

Review of Police management of fraud allegations

Introduction

1. Between 2018 and 2020, the Authority received 52 complaints from members of the public about the Police response to reported fraud.
2. In the course of reviewing and investigating the individual complaints, the Authority identified some common themes across the complaints that suggested systemic issues within New Zealand Police. For this reason, we decided to produce a single public report in response to these multiple complaints.
3. At the same time as the Authority has been conducting its review, a group within Police has also been reviewing Police's response to fraud in an effort to improve the service provided to victims. Our review is independent of this, but where relevant we will refer to issues raised by the Police fraud review ('Police Review').
4. Crime statistics speak to the importance of this issue, with 8% of all New Zealand adults in 2021 (around 318,000) reported as being the victim of fraud or deception offences. This is a greater number of adult victims than any other offence type. Fraud and deception is one of the most common offence types and, together with harassment and threatening behaviour and burglary, makes up more than half of all offences (51%) experienced by adults and households.¹
5. Our review addresses how and why a gap has opened up between public and victim expectations of the treatment of fraud, and the relative priority accorded to it by Police and within the justice system generally, at both the strategic policy and operational practice levels. Our findings indicate that the gap has several contributory elements. It can and should be narrowed by a system-wide and purposefully integrated approach to policy, practice and resourcing of capability.

¹ Ministry of Justice, 2022, *New Zealand Crime and Victims Survey: Survey Findings- Cycle 4 Report Descriptive Statistics* Wellington: Ministry of Justice p 53.

WHAT IS FRAUD?

6. In broad terms, fraud is dishonest activity that generally causes a financial loss to an individual, company or organisation. Technological advances mean most fraud is now committed using the internet. Current common types of fraud comprise credit card and EFTPOS fraud (including the use of 'Paywave'), scams including relationship fraud, identity theft, online agency fraud and fraudulent internet trading.²
7. Due to advances in technology, offenders based off-shore are increasingly offending against people in New Zealand. This creates issues for the New Zealand Police in terms of jurisdiction and the ability to gather evidence from off-shore service providers.
8. There are several sections of the Crimes Act 1961 that set out offences involving deception and dishonesty, forgery and crimes involving computers. Penalties vary between offences, sometimes depending on the value of loss. The statutory limitation periods stipulating the timeframe within which charges must be filed also vary.
9. The primary provision relating to fraud offending is section 240 of the Crimes Act. It provides:

(1) Every one is guilty of obtaining by deception or causing loss by deception who, by any deception and without claim of right,—

(a) obtains ownership or possession of, or control over, any property, or any privilege, service, pecuniary advantage, benefit, or valuable consideration, directly or indirectly; or

(b) in incurring any debt or liability, obtains credit; or

(c) induces or causes any other person to deliver over, execute, make, accept, endorse, destroy, or alter any document or thing capable of being used to derive a pecuniary advantage; or

(d) causes loss to any other person.

(2) In this section, deception means—

(a) a false representation, whether oral, documentary, or by conduct, where the person making the representation intends to deceive any other person and—

(i) knows that it is false in a material particular; or

(ii) is reckless as to whether it is false in a material particular; or

(b) an omission to disclose a material particular, with intent to deceive any person, in circumstances where there is a duty to disclose it; or

² Police figures show that 97% of "cyber-enabled" crime is fraud.

(c) a fraudulent device, trick, or stratagem used with intent to deceive any person.

10. To prove that an offence has been committed, a prosecutor must establish “*beyond reasonable doubt*” that the person accused of the offence intended to deceive. However, this evidential threshold does not need to be clearly established before an offence is reported and recorded. We have found that, in general, Police lack a sufficient understanding of this, coding reports as incidents instead of offences if they have initial doubts about evidential sufficiency. They frequently also lack sufficient understanding of what might constitute “*intent*” as it relates to fraud, as discussed further in paragraphs 182 - 186 below.

WHO DEALS WITH FRAUD?

11. The New Zealand Police are the lead agency for investigating fraud offences in New Zealand. However, there are a number of other agencies which deal with aspects of fraud. They include, but are not limited to³:
 - The Serious Fraud Office (SFO);
 - The Commerce Commission;
 - The Financial Markets Authority; and
 - The Computer Emergency Response Team (CERT).
12. Police have Memoranda of Understanding with each of the Serious Fraud Office, the Commerce Commission and the Financial Markets Authority, and a Letter of Agreement with CERT, which set out how the Police will cooperate with that agency in their areas of common interest, including fraud. The purpose is to ensure the best use of resources and to avoid overlap.
13. In the course of carrying out this review, we spoke to representatives of each of those agencies.
14. We note that IRD and MSD also have a role in investigating and prosecuting benefit fraud and tax fraud respectively. However, these are both frauds committed against the state rather than individual victims, and we have therefore excluded them from consideration.

Commerce Commission, Financial Markets Authority and CERT

15. The Commerce Commission is responsible for enforcing laws relating to competition, fair trading, and consumer credit contracts. Matters that are the subject of complaints to the Commerce Commission may include elements of fraud. Representatives of the Commission told us that when they suspect fraud, they refer the matter to the Police or the SFO.
16. Responsibilities of the Financial Markets Authority include investigating potential breaches of financial markets conduct legislation and taking appropriate enforcement action. Some of the

³ The Commerce Commission and the Financial Markets Authority may, on occasion, prosecute fraud and deception offences. These prosecutions are rare and they were therefore not spoken to as part of this review.

complaints it receives may relate to alleged fraudulent activity. Where those complaints fall outside the FMA's responsibilities, they refer the complaint to an appropriate agency, often the Police.

17. CERT, which is part of the Ministry for Business, Innovation and Employment, is focused on improving cyber security. CERT invites anyone to report cyber security issues. The CERT representatives told us that CERT refers any evidence of criminal offending to the Police, with the consent of the reporter. We understand from CERT that between 1 January 2018 and 31 December 2020 there were 2600 referrals to Police, which amounted to 15% of total referrals within CERT.

Serious Fraud Office

18. The only agency that mirrors the Police function of investigating and laying criminal charges for suspected fraudulent activity is the SFO. It operates under its own legislation (Serious Fraud Office Act 1990) and is the lead law enforcement agency for investigating and prosecuting serious or complex fraud. The SFO uses the term "*serious financial crime*" and notes that its jurisdiction extends to bribery and corruption. It has a budget of \$16.5 million, \$13 million of which is dedicated to investigating and prosecuting serious and complex financial crime. Its staff have a level of expertise not generally available to Police.
19. SFO representatives told us they received 941 complaints alleging fraud in 2019. However, they say they are required to be very selective about the cases they take on because of the size and complexity of the cases. According to the SFO, their focus is on a small number of cases which have a disproportionately high impact on the economy and financial wellbeing of New Zealanders. They prioritise cases using criteria that address:
 - (a) the scale of the crime;
 - (b) its impact on victims;
 - (c) the complexity of the offending; and
 - (d) the degree of public interest in the case.

Where complaints do not fit within those criteria, the SFO may refer those matters to other agencies, including the Police. SFO representatives told us that, at any one time, they are handling 30 to 50 matters of serious or complex fraud at various stages of assessment, investigation or prosecution and have the ability to commence a maximum of 8-10 prosecutions in any given year (approximately 1% of complaints received).

Other initiatives and agencies

20. The Police worked with a dozen or more other Government agencies to complete the *Transnational Organised Crime in New Zealand Strategy 2020 – 2025*, which was released in

September 2020.⁴ The Strategy aims to develop “a more strategic, whole-of-system and coordinated” response to organised crime, focused on prevention. Its vision is to make New Zealand “the hardest place in the world for organised criminal groups and networks to do business”.

21. The Serious Fraud Office is also currently working with the Ministry of Justice and the Police to develop a National Financial Crime and Corruption Strategy. The work will engage a wider range of stakeholders as it progresses. That Strategy will encompass the broad range of financial crime, including cybercrime, mortgage fraud, romance scams, and other scams, and will sit alongside the Transnational Organised Crime Strategy.
22. There are also organisations in the private and not-for-profit sectors which play a part in responding to fraud, including banks and organisations which provide a trading platform such as TradeMe and Facebook. NetSafe is a non-profit online safety organisation, which aims to protect the public from bullying, abuse and scams in the online environment, and has an online portal for reporting incidents. Media such as FairGo publicise instances of fraud and in so doing provide information to assist people to avoid becoming victims of fraudulent activity. None of these organisations have statutory powers to investigate and prosecute fraud.

The concern

23. While a number of other agencies have responsibilities in relation to fraud, those who have their own investigative and prosecutorial responsibility operate within narrow parameters. Police therefore end up being the lead agency for the vast majority of fraud investigations, even though their investigative staff are not generally qualified, trained or experienced in dealing with complex financial matters. Other agencies described the Police response to referrals of possible fraud cases as “sporadic” and “dependent on individual relationships”.

Nature of the problem

PREVALENCE OF FRAUD

24. The Police’s Financial Crime Unit estimates that New Zealanders lose between 20 and 30 million dollars per year to scams. The New Zealand Crime and Victims Survey tracks New Zealanders’ experience of crime. In the last reporting cycle (covering the 2021 calendar year), the survey found that 318,000 (8%) adult New Zealanders were victims of one or more fraud offences, making fraud more prevalent than any other offence type apart from burglary (which was experienced by 9% of all households).⁵ Despite fraud and deception offences being so widely experienced, the survey identified that fraud is significantly less likely to be reported to Police than any other offence. The survey estimates that only about nine percent of fraud offences

⁴ <https://www.police.govt.nz/sites/default/files/publications/transnational-organised-crime-in-new-zealand-our-strategy-2020-to-2025.pdf>

⁵ Ministry of Justice, 2022, *New Zealand Crime and Victims Survey. Survey Findings. Cycle 4 Report Descriptive Statistics* Wellington: Ministry of Justice, Table 3.7. Most households contain more than one person, so that the 9% figure understates the number of people affected by burglary as a comparison with those affected by fraud.

were reported to Police over the last four reporting cycles (2018-2021).⁶ The most common reasons for not reporting fraud and cybercrime to Police were:

- 24.1. Too trivial/no loss or damage/not worth reporting (32%)
 - 24.2. Bank/credit card company dealt with issue/contacted me (29%)
 - 24.3. Reported to other authorities (e.g. superiors, company security staff) (22%).
25. Police accept they have struggled to assess the scope of fraud offending that is being reported to them. Even of the estimated eight percent of offences that victims do report to Police, many are not correctly recorded in the Police database as offences. Unpublished Police data suggests that of approximately 70 offences being reported each day, only 60 are correctly recorded and captured by the system.⁷ Reasons for offences not being recorded include people being turned away from public counters when attempting to report and some fraud reports being incorrectly coded as being a civil dispute or a public relations matter. This is explored further from paragraph 182.
26. Unpublished data provided to us by Police shows that over the period 2016 to 2020 the number of fraud offences that were recorded increased, while the proportion leading to charges decreased significantly. This might be thought to indicate a troubling decline in responsiveness to a growing harm. However, part of the explanation for this lies in the fact that the Police recording standard changed over this period, as a result of which a greater proportion of reports were recorded as offences (although for the reasons discussed later in this report still fewer than ought to be recorded). In addition, the problematic way in which the Police prioritise and investigate fraud offences, which we discuss in more detail in Issues 1 and 2 below, make it unsurprising that the increase in recording is not reflected in an increase in investigative activity and that the proportion of cases closed by laying a charge has dropped.

