

# **POLICE COMPLAINTS AUTHORITY**

## **STATEMENT OF INTENT 2007/08**

**VISION: TRUSTED AND TRUSTWORTHY POLICE**

**MISSION: TO PROMOTE PUBLIC CONFIDENCE IN THE POLICE  
THROUGH THE INVESTIGATION OF THE APPROPRIATENESS OF POLICE  
ACTIONS, PROCEDURES AND POLICIES AND THE MAKING OF  
RECOMMENDATIONS.**

Presented to the House of Representatives  
Pursuant to Section 149 of the Crown Entities Act 2004

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## *PART 1 – THREE YEAR OUTLOOK*

### **INTRODUCTION**

This Statement of Intent is the second to be issued by the Police Complaints Authority (PCA). It has been prepared in order to set out the strategic direction and operating intentions of the PCA for the three-year period 2007 to 2010.

From 1 July 2006 all Crown entities (including independent Crown entities) are required to publish and present to their responsible Minister an annual statement of intent that covers a period of not less than three years into the future, as well as an annual report. Both the statement of intent and the annual report are in addition to standard reporting on the entity's annual financial and non financial performance. This second Statement of Intent is in furtherance of that requirement.

The Statement is also expected to facilitate communication and engagement between the PCA and the Government, and the PCA's other interested stakeholders; and to assist the allocation of resources to meet Government and public expectations of the PCA.

The Government is committed to ensuring that the PCA, as an Independent Crown Entity under the Crown Entities Act 2004, is sufficiently resourced to increase and develop its capability to independently carry out investigations into police conduct, policies and procedures, as provided for under the Police Complaints Authority Act 1988.

This commitment by the Government will considerably assist the PCA's own commitment to overcoming the two major issues confronting it; the public perception that the PCA is not truly independent of the New Zealand Police (Police) because it has in the past had to rely on the Police to undertake investigations on its behalf; and an apparent lack of timeliness in reviewing police investigations undertaken on its behalf, and in issuing reports and recommendations.

The strategic direction and operating directions of the PCA over the next year will focus on a review of the work of the PCA, on its approach to that work, on organisational restructuring, and on appropriate resourcing to meet the demands of its work. The recommendations in the Report of the Commission of Inquiry into Police Conduct (COIPC) will provide a major part of that focus. The Ministry of Justice is undertaking responsibility for those COIPC recommendations that require legislative reform, whilst the COIPC recommendations that relate to the policies and processes of the PCA are under active consideration by the PCA with a view to early implementation.

In implementing change to its operating structure and modus the PCA will necessarily have regard to the disciplinary and performance management processes currently being implemented by the Police in conjunction with the introduction of their new Act and a Police Code of Conduct.

In relation to resourcing, it will be of primary importance for the PCA to focus on increasing its investigative capacity, as part of an organisational restructure. That investigative capacity is critical to the PCA's ability to function and to be seen to be functioning independently of the Police.

It will also be important for the PCA to focus on the need to improve accessibility to it by complainants; on the need to develop a communications strategy; on the need to clear the existing backlog of work; and on the associated need to implement improved performance measures. The proposed increase in the Authority's membership will also have resource implications.

In addition, the PCA will explore the added value of establishing a community consultative group for the purpose of raising the PCA's awareness of and sensitivity to any current community concerns arising from policing in New Zealand. It is proposed that such a group be formed on the advice of community leaders and would meet regularly with the PCA.

In 2007 the PCA assumed a further and important responsibility as a national preventive mechanism under the Crimes of Torture Amendment Act 2006. The PCA is mindful of the need to build in capacity to discharge this important and additional function.

Of significance for the PCA in the coming year will be the enactment of the amending legislation, currently before Parliament in Bill form. The passage of that legislation is anticipated to considerably strengthen the PCA's capacity to perform its work.

In conclusion, the year ahead signals a period of significant change for the PCA, with the promise of enhanced ability, both actual and perceived, to act independently as guardian of the public interest in ensuring a New Zealand police service of the highest ethical standard.



Justice Lowell Goddard  
Police Complaints Authority  
18 June 2007

## OPERATING ENVIRONMENT

### Stakeholders

It might fairly be said that all members of the New Zealand public are stakeholders of the PCA, as the public are the ultimate beneficiaries of an effective guardian of law enforcement ideals.

The Government, as a major stakeholder, also has a vested interest in an effective PCA, because a visibly ethical and disciplined police force serves to underpin the rule of law and enhance the image of a stable and democratic society.

The Minister of Justice, as the 'responsible Minister' and the public's representative, is the primary stakeholder of the PCA. The Ministry of Justice is therefore also a key stakeholder. The Ministry advises the Minister and undertakes engagement with the PCA on behalf of the Minister in accordance with a Memorandum of Understanding (MoU) negotiated between the Minister of Justice and the Authority and agreed to prior to each financial year. Specifically, the work of the PCA is reported against the ultimate Justice sector outcome of "A Safe and Just Society".

It is axiomatic that the New Zealand Police are key stakeholders of the PCA. The PCA is committed to assisting the Police in their publicly stated intention to be a world class Police service.

The Police vision in their 2006/07 Statement of Intent "Safer Communities Together" is based on the Justice Sector Outcomes of "Safer Communities" and "Civil and Democratic Rights and Obligations Enjoyed". The Police 2006/07 Statement of Intent notes under the heading "Police integrity and Professional Standards" that:

"Public support and confidence in Police is vital to the maintenance of the rule of law and public support for the justice system. To maintain this support and confidence, Police must maintain the highest behavioural and attitudinal standards."

To assist the Police in achieving these goals, it is critical for the public to have access to a vigilant and independent 'watchdog' prepared to robustly scrutinise Police' policies and procedures and impartially investigate serious incidents and complaints about the Police. The commitment of the PCA to assist by independently ensuring that the Police maintain the highest levels of integrity, professionalism, public respect and commitment to Maori and Treaty, is a commitment to the ultimate Justice outcome of "A Safe and Just Society".

### **Constitutional model**

The model adopted for the establishment and operation of the PCA in New Zealand is essentially that of an Ombudsman, in that citizens are entitled to take complaints to the PCA for investigation and resolution. In addition to its complaint resolution function the PCA has power to investigate of its own motion any incident of death or serious bodily harm notified to it by the Commissioner of Police and to make recommendations about any practice, policy or procedure of the Police, should it deem that to be in the public interest.

