

2023-27

**TAUĀKĪ
WHAKAMAUNGA
ATU
STATEMENT
OF INTENT**

Presented to the House of Representatives under
S 150(3) of the Crown Entities Act 2004

NGĀ IHIRANGI CONTENTS

TE TAUĀKĪ MAI I TE POARI STATEMENT FROM THE BOARD	2
TIROHANGA RAUTAKI WHĀNUI STRATEGIC OVERVIEW 2023–2027	4
1. TŌ MĀTOU ARONGA OUR PURPOSE	5
2. KO WAI MĀTOU WHO WE ARE	6
3. TŌ MĀTOU HOROPAKI RAUTAKI OUR STRATEGIC CONTEXT	7
3.1 Current environment	7
3.2 How will we respond to this environment?	10
3.3 Our contribution to the cultural sector	11
4. TE ANGA RAUTAKI – TŌ MĀTOU PŪRĀKAU WHAKAATURANGA STRATEGIC FRAMEWORK – OUR PERFORMANCE STORY	13
4.1 What do we intend to achieve?	13
4.2 How will our activities and services contribute to what we intend to achieve?	14
4.3 How do we know we are having an impact?	16
4.4 Overall performance and cost analysis	20
4.5 Organisational health and capability	21

TE TAUĀKĪ MAI I TE POARI STATEMENT FROM THE BOARD

1 JUNE 2023

This Statement of Intent (SOI) sets out what the Broadcasting Standards Authority | Te Mana Whanonga Kaipāho (BSA) intends to achieve or contribute to over the next four years and how it will manage its functions and operations to meet its intentions. This SOI is produced in accordance with section 141 of the Crown Entities Act 2004.

As we plan for the next four years, we are conscious of the impact pending change may have on those plans. We are encouraged that modernisation of the regulatory framework for media and online content providers is on the agenda and hope to see relevant legislation introduced over the period of this SOI.

The issues with the current regime are now very familiar: the confusing range of ‘regulators’ involved, the lack of a level playing field where different providers are not subject to the same rules and the regulatory gaps that allow misinformation and disinformation to circulate. The issues have only been exacerbated as Aotearoa New Zealand audiences increasingly move away from traditional broadcasting platforms, towards online information sources that are not subject to the same controls.

COVID-19 brought the current regulatory gaps into sharp relief. The misinformation and disinformation which circulated around COVID-19 caused unprecedented social unrest and division, highlighting the urgency of reform.

It also drove significant workload for the BSA and for broadcasters as people influenced by misinformation challenged broadcasters offering more reliable content. COVID-19 related complaints (many of which were driven by misinformation and disinformation) contributed to a 52% increase in broadcasting standards complaints in 2021 and to similarly high numbers the following year.

In this environment, we are strongly focused on supporting the proposed reform efforts. We also welcome the proposed introduction of a mandatory news media bargaining framework which will help ensure the sustainability of New Zealand news media.

For the coming years, our goals are to influence change towards a new, future-focused regulatory model, while continuing to pursue opportunities to enhance the efficiency and effectiveness of our existing services and processes. Recent efforts to streamline and futureproof the current regime (eg the introduction of our updated concise new Codebook) will continue as will our work with broadcasters and the public to ensure they are aware of and understand how the standards apply and how the complaints process works. Regulation is only ever part of the solution, and our ongoing efforts to equip the public with the tools to engage safely with broadcast content will remain an important focus.

In addition, whatever changes are to come, our commitment to the principles in Te Tiriti o Waitangi and to the appropriate recognition, protection and support of the rights and interests of Māori as tangata whenua will be a constant. Accordingly, over the coming period we will continue our current programme to enhance our cultural competence and ensure we embed practices and systems reflective of te ao Māori and Te Tiriti principles.

The issues with the current regime are now very familiar: the confusing range of ‘regulators’ involved, the lack of a level playing field where different providers are not subject to the same rules and the regulatory gaps that allow misinformation and disinformation to circulate.

New Zealand broadcasters are well positioned to facilitate the healthy cultural growth of our nation, driving public understanding, recognition and respect for Te Tiriti principles and the Maihi Karauna (the Crown's strategy for Māori Language Revitalisation). We will continue to support this growth, ensuring the broadcasting standards regime supports and reflects the principles of partnership, protection and participation in Te Tiriti.

The impacts we intend to achieve are set out in the strategic framework in section 4.

The rate of change (both technological and regulatory) is unlikely to slow down in the coming years. We will keep this SOI under constant review and may refresh it if necessary. If our hopes around regulatory reform come to fruition, our next SOI may look very different.



Susie Staley MNZM
Chair



Tupe Solomon-Tanoa'i
Member



John Gillespie
Member



Aroha Beck
Member

TIROHANGA RAUTAKI WHĀNUI

STRATEGIC OVERVIEW



TE MOEMOEĀ VISION

Freedom in broadcasting without harm



TE ARONGA PURPOSE

Our purpose is to prevent harm to New Zealanders, while fairly balancing the broadcasters' right to freedom of expression and reflecting the values of New Zealand's liberal democratic society.



PUTANGA WHĀNUI OVERARCHING OUTCOME

New Zealanders can confidently engage with broadcast content that does not cause harm.

1 TŌ MĀTOU ARONGA OUR PURPOSE

Aotearoa New Zealand is a modern diverse liberal democratic society. A robust and diverse broadcast media plays a vital role in our vibrant democracy. We all have a strong interest in protecting this cornerstone.

But sometimes, through the exercise of the important democratic right to freedom of expression, the media can harm individuals and society. A balance needs to be struck between the right to share ideas and information and the harm that exercising this right may cause.

This right to freedom of expression is a fundamental right in our society. It is embodied in the New Zealand Bill of Rights Act 1990. However, the right is not unlimited. As

a regulator, the BSA is charged with determining where limits should be placed on the broadcasters’ right to freedom of expression. In undertaking that role when determining complaints, the BSA asks whether the benefits of freedom of expression in each case outweigh any harm that may be caused.

When undertaking all our work, whether developing and promoting broadcasting standards or determining complaints, we must balance these two concepts justly. We must ensure that broadcasters’ right to freedom of expression is supported whilst also ensuring that they fulfil their obligations under the broadcasting codes to avoid harm. Through this we aim to promote a broadcasting standards regime that is fair to all New Zealanders and is a system in which we can all have confidence.





