pleaded guilty to 16 charges of use of a document with intent to defraud (section 229A Crimes Act 1961) and 5 charges of forgery (section 265 Crimes Act 1961). He was sentenced to 6 years imprisonment. That sentence was upheld on appeal.

Case 8**Douglas John Potter and Bryan Thomas Dolheguy**

Douglas Potter collected a large sum of money for "investment" in Prime Bank Instruments on the basis that the money would be held in a New Zealand account and not go offshore. Bryan Dolheguy introduced Potter to a PBI "opportunity" that resulted in US \$1million being sent offshore. The money was lost. Potter and Dolheguy pleaded not guilty to charges of theft by misappropriation of proceeds held under a direction (section 224 Crimes Act 1961). After a trial by jury they were both acquitted.

Case 9**John Reid, Peter Russell, Peter Connelly and John Currie**

The defendants were charged with conspiracy to defraud in relation to a complex investment/tax scheme, and also a number of money laundering offences in relation to the way that monies were transferred between entities. (sections 257 and 257A Crimes Act 1961) The case was heard before a Judge sitting alone. The Judge held that neither the scheme in its totality, nor any part of it, constituted criminal offending. The four defendants were acquitted.

Case 10**Vijay Sen Sethi**

Vijay Sethi, as an employee at a University, submitted 13 false invoices totalling around \$250,000. He also defrauded the University in relation to course fees for a course he attended after he had left the University. Sethi pleaded guilty to fraud (section 229A Crimes Act 1961) and was sentenced to 22 months imprisonment with leave to apply for home detention.

Case 11**David Gene Murray Shepherd**

David Shepherd, a bank employee, fraudulently made available for his own use \$700,000 in overdrafts and loans in fictitious names, and then used that money to obtain a further \$500,000 in loans for himself. Shepherd pleaded guilty to defrauding the bank (section 229A Crimes Act 1961) and was sentenced to 2 years imprisonment with leave to apply for home detention. He was ordered to pay \$200,000 in reparation.

### Case 12

#### **Claire Snell**

Claire Snell managed two consumer loan companies over the period May 2002 – March 2004. She created false consumer loans and pocketed the resulting loan funds. She then used further false loans to make the repayments on the original false loans. She stole over \$700,000 in this manner. Snell pleaded guilty to a number of dishonesty charges (section 229A and 228(b) Crimes Act 1961) and was sentenced to 4 years imprisonment.

### Case 13

#### **John William Tanner**

John Tanner, an accountant, fraudulently misappropriated approximately \$600,000 of client funds over a 7 year period. He pleaded guilty to 26 dishonesty charges. He was sentenced to 2 years 3 months imprisonment and ordered to pay \$25,000 reparation.

### Case 14

#### **Patricia Walsh & Elva Medhurst**

Patricia Walsh caused almost \$2million to be sent from New Zealand to a group of people in the United Kingdom, the Netherlands and Nigeria for investments. Walsh raised this money by making false claims about her intended use of the money. Walsh forged a series of documents to convince her victims of the genuineness of her activities. When Walsh was prevented by her bail conditions from being involved with any further “investments” Elva Medhurst accepted money for investment on behalf of Walsh. Walsh and Medhurst faced charges of dishonesty with Walsh being the principal offender. Walsh also faced unrelated fraud charges in relation to an application for \$1.8million mortgage finance. Elva Medhurst died before the trial hearing was completed. Walsh was found guilty on all but one of the charges and sentenced to 7 years imprisonment.

### **Appeals**

#### **Sandra Louise Staples**

Sandra Staples appealed against her conviction and sentence for stealing around \$650,000 from her employee (reported in last year’s Annual Report). Her appeal against conviction was dismissed. Her sentence was reduced from 5 years to 4 ½ years imprisonment.