Situating fraud within the context of Police strategic intent

27. In setting out their strategic intent, Police detail their vision “*to be the safest country*”, and their mission “*to prevent crime and harm through exceptional policing*”.⁸ They state their three priorities as “*strengthening how and who we are as an organisation, understanding and providing what the public want from their police, and focussed police effort and working with others to achieve better outcomes*”.
28. Prevention First is the national operating model for Police. The key goals under this model are:
- To prevent crime and victimisation;
 - To target and catch offenders;

⁶ *ibid* p 157

⁷ This data is not captured in official statistics because ‘Recorded Crime Victims Statistics’ does not include fraud and deception offences and ‘Recorded Crime Offender Statistics’, the new framework introduced in 2014, only shows how many offenders Police identify and hold to account.

⁸ [Our Business | New Zealand Police](#)

- To deliver a more responsive Police service.
29. The prevalence of fraud in New Zealand, the very low rates of reporting fraud to Police and the even lower rates of fraud reports that are correctly recorded and investigated, appear to be at odds with Police strategic intent and their Prevention First operating model. We conclude, based on the above information and our review of the complaints received, that fraud is perceived, both systemically and culturally, as having low importance and little impact. This is backed up by the categorisation of fraud as a ‘volume crime’ offence (category 4), regardless of the seriousness of the offending in financial terms or its impact on the victim.

OVERVIEW OF COMPLAINTS RECEIVED BY THE AUTHORITY

30. The Authority has investigated a number of complaints which highlight systemic issues with how reports of fraud are dealt with by Police. We discuss Police procedures for handling reports of fraud in detail in Issues 1 and 2 but by way of context, the procedures have the following characteristics:
- reports of fraud are made at front counters of Police stations, via the 105 reporting line or online;
 - most Police districts do not have specialist fraud squads;
 - subject to a fairly broad national prioritisation system, each district has its own approach to determining the priority and resources given to investigating fraud reports; and
 - the way fraud investigations are carried out also varies between districts.
31. The examples below are some of the complaints that the Authority has investigated.

Alleged fraud on application for Master Builders Guarantee (‘Master Builders Guarantee Fraud’)

32. On 18 December 2015 Mr Y reported to Auckland Central Police Station alleging that the person who had been contracted to build a residential house for Mr Y and his wife had falsified an application form for a Master Builders Guarantee.
33. The lodgment of the guarantee application was a condition of the contract. The builder had failed to lodge the original application within the timeframe specified by the contract. This should have given Mr Y the right to withdraw from the contract, which he wanted to do because of subsequent extensive delays and the poor quality of work which had been completed. Mr Y alleged that the builder lodged a false application five months after the expiry of the stipulated date, in which the dates and the applicant’s signature had been changed.
34. Mr Y alleged that if this fraud had not occurred, under the contract they would have been entitled to recover \$71,400 of their deposit of over \$100,000. Mr Y had extensive documentary evidence of the events leading up to this, and knew the identity of the alleged offender. The file was transferred to Waitemata Police on 9 December 2016.

35. Police completed the first interview with Mr Y on 2 February 2017, and interviewed his wife on 27 February 2017. On 16 May 2017 the file was referred for a legal opinion and was returned to the investigating officer on 22 June 2017. In April 2018, Police interviewed a witness who worked for the building company and in June 2018 Police contacted another staff member and asked her to answer four written questions which Police sent to her.
36. On 6 August 2018, 20 months after the fraud report was lodged, the investigating officer, Officer B, told the complainants that he was in the process of contacting the alleged offender to give him the opportunity to assist with the investigation. On 21 August 2018 the alleged offender provided the Police with a pre-prepared statement through his legal counsel. Meanwhile, in September 2017, Mr Y received some civil compensation from the Master Builders' Association. The complainants made Police aware they had received the compensation.
37. Mr and Ms Y lodged a complaint with the Authority on 1 October 2018. In this complaint, they state that 22 months after they filed the fraud report with Police, little progress had been made, despite the identity of the offender being known and despite Police informing them on 9 December 2016 that the altering of the application "*is clear offending and easy to prove*". The complainants state that, by the time of their complaint to the Authority in October 2018, the alleged offender had still not been interviewed and that the Police were uncertain of his whereabouts.
38. When we received this complaint, we requested that Police review their decision making and re-investigate. The file was returned to Waitemata District for further enquiries to be completed. Although some of the key witnesses could not recall details of the matter due to the significant time that had lapsed since the incident, Police made the decision to charge the offender. Unfortunately, soon after, the charge was withdrawn, with the prosecutor citing that due to the lack of detail in witness accounts, there was not a reasonable prospect of conviction.
39. It is the Authority's view that, if this file had been investigated to a reasonable standard and in a timely manner, sufficient evidence to prove this offending beyond reasonable doubt could have been obtained by Police and put before the Court.

Alleged fraud on co-directors and shareholders of a company ('Shareholder Fraud')

40. In late 2017 Mr X went to the Kerikeri Police station to report that Ms V, a co-director of their joint company, had defrauded the company of approximately \$150,000. The three directors of the company were Mr and Ms X, Mr W and Ms V. The misappropriation of funds had been discovered at the end of 2017 but had been happening for a number of years prior to that.
41. When Mr X reported the offending just after discovering it, the officer he spoke with talked him out of having the matter recorded and encouraged him to try to negotiate with the offender, in an attempt to recover the funds himself.
42. As a result, Mr and Ms X and Mr W agreed with Ms V that she would repay the funds that she had charged to the company credit card and taken from the company bank account. However, according to Mr X, only \$25,000 of the \$150,000 owed was repaid, so on 30 November 2018 the

other three directors reported the offence to Police again, seeking a formal Police investigation and prosecution of Ms V.

43. Police asked Ms X, who did the bookkeeping for the company, to provide the information that Police would need to conduct the investigation. Mr and Ms X were also asked by Police to visit the creditors in respect of whom the fraudulent transactions had been completed and gather the evidence of those transactions themselves.
44. Police determined that there were three instances that could give rise to possible offences of fraud or theft:
 - 1) fraudulent transactions on the company credit card;
 - 2) fraudulent transactions on the company bank account; and
 - 3) fraudulent invoices relating to amended and agreed hourly rates.
45. On 31 January 2019 Ms X contacted Police, as she had not been contacted by them about the investigation. She contacted them again on 22 February 2019, as again she had not received any update.
46. On 1 March 2019 the file was assigned to Officer C. On the 19th of that month Officer C met with Ms X and started to take a formal written statement from her. The statement was paused after Officer C became concerned that Ms X did not have all of the documents available to prove the fraudulent transactions. Officer C noted on the file that *"Ms X has a lot of work to do before there is sufficient evidence to prove this in Court"*. We understand she did not regard it as the responsibility of Police to gather any of the evidence themselves.
47. Officer C followed this up with an email to Ms X to that effect, telling her that there was a lot of evidence that needed to be gathered by them to help prove the allegation. This included asking Ms X to make enquiries with creditors to source evidence of offending, something Ms X felt uncomfortable doing.
48. On 25 March 2019 Officer C completed a note on the file stating that she had been reassigned to an enquiry relating to the Christchurch mosque attacks. She stated that there was insufficient evidence on the file for the witnesses to be interviewed and that the file would be closed due to the competing operational requirements.
49. Officer C telephoned Mr and Ms X and advised them that. Ms X asked Officer C to send her a letter outlining the decision.
50. In the letter received, Officer C also advised that the decision to close the case was made in part because priority was given to crimes against persons, which Police did not deem this file to be.
51. After the Authority received the complaint, we asked Police to review their decision-making and to reopen the investigation. On 19 November 2019 Police provided an apology to Mr X for their handling of the original fraud report.

52. Despite this, Police are still investigating this report, with the complainants' statements having only been completed in June 2022. Police have said that this is in part due to competing demands and also due to the delay before the complainants provided the evidence that Police had requested them to obtain.

Tokoroa kitset home frauds

53. On 9 November 2018, a retired couple, Mr and Mrs U, ordered a kitset home to the value of \$18,888 from a company based in Tokoroa. They were advised by Mr T, the director of the company, that the order would be with them within six weeks. The money that the couple paid to Mr T was cash that they had saved up over a significant number of years.
54. The home was not delivered within the promised timeframe and when they followed up with Mr T, he advised that due to the Chinese New Year the product was all sitting in a port in China. The couple followed up numerous times after that and were provided with different excuses, including that the home had been delivered to different ports and that the delay was due to a member of his family being unwell.
55. Mr T stopped answering calls from Mr and Mrs U, so Mr U travelled to Tokoroa to speak to him in person. He again provided numerous excuses. Mr U advised they would see their solicitor and follow up that way. The couple had concluded by that time that the home they ordered and paid for would not be delivered. The couple visited their solicitor who advised them to report the matter to the Police.
56. On 8 March 2019, Mr and Mrs S purchased a \$30,000 kitset home from the same company. Mr T advised them at the time of ordering, that there might be a delay of up to three weeks for delivery because of alterations they had made to the cladding specification of the home.
57. Over the following two months Mr and Mrs S were in constant communication with Mr T discussing the delay with delivery of the home. They advised the Authority that Mr T had a variety of excuses about the delay in delivery, although he did advise that the home had left China where it had been fabricated and that the delay was due to the transit of the home.
58. Mr and Mrs S became concerned about the ongoing delay and requested the shipping details and then a full refund of the amount paid if the home could not be supplied. Mr T stated that the home was near to port and that, if the contract was cancelled, Mr and Mrs S would be liable for the cost of shipping the home back to China.
59. On 4 May 2019 Mr and Mrs S made a report about Mr T to the Nelson Police. An initial report was taken, and the file was transferred to Tokoroa Police. Police spoke with Mr T who stated that he was unable to provide any documentation for the order of the home or the shipping, due to the number of orders he was dealing with.
60. At the same time Mr and Mrs S had begun to make their own enquiries with the company in China who supplies the homes. The company advised that the home had never been shipped due to full payment for the home not being received from Mr T.

61. On 24 June 2019 Mr and Mrs U reported their matter to the Police in Matamata and were told that the file would be transferred to Tokoroa. A short time later, Police told them that Mr T had not committed any offence and that they would be taking no further action.
62. Mr S found out about Mr and Mrs U's report to Police through a television programme's Facebook post and contacted them directly.
63. Further to this, during July 2019, a couple based in Bay of Plenty purchased an orchard valued at \$1.6 million. During the payment process the couple received an email from a person who they thought was the lawyer acting for them, advising them of a change to the bank account into which the money for the purchase was to be paid. They then paid the money to that account. They later found that they had been the victim of what is referred to as an "*email phishing scheme*". This matter was reported to Police on 16 September 2019. Police identified that the account holder that the victims had transferred the money into was owned by Mr T.
64. Police failed to link the three alleged fraud offences naming Mr T as the offender and therefore did not consider the pattern of offending or Mr T's continuing criminal behaviour.
65. Tokoroa Police did not believe that they had sufficient evidence to prove intent to deceive for the report from Mr and Mrs S and the file was sent for a legal opinion.
66. On 10 December 2019 Mr T's company went into liquidation.
67. After Mr and Mrs S complained to the Authority we worked with Police and asked them to review their decision making and investigation into the report.
68. The files were later returned to Tokoroa Police for further enquiries to be completed. Preliminary enquiries were completed with the company in China who advised Police that Mr T had not placed any orders for homes during 2019. A formal written statement was in the process of being completed when the COVID pandemic forced the shutdown of the company and the enquiries were never completed.
69. Police by this time had executed a search of Mr T's house and business in relation to the email phishing file. They seized 12 boxes of documentary evidence, as well as electronic devices from the addresses. The files relating to Mr and Mrs S and Mr and Mrs U were not included in the application for search as Police continued to believe that there was insufficient evidence to suspect criminal offences had been committed.
70. When spoken to by the Authority, Officer D, the officer overseeing the files relating to Mr T, stated that the files were his lowest priority against a backdrop of mainly adult sexual assault files that he had been assigned to investigate. He stated that the main priority with the file was to confirm with the building company in China if the order had been placed and the money paid. As discussed above, this enquiry had not been completed prior to the file being re-filed, citing a lack of intention to deceive.
71. Officer D stated that he did not believe a criminal offence had been committed, as the company had been running since 2017 and had completed orders in the past. He stated that there was no

evidence of intent to deceive at the time of the alleged offence being committed, although he admitted that, at that time he had not undertaken any analysis of Mr T's business records. When asked about this he stated that he had advised his supervisor that *"someone who knows what they are doing"* needed to look through those.

