

BRIEFING TO THE INCOMING MINISTER

FEBRUARY 2023





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INTRODUCTION FROM THE DIRECTOR



Karen Chang

Director

Congratulations on your appointment, Minister. Welcome back to the Serious Fraud Office (SFO) portfolio.

This briefing provides you with an overview of our upcoming work in 2023 and recaps some of our key achievements over the past two years, including the development of our Counter Fraud Centre Tauārai Hara Tāware. The centre received permanent funding in Budget 2022, acknowledging its leadership role in advancing New Zealand's fraud prevention efforts.

On the operational side, additional funding in Budget 2020 has allowed us to increase our investigative capacity. We have since been able to better meet demand for investigations and build an organisation that is more resilient to the increasing challenges of combatting serious fraud and corruption in the digital era.

This resilience was evident in the last 12 months. It was a particularly demanding year for the SFO's operational staff as we conducted five trials previously adjourned due to COVID-19. I was incredibly proud of the tenacity and skill of our team as they pursued these complex cases to their conclusion and freed up resources to take on new investigations and prosecutions.

Released from COVID-19 restrictions, we are once again pursuing our investigations at pace. Experience has shown that financial crime tends to increase during times of economic pressure. In the current economic environment, our work in preventing, exposing and enforcing serious fraud and corruption is particularly important to safeguard New Zealand's economic well-being and reputation.

The SFO is a small and highly specialised agency. Our limited capacity means it is important we focus on the cases that matter to New Zealanders and have the greatest potential to disrupt and deter serious fraud and corruption.

Despite our relative size, we are increasing our engagement across Government, which was greatly assisted by the opening of our Wellington office in late 2020. We take an active role on the Justice Sector Leadership Board and are working to promote a system-wide approach in our areas of expertise. One of the key initiatives the SFO is leading is the development of a National Counter Fraud and Corruption Strategy, working together with Police and the Ministry of Justice.

This year New Zealand will be in the international spotlight in respect of our anti-corruption efforts. The SFO will represent New Zealand on various international fora to advance the global fight against corruption and support our ongoing efforts to detect, investigate and prosecute bribery and corruption.

We are privileged to live in a country with low levels of corruption, but we must remain vigilant. The SFO has been active and visible in recent years to shine a light on the risk of corruption in New Zealand, including bringing three high profile trials in 2022. We are proud of the impact our cases have had on elevating this critical issue in the public consciousness.

We are an agile and forward-looking agency. Consistent with that mindset and my appointment as Director last year, we will be refreshing our Statement of Strategic Intentions for 2023-2027.

We look forward to discussing our respective priorities and learning how we can support you in your role as our Minister.

A stylized, handwritten signature in black ink, appearing to read 'Karen Chang'.

Karen Chang
Chief Executive and Director

SERIOUS FRAUD OFFICE

AT A GLANCE

SECTOR:



Justice

ESTABLISHED:



1990 under Serious Fraud Office Act 1990

BUDGET:



Vote: Serious Fraud
\$16,685 million
2022/23

EMPLOYEES:



79

ACTIVE CASELOAD:

8

ENQUIRIES

24

INVESTIGATIONS

15

PROSECUTIONS

2

TRIALS SCHEDULED
IN 2023

MANDATE:

Preventing, detecting, investigating and prosecuting cases of serious financial crime, including activities directed at making the commission of financial crimes more difficult. Lead agency for investigation and prosecution of bribery and corruption.

STRATEGIC PURPOSE:

Protecting New Zealanders' financial and economic well-being

COUNTER FRAUD CENTRE:

Leading fraud prevention efforts in the public sector to strengthen the sector's resilience to fraud and corruption.