#### **Edward Victor Drollett**

Edward Drollett appealed against his conviction and sentence for fraud (reported in last year’s Annual Report). This was a Cook Island’s case in which the Serious Fraud Office provided the support for the Cook Islands Police. The appeal against conviction was dismissed. The sentences imposed were reduced from 2 years to 16 months on the Secret Commissions charges and 3 months to 2 months on the forgery charge, all to be served concurrently.

**Note:** See also results of appeals in Cases 1, 4, and 7 above.

***Partly Completed Cases*****Margarite Huia Papple, William Papple and Tina Marie West**

The defendants raised approximately \$15million from investors by false pretences. Margarite Papple and Tina West were both found guilty of conspiracy to defraud (section 257 Crimes Act 1961) and other related charges. The jury was unable to reach a decision on Mr Papple. He will be retried later in 2005. Mrs Papple was sentenced to 5 years imprisonment on the conspiracy charge and 18 months imprisonment on the other two charges, to be served concurrently. Mrs West was sentenced to 5 years imprisonment on the conspiracy charge and 18 months on another charge – to be served concurrently.

**Glen John Keeley and Adrian Hood**

Adrian Hood is alleged to have paid Glen Keeley \$263,000 in bribes to retain the administration of a loyalty programme. Keeley pleaded guilty to receipt of the bribes (section 4 Secret Commissions Act 1910) and was sentenced to 10 months imprisonment with leave to apply for home detention. Hood has pleaded not guilty to related charges under the Secret Commissions Act 1910, and is awaiting trial.

## STATEMENT OF ACCOUNTING POLICIES FOR THE YEAR ENDED 30 JUNE 2005

### ***Reporting Entity***

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

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

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

### ***Measurement System***

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

### ***Accounting Policies***

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

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

#### ***Revenue***

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

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

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

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

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

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

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

#### ***Direct Costs Assigned to Output***

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

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

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

**Receivables**

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

**Operating Leases**

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

**Fixed Assets**

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

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

**Depreciation**

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

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

Furniture, fixtures and fittings	5 years	20%
Office equipment	5 years	20%
Motor vehicles	4 years	15%
Computer equipment and software	3 years	33 $\frac{1}{3}$ %

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

**Provision of Employee Entitlements**

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

**Statement of Cash Flows**

*Cash* means cash balances on hand and held in bank accounts.

*Operating activities* include cash received from all income sources of the Office and record cash payments made for the supply of goods and services.

*Investing activities* are those activities relating to the acquisition and disposal of non-current assets.

*Financing activities* comprise capital injections by, or repayment of capital to the Crown.

***Financial Instruments***

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

All financial instruments are shown at their estimated fair value.

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

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

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

***Taxation***

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

***Commitments***

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

***Contingent Liabilities***

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

***Taxpayers' Funds***

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

***Changes in Accounting Policies***

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

**STATEMENT OF FINANCIAL PERFORMANCE  
FOR THE YEAR ENDED 30 JUNE 2005**

30/6/04 Actual  (\$000)	Note	30/6/05 Actual  (\$000)	30/6/05 Main Estimates (\$000)	30/6/05 Supp. Estimates (\$000)
<b>REVENUE</b>				
4,699		4,760	4,760	4,760
63	1	19	9	60
<u>4,762</u>		<u>4,779</u>	<u>4,769</u>	<u>4,820</u>
<b>EXPENDITURE</b>				
3,058		3,017	3,030	3,078
1,144		1,026	1,174	1,191
-	2	1	-	-
148	3	160	150	156
23		22	24	24
341		350	360	340
33	4	31	31	31
<u>4,747</u>		<u>4,607</u>	<u>4,769</u>	<u>4,820</u>
<u>15</u>		<u>172</u>	<u>-</u>	<u>-</u>