Figure 1: The complaints process

2 KO WAI MĀTOU WHO WE ARE

The BSA is a quasi-judicial tribunal established by the Broadcasting Act (the Act), tasked with overseeing New Zealand’s broadcasting standards regime, and fulfilling the relevant functions under the Act.

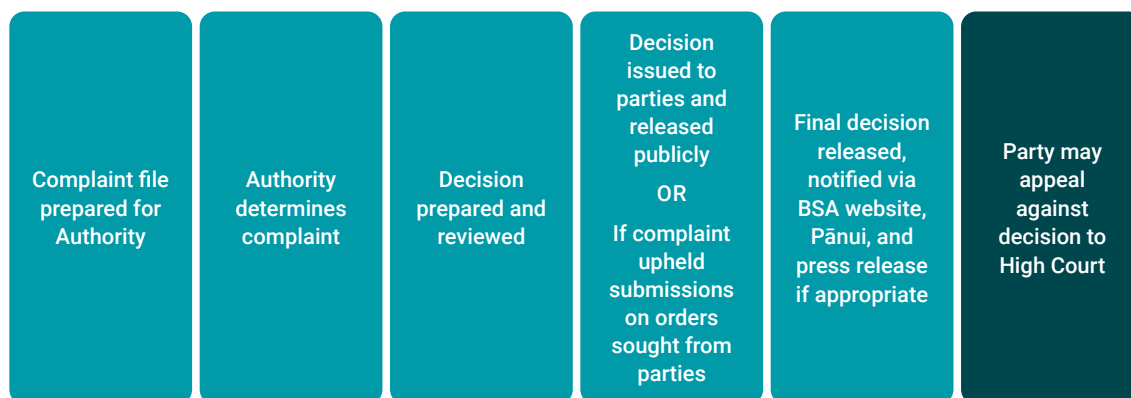
We are jointly funded by government and through broadcaster levies to deliver our services.

We have three primary functions that underpin our regulatory purpose. The first is to provide a free, independent complaints service through which we receive and determine complaints about broadcasting standards. The second is oversight of the broadcasting standards system, including working with broadcasters and stakeholders to set clear codes of broadcasting practice which meet the changing expectations of our diverse community, supporting broadcasters to understand their obligations, and ensuring the public are aware of how the code standards apply and how the complaints process operates. The third function is to engage with and educate broadcasters and the public so they understand the standards that apply, can safely engage with broadcast content and can use and access the complaints system.

We operate in a co-regulatory environment in which broadcasting standards complaints are the responsibility of both the broadcasters and the BSA. Generally, those wanting to make a formal complaint about a broadcast must first complain to the broadcaster concerned. Complaints about privacy and election programmes may be made directly to the BSA. If the complainant is dissatisfied with the outcome of the broadcaster’s determination, they have the right to effectively ‘appeal’ the matter to the BSA. Complainants and broadcasters can appeal BSA decisions in the High Court.

The BSA is an Independent Crown Entity. Its work is conducted at ‘arm’s length’ from the Government. The Government cannot direct or seek to influence the work of the BSA.

Members of the BSA are appointed by the Governor-General on the advice of the Minister responsible for the administration of the Broadcasting Act 1989. Members have two roles: governance of the BSA and quasi-judicial determination of complaints. Members declare potential conflicts of interest and withdraw from consideration of any complaint where they are conflicted. Each member also signs a Declaration of Interest annually. The Authority is supported by a small staff team, led by our Chief Executive.



3 TŌ MĀTOU HOROPAKI RAUTAKI OUR STRATEGIC CONTEXT

3.1 CURRENT ENVIRONMENT

Our last SOI was drafted in the early days of the COVID-19 pandemic. The period since has been a time of significant change and upheaval. COVID-19 dominated national discourse, disrupted and changed our lifestyles and ways of working and caused significant economic and social uncertainty. It also tested our regulatory system’s ability to respond to the increasing spread of misinformation and disinformation as New Zealand audiences continued their move away from traditional broadcasting and towards online content.¹

Against this backdrop, despite the significant workload contributed by COVID-19 related complaints, we have worked to streamline and futureproof the broadcasting standards regime. Accordingly, we enter this new period with a substantially simpler set of broadcasting standards – a new Codebook which combines the Radio, Free-To-Air and Pay Television Codes into a single Code, available in seven languages.

The next four years are expected to bring further change, as the regulatory reform programme progresses, we go into a general election, and proposals for a mandatory news media bargaining framework are developed which may expand the BSA’s role into new territory. Against this background there are six key contexts that impact the BSA:

Evolution of media

Data continues to show audiences, particularly tamariki and rangatahi, access most of their media through new and non-broadcast platforms. Countries around the world are grappling with how best to regulate online content and in the meantime, much of the harmful content our young people are exposed to remains unregulated.

Less than 5% of the complaints the BSA received in the last financial year were upheld, which tells us traditional media are doing a good job of upholding community standards. There is a continued important role for our broadcasters in acting as our ‘national voice’ among the rising tide of overseas content coming in from a multitude of sources.

1. <https://www.nzonair.govt.nz/research/where-are-audiences-2021/>

If the more than 300 complaints/enquiries we have received regarding broadcasters' use of te reo or other incorporation of te ao Māori is anything to go by, as a nation, much work is still required to spread understanding and respect for te ao Māori and Te Tiriti principles.

Honouring Te Tiriti o Waitangi

While Te Tiriti o Waitangi may date from 1840, the nature and scope of the Crown's treaty responsibilities still stir some controversy. Māori continue to experience disproportionately high rates of poverty, incarceration and illness, and issues like co-governance look likely to feature significantly in the 2023 election debates. If the more than 300 complaints/enquiries we have received regarding broadcasters' use of te reo or other incorporation of te ao Māori is anything to go by, as a nation, much work is still required to spread understanding and respect for te ao Māori and Te Tiriti principles.

The broadcasting sector has an important role to play in shifting the public's understanding and respect for Te Tiriti principles. We have an ongoing role in ensuring the broadcasting standards regime, and our systems and practices within it, also support and reflect those principles. We will continue to do our part, through our decision making, our code updates, our research into issues affecting Māori, our engagement and consultation with Māori and Māori broadcasters on standards issues, cultural competence training for our people and through the pursuit of partnerships with Māori entities wherever possible.

