



GUIDE TO SFO INVESTIGATIONS

The Serious Fraud Office (SFO) is a small, highly specialised government department responsible for serious or complex financial crime detection, investigations and prosecutions.

While there is no legal definition of financial crime, this behaviour usually involves an intentional act accompanied by the use of deception to obtain an unjust or illegal advantage. SFO investigations will mostly focus on a collection of offences under the Crimes Act 1961 that criminalise this dishonesty.

Typically our investigations will meet one or more of the following indicative criteria:

- a high degree of factual, financial or legal complexity beyond the resources of most other law enforcement agencies;
- multiple victims (often investors) of the suspected financial crime and a high impact on those victims;
- a high impact on public confidence in New Zealand as a safe place to invest, or the integrity of our financial markets; or
- public interest considerations and a preventative impact of a successful prosecution.

In the case of bribery or corruption matters, we focus on crimes involving public officials, which could undermine public confidence in the administration of law.

We do not deal with less serious dishonesty offences which are usually a matter for the Police or other agency to investigate. We focus on cases that have a wider impact on the New Zealand economy and public. These cases may be relatively small in number, but they are large in terms of the value of the crime, the number of investors impacted and/or the impact on public confidence in either the integrity of New Zealand financial markets, commercial or administration of the justice system.

SUPPORT FOR VICTIMS OF FINANCIAL CRIME

The SFO takes its commitment to victims seriously. We understand that being a victim of a financial crime can be a stressful, unsettling experience. Depending on how the crime has affected you it is likely you may require support. We will endeavour to provide you with a high level of service and to ensure you are put in touch with the right agencies that can provide support and information.

HOW THE SFO OPERATES

The Government appoints a Minister responsible for the SFO who is currently also the Minister of Police. However, under the Serious Fraud Office Act 1990 (SFO Act), the Director of the SFO has complete independence when it comes to operational decisions.

Our investigations are carried out under the statutory powers of the SFO Act. Part 1 and Part 2 outline the different circumstances under which we operate. Broadly speaking, the detection of serious financial crime is carried out under Part 1, while investigations into identified instances of possible financial crime are carried out under Part 2.

HOW WE EVALUATE FINANCIAL CRIME ALLEGATIONS

Allegations of financial crime or complaints made to the Serious Fraud Office are first evaluated by the Evaluation and Intelligence Unit. If the matter is one for a different enforcement or regulatory agency, the Unit will refer the matter to that agency.

All complaints will be acknowledged and you will also be advised of the outcome of your complaint, whether it progresses to a formal investigation or not.

EVALUATION PHASE

During the evaluation phase, we gather sufficient evidence (without the use of statutory powers) to determine whether or not the matter warrants a formal investigation using powers provided under Part 1 or Part 2 of the SFO Act.

OPENING AN INVESTIGATION

Once a matter has been evaluated, the Director will then determine whether to commence an investigation under Part 1 or Part 2 of the SFO Act.

When a formal investigation is commenced, the matter is dealt with by one of two investigation teams:

- Financial Markets and Corporate Fraud;
- Fraud and Corruption.

Each of these teams includes financial investigators, forensic accountants and investigating lawyers, who perform under the guidance of a General Manager. The team assigned to a particular investigation will vary according to the circumstances of each case, but these usually involve at least one member from each of the three disciplines. The team will be led by a Case Manager.

**WILL THE
SUBJECT KNOW
I AM THE
COMPLAINANT?**

No. We will do our best to protect the confidentiality of your complaint during an investigation. However if the matter proceeds to a prosecution, it may be necessary for you to give evidence as a witness.



HOW LONG WILL AN INVESTIGATION TAKE?

Because the matters we investigate are very complex, often with many thousands of documents to examine, an investigation can take a number of months. Our targets for completing investigations are:

- to evaluate the complaint within 30 working days; and
- to complete 40% of investigations within six months and 80% of investigations within 12 months.

WILL I BE KEPT INFORMED OF PROGRESS?