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

**STATEMENT OF MOVEMENTS IN TAXPAYERS' FUNDS  
FOR THE YEAR ENDED 30 JUNE 2005**

30/6/04 Actual	Note	30/6/05 Actual	30/6/05 Main Estimates	30/6/05 Supp. Estimates
(\$000)		(\$000)	(\$000)	(\$000)
388	Taxpayers' funds as at 1 July .....	388	388	388
15	Net surplus/(deficit) .....	172	-	-
15	<b>Net surplus/total recognised revenues and expenses for the period</b>	172	-	-
(15)	Provision for repayment of surplus to the Crown .....	(172)	-	-
<b>388</b>	<b>Taxpayers' funds as at 30 June .....</b>	<b>388</b>	<b>388</b>	<b>388</b>

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

**STATEMENT OF FINANCIAL POSITION  
AS AT 30 JUNE 2005**

30/06/04 Actual  (\$000)		Note	30/6/05 Actual  (\$000)	30/6/05 Main Estimates (\$000)	30/6/05 Supp. Estimates (\$000)
388	<b>TAXPAYERS' FUNDS</b> .....		388	388	388
	Represented by:				
	<b>CURRENT ASSETS</b>				
525	Cash and bank balances .....		393	492	326
33	Receivables .....		2	-	-
5	Prepayments .....		19	25	25
563	<b>Total current assets</b> .....		414	517	351
	<b>NON-CURRENT ASSETS</b>				
275	Fixed assets .....	5	503	315	460
275	<b>Total non-current assets</b> .....		503	315	460
838	<b>Total assets</b> .....		917	832	811
	<b>CURRENT LIABILITIES</b>				
329	Payables and provisions .....		252	341	317
15	Provision for repayment of surplus to the Crown .....	6	172	-	-
106	Provision for employee entitlements ...	7	105	103	106
450	<b>Total current liabilities</b> .....		529	444	423
388	<b>NET ASSETS</b> .....		388	388	388



David Bradshaw  
Director

30<sup>th</sup> September 2005



Shareez Farouk  
Chief Financial Officer

30<sup>th</sup> September 2005

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

**STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 30 JUNE 2005**

30/06/04 Actual		30/6/05 Actual	30/6/05 Main Estimates	30/6/05 Supp. Estimates
(\$000)		(\$000)	(\$000)	(\$000)
	<b>CASH FLOWS - OPERATING ACTIVITIES</b>			
	Cash was provided from:			
	Supply of outputs to			
4,699	- Crown .....	4,760	4,760	4,760
	- Departments .....	-	-	-
30	- Other .....	49	9	60
<u>4,729</u>	.....	<u>4,809</u>	<u>4,769</u>	<u>4,820</u>
	Cash was applied to:			
	Produce outputs			
3,055	- Personnel .....	3,018	3,030	3,065
1,499	- Operating .....	1,473	1,558	1,568
1	- Net GST paid .....	15	-	-
33	- Capital charge .....	31	31	31
<u>4,588</u>		<u>4,537</u>	<u>4,619</u>	<u>4,664</u>
141	<b>Net cash inflow/(outflow) from operating activities</b> .....	<u>272</u>	<u>150</u>	<u>156</u>
	<b>CASH FLOWS - INVESTING ACTIVITIES</b>			
	Cash provided from: .....			
-	Sale of fixed assets .....	9	-	12
	Cash disbursed for: .....			
135	Purchase of fixed assets .....	398	150	353
(135)	<b>Net cash inflow/(outflow) from investing activities</b> .....	(389)	(150)	(341)
	<b>CASH FLOWS - FINANCING ACTIVITIES</b>			
	Cash disbursed for:			
55	Payment of surplus to Crown .....	15	-	15
(55)	<b>Net cash inflow/(outflow) from financing activities</b> .....	(15)	-	(15)
(49)	Net decrease in cash held .....	(132)	-	(200)
574	Add opening total cash balance .....	525	492	526
<u>525</u>	<b>Closing cash balance</b> .....	<u>393</u>	<u>492</u>	<u>326</u>

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

**STATEMENT OF COMMITMENTS  
AS AT 30 JUNE 2005**

At balance date, the Serious Fraud Office has operating lease commitments in respect of premises in Auckland.