72. Of note, Mr T has been named as the suspect for another email phishing scam, whereby a Wellington-based building company was emailed a fraudulent invoice for \$379,000 by a person purporting to be a contractor who completed some work for them. The fraudulent invoice contained the details of a bank account owned by Mr T. This offending took place in February 2020, after the offending in the other files mentioned above. Mr T has now been charged in relation to this offending.
73. In the Authority's view, the investigations into all of these related matters were woefully deficient. Notwithstanding the significant sums of money sometimes involved and the substantial impact on the victims, they were all regarded as high volume, low priority offending and not given the attention or resources they should have received. To the extent that they were investigated, the officers by their own admission sometimes lacked the capability to undertake even basic inquiries such as analyses of business records. They also failed to check on the history of the alleged offender and recognise Mr T's pattern of behaviour; in the first instance each report was treated in isolation. Even when the Authority drew the pattern to Police's attention, they did not regard this as sufficient to infer that Mr T had an intent to deceive, a view that the Authority disagrees with. Meanwhile, the intent behind the email phishing scams is self-evident.

Flatmate fraud (Auckland)

74. In January 2019, a fire damaged the kitchen area of a house that Mr and Mrs R shared with another couple. Later that month, the other couple who were living in the house met with the landlord of the property to discuss the fire. Mr and Mrs R were not present for this meeting.
75. After the meeting, Mr R's flatmate advised him that he was required to pay her \$7000 to cover the insurance excess, which she would transfer to the landlord. Mr R completed this payment. In May 2019, the flatmate asked for a further \$3000 from Mr R, which he again paid directly to her.
76. Early the following month, Mr R met with the landlord of the property. The landlord told Mr R that he had not received the money from Mr R's flatmate and that Mr R was in fact not responsible for paying the home insurance excess amount.
77. Mr R met again with the flatmates who admitted taking the money. They provided documentary evidence to him showing the payments that had been made and the conversations between the parties about the transactions.
78. The day after this meeting on 10 June 2019, Mr R went to the Avondale Police station to report the fraud offending against him. On 31 July Police telephoned the flatmate, who admitted to them that she had lied to Mr R and taken his money. She advised Police that she would repay the money to him. She subsequently repaid only \$2000 of the \$10,000 owing.

79. The Authority spoke to Officer E, officer in charge of Avondale Enquiry Section, which is the group that is tasked with the investigation of fraud offences in the area. She advised that when she took over the role in July 2019 there were over 300 files awaiting investigation. One of the files assigned to the workgroup at that time was Mr R's report.
80. She said that, due to the backlog of work, she set about telephoning complainants and took the easiest resolution solution for files, to resolve them quickly outside the criminal justice system and reduce workload. She told the Authority that when she telephoned Mr R he advised her that his flatmate had agreed to repay the money owed to him and so the matter was closed.
81. In August 2019, Mr R called Police advising that the flatmate had not repaid the remaining money. He stated that he wanted her charged with the offending against him. He was advised by a Police call taker that, because he had entered into an agreement with the flatmate for the money to be repaid, it had become a civil dispute rather than a criminal offence and had been closed.
82. In the Authority's view, this is manifestly incorrect. A subsequent offer to make reparation does not in itself make a fraud, or for that matter any other property offence, a civil matter. In this case, there was clearly enough evidence to prosecute the flatmate. The failure of Police to do so is inexcusable. It appears to have resulted from a lack of understanding of the law, combined with workload issues which led to the adoption of shortcuts and the premature closure of files.

Auckland Facebook Marketplace series

83. On 13 August 2019 Ms Q purchased a lounge suite that had been advertised for sale on Facebook Marketplace. Ms Q negotiated the price with Ms P down to \$360, including delivery. The lounge suite was not delivered as arranged and Ms P refused to repay the money, giving numerous excuses for why the delivery had not occurred.
84. On 21 August 2019 Ms Q went to Henderson Police Station to report the offending against her. The sergeant on duty entered the file into the Police computer system as a receipt of information and advised Ms Q that it was a civil matter. He did, however, make a phone call to Ms P who agreed to repay the money to Ms Q. The file was closed the same day.
85. The following day Ms Q returned to the Henderson Police station. She had received a text message from Ms P who stated she was confused about repaying the money. A constable at the station contacted Ms P again and advised her to return the money to the Police station. Even when this did not occur, the Police continued to deem the matter civil and took no further action.
86. After Ms Q complained to the Authority about the Police response to her report, we asked them to review their decision making. In doing so Police stated that the reasons a prosecution was not commenced were:
 - There was no proof that Ms P was the orchestrator of the offence;
 - There was no trading history on Facebook Marketplace for Ms P;

- There was difficulty verifying the holder of the Facebook account;
 - Police would have to apply for a production order to receive detail from Facebook;
 - They were not able to prove an offence beyond reasonable doubt, as Ms P had agreed to repay the money;
 - Ms P had not subsequently blocked Ms Q on Facebook and therefore had not displayed deceptive behaviour;
 - The case failed the evidential test for prosecution, but it was open to civil recovery; and
 - The officer did not believe the matter would pass the public interest test detailed in the Solicitor General’s Prosecution Guidelines.
87. The Police went on to say that the report was taken in good faith and coded as an information report because it was deemed a civil dispute. Police further stated that they did try to assist by negotiating the return of the money but they had no expectation that Ms P would return the money. They went on to say that there should have been no expectation on Ms Q’s part that Police would have any ongoing involvement.
88. By the time this response was provided by Police, the time for filing of any charge had expired, meaning that prosecution was no longer an option available to Police.
89. On 26 August 2019 Mr O purchased the same lounge suite from Ms P on Facebook Marketplace. He transferred the money for the lounge suite via internet banking. The lounge suite was never delivered, and Ms P responded to contact from Mr O with numerous different excuses.
90. Mr O reported the offending via the Police online reporting portal. The same day the file was assessed within Police and a note entered, *“As per Auckland City District policy nil follow up as low-level Facebook fraud”*.
91. Mr O forwarded screenshots of the documentary evidence of the offence to the Police. It was again assessed by Police who recorded that *“[Ms P] has limited Police history – remain with previous decision”*.
92. Mr O did not receive any response from Police and so followed up with Police on 10, 11, 20, and 25 September. On 25 September he received an email from Police. Included in this email was information stating, *“We do undertake to investigate incidents if the offender is recidivist... If the offending is ongoing, we then assign the case for investigation. There are no other reports naming the offending account that you provided at this stage”*. The email went on to explain that the investigation had been closed.
93. At the time of reporting this offence Police had already received the similar report from Ms Q. At no stage did Police identify the similarities or link the offending. This could have been done by a check in the Police intelligence database against Ms P’s name. If Police had identified this, it would have met the criterion for recidivist offending and it is possible Police may have taken

further action. We understand that bank accounts can now be entered into NIA and can be searched to identify patterns of offending.

94. The Authority has subsequently identified that Ms P is alleged to have continued to commit similar offences against others.
95. In response to the Authority's request for further information on this file, Auckland Police stated that in 2018 a review was completed by Auckland City District's management which found the high number of reported fraud offences detracted from the enquiry section's ability to focus on serious crimes and files with named offenders. The review concluded that early triaging of lower end fraud reports by the File Management Centre and front counter staff would reduce the team's file count by 30-40%. It also stated that this would provide staff with time to then focus on recidivist offenders and organised crime groups.
96. While the Authority appreciates the need to prioritise files and ensure that limited investigative resource is not devoted to files that are unlikely to warrant prosecution, this does not explain the absence of any effort to determine whether there was a pattern of offending by the alleged perpetrator. The Authority would expect this as a minimum step before a file is closed. While there was no evident pattern when Ms Q made her report, the same cannot be said for the report by Mr O (or the alleged further subsequent offending). It may well be that Ms P was emboldened to continue offending by the evident Police unwillingness to take enforcement action.

Christchurch Trade Me Vehicle Fraud

97. On 22 February 2019 Mr N listed a vehicle for sale on his Trade Me account. The same day he received email contact from a person claiming to be interested in the vehicle, who asked for Mr N's telephone number.
98. Mr N received a phone call from the person a short time later. An agreement was reached that he would transfer \$20,000 for the vehicle into Mr N's bank account that day. Mr N gave the buyer his bank account details.
99. On 25 February, Mr N received a telephone call from a male who advised he was from Mr N's bank. He explained to Mr N that there had been an issue with receiving the \$20,000 from the buyer of the vehicle and he had mistakenly transferred the money twice. The person on the phone then asked Mr N a series of personal questions, purporting to be for the purpose of enabling the voice recognition functions for the telephone banking system.
100. At approximately 4pm that same day Mr N's cellphone stopped working and he was advised by his telecommunications provider that someone using his name had asked for the phone to be disabled. Shortly after this Mr N checked the balance of his bank account and found that \$13,500 had been withdrawn.
101. On 27 February, Mr N reported the offence to the Christchurch Police station. The file was assigned to Officer F in Timaru who completed some initial enquiries and executed a production order for the banking records related to the offending. This resulted in identifying the owner of

the bank account to where Mr N's money was transferred. That person was in prison at the time of the offence.

102. In July the constable and his supervising sergeant made the decision to send the file to an officer who worked within the prison enquiry team, for the owner of the bank account to be interviewed before any further enquiries were made.
103. On 2 August, Mr N complained to the Authority about the lack of contact he had received from Police and delays with the investigation.
104. Later in August the suspect was approached by Police and refused to take part in an interview about the offending. The prison enquiry officer completed numerous enquiries including requests for CCTV footage, which identified the suspect's female partner using his ATM card at various banks. In October, this file was linked with other similar files for which the female was a suspect. She also subsequently refused to be interviewed by Police.
105. The file relating to this offending was recently closed by Police, citing lack of evidence to establish who had committed the offence.
106. When spoken to by the Authority, Officer F, who was initially assigned the file stated that at that time he was working as the Acting Sergeant for his work group and was responsible for mentoring several inexperienced staff. He was also a member of a specialist squad which absorbed a significant amount of time, especially after the Christchurch Mosque attacks.
107. He stated he had never received any specialist training for investigating fraud offending, but it was a common crime type that he had learnt how to investigate "*on the job*". He said his workload was a constant juggle of responding to incidents and prioritising matters relating to prosecutions or enquiries relating to harm to people or property.
108. Officer F told us he sent the file for the suspect to be interviewed to establish his involvement in the investigation. He said the other enquiries, including gathering of the CCTV from automatic teller machines (ATMs), needed to be conducted in the area where the ATMs were located.
109. Again, the investigation in this case was not undertaken in a timely manner. Unlike earlier cases, significant investigative effort was eventually put into the case, but Police concluded that there was insufficient evidence to establish who the offender was. We were able to establish that Police did have regular contact with Mr N, but not all of these contacts had been properly recorded.

Campervan Fraud series

110. In 2020 and 2021 the Authority received ten separate complaints about the Police handling of reported fraud offences, all relating to the sale of campervans from Mr M's business. The complainants are based across New Zealand and reported the offences to their local Police stations.
111. The fraud reports to Police are all of a similar nature, in that the complainants had purchased campervans from Mr M and paid him money, and then subsequently either never received the

van, or received a van that was not the one purchased. The total value of loss to the complainants totals approximately \$150,000.