Through ensuring that Māori culture and identity are integrated into the way we do things and reflected in the work we produce, we aim to support development of a sector where te ao Māori is valued and central to our way of doing things. Our responsibilities, in particular our regulatory role of finding the appropriate balance between freedom of expression and harm, accord us the opportunity to reflect and reinforce cultural norms and aspirations about who we are, as a country. We can help to shape the stories that we share – as people, communities, cultures and a nation – about how we see ourselves and others, our experience of and place in the world. While the BSA's immediate regulatory purpose is about sharing our stories safely, ultimately, the broadcasting standards framework is part of a wider regulatory context that supports and protects a unique and dynamic New Zealand culture that is more than the sum of its parts.

Changing societal context

The last three years have been tumultuous to say the least, and have exposed or highlighted divisions in society that were not as visible before. For the BSA, that has led to an increased level of vitriol in complaints, which reflects what we have observed in wider society.

The demographic makeup of our country continues to evolve. Through our role we must be cognisant of and take into account the wide range of values and perspectives across this diverse democratic society. We must also be accessible to all New Zealanders, which includes those who may have limited internet access and resource, or whose first language is not English.

Our primary focus is to contribute to the wellbeing of New Zealanders by influencing high standards in broadcast content so that audiences across our diverse communities are protected from content that may harm them and can make appropriate decisions about what they choose to watch and listen to.

Reform now urgent

Regulatory reform is now urgent. Our outdated legislation leaves us hobbled, and the fastest growing sectors of media – streaming and on-demand video – largely unregulated.

The pandemic has not only amplified existing pressures facing the sector, such as the threat to sustainable public media journalism and competition for reducing advertising revenue, it has also amplified the misuse of media for spreading false information.

We support the initiative to undertake a wider review of content regulation in New Zealand and urge that whatever the outcome of this year's general election, that momentum is not lost. We risk being left behind as other countries take steps to protect their citizens from harmful online content.

Media literacy: a powerful inoculator against misinformation

Regulatory reform is an opportunity to broaden our role in education and engagement. We provide tools for parents and guardians to educate and guide their tamariki towards safe content, but we are limited by our current jurisdiction. Other countries embed media literacy and critical thinking into their school curriculum in creative ways to ensure their kids know how to spot fake news. There is a saying that the kindergarten teacher is considered the first line of defence against propaganda and misinformation. Here, organisations providing educative resources aimed at teaching critical thinking are under-resourced and struggle for funding.

BSA's operating environment

We continue to operate in a tight fiscal environment. Broadcasters, along with the country's advertising sector, are now confronting lower revenues and higher costs. With household budgets tightening due to inflationary pressures and the threat of a looming recession, the advertising outlook for broadcasters for 23/24 looks grim.

Large and engaged audiences during COVID-19 is one of the main reasons broadcaster revenue remained more buoyant than we had anticipated over the last two to three years. However, our levy pool is slowly decreasing year on year. MediaWorks' recent closure of Today FM is some indication of the current challenges for traditional broadcasters and of the risks this environment presents.

We hold financial reserves which we will continue to draw on as necessary, exercising appropriate fiscal restraint.

Preparing for the potential new role as regulator for digital news media bargaining, and the anticipated content regulatory reform, may require us to draw further on our reserves to ensure we are equipped with the right skills and resources. We will focus on the effective use of our resources over this period. This may, for example, involve reduced expenditure on research activities to ensure our primary activities are supported appropriately.



3.2 HOW WILL WE RESPOND TO THIS ENVIRONMENT?

We will support the proposed content regulatory reform work, while continuing to carry out our statutory responsibilities with diligence. We will also prepare for the introduction of new legislation for a digital news media bargaining framework, to support New Zealand's news media to reach fair deals for providing content to digital platforms. This is on the basis the BSA is expected to be the regulator for this legislation, anticipated to commence in 2024.

In particular, we will:

- Continue to improve the efficiency and effectiveness of our complaints processes and look for innovative ways to deliver our services.
- Give priority to complaints about misinformation, particularly which relate to COVID-19 and New Zealand elections, and which concern harm to tamariki and rangatahi.
- Contribute to the policy response to support the recovery of the media sector as this relates to broadcasting and regulatory reform.
- Advise and influence officials and fully engage in the content regulatory reform process from the perspective of our experience and expertise.
- Monitor trends in the broadcasting sector and the effects on our revenue, exercising fiscal restraint and pursuing operating efficiencies to the extent we can without compromising the quality and effectiveness of our statutory functions.
- Continue to deliver fair, clear, robust, timely, quality decisions, and invite independent critique.
- Continue to build our cultural capability, reflect our commitment to te ao Māori, the principles of Te Tiriti o Waitangi and the Maihi Karauna and pursue opportunities for partnership with Māori entities where possible.
- Listen, hear and reflect appropriate views of our broader diverse community.
- Explore public attitudes to broadcasting standards and use these to inform our decisions.
- Ensure the public has easy access to information about the standards regime and how to complain, including on and offline access, and translated materials.
- Focus on extending our reach to diverse communities, through new engagement strategies and increased use of translated materials.
- Continue to seek guidance from cultural advisors on values and expectations from our diverse communities and use translations to ensure our system is communicated to a wide range of cultural groups.
- Proactively engage with and educate broadcasters about the standards, so that they are aware of the standards and meet their obligations under the standards.
- Work collaboratively with other agencies and organisations who have an interest in content regulation, and safety of the public who engage with it, fulfilling our independent mandate with cognisance of the wider media environment and regulatory settings.
- Ensure our business operates in a sustainable way, reducing waste outputs and our climate footprint. This includes measures such as use of digital filing systems, reducing and off-setting our flights, choosing EV rental vehicles, encouraging the use of shared and public transport, virtual meetings, operating office lighting on motion sensors, sharing office space with associated entities, flexible working arrangements and recycling.

We will prepare for the introduction of new legislation for a digital news media bargaining framework, to support New Zealand's news media to reach fair deals for providing content to digital platforms. This is on the basis the BSA is expected to be the regulator for this legislation, anticipated to commence in 2024.



3.3 OUR CONTRIBUTION TO THE CULTURAL SECTOR

We are part of the cultural sector and contribute to the sector’s vision: *Ki te puāwai te ahurea, Ka ora te iwi* | Culture is thriving, The people are well. As a regulator, our contribution to this vision necessarily differs from that of other entities. However, our role in the sector, that of keeping the balance between important rights, does support a thriving cultural sector by enhancing all New Zealanders’ ability to trust and enjoy their broadcast media and culture. Like other cultural sector entities, we also have a role to play in supporting New Zealanders to recognise, value and embrace Māori culture.