<b>30/06/04 Actual (\$000)</b>		<b>30/6/05 Actual (\$000)</b>
	<b>Operating lease commitments</b>	
338	Less than one year .....	342
338	One to two years .....	342
563	Two to five years .....	228
-	More than five years .....	-
<u>1,239</u>	<b>Total commitments</b> .....	<u>912</u>
	<b>Capital Commitments</b>	
<u>295</u>	Approved and Committed .....	<u>-</u>

**STATEMENT OF CONTINGENT LIABILITIES  
AS AT 30 JUNE 2005**

The Serious Fraud Office has no contingent liabilities at 30 June 2005 (2004: Nil)

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

**STATEMENT OF DEPARTMENTAL EXPENDITURE AND  
APPROPRIATIONS  
FOR THE YEAR ENDED 30 JUNE 2005**

(Figures are GST inclusive where applicable)

<b>30/06/04 Expenditure Actual (\$000)</b>		<b>30/6/05 Expenditure Actual (\$000)</b>	<b>30/6/05 Appropriation Voted* (\$000)</b>
	<b>Classes of outputs to be supplied by the department (Mode B Gross)</b>		
5,342	D1 Investigation and prosecution of complex or serious fraud .....	5,204	5,423
<u>5,342</u>	<b>Total Appropriations</b> .....	<u>5,204</u>	<u>5,423</u>

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

There was no unappropriated expenditure for the year ended 30 June 2005 (2004: Nil).

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

## NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2005

### *Note 1: Other revenue*

30/06/04 Actual		30/6/05 Actual	30/6/05 Main Estimates	30/6/05 Supp. Estimates
(\$000)		(\$000)	(\$000)	(\$000)
13	Departments .....	6	0	51
50	Other .....	13	9	9
<u>63</u>	<b>Total other and departmental income</b>	<u>19</u>	<u>9</u>	<u>60</u>

### *Note 2: Net gain/(loss) on sale of fixed assets*

30/06/04 Actual		30/6/05 Actual	30/6/05 Main Estimates	30/6/05 Supp. Estimates
(\$000)		(\$000)	(\$000)	(\$000)
-	Motor vehicles .....	(1)	-	-
<u>-</u>	<b>Net gain/(loss) on sale of fixed assets</b>	<u>(1)</u>	<u>-</u>	<u>-</u>

### *Note 3: Depreciation*

30/06/04 Actual		30/6/05 Actual	30/6/05 Main Estimates	30/6/05 Supp. Estimates
(\$000)		(\$000)	(\$000)	(\$000)
30	Furniture and fittings .....	38	24	27
23	Office equipment .....	32	34	34
78	Computer hardware .....	55	56	56
4	Computer software .....	22	20	23
13	Motor vehicles .....	13	16	16
<u>148</u>	<b>Total depreciation</b> .....	<u>160</u>	<u>150</u>	<u>156</u>

### *Note 4: Capital charge*

A capital charge is paid to the Crown based on Taxpayers' Funds at 30 June and 31 December each year. The capital charge was 8.0% for the 2004/05 financial year (2004: 8.5%).

**Note 5: Fixed assets**

<b>30/06/04 Actual (\$000)</b>		<b>30/6/05 Actual (\$000)</b>
	<b>Furniture and Fittings</b>	
529	At cost	735
(496)	Accumulated depreciation	(500)
33	Net book value	235
	<b>Office Equipment</b>	
295	At cost	355
(244)	Accumulated depreciation	(273)
51	Net book value	82
	<b>Computer Hardware</b>	
374	At cost	414
(288)	Accumulated depreciation	(337)
86	Net book value	77
	<b>Computer Software</b>	
115	At cost	126
(57)	Accumulated depreciation	(79)
58	Net book value	47
	<b>Motor Vehicles</b>	
84	At cost	90
(37)	Accumulated depreciation	(28)
47	Net book value	62
	<b>TOTAL FIXED ASSETS</b>	
1,397	At cost	1,720
(1,122)	Accumulated depreciation	(1,217)
275	<b>TOTAL CARRYING AMOUNT OF FIXED ASSETS</b>	503