112. In addition to the complaints made to us, we found nine other reported fraud offences relating to Mr M and his business. Only one of these resulted in a prosecution of Mr M for a dishonesty offence.
113. All of the reports to the Police named Mr M as the offender. Of the reports made to Police, two of them were never recorded in the Police database and the others were all deemed to be a civil dispute. One of the complainants told us that he attempted to report the fraud offence at three separate Police stations and was turned away from all three.
114. Several of the complainants have been awarded damages against Mr M through the Disputes Tribunal. In at least one case, Police recommended to the complainant that the Disputes Tribunal was the only option available to them. Extraordinarily, they also advised that due to there being civil proceedings against Mr M through the Disputes Tribunal, this prevented Police from taking criminal action, as it would effectively be punishing Mr M twice.
115. A private investigator has dedicated many hours' work compiling information relating to Mr M's alleged offending and has provided all of the information to Police. On top of this, the consumer affairs investigative television show Fair Go has reported three times on this series of offending.
116. Despite this, and our continued attempts to have Police link and investigate this offending, their position continues to be that the reports made are civil, lacking the evidence to prove the required criminal intent.
117. Remarkably, Mr M has been deemed a high-risk victim by Police and Police have an intervention plan in place to manage offending against him. This has come about due to him contacting Police whenever one of the fraud complainants confronts him about the alleged offending he has committed against them.

Issues examined by the Authority

118. The cases discussed above expose a number of fundamental inter-related problems with the way in which Police handle reports of fraud. These all derive from the fact that fraud is perceived, both systemically and culturally, as having low importance and little impact. We will discuss these problems under the following headings:

Issue 1: Variable and deficient processes for receiving, categorising and prioritising fraud investigations

Issue 2: Inconsistent and inadequate investigation structures

Issue 3: A lack of victim focus

Issue 4: Inadequate expertise and training

ISSUE 1: VARIABLE PROCESSES FOR RECEIVING, CATEGORISING AND PRIORITISING FRAUD INVESTIGATIONS

Lost victimisations

119. Members of the public can report fraud to Police through different channels. The most common methods are in person at a Police station, by completing an online report through the 105 website or by telephone to the 105 call centre.
120. As part of the Police Review, during early 2021 Police completed a national audit of fraud and deception files from report through to resolution. The audit revealed that around 20% of reports of fraud offences were not appropriately recorded as an offence in the Police database (NIA). The Police Review described this as equating to around 1000 “*lost fraud victims*” in a 3 month period.
121. The Police Review suggests this issue appears to be especially pronounced in relation to reports of fraud made by telephone to the 105 call centre, with the majority of victims being told to report the fraud either to a station or online rather than being entered into NIA by the call taker at the time. We accept that this may partially be explained by a high volume of vague or “*nuisance*” calls made to the 105 number.⁹ However, at least some of these reports no doubt involve actual fraud that does not subsequently get recorded because the victim receives an unsatisfactory response from Police on first contact.
122. However, it is also a significant issue when reports do get made in person to Police station front counters. In a number of other complaints we have handled in recent years, victims are simply told by front counter staff (who do not necessarily have the expertise to be making the judgement) that the matter is civil and not the business of Police. As noted below, the report will sometimes then get recorded as an incident rather than an offence. On other occasions, however, the person making the report will simply be “*batted away*”, so that the opportunity for the matter subsequently to be reviewed by a supervisor is lost.
123. This has two major consequences. First, an unknown number of actual fraud offences never get captured by the system, so that Police do not understand the nature and extent of the problem. Secondly, many victims of fraud are not properly supported, as covered in more detail in Issue 2 below.

Incidents and offences

124. When Police do enter a report into NIA, it is either coded as an offence or as an incident. The Police National Recording Standard states that an incident is “*something that is not an offence that relates to a report to Police about something that has happened.*” Examples of this are a civil dispute or a water rescue.

⁹ Fraud and Deception Report received from Police 15 September 2021

125. Staff entering files are directed to select an offence or incident code based on their knowledge of the law which most closely reflects what the victim has reported to them.
126. It is evident both from the cases discussed above and the Police review that staff often incorrectly record reports of fraud as incidents rather than offences. The Facebook Marketplace frauds are examples of this. It was only several days later that a supervisor recognised the error.
127. This primarily results from a tendency to classify matters as 'civil' rather than 'criminal' (discussed in more detail in paragraphs 182 to 186 below). It may also stem from a desire to reduce overall caseload, since matters classified as incidents can more readily be closed with less paperwork and less supervisory oversight.

Categorisation and Initial File Assessment

128. When a report has been recorded as an offence in NIA, it automatically generates the case management category code, between one and four, dependent on the offence code it was given. Case management category one cases receive the highest priority, with four receiving the lowest.
129. All fraud offences are category four or 'volume crime' offences. Other offences in this category are:
- Burglary (non-dwelling)
 - Car conversion
 - Computer crime
 - Destruction of property (not arson)
 - Disorder
 - Endangering
 - Intimidation and threats
 - Minor assaults
 - Receiving
 - Sale of liquor/gaming
 - Theft
 - Traffic (non-injury)
 - Trespass
 - Vagrancy.

130. After the offence is categorised Police complete an initial file assessment (IFA) of new files. This is the process by which decisions are made in relation to the likelihood of successful investigation and prosecution of an offence. The Police instructions relating to Case Management state that the IFA score is *“a numeric value derived from a series of weighted factors which gives an indication of the solvability of the case, based on the presence or absence of certain key lines of enquiry”*. Police make this assessment after a manual review of the evidence available on file to determine if the specific factors are present. The factors that are applied during this assessment are:
- **Degree of suspicion:** no readily identifiable suspect, score = 0, potential suspect (an identifiable person could be responsible), score = 2, nominated suspect, score = 5, confirmed offender, score = 10.
 - **Suspect description/identity:** no description, score = 0, general description, score = 2, detailed description, score = 5, identity known or forensic match = 7.
 - **Vehicle:** No detail, score = 0, description only, score = 1, description and partial registration, score = 2, full registration only, score = 5 full registration and matching description, score = 7.
131. The solvability threshold has been set at a total score of 7. This means that if the file scores 7 or less it is considered for early case closure (ECC), but if it scores 8 or more it must be forwarded to the appropriate staff group for investigation. Files which score 7 or less may be forwarded for investigation at the discretion of the assessing officer.
132. Given most current fraud offending is computer enabled, it is rare for a victim to be able to identify an offender or indeed provide any description of that person. It is also highly unlikely a vehicle will be used to commit a fraud offence. These factors significantly reduce the prospect of a fraud file reaching the IFA threshold score. A large proportion of fraud files in the audit conducted as part of the Police Review had been allocated a score of 0. This is despite fraud offences, unlike other types of offending, often leaving a paper or electronic trail which can help lead to identification of the offender. This fact is not often considered in the IFA process. Similarly, the amount of financial loss is also not captured in the IFA or other categorisation process.
133. As a result, even when frauds involve substantial sums of money, with significant impacts on victims, they are less likely to be investigated than many other category three or four cases that are inherently less serious.

Early case closure – District practice

134. Once a fraud has been categorised as a low priority using the above process, districts may then go on to apply an early case closure (ECC) process. The Police Intranet information on case management states that the rationale behind early case closure is that the *“practice of pursuing follow up investigations into offences where there is little or no likelihood of locating the offender*

or recovering property is no longer acceptable".¹⁰ Only category four files are eligible for initial file assessment and early case closure, with files for all other categories being forwarded to investigation units for calculation of case rating and prioritisation before a decision on closure is made.

135. While a national early case closure procedure is in operation, districts and some sub-areas within districts vary in their precise approach.
136. Northland and Waitemata Districts follow the national guidelines for early case closure assessment. Counties Manukau District applies early case closure to fraud files that are under \$200 in value, and have no evidence of recidivist offending or a vulnerable victim. Auckland City District applies ECC but states intelligence is collated to enable the linking of recidivist offenders.
137. Waikato District staff do not use the IFA tool; instead, all files are assessed on their own merit by investigation management staff. Within the Bay of Plenty District each area follows a different procedure. For example, the Eastern area does not follow an ECC process at all. Instead, it sends a templated letter to fraud complainants which states that *"the CIB has a considerable number of fraud complaints currently awaiting assignment to an officer, and yours is one of those files"*. It goes on to advise that the file will be reviewed and prioritised and the file may be assigned to an investigator when one becomes available. It further states that it is also possible that no further action will be taken and states that if the complainant wishes to withdraw their complaint they can do so by contacting Police.
138. Eastern and Central Districts follow the national ECC guidelines. Wellington District also applies the national ECC guidelines but also uses a fraud matrix to assess whether the file is to be forwarded for investigation.
139. All fraud files received in the Tasman District are assessed by the Investigation Support Unit or response manager. A number of factors are taken into account including value, recidivism, resourcing and competing demands. In Canterbury District the Investigation support unit and fraud squad work together to review and prioritise cases, applying a nuanced matrix. In Southern District files are put through the national ECC process and then forwarded to the manager of the Investigation Support Unit who further assesses and prioritises files.

Fraud investigation assessment matrix

140. Adding further nuance to the early case closure procedure, in 2020 the Auckland District fraud squad developed a fraud investigation assessment matrix which has since been adopted and modified by some other Districts and staff.
141. This matrix contains criteria such as:
 - if the suspect is known or unknown and located in New Zealand or overseas;

¹⁰ The National Recording Standard is available at <https://www.police.govt.nz/about-us/publication/national-recording-standard-march-2022?nondesktop>

- credibility of evidence;
- reasonable chance of conviction;
- existence of identifiable elements of an offence;
- if there are multiple victims/individual/large or small business;
- likely outcome (whether small penalty or imprisonment);
- value of loss;
- offender history of offending;
- likelihood of reoffending;
- if the person is currently on bail for other offences;
- if the suspect was employed by the company the offending was against at the time of the offending.

142. Christchurch Metro fraud team have developed their own matrix which they apply to all files that have been through the IFA. This matrix is broken down into areas of victim vulnerability, suspect, strength of evidence and general rating from a supervisor. Each area has a possible score out of three. A file which reaches a score of 8 is further assessed for investigation.

Conclusion

143. Resources and demand differ between, and even within, districts. It is therefore inevitable that there will be some degree of variation in the extent to which fraud can be investigated. The recent increase in serious crimes of violence within Auckland City District illustrates this, with several staff from within the Financial Crime Unit having been reassigned. However, it does not follow that the process by which early case closures are determined should vary. Nor does it follow that the process for assignment to individual staff should vary. The current inconsistencies between and within districts do not result from a variation in workload but from a vacuum in guidance from national (and in some cases district) leadership.

144. There will always be a proportion of frauds that are unlikely to be able to be brought to a successful conclusion following investigation, regardless of the resources allocated to them. The more minor an offence, the more likely the case can be closed early without referral for an investigation, on the basis that the resources required to reach a possible outcome are not justified given other priorities. The application of an early case closure process to fraud is therefore not in itself problematic. Our concern is that those processes are applied to fraud much more readily than to other types of cases which are not necessarily more serious, nor more susceptible to resolution. We believe the cause of this is a categorisation process that is far too crude and results in unjustifiable distinctions.

145. For example, if a person reports a burglary that involves the removal of \$100 worth of goods from an unlocked garage with internal access to the house, in circumstances where there were

no eyewitnesses or fingerprints left to aid in identifying the perpetrator, it is more likely to be referred for investigation than a report of fraud in which the suspect is identified and evidence for an investigation is immediately available. This is because, under the current categorisation process, a burglary at a dwelling is not a Case Management Category four, meaning the initial file assessment and early case closure processes described at paragraphs 128 to 139 do not apply.