The appointment of the Authority and Deputy Authority is by the Governor-General on the recommendation of the House of Representatives. The Authority is required to be both legally qualified and suitably legally experienced for the task. The current authority is a High Court judge and the Deputy Authority is a District Court judge.

Following the passage of the Crown Entities Act in 2004 the PCA became an independent Crown entity and a body corporate sole.

When the Amendment Bill is passed into legislation the membership of the new Independent Police Conduct Authority (IPCA) will be increased to enable greater community representation, and will continue to be chaired by a Judge. This is in line with both the recommendations of Sir Rodney Gallen, following his review of the PCA in 2000, and the recommendations of the Commission of Inquiry into Police Conduct (COIPC) in its 2007 Report. The appointment of the Chair and the members of the PCA will continue to be by the Governor-General on the recommendation of the House of Representatives.

### **Legislative context**

The PCA was established in 1989 following the enactment of the Police Complaints Authority Act 1988 (the Act). This Act, together with the State Sector Act 1988, provided the initial legislative basis for the establishment, governance and operation of the PCA.

As already noted, the PCA is an independent Crown entity, listed in Schedule 1 of the Crown Entities Act 2004. The Crown Entities Act contains specific provisions relating to independent Crown entities. As a Crown entity, the PCA is independently governed and operated, and funded through Vote: Justice under Non-Departmental Output Class agreements.

The Crown Entities Act formalised a broader context of engagement between the Police Complaints Authority and the Government, expected to lead to improved visibility of the current and intended activities of the PCA and to continued close alignment of these activities with Government policy.

All reporting activities carried out by the PCA are carried out in accordance with the relevant statutory provisions.

The ongoing functioning of the PCA has been informed and influenced by a number of the recommendations made by Sir Rodney Gallen following his 2000 review of the PCA. One of the most significant changes Sir Rodney recommended was that the PCA should be resourced to acquire an investigative capability independent of the Police. This capability, along with other minor operational changes, began to be established at the end of 2003. Whilst not yet at full strength, this capability has served to significantly reduce the PCA's reliance on the Police to conduct investigations on its behalf into serious complaints, major incidents and Police practices and procedures. This has enabled the PCA to operate as a much more effective and independent public guardian.

In addition to this operational change, other recommendations in the Gallen Report together with subsequent considerations of PCA operations by the PCA and the Ministry of Justice, have resulted in the Amendment Bill currently before Parliament. This Bill proposes amendments to the Police Complaints Authority Act and other related Acts. The amendments include an amendment to the name of the PCA to enhance its independent image; an expansion of the membership of the board of the PCA; amplifying the actions the PCA might take on receipt of a complaint; and conferring appropriate powers under the Commissions of Inquiry Act for the purposes of hearings.

The Amendment Bill was drafted in 2002 but its passage has awaited the completion of the COIPC and a consideration of the findings flowing from that Inquiry. The Report of the COIPC, issued in March 2007, contained twelve recommendations with relevance to the PCA. Seven of those relate to the processes and practices of the PCA. The remaining five require legislative reform. The seven procedural recommendations are discussed below under the heading **Report of the Commission of Inquiry into Police Conduct**.

The five legislative recommendations concern:

- the reporting of complaints by the Police;
- the desirability of mandatory follow-up on recommendations made by the PCA to the Commissioner of Police;
- a possible review of the secrecy provisions of the Act;

- expansion of the membership of the board of the PCA; and
- adoption of a Government policy to ensure that appointments to the Authority reflect community diversity.

The Government has expressed its intention to implement all of those recommendations and it is reasonable to assume that all necessary legislative changes will be made within the period covered by this Statement of Intent.

During the period of legislative reform the PCA will maintain close engagement with the Ministry of Justice and can therefore expect that implications for the PCA of any variations to the legislative proposals will be able to be managed appropriately. It is nevertheless acknowledged that there may be some legislative and operational implications for the PCA that have not been accounted for in this Statement of Intent. Should such issues arise, they will be addressed in subsequent statements of intent.

Another important legislative milestone for the PCA has been the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment earlier this year. The PCA is now designated as a national preventive mechanism under the Crimes of Torture Amendment Act 2006. In this role the PCA will focus on the rights of persons in police detention, including conditions of detention, so as to ensure New Zealand's full and continuing compliance with international human rights standards.

### **Police reforms**

Of further importance to the functioning of the PCA are the reforms proposed by the Police to their disciplinary, complaint and employment processes, planned for implementation this year in conjunction with the enactment of a new Police Act and the adoption of a Code of Ethics. Both are timely for and complementary to the PCA's vision of its own reforms.

The Police Code of Ethics seeks to establish the standards of personal and professional conduct to be expected of all Police employees and will underpin the new disciplinary and performance process, thus providing for the Police to enter directly into performance monitoring and guidance, or (if necessary) commencement of an appropriate disciplinary process. A revised employment relations framework will enable performance improvement and disciplinary action where necessary.



### **Commission of Inquiry into Police Conduct 2007**

The seven procedural recommendations in the COIPC report focus on improving accessibility and to the PCA, its visibility and the timeliness of its work. Specifically, the recommendations identify the need to:

- increase public awareness of the PCA and its functions by publicising its newly established website and distributing its information pamphlet more widely;
- develop a communications strategy to increase awareness of the PCA and its work;
- accept oral statements;
- ensure more regular communication with complainants;
- randomly sample complainants to gauge satisfaction;
- develop strategies to address the backlog of complaints; and
- exercise its discretion in favour of accepting historical sexual complaints.<sup>1</sup>

The PCA has drafted a timetable in which it intends to complete implementation of these recommendations. Some are already underway: for example, reduction of the backlog and the installation of a new case management database in August 2007 to improve performance.

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<sup>1</sup> This final recommendation is being treated as a legislative rather than procedural recommendation by the PCA and the Ministry of Justice in their plans to implement COPIC recommendations as the Act does not explicitly state that jurisdiction exists to accept complaints that have arisen prior to its coming into force.