Our key contributions to the sector’s vision include:

- Promoting a modern and ethical standards system, and issuing robust, fair and clear decisions on complaints, and through this maintaining trust and confidence in our public media system.
- Recognising and upholding the principles of partnership, protection and participation in Te Tiriti o Waitangi, supporting the *Maihi Karauna* and considering the rights and interests of Māori as *tangata whenua* in all we do.
- Enhancing national identity by ensuring broadcasting standards and our decisions reflect the values and attitudes of our broader diverse liberal society.
- Ensuring we value and reflect our role as an independent regulator in our engagement with broadcasters and determination of our complaints referred to us, and through this safeguard the media’s independence.
- Ensuring the broadcasting standards regulation system is excellent – accessible, responsive and easily understood – to enable the public to engage and have confidence in broadcast media.

4

TŌ MĀTOU PŪRĀKAU WHAKAATURANGA

OUR PERFORMANCE STORY

We have developed a strategic framework to reflect what we intend to achieve (the outcomes we seek), how we contribute to and influence those goals in the medium term, how we measure them, and how we intend to deliver on them through our services and activities.

The framework reflects the interrelationship of our services and activities as part of the system of regulation that we oversee, monitor, develop, make decisions in, and engage and educate people about. It also shows how, together, these contribute to the impacts and outcomes we seek.

4.1 WHAT DO WE INTEND TO ACHIEVE?

Our overarching goal (outcome) is that New Zealanders can confidently engage with broadcast content that does not cause harm.

The BSA will contribute to this goal in a number of ways. We will:

Provide an effective and efficient complaints service which is accessible, fair, agile and modern

We will promote our services so that we provide equitable access to all people in New Zealand. Our focus is on quality decisions which carefully consider the submissions, respecting and reflecting the parties' points of views. Priority will be given to those complaints which raise the greatest risk of harm. Our assessment will take into account the current environment in which we live.

Issue decisions that are fair, clear, robust and timely

We will issue high-quality decisions that clearly articulate the complainant's concerns and the reasons for our decisions. Through the decisions we will give guidance to broadcasters and the public on broadcasting standards and how they apply in our contemporary New Zealand context.

Ensure decisions reflect the culture, attitudes and values of our diverse communities

Our decisions will appropriately reflect the culture and values of:

- tangata whenua, including the principles of partnership, protection and participation in Te Tiriti o Waitangi
- our broader diverse community

contributing to a trusted media system that serves the public interest, reflecting New Zealand's values and supporting social cohesion.

Ensure the standards and decisions are fit for purpose in a changing media environment

We will keep the standards under review in consultation with broadcasters and the public to ensure they remain relevant to the changing media environment. We will have regard to the views of our diverse communities when determining the appropriate settings for the standards and the guidelines which ought to apply.

Engage with and educate broadcasters so they understand and meet their standards obligations

Alongside our complaints work, we will actively engage with broadcasters and the public through effective education and engagement activities to increase awareness about the standards and the complaints system. We will encourage broadcasters to foster a culture where respect for the standards is a core part of their business. Through this engagement broadcasters will understand and meet the standards, supporting increased trust in our media system.

The BSA will contribute to this impact by working on the development and enhancement of the broadcasting system with broadcasters so that:

- the standards and Codes are robust and relevant to the media environment and reflect New Zealand's diversity
- broadcasters understand and meet their obligations
- broadcasters can resolve complaints earlier and more effectively.

TE ANGA RAUTAKI STRATEGIC FRAMEWORK

Figure 2

	Sector vision Ki te puāwai te ahurea, Ka ora te iwi Culture is thriving, The people are well.	
↑ BSA vision & purpose	<p>Our vision is freedom in broadcasting without harm</p> <p>Our purpose is to prevent harm to New Zealanders, while fairly balancing the broadcasters’ right to freedom of expression and reflecting the values of New Zealand’s liberal democratic society</p>	
↑ Overarching outcome/goal	<p>What we intend to achieve:</p> <p>New Zealanders can confidently engage with broadcast content that does not cause harm</p>	
↑ Impacts over time	<p>How we contribute and influence:</p> <ul style="list-style-type: none"> • Providing an efficient complaints service which is accessible, agile and modern • Making decisions about complaints that are fair, clear, robust and timely • Ensuring decisions reflect the culture, attitudes and values of our diverse communities • The standards and decisions are fit for purpose in a changing media environment 	<ul style="list-style-type: none"> • Engaging with and educating broadcasters so that they understand and meet their standards obligations • Engaging with and educating the public so they make informed decisions and safely manage broadcast content in their homes • Working collaboratively on regulatory sector reform which reduces the risk of harm, protects free speech and promotes a healthy broadcasting industry
↑ Measuring our impact	<p>How we know we are influential:</p> <ul style="list-style-type: none"> • The public are aware of the broadcasting standards system • Broadcasters and the public understand the standards • Broadcasters and the public have a high level of trust and confidence in the system • The public are aware of and use the tools available to safely manage broadcast content • Broadcaster conduct, practices, policies and/or procedures are improved following the issue of a decision • Our decisions reflect the attitudes and values of our diverse liberal democratic society 	
↑ Activities & services	<p>How we deliver:</p> <div style="display: flex; justify-content: space-between;"> <div data-bbox="451 1637 804 2085" style="width: 45%;"> <p>Oversight and development of the broadcasting standards system</p> <p>We oversee the broadcasting standards regime, work with broadcasters and others to set clear broadcasting standards, keep codes under review to reflect the contemporary environment, issue guidance, and undertake research which is relevant to the broadcasting standards regime.</p> </div> <div data-bbox="863 1637 1430 1850" style="width: 45%;"> <p>Complaints determination</p> <p>We make determinations on breaches of the Codes of Broadcasting Practice and aim to offer an efficient service and issue robust, soundly reasoned, timely decisions that reflect the boundaries between freedom of expression and harm.</p> </div> </div> <div style="text-align: center; margin: 10px 0;">▼</div> <div data-bbox="863 1901 1430 2085" style="width: 45%;"> <p>Engagement and education</p> <p>We engage with, and educate, the public and broadcasters so that they understand and can use the protections and guidance provided through the broadcasting standards system.</p> </div>	

Engage with and educate the public so they make informed decisions and safely manage broadcast content in their homes

We will provide information that enables audiences to respond to broadcasting in an informed way, to use the tools available to them to make informed decisions about what they choose to watch and listen to, and to protect those in their care from content that might harm them. We will provide information that will enable the public to understand how to make quality complaints to the right place, and have trust and confidence in the robustness of BSA decisions and its processes.