146. We acknowledge the efforts in Auckland City District, Waitemata, Counties Manukau and Canterbury District to implement fraud-specific workgroups, and note that some of these reforms were in pilot stage in 2019, when the Auckland Flatmate fraud and Facebook Marketplace frauds occurred. The progress that has been made in these districts may be insightful when considering the reforms we propose at the end of this report.

ISSUE 2: INCONSISTENT AND INADEQUATE INVESTIGATION STRUCTURES

Lack of standardisation between and within districts

147. Unlike other crime types, there is no Police national co-ordinator for fraud. Fraud generally sits under the Investigation Group within the Police. However, due to the way the files are allocated between different workgroups within districts, there is a lack of management oversight of what the fraud problem looks like at area, district or national level.

148. In all districts, even once a decision has been made to investigate the file, it is further assessed and prioritised against the other files held by the assigned group. The low score fraud generates often means these files are either closed, or become the lowest priority for staff.

149. As discussed above, during this investigation the Authority collected data from all Police districts to understand how allegations of fraud are dealt with. In Northland, files:

- with a loss of over \$1000;
- linked to a recidivist offender; or
- involving a vulnerable victim

are forwarded for investigation. We do not have any detail on the criteria applied to assess the definition of a vulnerable victim. Waitemata District is currently trialling a fraud unit staffed with a Detective Sergeant and six staff. All files that have a loss valued over \$500 are forwarded for investigation.

150. In Auckland City, the Financial Crime Unit identifies the suspect and gathers the necessary evidence, before sending the file to area CIB staff to interview and assess charging decisions. Counties Manukau have a Financial Investigation Team who investigate matters with a loss value over \$500. They use the same method as Auckland City, except this unit retains management of complex and high value fraud through to prosecution.

151. In Waikato District, if there are lines of enquiry identified during the triage process the file is assigned to area-based workgroups for investigation. Due to high workload, files that are assigned to Hamilton City undergo a further rating assessment. If they do not reach the set threshold they are closed, unless the file involves a vulnerable victim, priority offender, or public interest. At this stage they apply the Solicitor General's Prosecution Guidelines. If the file is progressed, it is sent to the Tactical Crime Group or Corporate Fraud team.
152. In Bay of Plenty District Police endeavour to fully investigate all files that have evidence of a recidivist offender or a vulnerable/young victim. In Central District matters that are investigated are assessed for complexity and accordingly assigned to frontline uniform staff or CIB investigators. In Wellington District, files deemed suitable for investigation are forwarded to the areas for allocation. The workgroups overseeing these investigations vary between areas.
153. Files that are assigned for investigation by CIB in Tasman District have the NIA prioritisation process applied. This normally results in a low score, compared to other files they are investigating. In Canterbury, serious fraud files are assigned to area CIB resource which includes the Fraud squad. Files are assigned to an investigator as staffing resource allows.
154. In Southern District, files that have been through the initial file assessment are assigned to the Investigation Support Unit who applies a further assessment, taking into account competing priorities and harm to victims. Files that require investigation are assigned to the CIB.
155. As the information above demonstrates, there is significant variation between districts and even within districts in how complaints of fraud are processed, assessed and prioritised. This was also noted by the Police Review.

Lack of coordinated response

156. A recurring response when we gathered information from the districts about how they respond to fraud complaints was that a higher priority will be given if there is evidence of recidivist offending. Thus, while an individual fraud may fall below the monetary threshold for Police to decide to investigate, it may be one of a series of frauds by a particular offender and thus reach the threshold for investigation anyway.
157. While the audit conducted as part of the Police Review found that 67% of incidents of fraud offending were one-off, it is likely that this is not an accurate figure given the difficulty of linking occurrences within a series. We have found that the method used to record suspect bank account details, so they can be used to identify repeat offending, differs. Furthermore, there are a range of procedural, structural and technological barriers that mean related cases are often not linked.
158. The Auckland Facebook Marketplace complaints made to the Authority and described from paragraph 83 are examples where Police dismissed each complaint without linking the cases together. Similarly, in the Tokoroa Series complaints described from paragraph 53 relating to the provision of kitset homes, Bay of Plenty Police dismissed the original complaint as being a

civil matter and failed to investigate. It was only later that other complaints relating to the alleged fraudster emerged.

ISSUE 3: LACK OF VICTIM FOCUS

Response to victims

159. The inadequate categorisation and file assessment processes contribute to a frequent Police failure to give victims of fraud the attention and support that the crimes committed against them warrant. Our investigations found that victims of fraud often feel they are more victimised by Police handling of their cases than by the fraud itself. For example, in the Shareholder Fraud complaint in which husband and wife directors of a small family company were allegedly defrauded by a fellow director, Police told the complainants that they give priority to offences against individuals rather than companies, and that their case would be closed due to resourcing constraints following the Christchurch terror attacks. This was despite the couple having allegedly been defrauded of \$150,000.
160. The Police response typically underestimates the toll that the crime, and the subsequent poor quality of their investigation into it, can have on individuals. In three of the complaints described above, the complainants spoke of the stress caused by Police inaction, describing significant stress-related illness and for one complainant the loss of her hair.
161. In at least one of the cases described above (Shareholder Fraud), the Police instructed the victim to collect the evidence necessary to support a charge – in effect, asking the victim to investigate their own case. This appears to be a further consequence of the low priority and lack of resource given to fraud cases, and potentially the lack of expertise of the officers assigned to investigate the offending. However, it seems likely that it is also a further indication of the lack of focus on the wellbeing of the victims.
162. The Police Review also found problems with the way victims of fraud are supported when they make a report to Police. Of the 361 occurrences audited, a referral to victim support¹¹ was only offered in 57% of cases. This is despite the vast majority of fraud allegations being reported by the victim. It is possible that the real number offered victim support may be even lower because, as raised in paragraph 182, some fraud complaints are dismissed as being outside Police jurisdiction and so complainants are never recognised as victims.
163. We found actual referrals made by Police to Victim Support for fraud offending were exceptionally low. The table below details the total number of referrals to Victim Support across the period from July 2017 to June 2020.

¹¹ Victim Support provides free, nationwide support for people affected by crime and trauma.

Victims Supported	Jul17-Jun18	Jul18-Jun19	Jul19-Jun20
Auckland	18	27	33
Canterbury	9	20	13
Central	23	20	16
Counties Manukau	11	16	33
Eastern / Bay of Plenty	30	34	49
Northland	10	8	11
Southern	10	22	25
Tasman	10	15	11
Waikato	6	10	16
Waitemata	6	19	18
Wellington	18	26	33
Grand Total	151	217	258

164. Although Victim Support do not provide specialist fraud support, they are able to provide guidance and refer people to other services if applicable. For example, 'iDcare' is an Australian based not for profit charity, with a branch in New Zealand, that specialises in supporting individuals and organisations confronted with identity and cyber security concerns. The New Zealand branch is managed by a former high ranking Police officer with extensive knowledge of the fraud landscape in New Zealand.
165. Although some districts take into account the vulnerability of the victim when prioritising fraud complaints, it is unclear what factors are assessed. The Police audit conducted as part of the Police Review found that of 361 occurrences of fraud, 44% (158 people) were repeat victims of an offence of fraud or dishonesty. Similarly, the Police Review questioned how staff seek to understand victim vulnerability or whether they are driven solely by managing workload and the monetary value of the fraud in deciding whether the offence could be resolved.
166. A further concern in the way victims of fraud are treated during Police investigations is the perception by some Police staff, including some senior officers we interviewed, that a fraud victim's priority is to get their money back, rather than to see the offender prosecuted. This appears to influence the way fraud reports are prioritised. Some senior officers told us that

because the recouping of funds falls outside Police's jurisdiction, they were not the right people to deal with the report. In contrast, complainants we spoke to said they were not only wanting their money back but were also driven by a desire to see offenders held accountable, not only to satisfy their own sense of justice, but also to ensure punishment as a deterrent to further offending.

167. Subsequent effects of affording fraud investigations a low priority are twofold. Firstly, if the delays are sufficiently significant, the statutory limitation period within which a charge must be filed may expire, leaving Police unable to prosecute the alleged offender. Secondly, unsurprisingly, the longer it takes for an investigation to commence, the poorer the recall of essential witnesses in relation to the event. This was seen in the Master Builders' Guarantee alleged fraud. By the time the Authority persuaded Police to re-investigate the allegation, important witnesses were unable to recall certain details with sufficient clarity to enable the offence to be established beyond reasonable doubt. In that same case, the Police tendency to view the recovery of funds as a victim's priority was demonstrated, with the fact that the couple had received some civil compensation (as described in paragraph 36) weighing as a factor against pursuing prosecution.
168. We acknowledge the improved response within some sections of Police, particularly the Auckland and Christchurch Financial Crime Units. Within those units there appears to be a sound understanding of the impact of fraud on victims, with officers adopting a victim-centred approach and encouraging early and ongoing communication with the victim to manage expectations, as well as the importance of investigating, regardless of whether the victim has been successful in obtaining civil compensation. This may result from the fact that these are units specialising in financial crime, which points to the possibility, as discussed in the next section, that the move to generalist investigation units, and the consequent loss of specialist capability, is likely to have had a significant adverse effect on the quality of service to victims.

Conclusion

169. With some notable exceptions, the current approach to victims of fraud is poor. Police must increase their knowledge of the effects of fraud on its victims and be mindful of how their response to victims may add to the harm caused. An offer of referral to the appropriate victim support agency should be mandatory for all complaints made.
170. Where Police use the concept of victim vulnerability to triage and prioritise files, the factors being assessed need to be standardised across the country. The disparity in evaluating vulnerability leads to a variance of outcomes.

ISSUE 4: INADEQUATE EXPERTISE AND TRAINING

171. Despite the significant differences in how districts handle fraud complaints, one commonality is that, outside Auckland City and Christchurch, there is very little specific fraud training and most districts do not have staff dedicated to fraud investigations.

172. During the mid-2000s Police moved away from specialised squads within the criminal investigation branch (CIB) and towards a generalist investigations workforce. Prior to this most Districts, and in fact most areas within those Districts, had a dedicated fraud squad, or at least a person within the CIB who held the fraud portfolio. There was a significant number of staff within the Police who had specialist skills to investigate fraud offending.
173. During this time, prior to advances in the internet, a lot of fraud comprised documentary-based offending committed by offenders based in New Zealand. Common examples of this included cheque series and fraudulent invoicing. Although subsequent advances in technology resulted in the development of more sophisticated and widespread computer-based offending (much of it through the medium of the Internet) Police moved away from specialist squads and training. As a result, Police training and expertise has simply not kept pace with these changes in the nature and scale of fraud offending.
174. Recruits are taught the elements of basic fraud offences, but there is no in-depth training about how to investigate fraud offending or, significantly, how to prove the element of intent to deceive. These are the officers who at an early stage in their career will often go on to staff the front counters at Police stations, one of the avenues for people to lodge fraud complaints. Further, with the exception of Auckland City District, where a limited fraud training package has been developed, there is no training for front counter staff. Similarly, there is no specific training provided to staff who work at the 105 reporting centre responding to complaints of fraud made by phone or online. Police have developed a one-page document for them which outlines some common fraud offences, with some examples of what may be reported and how to record it, but the majority of training they gain is from experience gathered *“on the job”*.
175. The Police Review has suggested there is a need for subject matter experts within the phone reporting centre, along with standardisation and professionalisation, so that the person taking the call from a victim of fraud is better able to collect accurate details needed to progress the complaint.
176. Even if a fraud complaint is assessed as being suitable for investigation, those conducting the investigation generally lack specialist training, with the only specialist fraud staff being located in four of the twelve districts.
177. The Wellington District Crime Manager told us that Police provide *“not a lot”* of fraud training, explaining that the Detective Development Programme consists of a pre-entry test which has a minimal amount of fraud in it. The induction course that detectives attend has a limited amount on fraud taught within it, and the module programme which occurs after the induction course also has a fraud component. Neither the workplace development programme nor the detective qualifying course includes fraud. The Crime Manager explained that the time spent training staff is limited and therefore Police have focussed on where they see the greatest need for expertise. His view is that to teach officers how to adequately investigate fraud offending would probably require a week-long course.
178. Due to lack of knowledge of fraud or capability to investigate it, the Authority has found that it is common for Police to ask the victims to gather the evidence of the offending themselves. The

Authority has even had cases where the Police have asked the complainant to enlist the assistance of an accountant, at their own expense, to analyse the evidence and present it back to Police in a format they can understand. To our knowledge, this practice does not occur with any other type of crime.