## OPERATIONAL ISSUES

### Independence

As with all Government agencies, the purpose and function of the PCA is to serve the people of New Zealand. It is the PCA's responsibility to ensure that the public are provided with the reassurance they require for a high level of confidence in the services provided by the Police. As New Zealand's only organisation outside of Police with responsibility for investigating and establishing whether the actions, procedures and policies of the Police are appropriate it is critical that the PCA's work be and be seen to be independent of the functions of the Police. Involvement of the Police in PCA processes has the potential to be seen by the public as a possible conflict of interest, and thus diminishes the perceived independence of the PCA, whose decisions must be impartially made on the basis of impartially acquired evidence.

Prior to the enactment of the Police Complaints Authority Act complaints against police were directed to the Ombudsmen. However, the PCA has not traditionally enjoyed the same level of operational self-reliance as the Ombudsmen. Prior to 2003 it was wholly reliant on the Police to conduct investigations on its behalf and even post 2003 it still lacks sufficient investigative resource to independently process the high volume of complaints it receives without considerable reliance on assistance from the Police.

Because the PCA has, in the past, lacked adequate resources of its own and has had to rely on the resources of the Police to undertake investigations on its behalf, there has been an understandable public perception that the PCA is either part of or works on behalf of the New Zealand Police. However, this has never been the case. Nor do the Police have any role in the appointment of PCA personnel or in PCA governance.

It is also important to emphasise here that the issue of perceived independence is different to the issues of actual or statutory independence and operational independence. Actual independence is not of itself sufficient and a high level of perceived independence is also required if the work of the PCA is to be appropriately valued by the public and translated into high levels of public confidence in the Police.

In summary, there are three critical independence factors for the PCA. The first is statutory independence, which it already enjoys by virtue of its Act and the Crown Entities Act, and which imbues it with the ability to resist any undue influence from the Government or any other organisation or individual. That

statutory independence is a key pre-requisite and key objective for the PCA to continue to pursue through the implementation of this Statement of Intent.

The second critical independence factor is that of operational independence, which in practical terms means the PCA's ability to carry out its own investigations, to independently oversee Police investigations and to conduct its own reviews – all without undue reliance on assistance from the Police. As noted, the PCA's ability to achieve operational independence commenced in late 2003, when a Manager of Investigations and three investigators were engaged. A further investigator was engaged a year later. Whilst the Police continue, as is required of them, to carry out their own investigations, the appointment of PCA investigators has allowed the PCA to independently monitor and investigate serious incidents and complaints. However, such monitoring and investigative work is resource intensive and the PCA's ability to undertake that is therefore necessarily limited to the most serious cases. The capability of the PCA to carry out its own investigations needs to be further developed if the PCA is to be recognised as truly independent.

The third critical independence factor is the appearance of impartiality. To assist in enhancing the public's understanding of the independent nature of the PCA's statutory role and its essential functions, the PCA intends to implement recommendations 21 and 22 in the Report of the COIPC (relating to publicity and the development of a communications strategy) in conjunction with Police, the Ministry of Justice and other relevant agencies. Through this educational medium the public will be informed of the PCA's role and of its developing operational independence. However, the most important contributor to the appearance of independence remains the necessity for the PCA to be seen to be doing its own investigative work. In this regard consideration will be given to a greater degree of publication of its reports.

The fundamental importance of both actual independence and perceived impartiality of the PCA cannot be over-emphasised. Nor can the seriousness with which the PCA takes its responsibility on behalf of all who come in contact with or who are affected by police actions, procedures and policies be overstated.

### **Timeliness**

Another aspect of PCA work that requires continual focus is the need to resolve complaints in a timely manner. The 2003 Annual Report noted that the timely disposition of complaints has been a difficult issue for the PCA, and one that has not been under the exclusive control of the PCA. This unsatisfactory situation continues to the present day. Accordingly, the objective to satisfactorily resolve complaints in a timely manner must also take prominence in the strategic planning behind this Statement of Intent.

Strategic analysis over the coming months will focus on a review of the PCA's work load and on its approach to that work, with a view to identifying and categorising those complaints, incidents and other matters that are properly to be directed to it in the first instance and those which should be directed first to the Police for resolution within its new disciplinary and performance management process and in accordance with its Code of Conduct.

The PCA will also consider what organisational changes and additional resourcing might be necessary to fulfil its objective of more timely investigations and reporting, and to clear any existing backlog. Of significance to improving its performance will be the installation of a new case management database with a bring-up system, in August 2007. In addition, new performance measures are being actively considered and a strategy for increasing communication with complainants will be developed.

### **Working relationship with Police**

As forecast in the Introduction it is necessary for the PCA to have regard to the internal disciplinary and reform processes being implemented by the Police in conjunction with the introduction of their Code of Conduct. It is both appropriate and in the public interest for the Police to implement such a disciplinary and performance management process, underpinned by a Code of Conduct. These vehicles will enable the Police to focus on improved performance and also to undertake disciplinary action when necessary.