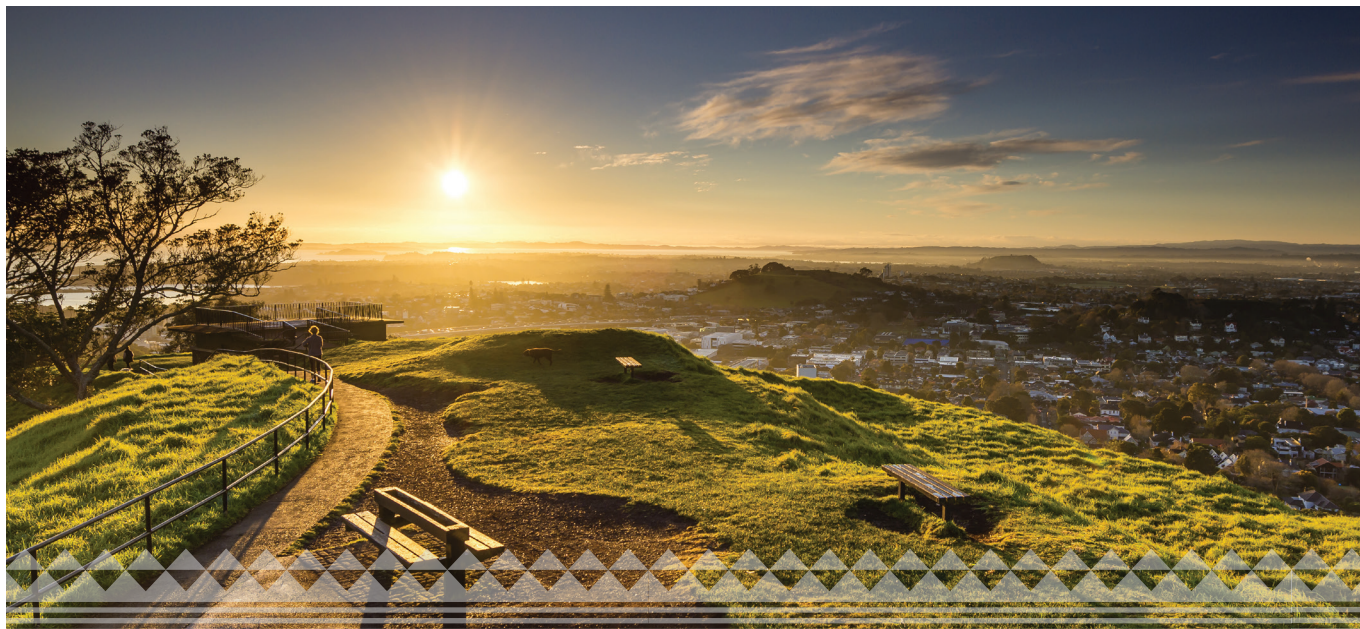
Counter fraud community of practice with membership of **35** government agencies.

LOCATION:



Level 8, 188 Quay St,
Auckland

Level 4, 45 Johnson St,
Wellington



Our contribution in context

Our purpose is to protect the economic and financial well-being of New Zealanders.

We do that in several ways – by investigating and prosecuting serious financial crime and corruption, building resilience to harden New Zealand as a target and leading system-wide improvements.

Our work helps to protect New Zealand's reputation for transparency, integrity and low levels of fraud. That reputation brings huge benefits. It delivers the economy a competitive advantage as it supports investor confidence in the integrity of the country's financial system and helps keep business costs down. In an economic downturn it is even more critical we protect it.

New Zealand is navigating a period of economic uncertainty. Local and international experience shows that serious and complex financial crime increases during a significant economic downturn, but may take time to be detected. Financial pressures may make people more likely to commit fraud, while desperation can make vulnerable people more susceptible to being deceived.

The SFO itself was created as a response to the fallout from the 1987 share market collapse and the ensuing economic recession, which exposed fraud on a magnitude never seen before in New Zealand. At the time, there was a perception that New Zealand was not equipped to deal with the investigation and prosecution of complex financial crime.

Some 33 years on, the SFO continues to use its specialist expertise to tackle the most serious and complex fraud and corruption cases for the benefit of New Zealanders. These cases are complex and time-consuming to investigate, and the offending can be extremely difficult to detect and successfully prosecute.

The Serious Fraud Office Act provides the SFO with wide-ranging investigative powers, which are necessary to effectively investigate offending of this nature. Another point of distinction is the SFO's investigation teams, which are structured differently from those of many other law enforcement agencies.

Our cases are investigated by multidisciplinary teams made up of investigators, forensic accountants, investigating lawyers, electronic forensic investigators, document management specialists and e-discovery experts. Based on the Roskill model, this structure is considered international best practice for investigating complex financial crime.

We have an established Electronic Forensic Unit, which is internationally recognised for its expertise. As technology evolves, so do the avenues for fraud and the volume of evidential data. Typical SFO cases now comprise millions of documents, which require specialist skills to manage and examine. We are currently holding 74 terabytes of evidential data, which is the equivalent of 4.8 billion document pages. Data volume is an increasing challenge for law enforcement agencies around the world, which are having to adapt to deal with the huge growth in digital evidence.