**Note 6: Provision for repayment of surplus to the Crown**

<b>30/06/04 Actual (\$000)</b>		<b>30/6/05 Actual (\$000)</b>
15	Net surplus	172
15	<b>Total provision for repayment of surplus</b>	172

**Note 7: Provision for employee entitlements**

<b>30/06/04 Actual (\$000)</b>		<b>30/6/05 Actual (\$000)</b>
	<b>Current Liabilities</b>	
106	Annual leave	105
106	<b>Total provision for employee entitlements</b>	105

**Note 8: Reconciliation of Net Surplus to Net Cash Flows from Operating Activities for the year ended 30 June 2005**

30/06/04 Actual (\$000)		30/6/05 Actual (\$000)	30/6/05 Main Estimates (\$000)	30/6/05 Supp. Estimates (\$000)
15	<b>Net operating surplus/(deficit)</b>	172	-	-
	<i>Non-cash items</i> .....			
148	Depreciation .....	160	150	56
<u>163</u>	<b>Total non-cash items</b> .....	<u>332</u>	<u>150</u>	<u>156</u>
	<i>Movements in working capital items</i>			
(33)	(Increase)/decrease in receivables	32	-	32
9	(Increase)/decrease in prepayments	(14)	-	(20)
(1)	Increase/(decrease) in payables and provisions	(77)	-	(12)
3	Increase/(decrease) in employee entitlements	(1)	-	-
<u>(22)</u>	<b>Working capital movements</b> .....	<u>(60)</u>	<u>-</u>	<u>-</u>
	<i>Less investing activities</i> .....			
-	Net loss/(gain) on sale of fixed assets .....	-	-	-
<u>-</u>	<b>Total investing activity items</b> .....	<u>-</u>	<u>-</u>	<u>-</u>
<u>141</u>	<b>Net cash flow from operating activities</b> .....	<u>272</u>	<u>150</u>	<u>156</u>

**Note 9: Financial Instruments**

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

*Credit Risk*

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

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

*Fair Value*

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

*Currency and Interest Rate Risk*

The Serious Fraud Office has no material exposure to currency risk, and its financial instruments are not interest rate sensitive.

**Note 10: Contingencies**

The Serious Fraud Office does not have any contingent assets as at 30 June 2005 (30 June 2004: Nil).

Contingent liabilities are separately disclosed in the statement of Contingent Liabilities.

**Note 11: Related Party Transactions**

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

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

**Note 12: Major Budget Variances**

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

***Management  
Performance  
Information***

## **CORPORATE AND COLLECTIVE INTEREST MANAGEMENT REPORT FOR THE YEAR ENDED 30 JUNE 2005**

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

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

### ***Inter-departmental Liaison***

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

A new initiative during the year was a public education campaign on Fraud conducted jointly by the Serious Fraud Office and the Securities Commission. The Bay of Plenty – Tauranga region was chosen for this campaign due to the prevalence of dubious schemes operating in that region. The campaign was supported by a number of local community groups who assisted in arranging an extensive speaking programme. The objective was to raise public awareness of investment fraud.

The Australasian Financial Crimes Investigation Management Course was not held this year.

The Serious Fraud Office conducted two one day seminars in Wellington for senior public servants. The seminars addressed fraud detection and investigation. Participants were shown how to identify potential fraud, the steps that they should take to ascertain the extent of the problem, and when a matter should be referred to the Police or the Serious Fraud Office.

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

The Office has been pro-active over the past few years in providing assistance to Police in the South Pacific who often do not have the resources to fight serious fraud. Most recently the Office has hosted, on secondment, two officers from Fiji who have been tasked with establishing a serious fraud squad in the Fiji Police. Each officer spent 10 weeks with the Serious Fraud Office learning about serious fraud investigations and prosecutions.