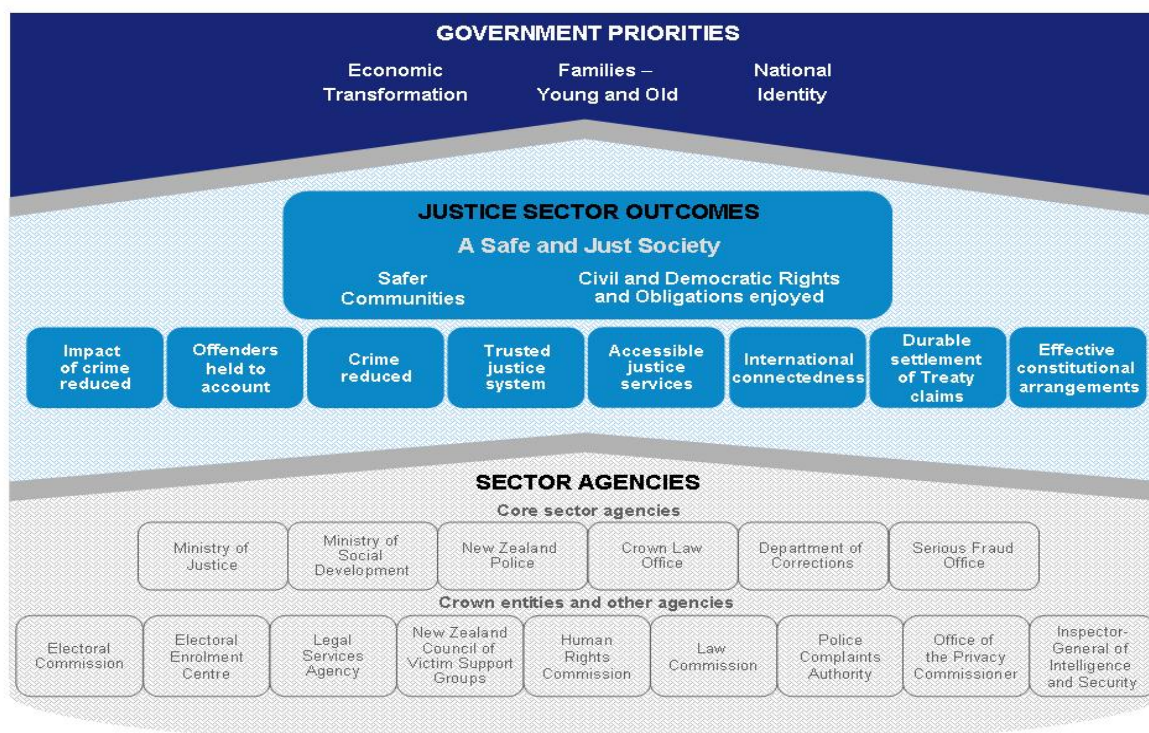
It is both compatible with the principle of independence and in the public interest for the PCA and the Police to work constructively together to ensure the success of the reforms proposed by the Police. They are intended to achieve both the advantage of early intervention and also an increased responsibility on the part of the Police for the complaint/disciplinary process, as well as the district complaint/conciliation process.

In addition to the statutory jurisdiction of the PCA, there is already in force a Memorandum of Understanding between the PCA and the Police, providing for matters of serious misconduct or neglect of duty which are internally reported within the Police to be notified to the PCA and then to be dealt with by the PCA as if they were complaints.

The procedures to be followed when both the PCA's own investigators and the Police are investigating a matter are provided for by a protocol for co-operation entered into between the two organisations. This protocol defines the working relationship between Police and PCA investigators. It allows active investigation by the PCA whilst recognising that the Police have the primary responsibility for the investigation of crime. Since evidence gathered by PCA investigators is not admissible in other proceedings, PCA investigators generally defer interviews of possible defendants and witnesses until Police interviews have taken place.

## WHAT THE PCA INTENDS TO ACHIEVE

### Contribution to Government Priorities and Justice Sector



### Outcomes

The Government has set three high-level, long-term priorities for the next decade on which the success of the social, economic, political and cultural activities of the nation will be built:

- Economic Transformation
- Families - Young and Old
- National Identity

The “Families - Young and Old” theme has a strong “Safer Communities” sub-theme that includes protecting the safety and security of individuals and communities, and ensuring that people can enjoy their civil and political rights.

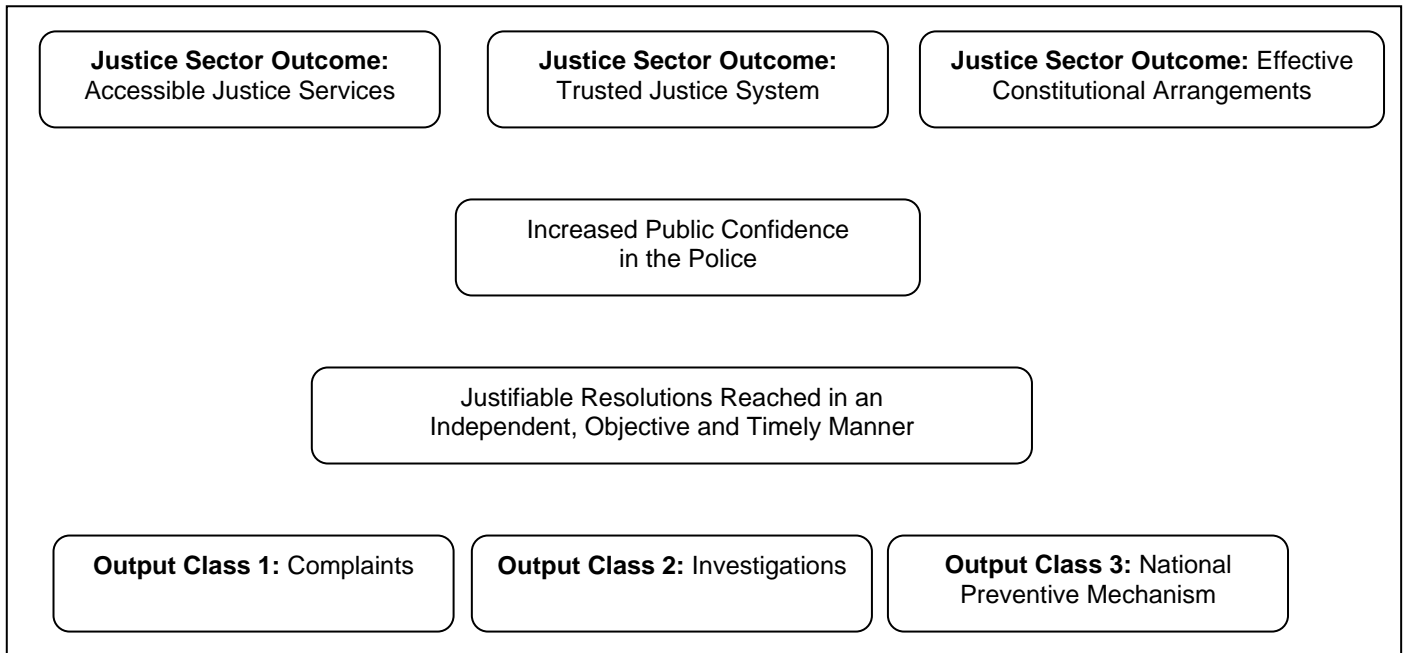
This is reflected in the overall outcome for the justice sector of a Safe and Just Society and eight contributing outcome areas which include Trusted Justice System, Accessible Justice Services and Effective Constitutional Arrangements. In working towards our vision of “Trusted and Trustworthy Police”, the PCA will particularly aim to contribute to these contributing sector outcome areas.