The SFO is the lead agency in New Zealand for the detection, investigation and prosecution of corruption.

Public sector corruption matters make up a significant percentage of our cases (30% at February 2023). Overseas evidence indicates that this increase is likely a consequence of more offending being reported, as opposed to an increase in offending. It also reflects our strategy to focus our specialist resources on the cases which have the most impact, including the theft of public money or those where the offending could undermine confidence in the public sector or institutions.

Consistently rated by Transparency International as having a public service with one of the lowest levels of corruption in the world, New Zealand is viewed as a country with a well-functioning democratic system including strong public institutions and low levels of fraud and corruption.

The presence of an independent agency dedicated to combatting serious financial crime, with the specialist expertise to discharge this duty, is integral to this reputation.

Safeguarding democracy and maintaining trust in New Zealand

The integrity and transparency of electoral funding regimes remains a significant and topical issue both in New Zealand and overseas.

In July 2022 two people were found not guilty following a three-week trial related to the NZ First Foundation. The SFO had charged the defendants (who have permanent name suppression) with using a fraudulent scheme to obtain control over donations intended for the NZ First Party. The decision is being appealed by the Crown. The case contributed to discussion of electoral law in New Zealand. In January 2023 the Electoral Amendment Bill came into force, which reduces the threshold for disclosure of donations and amends the definition of political donations.

In October 2022 three defendants were found guilty on charges related to using sham donors to make donations to the National Party of \$100,000 in 2017 and \$100,050 in 2018. Each of these large donations was split into smaller amounts, below the Electoral Act's disclosure threshold, to conceal the identity of the true donor. All defendants are appealing against conviction and sentence.

Despite the range of verdicts, these were important cases for the SFO to pursue, which is highlighted by the resulting law change. The SFO will continue to prioritise cases that are key to maintaining trust in New Zealand institutions.

How we contribute to Government and Justice Sector priorities

Our contribution to law enforcement in New Zealand extends beyond our investigations and prosecutions.

We contribute to the Government's priority of tackling organised crime, including through:

- our counter fraud work with the public sector;
- membership on Police's Trans-National Organised Crime Strategy working group.

We are also leading the development of a National Counter Fraud and Corruption Strategy, together with Police and the Ministry of Justice. The strategy, which is a priority for the Justice Sector Leadership Board, looks to implement a robust system-wide response to financial crime and corruption. This work was funded in Budget 2022.

The strategy will complement and reflect the approaches taken to mitigate other strategic risks, such as foreign interference and transnational organised crime. The initial focus of the strategy will be public sector agencies.

Together these initiatives will impact on the ability of organised crime to engage in corrupt behaviour or commit financial crimes.