Through our engagement audiences will know how to complain, resulting in fewer unjustified complaints.

Work collaboratively on regulatory sector reform which reduces the risk of harm, protects free speech and promotes a healthy broadcasting industry

We will work with broadcasters, other stakeholders and government personnel, delivering expertise and feedback as necessary to support the proposed:

- reform of the Broadcasting Act and broader content regulation regime
- introduction of a new legislative framework to allow New Zealand's news media to bargain fairly with digital platforms.

4.2 HOW WILL OUR ACTIVITIES AND SERVICES CONTRIBUTE TO WHAT WE INTEND TO ACHIEVE?

4.2.1 We will strengthen the broadcasting standards regime

The broadcast media reaches into the lives of New Zealanders. It informs us and entertains us. Broadcasters must however meet certain standards as they do this so that their exercise of the right to freedom of expression in informing and entertaining us does not cause harm. The underlying principles for the standards are prescribed by the Broadcasting Act and the detail, including guidance as to how the standards apply, is set out in the Codes.

The BSA oversees these standards on behalf of New Zealanders in three key ways to support and enhance the broadcasting standards system. We determine complaints, we develop and oversee the standards regime and we educate and engage broadcasters and the public so they understand the standards and can access the complaints regime. We discuss these activities further below.

All three parts interrelate, build on and strengthen the system as a whole. For example, decision making informed by our research applies and interprets standards, which in turn informs broadcasters and audiences about how the standards apply and about the balance between freedom of expression and the rights of the media as against the rights and expectations of New Zealanders. Determining this balance, in turn, can impact on audience and broadcaster understanding of the standards.

All our activities contribute to and/or influence our impact over time: increased understanding and awareness of the standards by broadcasters and the public; broadcasters meeting their obligations under the standards; and a reduction in upheld and not upheld complaints.

We will provide information that will enable the public to understand how to make quality complaints to the right place, and have trust and confidence in the robustness of BSA decisions and its processes.

4.2.2 Our three interrelated activities and services will work together to support the standards system

Complaints determination

Determination of complaints is the critical point of the regulatory system where we aim to strike the balance between the right to freedom of expression and the responsibility to avoid harm.

We will ensure our decisions are robust and soundly reasoned. We will make the boundaries between the right to freedom of expression and the responsibility to avoid harm increasingly clear through well-articulated decisions. We will ensure that our decisions are presented clearly and are easily understood by readers. We will issue high quality decisions in a timely way and encourage the broadcasters to do the same to maintain confidence in the complaints system and the BSA's decision making.

We will continue to assess the clarity, robustness and fairness of our decision making by seeking independent reviews and by litmus testing our decisions with members of the public.

Our processes for determining complaints are well developed and we will constantly challenge ourselves to refine and improve these systems.

Oversight and development of the broadcasting standards system

Notwithstanding the reality that the regulatory system is dated and reform is required, we will continue to adapt our processes, operating efficiently within the boundaries of our legislative mandate, to best meet the needs of New Zealanders and underpin any future regulatory system.

The BSA is effectively an appeal body. Broadcasters deal with complaints in the first instance, except where privacy issues or election programmes are involved. This means that the content regulation system depends on their complaints processes working effectively and efficiently to minimise complaint referrals to us.

Our role is to support broadcasters in this area, provide them with information, and improve processes between us. Strong relationships with broadcasters are crucial to performing well. We will continue to have regular contact with representatives of the broadcasters to facilitate these relationships, and to work on system efficiencies and other improvements. We will promote greater understanding and awareness of the standards and assist the broadcasters to meet their obligations under the standards.

We will keep the Codebook under regular periodic review to ensure that it remains relevant to the media environment and contains applicable guidance that is developed over time.

We will provide advice to officials on the regulatory environment. We will also commission and publish research that will inform the application and development of broadcasting standards and ensure that our decision making and policy are informed by diverse contemporary community attitudes and opinions. We will consult with broadcasters and other stakeholders on this research.

We will seek feedback on our service from our stakeholders and we will test public awareness of the standards and the complaints system.

Education and Engagement

We will communicate effectively with the public to ensure those who choose to make a complaint understand the standards and how to complain. We will also continue to work with broadcasters to ensure that they provide information to the public about the standards complaints process.

At a minimum, the public needs to be aware that there is a broadcasting standards system, have some idea how to go about finding out how to complain, and know that the BSA exists. There are a number of ways that this occurs – for example, through the broadcasters' responsibility to advertise the complaints procedures, through media engagement in our decisions and through use of other communication platforms such as Twitter.

The first point of contact for most of those who want to make a complaint is our website. The website is the critical tool for searching our decisions and helping viewers and listeners understand the broadcasting regime. We will keep our website up to date so it provides clear information to enable New Zealanders to understand their rights, manage their media use within the agreed standards, and make quality complaints. We will use a variety of communication channels within the limits of budget and resources.

4.3 HOW DO WE KNOW WE ARE HAVING AN IMPACT?

We have identified six key measures to determine our impact over time through our three interrelated activities and services.

We cannot achieve these outcomes alone – it will take the involvement and focus of all our stakeholders, which includes broadcasters and the public. These outcomes are also subject to changes in the broadcasting environment generally. Anticipated regulatory reform, which serves to appropriately regulate online content, may see significant changes in our role and potential impacts. In the meantime, we recognise that the gaps in our jurisdiction will necessarily limit our ability to influence the sector. However, the measures below will demonstrate we are achieving what we can within the constraints of the current regime.

Taken together, the following six measures provide a good indication of whether the current broadcasting standards system is working as efficiently and effectively as it should and whether we are achieving our aim of preventing harm while fairly balancing the broadcaster’s right to freedom of expression and reflecting the values of New Zealand’s liberal democratic society.



Measure 1 – Public awareness of the broadcasting standards system is maintained at over 65%

Every two years we will complete a survey measuring the percentage of New Zealanders aware of the BSA and aware that they can make a formal complaint.

We will also monitor a breakdown of these figures by age, region, ethnicity and gender. The value of measuring public awareness of these elements is that it demonstrates that New Zealanders know they have rights in this area.

We have observed a downward trend of awareness in recent years (see **Figure 3**). This may be due, at least in part, to New Zealanders’ changing media consumption habits. Specifically, audiences are moving away from traditional broadcasting platforms, potentially resulting in less exposure to complaints process communications. Any significant decline in awareness, however, would signal that we may need to take further steps to raise awareness.