The PCA will continue to work closely with the Ministry of Justice to ensure the alignment of PCA long-term objectives with government priorities and existing legislation.

## PCA's Outcomes and Outputs Framework

The long term vision of the PCA is that its existence and activities will play a significant role in New Zealand being served by Police who are both trustworthy and trusted.

The following diagram illustrates the PCA's Outcomes and Outputs Framework:



### Increased public confidence in the Police

The PCA will continue to work to improve the level of public confidence in the Police. This is closely related to the PCA's vision of "Trusted and Trustworthy Police".

Clearly the public's perception of the appropriateness of Police actions, procedures and policies is determined by more than the work of the PCA. Nevertheless, the PCA plays an important part in providing an assurance that situations or events relating to Police actions, procedures or policies that might be considered inappropriate will be investigated when drawn to its attention.

This outcome provides the strategic focus for the PCA's activities, relating to the resulting environment in which the public's interaction with Police occurs and is perceived.

### Justifiable Resolutions Reached in an Independent, Objective and Timely Manner

It is understandably very important to complainants and to the public in general for the PCA to take appropriate action in response to complaints, incidents and other matters of interest once investigations have been completed and conclusions

reached. The PCA has a number of options open to it for satisfactorily resolving complaints

These actions include but are not limited to:

- investigating a complaint, irrespective of whether Police have commenced an investigation;
- deferring action until after a report on a Police investigation has been received;
- overseeing an investigation being carried out by Police and directing the Police in relation to the investigation;
- reviewing a Police investigation of a complaint;
- directing the Police to re-open an investigation or reconsider their proposals for action on a complaint;
- deciding not take any action; or
- making recommendations to the Commissioner of Police.

The amending legislation will extend the scope of the above actions by providing for the PCA to also have power to refer a complaint to the Police for investigation. This additional power will assist the PCA in ensuring that complaints that should be referred to the Police in the first instance for resolution are so referred.

In every instance, the PCA will consider the interests of the public and of all persons affected by the proposed intervention, and choose the most appropriate course of action for the circumstances.

In accordance with Section 34 of the Act, the PCA may also, from time to time during the term of this Statement of Intent, publish reports relating to either the general exercise of its functions under the Act or any particular case or cases in relation to which it has exercised its functions under the Act. These reports will be published if they are in the public interest or in the interest of any person to do so, and will be subject to the provisions of the Act in relation to such publication.<sup>2</sup>

The PCA will continue to act independently of any undue influence from individuals or organisations, and its consideration of complaints, incidents and other matters within its jurisdiction will continue to be fair. Its capacity to conduct and review investigations, whether or not Police are already carrying out an investigation, will also continue to be applied to these objectives.

The PCA will also continue to place a strong emphasis on identifying the most appropriate approach for the investigation of each complaint or incident within its jurisdiction, and on ensuring that those investigations are carried out professionally

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<sup>2</sup> See <http://www.pca.govt.nz/Site/publicreports/publicreports.aspx>



and thoroughly, whether by the Police or PCA investigators. As part of its ongoing quality assurance practices, the PCA will work with the Police to ensure that all complaints and incidents are assigned to the most appropriate investigation staff and that sufficient oversight of the investigations is maintained to ensure that the complaint or incident is investigated fully and impartially.

The PCA continues to place a high priority on achieving the resolution of complaints in a timely and appropriate manner, and acknowledges the difficulties often faced in resolving complaints in the time frame that might reasonably be expected of it. The PCA encourages the resolution of complaints through conciliation, in preference to more time-consuming processes, wherever appropriate. In addition, the progress of all investigations is monitored to ensure, to the maximum extent that the PCA's resources allow, timely completion and appropriate notification of progress to those involved. The new case management database, with a bring-up system, due to be installed in August 2007, will greatly help ensure that regular communication with complainants is maintained and that responses are timely.

The PCA expects that by meeting the outputs required of it by statute, and as set out in its Memorandum of Understanding with the Minister of Justice, the outcomes described above will be achieved. The PCA has worked closely with the Ministry of Justice to strengthen the performance measures for these output classes, and will continue to work to develop these measures. The output classes of the PCA during the period covered by this Statement of Intent are expressed as follows:

#### **Output Class 1: Complaints**

A major goal of the Authority is the politically independent and appropriate oversight and disposition of all complaints that come within its jurisdiction. One of its major functions is to receive, investigate and resolve complaints concerning misconduct or neglect of duty, or the practices, policies or procedures of the Police.<sup>3</sup>

On receipt of a complaint the PCA may designate it as suitable for resolution in the district in which the complaint arose. In such cases the complaint will be directed to the District Commander concerned for action and report back to the PCA.

The nature and degree of seriousness of some complaints requires a preliminary investigation and report to be made, so as to determine whether criminal or disciplinary action is warranted. Where one of these is the outcome, the substantive

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<sup>3</sup> Section 12(1)(a) of the Act.

investigation will be conducted by the police, but may be monitored by the PCA's own investigators. The result of any police investigation and recommendations flowing there from are independently reviewed by the Authority, which then forms its own view as to the adequacy of the police investigation and the appropriateness of any recommendations.

In pursuing its objectives under this head, the PCA will be cognisant of the need: to observe and implement the recommendations of the COIPC Report relating to improving its accessibility by complainants; to increase the public's awareness of its functions; to improve communication with complainants; and for greater timeliness in resolving complaints.

### **Output Class 1, Sub-output 1: Reduction of Complaints Backlog**

The PCA is taking a number of steps to actively reduce its current backlog of complaints, including inventorising all files by age and auditing these to ascertain any reason for delay and what the required next action might be; implementing the new database to improve its case management and data collection capability; and recruiting extra temporary resources pending substantive review and any restructuring of the PCA.

### **Output Class 2: Investigations**

The PCA may investigate a complaint itself, defer action until receipt of a report from the police, or oversee a police investigation of a complaint.<sup>4</sup> The PCA may also investigate of its own motion, where it is satisfied that there are reasonable grounds to do so in the public interest, any incident involving death or serious bodily harm caused or appearing to have been caused by a member of the police acting in the execution of his or her duty.<sup>5</sup>

The PCA also investigates and resolves matters referred to it by the Commissioner of Police in accordance with relevant provisions of the Act and the Memorandum of Understanding between the Authority and the Commissioner of Police.