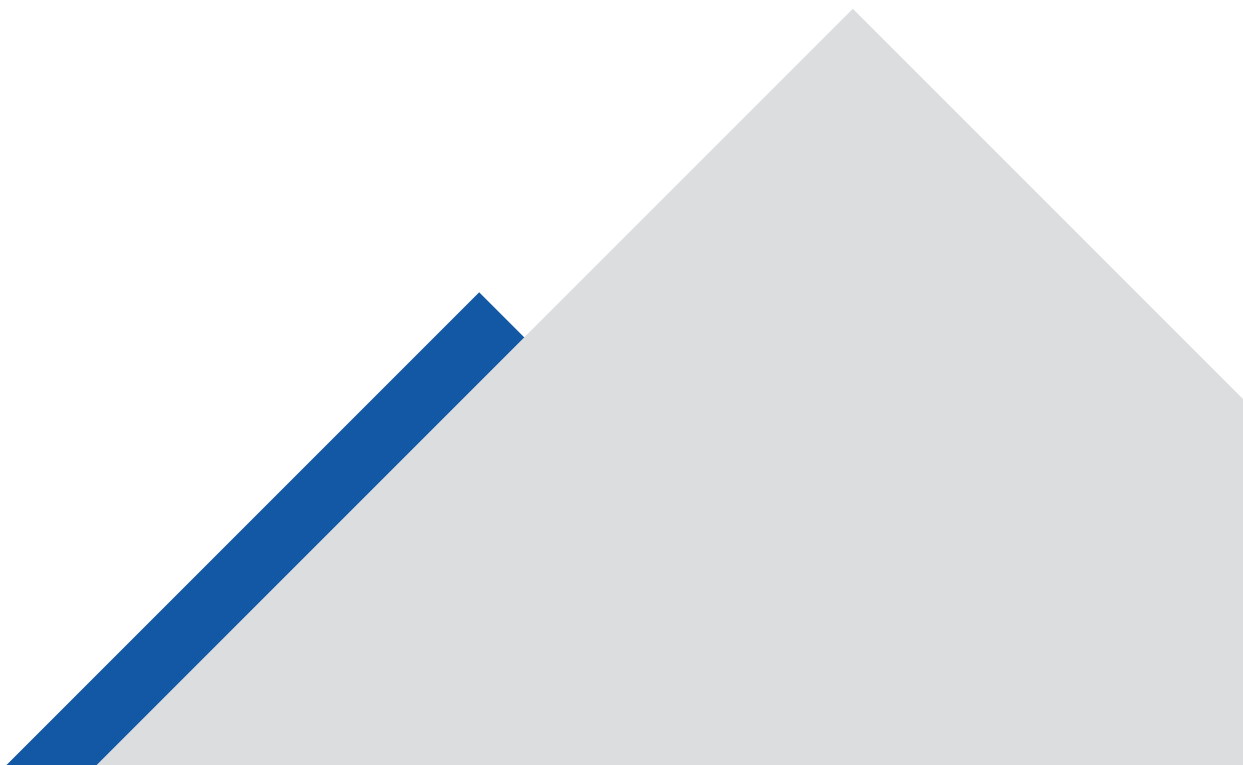
The SFO forms part of the Justice sector. The work of the Justice sector affects each of the sector partners and we recognise the need to be well connected with each other.

Our Director/Chief Executive sits on the Justice Sector Leadership Board and other senior leaders and employees contribute to various sector strategy and operational groups.

We contribute to justice sector priorities including:

- Transformation of the criminal justice system
- Strengthening the Māori-Crown relationship
- System Improvements

We also collaborate with our justice sector partners (particularly Police) and more widely across government by sharing our specialist resources, such as electronic forensics and forensic accountants.





What we do

Investigation and prosecution

The SFO focuses its specialist resources on cases which have the greatest potential to disrupt and deter serious fraud and corruption. This includes cases which involve public funds, have the potential to undermine trust in the public sector or threaten New Zealand's reputation as a safe place to invest and do business.

We have the capacity to conduct approximately 30-50 investigations and prosecutions at any one time.

In 2020, the SFO received Government funding to specifically tackle financial crime arising from the COVID-19 pandemic.

We have since commenced investigations into alleged abuse of the Government's COVID-19 Wage Subsidy Scheme. The allegations relate to multiple complex cases of potential fraud that were referred to the SFO following initial investigations into the matters by the Ministry of Social Development (MSD).

Unlike other agencies that use the services of Crown solicitors, the SFO conducts its own prosecutions. The same team that investigates a matter takes responsibility for the conduct of the prosecution, led by a member of the Serious Fraud Prosecutors Panel.

The Prosecutors Panel consists of highly skilled counsel appointed by the Solicitor-General in consultation with the Director. Panel counsel advise us during our investigations and bring proceedings on behalf of the Director.

As a result of delays caused by the COVID-19 lockdowns and restrictions, the SFO had a significant trial burden in the second half of 2022. We had team members involved in five trials, totaling 23 weeks' trial time. These trials included high profile cases concerning political donations and local government corruption.

Wage subsidy charges laid

In August 2022 the SFO brought its first wage subsidy fraud case, charging an Auckland man for allegedly submitting 42 false COVID19 wage subsidy applications totalling \$1.88 million.

The man is alleged to have received \$600,000 of the \$1.88 million he attempted to claim by using applications which contained false information. He faces 43 charges and has entered not guilty pleas to all charges.