Our communications strategy guides our work to engage with and educate the community about the broadcasting standards system. We are particularly focused on equitable access and engagement with New Zealand’s diverse community. We use a range of channels including our website, written publications, presentations, Twitter,

LinkedIn and press releases. We will also continue to offer translated materials for the benefit of the rich range of cultures represented in our community.



Measure 2 – Broadcasters and the public understand the standards

Where the standards are understood by broadcasters, they are better equipped to meet their obligations under the standards and therefore fewer complaints arise. The nature of complaints referred to the BSA will be those that are most complex and challenging. Similarly, there will be a reduction in unjustified complaints as the public understand what content standards relate to; for example, they do not relate to editorial or programming decisions made by broadcasters but relate to the content of the programme.

We will test public and broadcaster understanding of the standards through litmus testing of BSA decisions, which asks the public whether they agree with our decisions, and through satisfaction surveys of complainants and broadcasters.



Measure 3 – Broadcasters and the public have a high level of trust and confidence in the system

Issuing robust and clearly reasoned decisions on complaints, which reflect the standards, and values and expectations of New Zealand’s diverse liberal democratic society, is central to maintaining trust and confidence in the broadcasting standards system. BSA’s decisions can be, and sometimes are, appealed to the High Court and this is a valuable part of the process as it provides an avenue for our decisions to be tested by the Courts. Where there is no substantive increase in the number of BSA decisions overturned by the High Court, broadcasters and the public can have confidence in the standards and the system.

Over recent years the High Court has overturned one BSA decision and referred another matter back for consideration in light of new evidence filed on appeal (see **Figure 4**, matter referred back to BSA not included as an ‘overturned decision’). We will continue to measure, over time, the number of appeals we receive against our decisions, and particularly the number of decisions overturned by the High Court. A real increase in overturned decisions, particularly if they go to matters of process, would be a concern and indicate that our decision-making process may need improvement. If they go to substance, they may indicate that the BSA is not in tune with community standards as assessed by the High Court.

The low number of upheld appeals over recent years is a positive indicator that our co-regulatory system is working well. However, an upheld appeal is also a valuable