Since the PCA engaged its own investigators in November 2003 complaints of a serious nature and incidents involving death or serious bodily harm have been investigated by the Authority's investigators. The Police have a duty to, and always do, investigate all serious complaints and incidents however. There

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<sup>4</sup> Section 17(1)(a) of the Act.

<sup>5</sup> See Section 12(1)(b) and 13 of the Act. Refer also to the Memorandum of Understanding between the Authority and the Commissioner of Police

is therefore almost always a parallel approach to investigations of such matters, the interest of the two organisations being guided by a protocol for cooperation between them.

Because the Police collect evidence that may be required for use in a criminal prosecution or disciplinary hearing against an officer, and evidence collected by PCA investigators cannot be so used, it is usual for PCA investigators to closely monitor the Police management of such an investigation and the collection of evidence, rather than to collect the evidence themselves.

It is the intention of the PCA to raise the level of independence of its investigations by increasing its direct interaction with complainants, victims and witness; and in doing so, reduce the PCA's reliance on the Police for the timely completion of investigations.

### **Output Class 3: National Preventive Mechanism**

In March 2007 New Zealand ratified the Optional Protocol to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

OPCAT establishes a system whereby a number of national preventive mechanisms (NPMs) are established, of which the PCA is one. The role of the NPMs is to monitor conditions in places of detention and, in conjunction with other national NPMs, report to the International Subcommittee on the Prevention of Torture. In New Zealand the Human Rights Commissioner is the Central National Preventive Mechanism and has responsibility for co-ordinating the activities of the national NPMs and reporting to and liaising with the International Subcommittee on the Prevention of Torture.

The PCA's responsibility will be to examine, at regular intervals, conditions in New Zealand police cells. In furtherance of this the PCA is working on a strategy to establish relevant preventive monitoring measures that will meet international standards, and a visiting and reporting mechanism that can be consistently applied.

## CAPABILITY OF THE PCA

Unlike many entities that may have a significant capital asset component to achieve their Output, the PCA's work is almost entirely achieved through the application of human resources.

Much of the work carried out by or on behalf of the PCA is also specialist in nature, and requires a high-level of knowledge of police operations in addition to investigative skills. This specialist knowledge and skill set is scarce, and so the PCA has a limited pool of potential employees within New Zealand to draw on. In addition, the work of the PCA is also often complex and sensitive in nature, placing further constraints on its ability to recruit appropriately qualified personnel.

Accordingly, one of the biggest challenges the PCA currently faces is the need to match its capability to the expectations held of it.

There has been no significant reduction in the number of issues requiring PCA attention, and the workload on PCA staff has continued to increase. Indeed, the steady increase in policing numbers as well as the increasing ease with which the actions of police are becoming visible to the community as a whole suggests that the rate of increase in workload may itself increase in the future.

It is therefore both timely and important for the PCA to review its workload and its organisational structure, to ensure that it is appropriately focused on its core service delivery and is able to achieve its objectives to a high standard. Such a review must encompass an expansion of the PCA's own investigative capacity as well as a categorisation of that work which ought to be directed to the police in the first instance for resolution within its new disciplinary and performance management processes.

To reduce risks around its core service delivery it is essential that the PCA has sufficient resources and capability, so that it can continue to build public trust and confidence in the Authority, in the Police and in the Justice system.

Additional baseline funding of \$599,000 per year has been approved as part of Budget 2007. This increased funding will assist the PCA to meet its ongoing resource requirements and to continue to deliver its core services. In particular, it will help the PCA to reduce public and Police dissatisfaction with the timeliness of complaints processing and will allow the PCA to continue to build its independent investigative capability.

The PCA is currently working with the Ministry of Justice and the Police to implement the COIPC recommendations relevant to its work. The Authority will work with officials to identify and advise the Government of the organisational and financial

implications of implementing these recommendations in order to ensure the PCA has sufficient capability and capacity to manage the changes required.

### **Capability Risk**

The PCA currently has some investigative capacity, but most investigation activity that is currently undertaken in pursuit of PCA enquiries is undertaken by the Police on behalf of the PCA. Although this arrangement may appear to some to reduce the PCA's independence, there are many effective safeguards in place to ensure that this independence is not compromised.

These safeguards include ensuring that investigations carried out by the Police are managed by the Police Professional Standards Section – a separate section within the Police that oversees investigations conducted on the PCA's behalf.

However, the PCA's reliance on its own human capital and on the services provided by the Police makes it vulnerable to any variation in the availability of those resources. This issue is a particularly important consideration with respect to PCA staffing levels which, as a small organisation, makes it susceptible to considerable reductions in overall capability if even one or two staff were to resign or to take leave other than for short periods of time. The difficulty faced in finding suitably experienced replacement staff in a reasonable time frame only increases this capability risk. A clear priority for the coming three years is therefore to continue to build and optimise the PCA's operational capacity to carry out the tasks required of it.

## FUNDING AND ADMINISTRATION

The PCA is funded by Vote: Justice and is administered by the Ministry of Justice in accordance with the Crown Entities Act 2004. The Crown Entities Act 2004 has expanded the planning and reporting requirements of Crown entities. The new reporting requirements, which came into effect on 1 July 2006, place a greater emphasis than in the past on strategic planning and reporting on planned rather than completed activities via the Statement of Intent. This Statement of Intent meets this requirement.

Forecast service performance and financial statements for the financial year 2007/08 are presented in the next part of this Statement of Intent.

In addition, the PCA and the Minister operate a 'no surprises' relationship. This means that:

- The PCA will notify the Minister, in an appropriate timeframe, of any matter that the PCA is aware of and considers may result in significant media, public or parliamentary attention or questions.
- The PCA will consult on or provide briefing to the Minister, where appropriate, on major projects or events, and will provide the Minister with a copy of reports supplied to Parliament and of reports it releases.
- The Minister will inform the PCA of any changes to government policies where these may have a material impact on the PCA including information on the progress and outcome of Budget initiatives.

## STATEMENT OF RESPONSIBILITY

The management personnel of the Authority are responsible for the preparation of this Statement of Intent and Forecast Financial Statements, including the assumption on which the Forecast Financial Statements are based. The Statement of Intent outlines for Parliament the performance the Authority has agreed with the Minister to deliver.