Electronic Forensics Unit

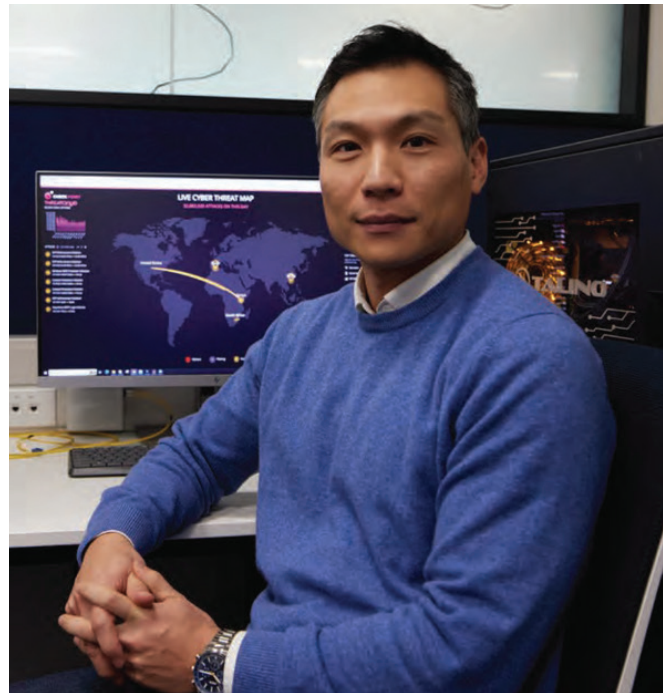
Our Electronic Forensics Unit (EFU) is a specialist unit within SFO responsible for investigating crimes committed through technology and electronic devices.

This unit is responsible for retrieving, preserving, and analysing electronic data from electronic devices such as computers, smartphones, and other electronic storage devices to assist in SFO's investigations. The EFU utilises advanced technology and techniques to recover data and provide digital evidence that can be used in court.

The EFU works closely with other local and international law enforcement agencies, sharing resources and expertise to effectively investigate electronic crime scenes.

The team is internationally qualified and provides training to other law enforcement agencies across New Zealand to enhance their understanding of digital forensics.

This collaboration and training builds capability and helps to strengthen the overall response to



financial crimes and other criminal offending in New Zealand.

This includes supporting 'club-funded' electronic forensic investigators, who work on projects across a club of agencies to increase their capacity to investigate computer facilitated crime.

Upcoming trials

- Two individuals who worked for the Christchurch Earthquake Recovery Authority (CERA) and Otākaro Ltd have pleaded not guilty to corruption charges in relation to their conduct as employees of these two organisations. The trial of this matter is due to commence in Christchurch in February 2023 and will be an important examination of corruption allegations in the context of financial recovery from a major disaster.
- The trial of former CBL Insurance Ltd (CBL) executives Peter Harris and Carden Mulholland is scheduled to take place in April 2023. The charges against both defendants relate to their involvement in the governance of the company. CBL was placed into interim liquidation by the High Court in February 2018 following an extensive investigation by the Reserve Bank of New Zealand, which had concerns about imprudent management and breach of regulatory directions. The provider of insurance and reinsurance was placed into full liquidation in November 2018.

Bribery and corruption

One of the best ways to prevent corruption is to expose it.

A key part of the SFO's role is to shine a light on corrupt behaviour in New Zealand, through the dedicated and on-going pursuit of cases involving corruption-related offending. This raises public awareness of the threat while also acting as a deterrent.

Last year was a particularly active one for the SFO in the corruption space.

Of the five SFO matters that went to trial in 2022, three involved allegations of corrupt conduct and were cases of significance.

In addition, we filed charges in relation to three other matters involving alleged corruption in 2022, two of which involve the public sector.

These public sector cases relate to the awarding of roadwork contracts and the procurement of medical supplies.

We have a Memorandum of Understanding with Police to manage bribery and corruption complaints and referrals.



Council executive found guilty on SFO corruption charges

In December 2022 a former Westland District Council executive, who received bribes in exchange for helping associates secure lucrative council contracts, was found guilty on SFO corruption charges.

Vivek Goel oversaw procurement for council assets and abused this position to ensure contracts were awarded to companies with which he had personal relationships. The director of one of these companies, Amar Singh, was also found guilty of bribery and corruption offences.

Among the contracts were critical infrastructure projects for the local community, including a Wastewater Treatment Plant at Franz Josef and upgrades to the Kumara and Whataroa Water Treatment Plants.

The risk of fraud in procurement at a local government level continues to be a focus for the SFO.



Counter Fraud Centre

Initially funded to lead public sector fraud prevention relating to COVID-19 relief packages, the Counter Fraud Centre - Tauārai Hara Tāware (CFC) was funded on a permanent basis in Budget 2022.