Figure 3: Results from public awareness surveys

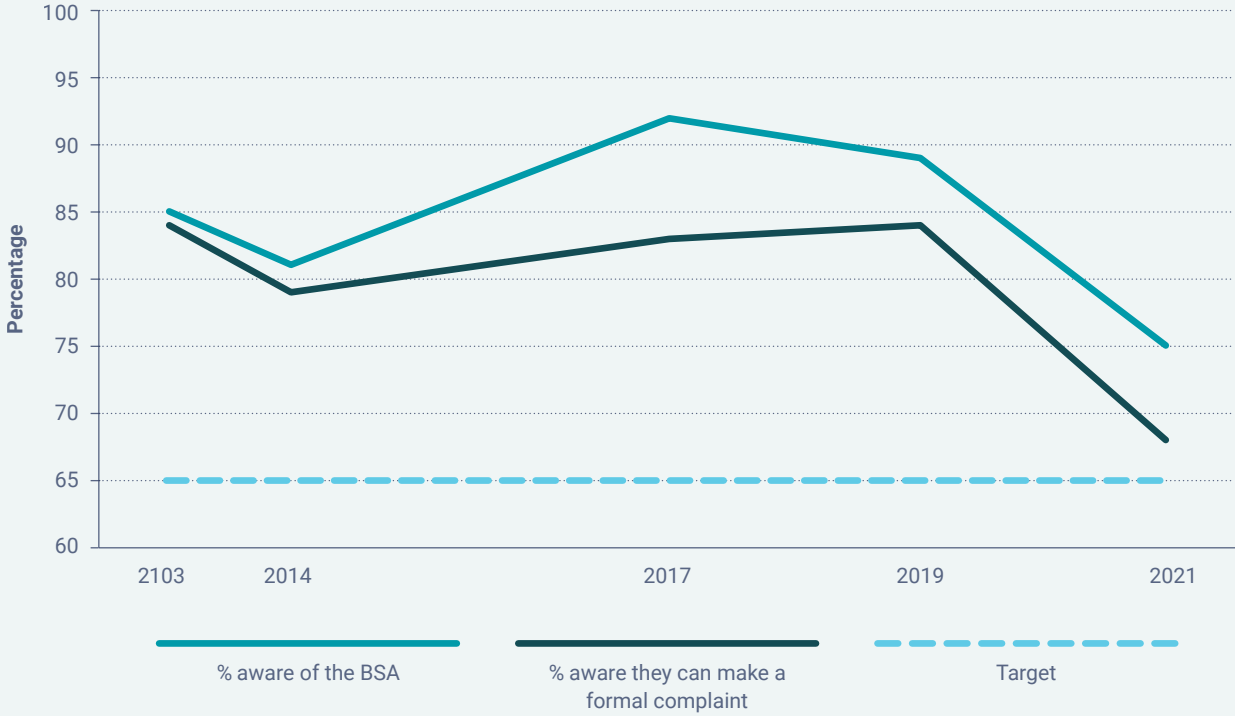
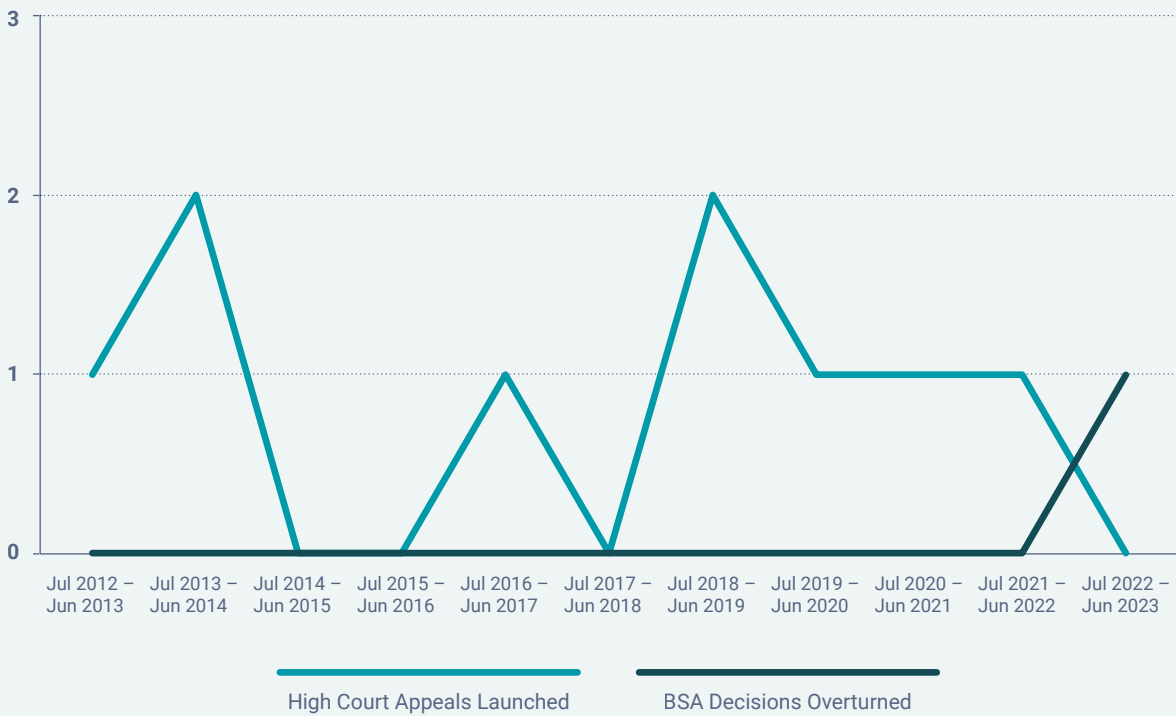
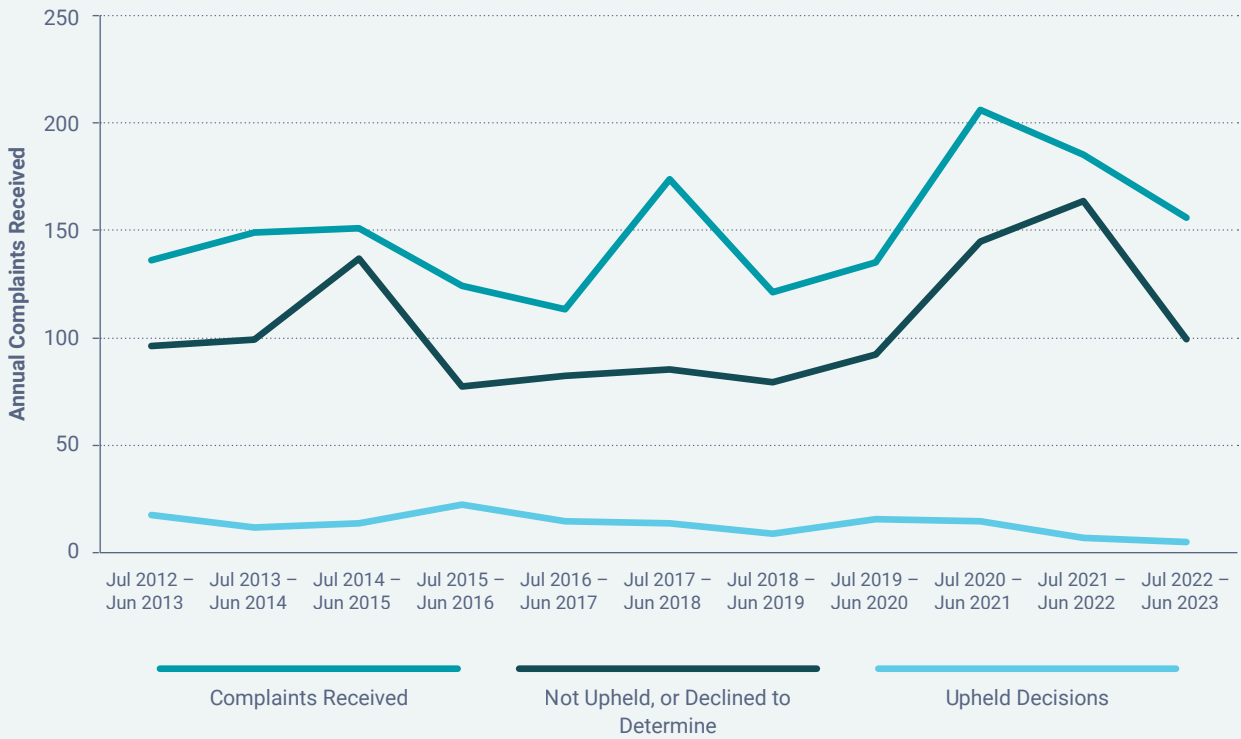


Figure 4: High Court appeals²



2. Appeal data for the 2022/23 financial year is current as at Friday 26 May 2023.

Figure 5: Annual complaints received³



3. Data for the 2022/23 financial year is current as at Friday 26 May 2023.



opportunity to learn and develop our thinking and decision making processes. Accordingly, we will continue to analyse any such High Court decisions (as well as any unsuccessful appeal decisions and informal feedback we receive), to ensure that we take into account any relevant comments in our ongoing activities.

In addition, litmus testing and external reviews of BSA decisions, along with surveys of broadcaster and complainant satisfaction will provide avenues for assessing the level of trust and confidence in the BSA’s delivery of its core service.



Measure 4 – The public are aware of and use the tools available to safely manage broadcast content

Broadcasting standards provide a range of community safeguards which help protect audiences from content that may harm them. These include use of audience advisories (warnings), programme information requirements, classifications, timebands and promotion of parental locks. In the contemporary media environment, where there is an abundance of content available to young and vulnerable viewers, it is important that parents and caregivers play their role in using these tools to make appropriate decisions about what those in their care watch and listen to. As part of our responsibility to help prevent harm from broadcasting, we recognise that we have a role to play in raising awareness about the availability of these tools so that audiences can use them effectively. Accordingly, our work will include highlighting the availability of these tools. We test our effectiveness by surveys and research that test awareness and use of such tools.



Measure 5 – Broadcaster conduct, practices, policies and/or procedures are improved following the issue of a decision

The complaints system enables audiences to hold broadcasters to the standards they are required to meet in broadcasting. It also enables us to assess broadcaster conduct and provide guidance to broadcasters about the standards and responsibilities that come along with the right to freedom of expression. Our decisions identify where the line between this right, and harm may lie. It is therefore important that our decisions are effective in improving the conduct of broadcasters, so that the standard of broadcasting in New Zealand remains high.