179. Complaints made to the Authority illustrate public frustration with the lack of training and knowledge of fraud by those investigating fraud complaints. For example, in the Shareholder Fraud file the complainants were of the view that Officer C had very little understanding of accountancy and struggled to be able to identify the offending and the evidence needed to prove the offences. Similarly, in the Trade Me vehicle fraud complaint the subject officer told us he had never received any specialist training for investigating fraud offending.
180. While the investigation of some fraud complaints requires specialist financial and electronic forensic capability, the majority of complaints, including those of the nature described in the section above, should be within the capability of Police detectives to investigate. The stumbling block is an apparent unwillingness to investigate fraud offences unless they are blatant and direct. A lack of any direct expression of an intent to defraud, a cyber-crime or a cross-jurisdictional component to the offending, or an offence involving the offer of a product, service or financial benefit that does not materialise, all seem to be an excuse that allows fraud to be put into the “*too hard*” basket. As a result, detectives fail to build the necessary skills and familiarity with the elements of fraud offences and necessary evidence which would naturally come if more investigations were undertaken.
181. We have been told that this is exacerbated by the fact that, when specialist forensic accounting expertise is required, it is often unavailable. Those with such expertise are in short supply and are generally employed by other enforcement and regulatory agencies such as the SFO and the Financial Markets Authority.

The Criminal/Civil Distinction

182. We found that Police have a tendency to label allegations as civil disputes, therefore removing the obligation to investigate. We believe there are two overriding reasons for this:
 - genuine misunderstandings of the law and in particular what may be required to prove intent;
 - the convenience of attaching the label ‘civil’ to a complaint as a reason or excuse for taking no further action.
183. The first of these reasons is a particular consequence of Police lack of expertise in fraud investigation and the failure to understand the elements of a fraud offence. There seems to be a belief that if there is the appearance of a commercial transaction, proof of an intent to deceive requires some concrete evidence (such as documentary evidence at the time when the contract was entered into that the alleged offender did not intend to fulfil it, or a subsequent admission to that effect). Many Police do not seem to understand the notion that an inference of an intent to deceive may be drawn from the offender’s actions at the time and from the overall circumstances. In many fraud cases, the facts simply speak for themselves, enabling the

appropriate inference to be drawn. Many officers seem unduly influenced by the subsequent conduct of alleged offenders when making conclusions around intent. Several of the cases discussed above provide illustration.

184. In the Tokoroa Kitset Homes frauds and Auckland Facebook Marketplace cases, the officers concerned appeared to be influenced by the commercial context of the proposed transactions, regarding them as civil matters amenable to a commercial solution. When the alleged fraudster in the Auckland Facebook Marketplace cases said that she would repay the money (it was not repaid), the Police closed the case on the basis that there was an appropriate civil outcome. Similarly, in the 'Flatmate Fraud' case the Police appear to have regarded an "agreement" by the alleged offender to repay the money misappropriated to convert the original offence to a civil matter as somehow cancelling the original offending.
185. It should be obvious that even if an offender subsequently makes a genuine offer to compensate for a loss, that does not affect the question of intent at the time of the alleged offence. Police would not regard a burglar's offer to return the stolen property as a basis for concluding that they did not intend to commit an offence upon unlawfully entering a house. It is hard to see why they should take a different approach to fraud. Reparation, or other offer to make good, may in some cases be relevant to whether it is in the public interest to prosecute a person for a proven offence; it is not a reason to decide that no offence has been committed at all.
186. These are issues that should be addressed by comprehensive fraud training, as discussed further in our recommendations below.

Conclusion

187. There is a lack of training and expertise in fraud investigation within Police. The gap in investigative capability is most stark in relation to what is described in paragraph 225 as "mid-range cases", that is, cases which are too small to be taken on by the SFO. These involve elements of complexity and may involve financial losses from tens of thousands of dollars to hundreds of thousands of dollars. While training and expertise is a concern, we believe that the main barrier to investigating the majority of fraud cases is a lack of interest in investigating fraud cases and building capability base, which can only be overcome with a cultural shift in parallel with reforms suggested below.

Opportunities for reform

188. The nature of the fraud problem in New Zealand, as outlined in paragraphs 24 to 29 above, demonstrates the all-pervasive and damaging impact of fraud to individuals, businesses, and ultimately, our economy and society.
189. As more of our lives move online, current indications are that fraud will continue to increase and impact the way we interact with each other both online and in person.
190. The Authority's findings in this report show that New Zealand's response to fraud therefore needs to adapt. Even if a large proportion of fraud is low value, it is still an offence, and failing

to respond adequately undermines trust and confidence in the criminal justice system, and ultimately the rule of law. Preventing fraud and responding effectively to it is therefore fundamental to crime prevention – and in reducing the incidence and prevalence of fraud New Zealand has an opportunity to bolster confidence in our economy, our financial systems, and in the institutions that keep us safe, both in person and online.

191. New Zealand’s challenges are mirrored in England and Wales. A 2018 Police Foundation report estimated that of the 3.24 million fraud offences in the 12 months to March 2018, only 638,882 frauds were recorded by Police and industry bodies.¹² The report found that for every crime reported, only one in 13 was allocated for investigation. Only three percent resulted in a charge/summons, caution or community resolution, compared to 15 percent of violent offences, six percent of sexual offences and nine percent of robberies.
192. That same report analysed the reason for the low number of investigations and successful outcomes for reports of fraud offences, noting that the average length of time from reporting to charging for fraud offences was 514 days, compared to just 50 days for theft offences.¹³ The report identified gaps in information that Police seek from victims and a lack of an effective framework for identifying the harm the fraud causes to the victim, making prioritisation difficult. This mirrors the concerns we have raised in relation to categorisation and prioritisation in the New Zealand environment from paragraph 119.
193. More recently, the 2022 Strategic Review of Policing in England and Wales¹⁴ by the Police Foundation, an independent think tank, under the headline ‘A crisis of confidence’, stated that *“40% of all crime is now fraud, most of which is cyber-enabled. Yet we are tackling crime and disorder of the digital age with an analogue policing approach”*. Later, the same report¹⁵ states that in the year to June 2021, 53% of all crime was fraud and cybercrime and just 0.1% of frauds that took place resulted in a charge or summons. This is against a backdrop where reported ‘traditional crime’ (excluding fraud and computer misuse offences) in England and Wales has fallen by 75% since the mid 1990’s.
194. The parallels between United Kingdom and New Zealand fraud make their respective experiences instructive when considering ways to tackle challenges in the New Zealand environment.
195. The increase in the volume of fraud in both jurisdictions has been accompanied by a quantum shift in its nature, sophistication and complexity. That has been driven by three related factors: the fact that the vast majority of frauds are now cyber-enabled; fraud’s increasingly cross-jurisdictional and sometimes global nature; and the correspondingly greater difficulty in identifying perpetrators and bringing them to justice.

¹² M Skidmore, J Ramm, J Goldstraw-White, C Barrett, S Barleaza, R Muir and M Gill *More than Just a Number: Improving the Police Response to Victims of Fraud*, December 2018, The Police Foundation, London, p 4.

¹³ Ibid.

¹⁴ The Police Foundation, *A New Mode of Protection. Redesigning policing and public safety for the 21st century. The final report of the strategic review of policing in England and Wales* March 2022, London, Foundation p.5.

¹⁵ Ibid p.9.

196. It is clear to us that it is simply beyond the remit, capacity or expertise of Police to address a problem of this scale. Although Police recording and investigative processes have a significant role to play, they are not in themselves enough to address it.
197. It is beyond the scope of this report to provide a blueprint as to how this might be achieved. We can do no more than to provide a suggested framework for reform. We have set out that framework below under two broad headings: the prevention of fraud; and a more effective response to fraud when it occurs.

PREVENTION OF FRAUD

198. The evident difficulties confronted by Police in providing an effective response to complaints of fraud in New Zealand lead to the inescapable conclusion that traditional methods of preventing and responding to crime will not be sufficient to address the problem. Realistically, while a more effective investigative process and an increase in the number of prosecutions and convictions is undoubtedly necessary, it will result in improvements only at the margin. A great many victims will be left to bear their loss without receiving justice. Fundamental improvements can only be effected by a coordinated effort by a range of agencies and private sector institutions to develop an integrated prevention plan.
199. To some degree this is already occurring. As we outlined in paragraphs 11 to 22, there is already a range of government agencies with different types of, sometimes overlapping, responsibilities in this area. Moreover, the private sector devotes a significant amount of resource to prevention and detection efforts. For example, we are aware that one major bank has well over 100 full-time staff devoted to fraud and money laundering, by comparison with a Police resource across the country which can safely be estimated to be substantially lower than that. There is also a degree of coordination between public sector agencies and between the public and private sector. However, overall efforts lack leadership and are not guided by an integrated plan. There is the potential for the National Financial Crime and Corruption Strategy that is currently being developed to address this. To that end we encourage this work to take a broad view of financial crime and its prevention.
200. The 2022 Police Foundation Report in England and Wales pointed to a similar problem of lack of 'ownership' of crime prevention and proposed the establishment of a new Crime Prevention Agency which would take on this ownership and perform a range of functions, including having regulatory powers, enforcing a newly established duty to prevent crime for commercial organisations and creating partnerships across government, industries and sectors.¹⁶
201. We doubt that a new agency is either necessary or desirable in the New Zealand context given our size. But we strongly believe that there is merit in a wider dialogue around how best to marshal the skills, knowledge and expertise in both the public and private sectors to maximise the impact of available resources to tackle fraud. This might best be achieved by the establishment of a formalised public-private sector partnership with prevention of fraud as its

¹⁶ The Police Foundation, *A New Mode of Protection. Redesigning policing and public safety for the 21st century. The final report of the strategic review of policing in England and Wales* March 2022, London, p 63.

core focus. That needs to include Police, government agencies, financial institutions, telecommunications providers, and internet platform providers. We note that the Banking Ombudsman has recently made a similar plea for such a collaborative effort to combat the dramatic increase in online scams.¹⁷

Effective fraud prevention entails a wide range of activities. These include:

- Having a comprehensive and shared understanding of the scale of the fraud problem, including building on the New Zealand Crime and Victims Survey to better understand the scale and challenge of fraud within New Zealand.
- Identifying patterns of fraudulent behaviour and how they are changing over time.
- Developing and implementing strategies across the public and private sector to address risks as they emerge (eg through disruption, education, financial system controls, public alerts, international collaboration to prevent cross-jurisdictional activity etc).
- Supporting the private sector to undertake fraud risk assessments and encouraging implementation of adequate protections and mitigations.
- Understanding the individual populations for whom fraud is the biggest risk and supporting the development of prevention strategies for at-risk populations.
- Proactively sharing information with the New Zealand public that provides real-time insights and advice about topical and emerging issues. ('High Alert', the NZ government early warning system for dangerous drugs, provides the sort of approach we think might work well for fraud too.)
- Working with relevant agencies to improve support for victims of fraud.
- Having stated goals for and monitoring achievement against how fraud is responded to by all agencies involved in fraud detection and prosecution.