The assumption underlying the Forecast Financial Statements is that government funding will not change for the year ending June 2008.

The Forecast Financial Statements have been developed for the purpose of tabling the Authority's intentions in Parliament and should not be relied upon by any other party for any alternative purpose without the express written permission of the Authority. Actual results may be different from the Forecast Financial Statements and the variation may be material.

The Forecast Financial Statements have been prepared in accordance with FRS-42.



Justice Lowell Goddard  
Police Complaints Authority  
18 June 2007

**PART 2 – FORECAST SERVICE PERFORMANCE****Forecast Service Performance****Output Class 1: Complaints****Quantity**

- Projected number of files opened: 1750-1900.<sup>6</sup>
- Projected number of files resolved which have been open for 12 months or less: 900.<sup>7</sup>

**Quality**

- Review and update internal standards for processing complaints in line with COIPC recommendations and the new business environment once the IPCA Bill is enacted.
- Ensure all reports, recommendations and dispositive correspondence is signed by the Authority or Deputy Authority.
- Tasks will be tracked and controlled through the use of the PCA's new database as appropriate.

**Timeliness**

- Acknowledge receipt of complaints and notification of incidents within three working days of receipt.
- Ensure all complaints and incidents are assigned to a reviewing officer or investigator within three working days of their receipt or notification.
- Monitor all investigations undertaken by the Police and in which the PCA is interested to ensure timely completion and ensure that 90% of files relating to investigations completed by Police are disposed of within 120 days of receipt of those files by the Authority.

**Output Class 1, Sub-output 1: Reduction of Complaints Backlog<sup>8</sup>****Quantity**

- Reduce complaints backlog by 65%.

**Quality**

- Quantity measures will be the same as for the main output

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<sup>6</sup> This figure differs from that provided in the Estimates for 2007/08. This is because the PCA's performance measures have been considerably developed since information was provided for the Estimates and a different measure of quantity in relation to complaints is now preferred, measuring files opened rather than issues raised (multiple issues may be raised in one file).

<sup>7</sup> This figure differs from that provided in the Estimates for 2007/08 for the reason provided above.

<sup>8</sup> A file is considered part of the complaints backlog if it has been open for more than 12 months.



### **Timeliness**

- This reduction is to be measured from the beginning to the end of the 2007/2008 year and specifically reported four-monthly to the Minister.

### **Output Class 2: Independent Investigative Capability/Investigations**

#### **Quantity**

- Projected number of investigations involving death or serious bodily harm arising as a result of Police actions undertaken: 250-300.
- Projected number of such investigations completed and closed: 230-260.

#### **Quality**

- The Authority will report four-monthly to the Ministry of Justice on the progress and development of its independent investigative capability.
- Investigations will be undertaken to internal quality standards:
  - Quality control is exercised at regular peer group case assessments, through scrutiny of the group's work by the manager, and by the reviewing officer assigned to the case.
  - Investigative knowledge is tested and developed through interactions with Police investigators and independent forensic experts, at all times maintaining confidentiality of information relating to individual investigations.
- Tasks will be tracked and controlled through the use of the PCA's new database as appropriate.

### **Timeliness**

- Depending on the nature and seriousness of the incident or complaint either:
  - Within three working days of notification of a major incident involving death or serious bodily harm, such as a shooting by police or a police pursuit – view the scene of the incident; liaise with the police investigating team; and visit or make contact with the victim or next of kin; or

- As soon as practicable after being notified of an incident or complaint of a serious nature, but which does not require an immediate response – visit the police district in which the incident or matter resulting in the complaint took place; view the scene if appropriate; liaise with the police investigator; and visit or make contact with the complainant or victim.
- Closely monitor investigations undertaken by the police and contemporaneously carry out such additional investigation as is required for PCA purposes. On completion of the police investigation and receipt of the police file, complete the PCA investigation and refer for review within 30 days.

### **Output 3: National Preventive Mechanism**

#### **Quantity**

- The PCA will examine up to 30 police cells throughout New Zealand during the 2007/2008 year to ascertain existing standards and conditions.
- The PCA will collect and collate data in relation to all complaints received by it from persons in police custody that might be categorised as incidents of torture or cruel, inhuman or degrading treatment or punishment.

#### **Quality**

- Once the PCA has ascertained existing custodial standards and conditions in New Zealand it will assess those against international expectations<sup>9</sup> in order to establish relevant preventive monitoring measures and a visiting and reporting mechanism that can be consistently applied.
- The PCA will work with the Central National Preventive Mechanism (the Human Rights Commission) to establish a collective approach in the development of these standards.

#### **Timeliness**

- The initial examination of police cells throughout New Zealand to ascertain existing standards and conditions in those cells will be completed during the 2007/2008 year.
- Preventive monitoring measures will then be developed and established in conjunction with other NPMs under the chairmanship of the Human Rights Commissioner.

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<sup>9</sup> See the Advisory Council of Jurists, *Reference on Torture*, at <http://www.asiapacificforum.net/acj/references/acj-references-torture/downloads/reference-on-torture/acj-torture-report.pdf>.

**PART 3 –FORECAST FINANCIAL STATEMENTS****Police Complaints Authority****Forecast Statement of Financial Performance  
For the year ended 30 June 2008**

		Quarterly
<b>INCOME</b>		
Government Grant	733,000	183,250
Govt Grant ( investigative & additional member)	787,000	196,750
Govt Grant 07-08	599,000	149,750
Govt Grant ( operating adjustment & remuneration )	418,000	104,500
OPCAT	49,000	12,250
Interest	60,000	15,000
	2,646,000	661,500
<b>Less EXPENDITURE</b>		
Audit Fee	15,000	3,750
Communication	45,000	11,250
Depreciation	80,000	20,000
Personnel	1,687,780	421,945
Printing & Stationery	30,000	7,500
Professional Fees	145,000	36,250
Rent	202,000	50,500
Services & Supplies	140,000	35,000
Subscriptions	4,500	1,125
Travel & Accommodation	100,000	25,000
	2,449,280	612,320
Total Expenditure	2,449,280	612,320
Surplus	\$ 196,720	\$ 49,180