The CFC focuses on increasing counter fraud and corruption capability and supporting the public sector to design and implement effective fraud and corruption prevention systems.

Following considerable engagement with agencies, the CFC has identified priority areas including around processes, understanding of risks, cross-sector collaboration, learning solutions and ensuring fraud risk is considered at the earliest stages of policy, programme and legislation. Its offerings include:

- Customised counter fraud support (for government agencies): Recognising that agencies are at varying stages of maturity in this area, our support ranges from providing tools and guidance through our secure online portal to customised bespoke advisory services.
- Cross-government engagement: We partner with central, local and international government agencies to share technical knowledge, and provide opportunities for agencies to collaborate through our Community of Practice. Our CoP currently has 79 members from across 35 government agencies.
- Learning solutions: We develop practical, accessible learning resources for public servants, representatives, and local government employees.
- Funding reviews: We provide advice to agencies who are designing and delivering grant programmes or funding projects, and review projects to improve processes and outcomes.



COUNTER FRAUD CENTRE

Tauārai Hara Tāware

Drawing on international experience

The CFC is strongly connected with key government agencies which have an oversight or integrity role, including The Treasury, Office of the Auditor General and the Public Service Commission.

Additional funding also allowed us to open a Wellington office in 2020, which has significantly contributed to our efforts to engage more readily with our public sector partners.

We are also a member of the International Public Sector Fraud Forum (IPSFF) – a Five Eyes group established by the UK Cabinet Office to improve the resilience of public agencies against fraud and to share best practice. This has enabled us to leverage international experience.

We have linked relevant agency staff to the IPSFF network, where they can directly share information and experience with their overseas counterparts (for example, use of data analysis

to identify potential fraud) and will continue to provide a joined-up approach with strategic risks and the agencies responsible for addressing them.

In October 2022 three officials from the newly established United Kingdom Public Sector Fraud Authority (PSFA) visited New Zealand. The UKPSFA, which is seen as a leader in the fraud prevention space, shared their learnings around improving capability in the public sector.

The visit included meetings with chief executives and other senior officials from key New Zealand agencies, the Minister responsible for the Serious Fraud Office and his staff, and workshops with counter fraud practitioners within the New Zealand public service.



As part of International Fraud Awareness Week, the CFC together with Treasury's Finance Development Program hosted a series of webinars encouraging the public sector to know their fraud threats inside and out.

More than 600 people attended the webinars, which raised awareness of red flag behaviours and signs of scams. We received overwhelmingly positive feedback and requests for regular sessions.

Meeting New Zealand's international obligations

Strong global connections, mutual cooperation and the sharing of information are critical to address corruption, especially as financial crime and corruption increasingly features cross-border activity.

By regularly interacting with our international counterparts and participating in global networks, we stay up to date with international trends, and help maintain New Zealand's reputation as a country with low levels of corruption.

These networks also help us operationally, allowing us to further our cases by sharing information across borders and undertaking enquiries in our respective jurisdictions.

New Zealand has signed up to several international commitments focused on tackling corruption globally. The SFO helps to fulfil these obligations through participating in international meetings, sharing information and capacity-building initiatives, and helping review New Zealand's compliance with its commitments.

Members of the SFO routinely represent New Zealand on APEC's Anti-Corruption and Transparency Working Group (ACTWG) and its sub-groups.

SFO members also represent NZ at the OECD Working Group on Bribery Law Enforcement Officials meetings and the OCED Global Law Enforcement Network meetings.

In 2015, New Zealand ratified both the United Nations Convention Against Corruption (UNCAC) and the OECD Convention on the Combating of Foreign Bribery in international Business Transactions.

In 2023 New Zealand's compliance with both conventions will be peer reviewed by the UN and OECD respectively. New Zealand's response to these reviews will be led by the Ministry of Justice (MoJ) with the SFO playing a key part in each review, as the lead agency for bribery and corruption. Likewise, members of the SFO will join MoJ colleagues as peer reviewers of two other countries in 2023 (Canada and Suriname).

We also assist international agencies in an advisory capacity. Recent examples include:

- Assisting Vanuatu authorities in relation to the investigation and prosecution of alleged corruption in a matter soon to go before the Vanuatu courts.
- Engaging with authorities in Asia, the US, Europe and the Pacific to receive and provide information relating to fraud and corruption matters.
- Supporting the Cook Islands through providing access to anti-corruption resources via our CFC.