202. The SFO has told us that some of these activities are already underway through their recently established Counter Fraud Centre, which focuses on preventing fraud within the public sector.¹⁸

203. We think that all those with a stake in fraud prevention should be involved in formulating strategies to build a stronger, more resilient system-wide response. By harnessing the collective expertise and resources of many agencies we think there is the potential to drive a much more innovative approach that is strategic, agile and victim-focused in identifying and responding to both well-established and emerging issues.

¹⁷ <https://www.stuff.co.nz/national/129044486/banking-ombudsman-calls-for-urgent-collaboration-to-combat-online-scams-as-complaints-double-in-a-year>

¹⁸ SFO has told us that activities of the Counter Fraud Centre include supporting public sector agencies to conduct fraud risk and fraud capability assessments, working with agencies to assess fraud risks for specific spending initiatives, encouraging the reporting of fraud and fraud prevention to the CFC; and providing specific counter fraud guidance and training materials.

204. Equally, given the plethora of agencies with an interest in this area, the development of a plan to pull together and properly coordinate this activity requires that a single agency takes on a leadership and oversight role. One possible agency might be the Serious Fraud Office. However, they have acknowledged that due to SFO's narrower remit, Police are presently best placed to lead fraud prevention across New Zealand, while SFO's work should complement Police efforts to prevent and respond to fraud.
205. We agree that Police are the logical choice, since they are the country's primary law enforcement agency across all crime types and with a vision "*to be the safest country*", and mission "*to prevent crime and harm through exceptional policing*".
206. Police have an exceptional understanding of the overall landscape of crime. Where fraud is being committed, there will often be multiple and/or vulnerable victims and in many instances, other offending. As we propose below, they are, and should continue to be, the agency to which most frauds are reported, and they are therefore best placed to develop a comprehensive understanding of the scale of the problem, the way in which it is changing and what is required to tackle it. Police are also adept at partnering across the public and private sectors to prevent crime – and as noted above, this problem will need a collaborative and coordinated approach.
207. The capacity and expertise required to *prevent* fraud goes well beyond what is required to *respond* to it. Yet as we have already demonstrated, the reality is that as they currently operate, Police lack the capacity or expertise even to respond effectively to frauds after they occur. If a Police-led prevention plan is to be developed and implemented, it will require the support of a wide range of stakeholders. New investment and the re-prioritisation of existing resources are therefore required. As the 2022 Police Foundation report recognises, an approach to fraud that is fit for the future will require people with high levels of technical, cybercrime, and accounting expertise to stay one step ahead of those they are trying to counter. While some of these resources may be drawn from the private sector – where salaries paid to experts are often higher than those in the public sector - it will also require Police leadership to understand, and be fully committed to responding to, the challenges posed by fraud, particularly when it is cyber-enabled and cross-jurisdictional. We think that with effective and committed Police leadership driving an inclusive national approach, there is a real opportunity for the benefits of active participation across relevant government agencies and the private sector to be fully harnessed.

A MORE EFFECTIVE RESPONSE TO FRAUD

208. While the greatest benefits will be derived from a more coordinated and effective approach to prevention, significant reforms are required to the way in which the Police record, prioritise and investigate complaints of fraud. The Police Review itself recognises the need for reform in this area.
209. Before setting out our view as to what such reforms should entail, we should reiterate the resource constraints under which Police operate, and their constant need to prioritise the areas to which they devote resources. Any increase in the resourcing of fraud investigations will inevitably result in some decrease in resources devoted to another area of Police work. However, we make four points in response.

210. First, as we have already argued, many of the problems with the current response to fraud result primarily from a poor understanding of fraud and consequent misconceptions as to the nature and seriousness of complaints rather than a deliberate decision as to respective priorities.
211. Secondly, fraud complaints frequently *ought* to be seen as more deserving of investigative and prosecutorial resource than offences currently given higher priority. Fraud often has a devastating and enduring effect on people's lives that should not be under-estimated. And arguably, the current levels of fraud we experience in New Zealand coupled with its significant under-reporting signify a damaging level of tolerance for illegal activity.
212. Thirdly, there is scope to reduce inefficiencies through the establishment of information systems to capture relevant information in a format which allows Police to more easily identify patterns in offending. For example, even though it is common for a single offender to defraud multiple victims, as our overview of complaints above demonstrates, currently the online forms which Police use to enter reports into the system do not prompt users to enter a suspect's bank account numbers or online name. Further, the Police database does not allow names of suspects which are not their real names to be stored. By implementing systems to routinely capture this information and allow it to be stored in the Police database, Police could more effectively adopt an intelligence-led approach in identifying recidivist offending and affording it appropriate priority.
213. Fourthly, the proposals we make below would reduce many of the inefficiencies in the current system which create a great deal of churn and unproductive use of resources. These inefficiencies leave unresolved cases sitting in the system for prolonged periods and produce highly unsatisfied complainants who demand reports as to progress.
214. We therefore think that our proposals are achievable. They will allow more fraud complaints to be investigated and more recidivist offenders to be held to account, with greater consistency across districts and with more regard for the needs of victims.

Regional fraud units

215. We have concluded (at paragraphs 124 to 127) that staff receiving fraud complaints often incorrectly fail to identify and record them as offending. When they do, the subsequent categorisation and prioritisation process, and the related criteria for early case closure, are too crude.
216. In order to address similar problems, the United Kingdom in 2013 introduced a national reporting centre for fraud and cyber-crime called Action Fraud. A 2018 report by the Police Foundation pointed to a number of problems with the operation of that centre which have not since been overcome. That partly appears to have resulted from the fact that Action Fraud is seen as responsible for the receipt of complaints as well as their assessment.
217. Taking into account the UK experience, we do not propose that there should be an equivalent national reporting centre specifically for fraud in New Zealand, whether internal to or external of Police. The reality is that most people would still see the Police in their local area as the first

port of call, and diversion of all reports to a national centre without some initial collection of information and assessment would result in unnecessary delays, some duplication of effort and a perception by the public that they were being batted away from one agency to another.

218. Instead, we think that reports should continue to be taken as they are now – primarily through the 105 reporting line or over the front counter of the local station. However, once the initial information has been collected, all complaints should be referred to regional fraud units for assessment as to whether the complaint constitutes an offence, and if so, how it should be categorised, prioritised and investigated.
219. We acknowledge that some capability already exists at District level, especially in Auckland and Christchurch, and a greater focus on fraud can be expected to expand this capability. However, if responsibility were to continue to reside at district level across the country, the available expertise would be spread too thinly. Inevitably, too, staff would continue to be diverted to other district demands as they are now.
220. We think that these problems would be overcome by the creation of specialist units at a regional level reporting to a National Manager at Police National Headquarters. We envisage that three, or perhaps four, such units - servicing three or four districts each - would be required. Police tell us that although it is still in its infancy, there have been some early successes enjoyed by the National Retail Investigation Support Unit (NRISU). Under this model, the NRISU provides support to District investigators by sharing intelligence, helping to triage cases, more quickly identifying linked offences and high-harm offenders, and building actionable investigation packages for local or national execution. We think there is value in exploring whether some or all of the features of the NRISU operating model – scaled appropriately - might also be applied to fraud offending and below we provide some thoughts on how this might work in practice.
221. Whatever model is adopted, these units should be staffed by a mix of constabulary and other Police staff. Indeed, much of the expertise required to assess fraud complaints and collate the documentary evidence required to prove a criminal offence, is better undertaken by non-constabulary employees with the requisite expertise in forensic accounting and legal skills. We emphasise that in order to attract and retain the right people, these staff must be properly remunerated and have clear career progression opportunities.

Categorisation and prioritisation

222. In the first instance, the regional units would assess complaints, obtain from complainants and others the required documentary evidence to determine how it should be categorised and prioritised, and link the complaint to any related alleged offences.
223. Prioritisation works at two stages: when considering whether to close a file early, and when considering the priority to be given to an investigation. We recommend that the criteria currently used for categorisation and prioritisation should be reviewed and made more nuanced, so that factors such as monetary loss, method of offending, propensity of the alleged offender and victim vulnerability can be taken into account. The fraud matrix currently being

used within Auckland City District may provide a starting point for the development of such a system.

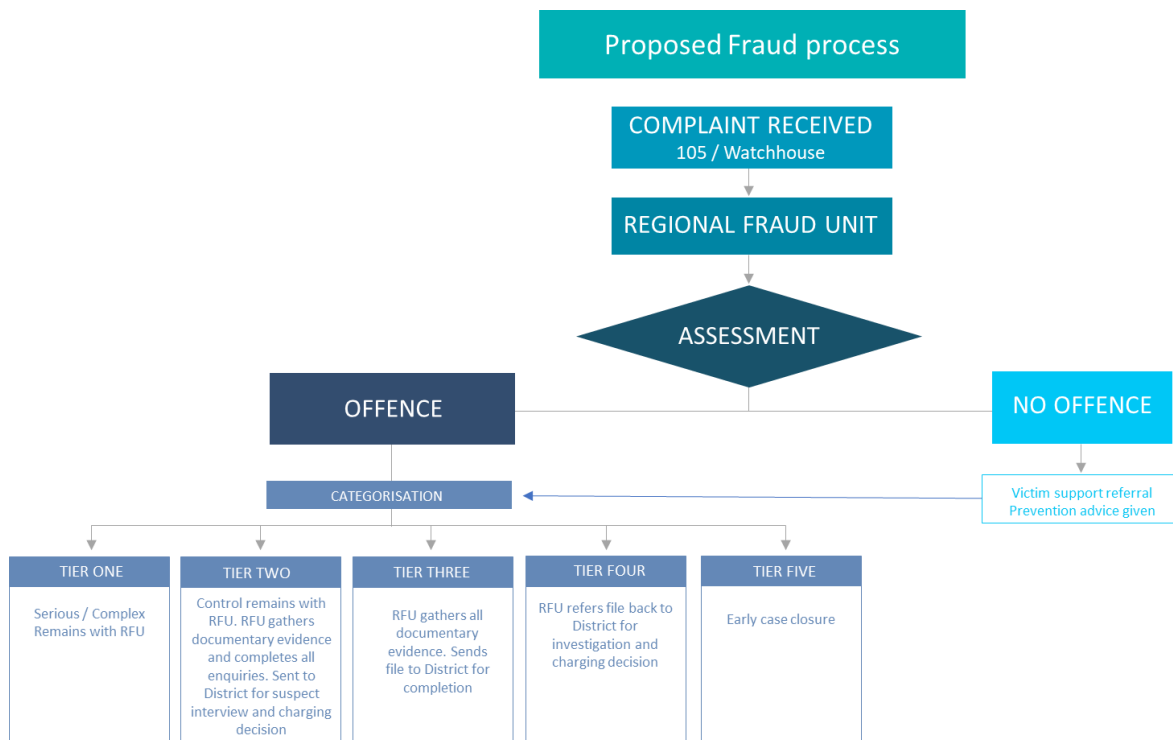
224. If there is to be a more nuanced categorisation and prioritisation system, those Police employees in 105 reporting centres and at front counters who are responsible for the receipt of initial complaints will require more training so that they gather the information needed in order to create a high quality record in NIA before it is transferred to a regional unit. As outlined above at paragraph 179, apart from Auckland City District people receiving reports of fraud at the front counter, online or over the phone receive very limited training. Our recommendation is that a templated form be used as a guide for the recording of initial complaints.