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

### ***Accommodation***

The Office is located only in Auckland and occupies 1272 square metres spread over two floors of the Duthie Whyte Building at 120 Mayoral Drive, Auckland City. There is no vacant space as at 30 June 2005.

The rental costs for the year were \$349,580 (\$341,155 in 2003/04) including landlord operating expenses but excluding other utility costs such as cleaning and energy costs which were:

	<b>2003/2004</b>	<b>2004/2005</b>
Energy costs (excluding those included in the operating costs above)	\$20,500	\$20,000
Telecommunication costs	\$61,148	\$59,000
Cleaning and maintenance	\$17,108	\$20,400

### ***Energy Usage Costs***

<b>2002/2003</b>	<b>2003/2004</b>	<b>2004/2005</b>
145,394 units used	158,911 units used	188,603 units used
\$20,940	\$20,500	\$20,000

### ***Fuel Usage and Costs***

<b>2002/2003</b>	<b>2003/2004</b>	<b>2004/2005</b>
21,312kms	18,298kms	17,731kms
\$2,575	\$2,450	\$2,140

### ***Management of Information***

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

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

### ***Management of Human Resources***

The enhancing of investigative skills and techniques continued to be a priority for the Management Team to ensure that the Office keeps abreast of developments in relation to serious fraud offending and the investigative skills and tools needed to combat such crime. An employee attended a special course in Melbourne on the interrogation of computers.

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

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

One of the Serious Fraud Office prosecutors was awarded a scholarship to spend a period of time working in the District Attorney's Office in New York.

The pace of change and development, particularly in technology, is rapid and provides new fraud opportunities. The Office continues to keep abreast of international developments by maintaining close relationships with our counterpart overseas agencies and also by participation in inter-departmental working parties where appropriate.

Four fulltime staff left the Office during the year. Whenever a vacancy arises in the Office the management team looks closely at the immediate and future staffing requirements. All of the vacant positions had been filled as at 30<sup>th</sup> June 2005. The Office does not have any difficulty in attracting high calibre applicants for its vacancies.

### ***Equal Opportunities***

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

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

Including the Director, the staff complement as at 30 June 2005 is 35 – 19 men and 16 women.

***Information  
about the  
Department***

## INFORMATION ABOUT THE DEPARTMENT

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

### ***Policy on Acceptance of Cases***

#### ***Selection***

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

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

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

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

The Director has complete discretion in the selection of cases.