**Police Complaints Authority**

**Forecast Statement of Financial Position  
As at 30 June 2008**

**CURRENT ASSETS**

Cash at Bank	43,719
Call Account and Term Deposits	636,090
GST	14,200
	<hr/>
	694,009

**FIXED ASSETS**

241,556

**TOTAL ASSETS**

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935,565

Less:

**CURRENT LIABILITIES**

Accounts Payable	111,043
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**NET ASSETS**

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824,522

**STATEMENT OF MOVEMENTS IN EQUITY**

**CROWN EQUITY**

Opening equity	627,802
Deficit for Year	196,720
	<hr/>
	\$824,522
	<hr/> <hr/>

**Police Complaints Authority****Forecast Statement of Cash Flows  
For the year ended 30 June 2008***Cashflows from Operating Activities*

Cash was provided from:

Government Grants &amp; Other Sources

2,586,000

Interest

60,000

2,646,000

Cash was applied to:

Payments to Suppliers and Employees

(2,367,740)**Net Cashflows from Operating Activities****278,260***Cashflows from Investment Activities*

Cash was provided from:

Sale of Fixed Assets

-

Cash was applied to:

Purchase of Fixed Assets

(50,000)

**Net Cashflows from Investing Activities****(50,000)****Net Increase (Decrease) in Cash Held****228,260**

Add Opening Cash Brought Forward

451,549

Ending Cash Carried Forward

679,809**Cash Balances in the Balance Sheet**

Cash at Bank

43,719

Call Accounts and Term Deposits

636,090679,809**Reconciliation of Cashflow with reported  
Operating Surplus**

Surplus (Deficit)

\$ 196,720

Add non cash items

Depreciation

80,000

Loss on Fixed Assets Written Off

0

Add(less) movements in other working Capital Items

(Increase) Decrease in Receivables/GST

1,540

Increase( Decrease) in Accounts payable

0

Net cashflows from operating activities

278,260

POLICE COMPLAINTS AUTHORITYNOTES TO AND FORMING PART OF THE FINANCIAL  
STATEMENTS  
FOR THE YEAR ENDED 30 JUNE 20081. STATEMENT OF ACCOUNTING POLICIES*REPORTING ENTITY*

The Financial Statements presented here for the reporting entity, the Police Complaints Authority, are prepared pursuant to section 35 of the Police Complaints Authority Act 1988 and section 41 of the Public Finance Act 1989. The primary function of the Authority is to assess complaints made by members of the public against the Police.

*MEASUREMENT BASE*

The accounting principles recognised as appropriate for the measurement and reporting of earnings and financial position on a historical cost basis are followed by the Authority.

*SPECIFIC ACCOUNTING POLICIES*

The following specific accounting policies which materially affect the measurement of financial position have been applied:

- a) **Accounts Receivable**  
Accounts Receivable are stated at their estimated net realisable value.
- b) **Depreciation**  
The Authority has three classes of fixed assets as follows:  
Office Equipment - 25% of diminishing value  
Furniture & Fittings - 25% of diminishing value  
Leasehold Improvements - 25% of diminishing value.  
  
All fixed assets are initially recorded at historical cost.  
  
Depreciation is provided on a diminishing value basis on all tangible fixed assets at rates calculated to allocate the assets' cost over their estimated useful lives.
- c) **Investments**  
Investments are stated at the lower of cost and net realisable value.
- d) **Goods and Services Tax (GST)**  
The Financial Statements are prepared on a GST exclusive basis, with the exception of accounts receivable and accounts payable which are stated with GST included.

- e) **Employee Entitlements**  
Provision is made in respect of the Authority's liability for annual leave at balance date. Annual Leave has been calculated on an actual entitlement basis at current rates of pay.
- f) **Operating Leases**  
Operating lease payments, where the lessor effectively retains substantially all the risks and benefits of ownership of the leased items, are charged as expenses in the periods in which they are incurred.
- g) **Financial Instruments**  
There are no financial instruments that expose the Authority to foreign exchange risk or off balance sheet risks.
- All financial instruments including bank accounts, short term investments, accounts receivable and accounts payable are disclosed at their fair value. The fair value of short term investments is the lower of cost or market value. Revenue and expenses in relation to the financial instruments are recognised in the Statement of Financial Performance.
- h) **Income Tax**  
The Authority is exempt from income tax as it is classified as a public authority in terms of the Income Tax Act 2004.
- i) **Cost of Service Statements**  
The Police Complaints Authority has committed to provide three output classes and one sub-output class in 2007/08 that meet the requirements of the Minister of Justice in terms of their description, quantity, timeliness and costs.

**Cost of Service Statement 2007/08**

Output Class Description	REVENUE		EXPENSES	SURPLUS
	Revenue	Revenue	Total	
	Crown	Other	Expenses	
	\$000	\$000	\$000	\$000
Complaints	1,338	31	1,267	102
Investigations	1,144	26.5	1,084	86.5
National Preventive Mechanism	104	2.5	98	8.5
<b>TOTAL</b>	<b>2,586</b>	<b>60</b>	<b>2,449</b>	<b>197</b>

**OUTPUT  
CLASSES**

- j) **Budget Figures**  
The budget figures are those approved by the Authority at the beginning of the financial year.

The budget figures have been prepared in accordance with generally accepted accounting practice and are consistent with

the accounting policies adopted by the Authority for the preparation of the Financial Statements.

*CHANGES IN ACCOUNTING POLICIES*

There have been no changes in accounting policies. All policies have been applied on bases consistent with those used in previous years.

2. FIXED ASSETS AND DEPRECIATION

Office Equipment - at cost	309,587
Less accumulated depreciation	190,231
	<hr/>
Book Value	119,356
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Furniture & Fittings - at cost	298,800
Less accumulated depreciation	229,700
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Book Value	69,100
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Leasehold Improvements - at cost	160,800
Less accumulated depreciation	107,700
	<hr/>
Book Value	53,100
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Total Fixed Assets	\$ 241,556
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Depreciation - Office Equipment	40,500
- Furniture & Fittings	22,000
- Leasehold	17,500
	<hr/>
	\$ 80,000
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3. ACCOUNTS PAYABLE

Trade Creditors	44,543
Employee Entitlements	66,500
	<hr/>
	\$111,043
	<hr/>