Investigation

225. Following categorisation and prioritisation, we envisage that, subject to demand and available resources, any case that is assessed as requiring investigation would likely to fall into four categories:

- “*Top end*” frauds that were complex and serious would be handled by the regional units from start to finish. The unit would collate all documentary evidence, undertake required interviews and make the charging decision.
- In mid-range cases, the regional units would collate all documentary evidence (and perhaps critical interviews) before returning the case, along with a templated interview plan, to the relevant district to conduct remaining interviews. District detectives would then be responsible for conducting those interviews, with review by a Detective Sergeant, before returning it to the regional unit for a charging decision.
- In lower end cases that have only moderate complexity, the regional units would be responsible only for the completion of documentary evidence, and then return the case to the relevant district for all interviews and for the making of the charging decision.
- In “*bottom end*” cases where there is no complexity, the regional units would refer the entire matter back to the relevant district from the outset.

226. The figure below demonstrates how we envisage fraud complaints being managed in the future, and highlights the importance of victim support in all complaints, regardless of whether Police deem there to be sufficient evidence to prosecute the case.



227. In order to maximise the effectiveness and efficiency of this approach, two additional structural features of current arrangements need to be addressed:

- a) In order to ensure that the necessary forensic accounting expertise is available to support the investigation of more complex fraud matters, it would be desirable to develop a system-wide approach. In the short term this might include the development of a common set of standards, mentoring and training opportunities. In the longer term, it might comprise the establishment of a common pool of forensic accounting experts, so that there can be a better developed career path, remuneration that is competitive with the private sector, and the allocation of resource across the system according to agreed priorities.
- b) The current mechanism for referring frauds from the SFO to the Police and vice versa, so that there is a transparent process by which responsibility for investigation of that report can be tracked. Our impression is that the current process is clunky and inefficient, and that it is too easy for cases to get “lost” in the system.

Asset Recovery

228. As we have discussed above (paragraph 182), fraud investigations are often not progressed because officers wrongly classify the case as a civil dispute on the basis that intent to deceive cannot be proved, in apparent ignorance of the fact that an inference as to the requisite intent can often be drawn from the surrounding circumstances, especially when there is a pattern of conduct. However, even if officers had a proper understanding of intent in fraud cases, we acknowledge that there are a significant number of cases where intent cannot be proved to the criminal standard of beyond reasonable doubt.

229. The SFO suggested to us that in fraud cases enforcement agencies should utilise the civil forfeiture regime under the Criminal Proceeds (Recovery) Act 2009. Under this regime, the Court can order the forfeiture of the assets, or of property equivalent to the benefits, of a person who is proved on the balance of probabilities to have obtained them from specified criminal activity. While this regime is already available in respect of any offending where the maximum penalty is imprisonment of five years or more, or the property or benefits acquired or derived from it is valued at \$30,000 or more, the overwhelming majority of applications made under the Act relate to drug dealing, it has rarely been used for fraud.
230. We think the SFO's suggestion has merit, at least to the extent of initiating serious debate by Police and other agencies, at both a policy and operational level.
231. As we see it, the extension of civil forfeiture practice to fraud cases would have two immediate benefits:
- a) In cases where offenders cause loss to a significant number of victims, they could be held to account and be deprived of the benefits of their fraudulent activity on the basis of the civil standard of proof.
 - b) While assets recovered under the Criminal Proceeds (Recovery) Act are under law available for any area of government expenditure, they are in practice paid into an earmarked fund and used primarily for purposes related to prevention, enforcement, or rehabilitative activities related to the type of offending from which they were derived. The use of the regime for fraud would thus significantly strengthen the case for making forfeited property available as a resource to support the prevention and response activities proposed above.
232. Potentially there would be a third, and perhaps more important, benefit. If the Criminal Proceeds (Recovery) Act were to be amended to enable the Court to order that the proceeds of any forfeiture orders are to be paid to a person who has suffered loss or damage as a result of the offending rather than to the consolidated fund, fraud victims would have an avenue for redress without themselves having to bring costly civil proceedings without any guarantee of recouping their losses.
233. It might be objected that such a scheme would be tantamount to the State acting as the agent of a plaintiff in civil proceedings.
234. We agree that it would be undesirable for the State to become involved in carrying the cost of civil disputes. That would not only be unduly burdensome on the taxpayer but also encourage potentially meritless civil proceedings.
235. However, there are precedents for much more restrictive State involvement in protecting the interests of parties who have been harmed by conduct that might not reach the threshold for establishing criminal liability. For example, section 34 of the Financial Markets Authority Act 2011 empowers the FMA to commence and control proceedings (other than criminal proceedings) on behalf of one financial markets participant against another financial markets

participant, in order to obtain damages or other relief for a *“contravention, involvement in a contravention, fraud, negligence, breach of duty, or other misconduct”*.

236. In proposing a similar provision in relation to other forms of fraud, we do not propose general State involvement in the recovery of losses where deceptive conduct cannot be proved to the criminal standard. Section 34 requires that the FMA, in deciding whether to exercise its power to commence proceedings, must consider whether it is in the *public* interest to do so, taking into account such matters as whether proceedings are an efficient and effective use of the FMA’s resources, the likelihood of the person harmed taking and diligently continuing the proceedings themselves, and the likely effect of the proceedings on the future conduct of financial markets participants.
237. We suggest that, if the asset recovery provisions of the Criminal Proceeds (Recovery) Act were to be amended to allow redress to the victims of fraudulent conduct, similar criteria for the commencement of proceedings would need to be developed.
238. While we posit the use of the Criminal Proceeds (Recovery) Act in this manner, because of the wider policy impacts it would have across a number of agencies, we refrain from making any specific recommendation to Police in respect of the issue.

Conclusion

239. More New Zealanders are victims of fraud and deception offences than of any other crime. Yet the complaints outlined in this report, combined with very low rates of recording, charging and prosecution of these offences, show that in relation to fraud there are significant opportunities for Police to lead across the public and private sectors to achieve their stated mission *“to prevent crime and harm through exceptional policing”*.
240. Police failure to respond adequately to reports of fraud undermines trust and confidence in the criminal justice system, and ultimately the rule of law. Adequate prevention of and response to fraud contributes to a well-functioning economy and society, builds confidence in the rule of law and thus international reputation, and contributes to social cohesion.
241. We have identified:
 - a) There is a lack of an integrated prevention plan involving both public and private sector entities.
 - b) There is a lack of understanding of the distinction between fraud offences and civil matters, which results in many fraud offences never being correctly entered into the database as offences.
 - c) Those personnel taking initial reports of fraud from members of the public, whether at front desks, online or through the call centre, lack sufficient training.

- d) The categorisation system is far too crude and results in early case closure being applied to reports of fraud more readily than to other types of cases which are not necessarily more serious, nor more susceptible to resolution.
- e) The relative priorities given to frauds that are assigned to investigation do not adequately consider the harm inflicted on a victim, the monetary loss suffered, recidivist offending or victim vulnerability. We acknowledge that the fraud matrix developed within Auckland City District and adopted by some other districts goes some way to addressing this.
- f) There is a vacuum in national leadership on fraud. This has resulted in significant inconsistencies between districts in how fraud is recorded, prioritised and investigated.
- g) The current approach to victims of fraud is, with some exceptions, poor. Police must increase their knowledge of the effects of fraud on its victims and be mindful of how their response to victims may increase the harm caused. An offer of referral to the appropriate victim support agency should be mandatory for all complaints made.
- h) There is a lack of expertise and training in fraud amongst investigative staff, despite it being a crime that is becoming increasingly complex as offending occurs online and across borders.

242. There are steps that can be taken in the short term to improve the efficiency and effectiveness of the Police response when fraud does occur. These include the creation of dedicated regional units responsible for the triaging of fraud and the investigation of more serious and complex cases. However, we believe that the scale and complexity of fraud is such that New Zealanders can only truly be effectively protected if significant preventive measures are also employed. Those preventive measures will require a committed and well-funded whole-of-government approach, in partnership with key elements of the private sector and with buy-in from Police leadership; the level of expertise required to *prevent* fraud in an online, cross-border environment goes well beyond the current capabilities of New Zealand Police.

Recommendations

243. In order to address the issues we have identified, we recommend that Police should:

Take a national leadership role

- 243.1. Lead the development of an integrated fraud prevention plan involving both public and private sector entities.
- 243.2. Ensure that the national fraud and financial crime role includes the following functions:
 - maintaining a current understanding and communication of the fraud landscape, including identifying and assessing new fraud threats;

- collaborating across the public and private sectors to put the above fraud prevention plan in place;
- monitoring and ensuring Police accountability for delivery against the fraud prevention plan;
- putting in place national training on fraud for all Police staff;
- ensuring national consistency in how fraud is recorded and investigated;
- providing leadership, supervision and oversight of regional fraud units (see recommendation 243.7 below);
- ensuring staff understand and attend to the needs of victims of fraud.

Monitor and understand the extent of fraud

- 243.3. Put in place effective systems and processes to enable Police (and other agencies) to understand the full extent of fraud being reported, how Police are responding, and the effectiveness of that response.
- 243.4. Develop proposals and a costed implementation plan that will enable a formalised mechanism for referrals between agencies and use those mechanisms to capture performance and completion of fraud investigations.

Implement effective training

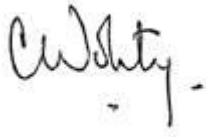
- 243.5. Provide additional and ongoing training to ensure that front counter and call centre staff are able to receive, identify and record fraud reports appropriately.
- 243.6. Provide initial and ongoing training on fraud for investigative staff.

Implement nationally-consistent recording and investigation processes

- 243.7. Implement Regional Fraud Units (as outlined above) to assess, categorise, prioritise and, in some cases, investigate fraud reports.
- 243.8. In addition to the training for front counter and call-centre staff above, implement a templated form to be used as a guide for the recording of initial reports.
- 243.9. Review the criteria currently used for categorisation and prioritisation of fraud offences, so that factors such as monetary loss, method of offending, propensity of the alleged offender and victim vulnerability can be taken into account.
- 243.10. Implement nationally consistent Early Case Closure guidance.

Enhance support for victims

- 243.11. Ensure all staff understand the need for effective support for victims of fraud, and make it mandatory to offer a referral to Victim Support for all fraud complainants.

A handwritten signature in black ink, appearing to read 'Colin Doherty', with a horizontal line underneath.

Judge Colin Doherty

Chair
Independent Police Conduct Authority

15 November 2022

About the Authority

WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

The Independent Police Conduct Authority is an independent body set up by Parliament to provide civilian oversight of Police conduct.

We are not part of the Police – the law requires us to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Colin Doherty.

Being independent means that the Authority makes its own findings based on the facts and the law. We do not answer to the Police, the Government or anyone else over those findings. In this way, our independence is similar to that of a Court.

The Authority employs highly experienced staff who have worked in a range of law enforcement and related roles in New Zealand and overseas.

WHAT ARE THE AUTHORITY'S FUNCTIONS?

Under the Independent Police Conduct Authority Act 1988, the Authority receives and may choose to investigate:

- complaints alleging misconduct or neglect of duty by Police;
- complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- notifications of incidents in which Police actions have caused or appear to have caused death or serious bodily harm; and
- referrals by Police under a Memorandum of Understanding between the Authority and Police, which covers instances of potential reputational risk to Police (including serious offending by a Police officer or Police actions that may have an element of corruption).

The Authority's investigation may include visiting the scene of the incident, interviewing the officers involved and any witnesses, and reviewing evidence from the Police's investigation.

On completion of an investigation, the Authority must form an opinion about the Police conduct, policy, practice or procedure which was the subject of the complaint. The Authority may make recommendations to the Commissioner.

THIS REPORT

This report is the result of the work of a multi-disciplinary team of investigators, report writers and managers. At significant points in the investigation itself and in the preparation of the report, the Authority conducted audits of both process and content.



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