Our website contains information on some of our public investigations and may be a useful initial source of information for you.

You have the right to be kept up to date and informed throughout this process and the Case Manager will be able to tell you what is happening with the investigation throughout. There may be information that the Case Manager is unable to provide you either to comply with the Serious Fraud Office Act or because it may hinder the investigation.

If you wish to know about the progress of the investigation please look on www.sfo.govt.nz or you can contact the SFO Case Manager.

BEING INTERVIEWED DURING AN INVESTIGATION

We may ask you to take part in an interview relating to a matter under investigation.

You can take part in an interview voluntarily. In some circumstances you may be required to attend at a specified place to answer questions under section 9 of the SFO Act. Witnesses may also be required to provide documents, or to supply information, such as bank account details.

If you're interviewed, you will be entitled to have a barrister or solicitor present. Statements are usually recorded in order to provide an accurate and permanent record of what has been said. In the case of a compulsory interview under section 9 of the SFO Act, the investigators conducting the interview have the right to determine whether or not (and how) the interview will be recorded. On rare occasions there may be no recording facilities available. When this is the case, your statement may be recorded in writing, and you will be asked to read and sign the completed statement to verify its accuracy.

If the investigation proceeds to a prosecution, a transcript of your interview will be used as the basis for the preparation of a formal written statement, often called a 'brief of evidence'. This is the document the prosecutor will use in court setting out the evidence you give relating to the case. You will be asked to sign any formal written statement and confirm that the information contained within it is accurate.

You can apply in writing to the Director of the SFO if you wish to receive a copy of your interview transcript. Do note however, that this request can be declined depending on the circumstances of the case, usually if the Director deems that release of any transcript would be prejudicial to an on-going investigation.

WILL THE INVESTIGATION RESULT IN A PROSECUTION?

Not all SFO investigations result in a prosecution. The SFO will only commence a criminal prosecution after it has properly investigated an alleged serious or complex financial crime. At the completion of the investigation the Director of the SFO will decide whether there is sufficient grounds to commence a prosecution.

- The decision to prosecute will be based on:
- the evidence collected during the investigation; and
- the public interest in taking a prosecution.

These are set out in detail in the Prosecution Guidelines published by the Crown Law Office www.crownlaw.govt.nz/uploads/prosecution_guidelines.pdf

WILL I BE TOLD WHEN THE INVESTIGATION ENDS?

The SFO Case Manager will inform you of the outcome of the investigation. The SFO may also make a media release in some cases regarding the conclusion of the investigation and whether a prosecution has commenced. Information may also be available on the SFO website.

CAN YOU HELP ME GET MY MONEY BACK?

Assuming the defendant has not volunteered any funds in order to repay victims of the crime they are convicted of, no. The recovery of losses is a civil matter. We only conduct criminal investigations and prosecutions. You would need to seek advice from an appropriately qualified and experienced legal practitioner to consider civil recovery.

FAQs REGARDING MAKING A COMPLAINT

DO I NEED TO BE A VICTIM OF A FINANCIAL CRIME TO MAKE A COMPLAINT?

No, anyone is able to make a complaint to the Serious Fraud Office.

CAN SOMEONE ELSE REPORT THE CRIME FOR ME?

We prefer you to report the crime directly because you know the full details of the alleged offence. However, we understand there are certain circumstances, such as distress or personal safety, where reporting the crime yourself can be very difficult. In these circumstances you can report a crime through a trusted friend, family member or professional adviser.

HOW MUCH INFORMATION DO I NEED TO MAKE A COMPLAINT TO THE SFO?

A complaint can initially be made without supporting documents, however documentation will be required before the matter can be formally evaluated. If you have a suspicion a financial crime may have been committed, you are welcome to submit it to us. We will let you know if we require more information.

We have a statutory requirement to meet a specified evidential threshold before the Director can commence an investigation. To help us meet this threshold, please provide all information known to you during the complaint process.



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