### ***Referral of Cases***

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

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

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

### ***Independence of Director***

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

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

### ***Handling of Cases***

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

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

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

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

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

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

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

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

***Powers of the Serious Fraud Office***

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

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

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

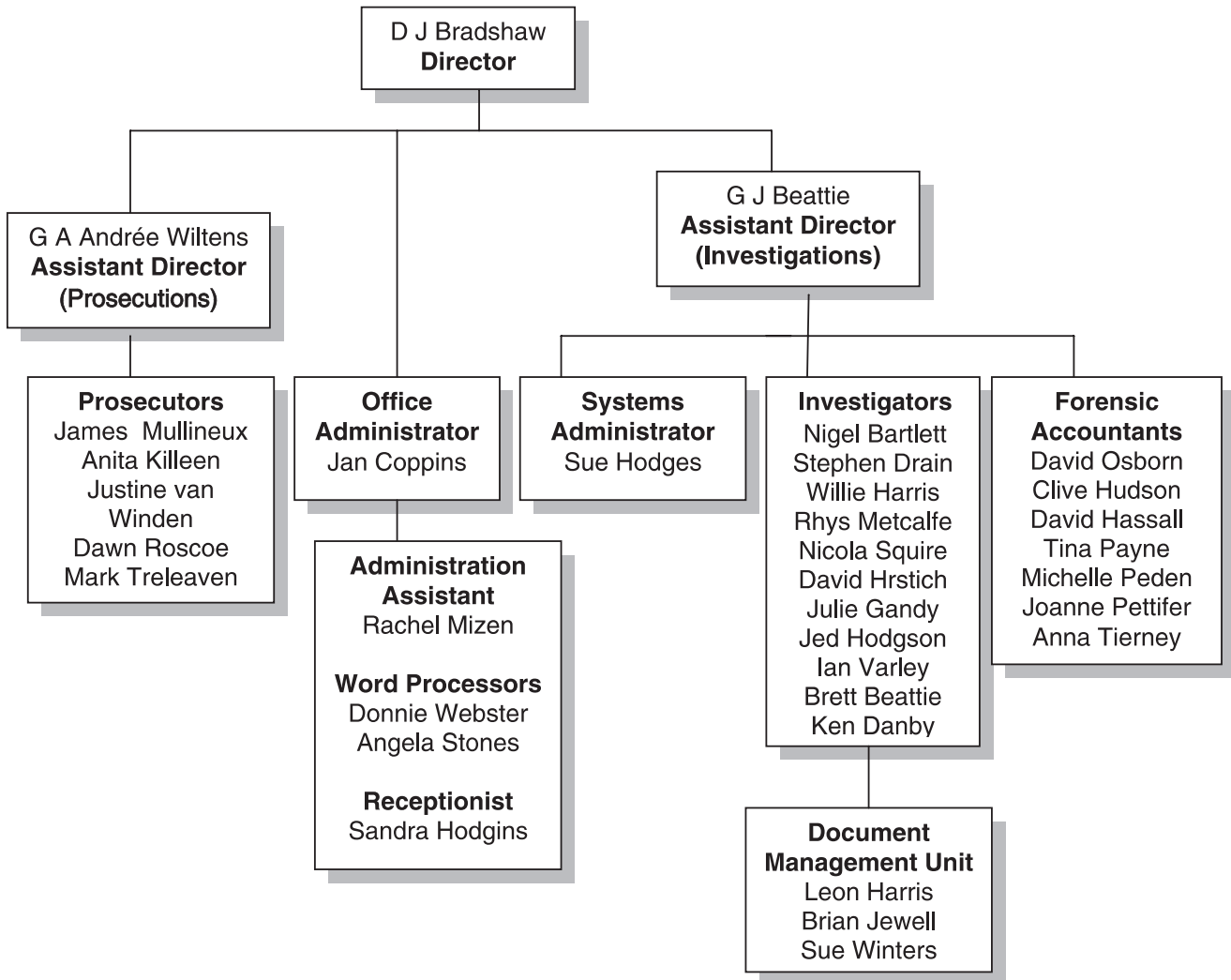
***Legal Responsibilities***

The Serious Fraud Office operates under the Serious Fraud Office Act 1990. All requirements of that Act have been met. In Part II of this Report (pages 23 - 24) there is an analysis of the Notices issued in terms of the provisions of the Act.

## MANAGEMENT AND STRUCTURE

5 appointments were made during the year and 4 staff resigned. As at 30 June 2005 the staffing level is 35.

### *Organisational Structure*



**SERIOUS FRAUD OFFICE ACT – PANEL OF PROSECUTORS  
AS AT 30 JUNE 2005****Auckland**

Robert Fardell QC  
J A Farmer QC  
J C Gordon  
Dr R E Harrison QC  
D P H Jones QC  
A A Lusk QC  
S J E Moore  
M J Ruffin  
L L Stevens QC  
M A Woolford

**Wellington**

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

**Christchurch**

N R W Davidson QC  
A C Hughes-Johnson QC  
B M Stanaway  
Nicholas Till  
Tom Weston QC  
M N Zarifeh

**Dunedin**

W J Wright  
Marie Grills

**Hamilton**

P J Morgan QC

**Whangarei**

P J Smith

## **PUBLIC RELATIONS**

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

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

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

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

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