We have an employee based at the International Anti-Corruption Coordination Centre (IACCC), hosted by the National Crime Agency in the UK, which coordinates requests for information and cooperation from countries which have been the victims of grand corruption. The SFO sits on the IACCC's governance board.

In 2023, New Zealand will host the International Foreign Bribery Taskforce (IFBT) annual meeting. The IFBT focuses on the exchange of information and expertise to collectively tackle the challenge of international foreign bribery. The event is being organised by the SFO and will consist of operational workshops, knowledge sharing and networking for specialist international corruption investigators from the Five Eyes countries.

Your role as SFO Minister

The SFO was established in 1990 under the Serious Fraud Office Act 1990 (the SFO Act) and is a separate department of government.

Under the SFO Act the responsible Minister is the Attorney-General but, in 2008, ministerial responsibility was transferred to the Minister of Police. The SFO is operationally independent from the Minister. This means the Minister cannot direct the SFO in relation to its investigations.

Secrecy

The SFO is required to observe the strictest secrecy to information supplied to, or obtained by the Director under, or in connection with the exercise of our powers under the SFO Act (s36 SFO Act).

Secrecy ensures that parties to an investigation have confidence that the information we compulsorily obtain is kept in strict confidence and only used for the purposes for which it was obtained. If information about active cases was to enter the public domain, it could undermine

confidence in the SFO and deter witnesses from fully cooperating with our investigations.

The Director is empowered to disclose information in certain situations as follows:

- With the consent of the person who provided the information to the SFO
- To the extent that the information is already in the public domain
- For the purposes of the SFO Act or the exercise of powers under the Act
- For the purposes of a prosecution anywhere
- To a person who the Director is satisfied has a proper interest.

As secrecy is a statutory provision it is legally binding on the Director and overrides the 'no surprises' principle. We will try to ensure that the Minister is aware of matters which may be controversial or may become the subject of public debate, however, doing so may not be possible in all cases. The Director will be happy to discuss this with you.

Ministerial briefings

The current Director and her deputies have previously met monthly with the Minister. We provided the Minister with a monthly report of our current performance, along with information about key stakeholder engagements and any relevant strategic matters. We also provided the Minister with reports on specific issues of current interest or concern. We look forward to discussing the reports with you and any additional or different information which might assist you.

The SFO anticipates briefing you on the following matters in the next three months:

- Transparency International 2022 Corruption Perceptions Index
- The International Fraud Film Festival
- Our hosting of the International Foreign Bribery Taskforce
- All of Government approach to COVID-19 Wage Subsidy abuse investigations
- Club Funded Electronic Forensic Unit

SFO leadership

The SFO is managed by a Senior Leadership Team (SLT) of eight: a Chief Executive and Director, two Deputy Chief Executives, the General Counsel and four Managers.

One Deputy Chief Executive is responsible for Business Services, Forensic Services, Counter Fraud and Strategy.

The other Deputy Chief Executive (presently Acting) is responsible for all operational matters including investigations and prosecutions.

The General Counsel (presently Acting) is also the Manager Prosecutions.

The four other Managers are assigned to the following roles:

- Manager Investigations
- Manager Counter Fraud and Strategy
- Manager Business Services
- Manager Forensic Services.

All members of the SLT contribute to the management of the agency, which includes public and private stakeholder engagement, support for our international work and contributing to our reporting obligations.

Executive Leadership Team



Karen Chang

Director and
Chief Executive

Karen Chang joined the SFO as Director and Chief Executive in April 2022. Prior to this Ms Chang was Head of Enforcement at the Financial Markets Authority, a role she had held since 2017. She was also Acting General Counsel from November 2021. Before joining FMA, Ms Chang was a senior Crown prosecutor, conducting a range of trials involving serious criminal offending. Earlier in her career, Ms Chang was a commercial and regulatory litigation lawyer in private practice in Auckland, Sydney and New York.

Ms Chang holds a Bachelor of Law (Hons) and a Bachelor of Commerce (Hons) in Accounting & Finance, from the University of Auckland.



Graham Gill

Deputy Chief Executive -
Corporate and Strategy



Rose Rehm

Acting Deputy Chief
Executive - Operations



Kylie Cooper

Acting General Counsel and
Manager - Prosecutions



SERIOUS FRAUD OFFICE

Te Tari Hara Tāware