Our aim is that the decisions we issue help broadcasters to better understand and comply with the standards, and/or to remedy any harm that may have been caused.

We will measure how well we have achieved this impact through case study assessments of the impact of our decisions and through our broadcaster survey.

Case studies are examples of our work which help to demonstrate our contribution to improving broadcaster conduct, practices, policies and procedures that relate to the standards.

This measure assesses how our decisions impact the standards system as a whole. As part of this we will continue to monitor the number of upheld and not upheld complaints so that we can assess the trend in broadcaster conduct over time, and the impact that our decisions have had (see **Figure 5**).



Measure 6 – Our decisions reflect the attitudes and values of our diverse liberal democratic society

The demographics of New Zealand and our cultural identity are constantly evolving. As an organisation charged with upholding standards for our diverse community, it is important that we take steps to understand and reflect these diverse viewpoints in our decision making. We will ensure our research seeks to understand the range of perspectives across our diverse population. We will take advice from cultural advisors and provide translated materials, as best we can within the limits of our resources. We will engage with different sectors, with a particular focus on Māori, Pasifika and Asian communities.

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4.4 OVERALL PERFORMANCE AND COST ANALYSIS

Performance summary

The BSA also measures its overall performance against expenditure and will provide updates of this summary in its Annual Report and in setting annual performance expectations.

Over time this data provides rich information about the correlation between expenditure and overall performance of the broadcasting standards system. Historically BSA has tracked its total cost and number of complaints received to test its performance and cost effectiveness. Arguably, where the BSA is effective, broadcasters willingly comply and the number of unjustified complaints reduces, then there may be fewer complaints to determine.

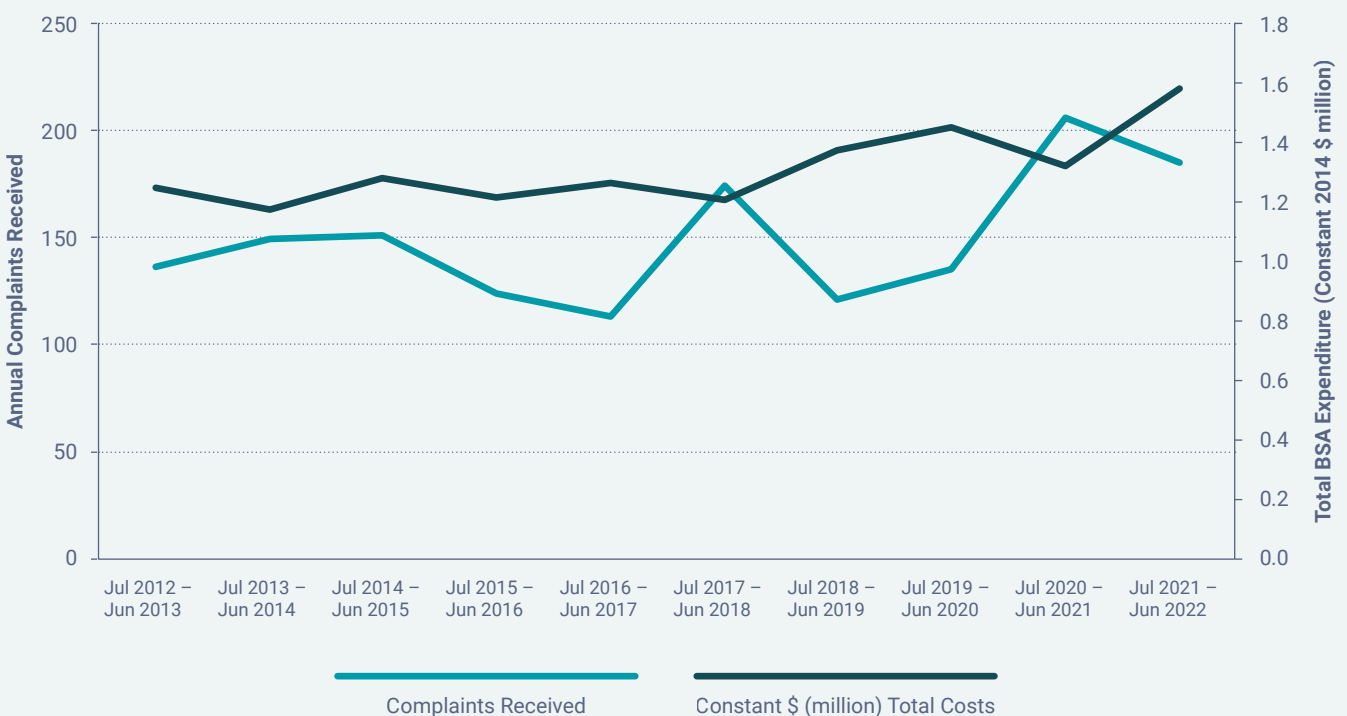
However, the overhead costs to deliver the services to support awareness and understanding of the standards regime may increase. This is particularly so, as we increase our focus on harm prevention, and contribution to the review and reform of the regulatory system.

Where costs have increased, resulting from activities across our three core activities, we have seen a correlating reduction in complaint numbers, which indicates that our oversight and information activities have been effective at encouraging compliance by broadcasters. Tracking these costs against complaint numbers is a useful indicator of the effectiveness of the BSA's service delivery.

With the shift of audiences away from broadcast media towards online channels, broadcaster levies are declining year-on-year. As further outlined in section 3.1 above, the next few years are looking no more promising as traditional broadcasters, along with the country's advertising sector, confront lower revenues and higher costs. MediaWorks' recent closure of Today FM is some indication of the challenges and potential risks presented by the current environment.

We will actively pursue opportunities to ensure efficient and effective use of our resources, continuing to use our reserves prudently as necessary.

Figure 6: Performance summary



4.5 ORGANISATIONAL HEALTH AND CAPABILITY

4.5.1 Structure

The BSA is a small organisation and we foster a collaborative culture that values the input of all team members. We encourage and have a positive, flexible culture and have a clear appreciation of governance and management distinctions.

4.5.2 Capability

In planning for capability and risk we take into account that we are a small organisation that comprises specialist staff. We have formal good employer and personnel policies in place and a commitment to equal employment opportunities and to effective implementation of the Public Service Commission’s Kia Toipoto – Public Service Pay Gaps Action Plan. We have zero tolerance of harassment and discrimination. We actively monitor factors that affect our wellbeing; service delivery; staff productivity; staffing changes; synergies between board, management and staff;

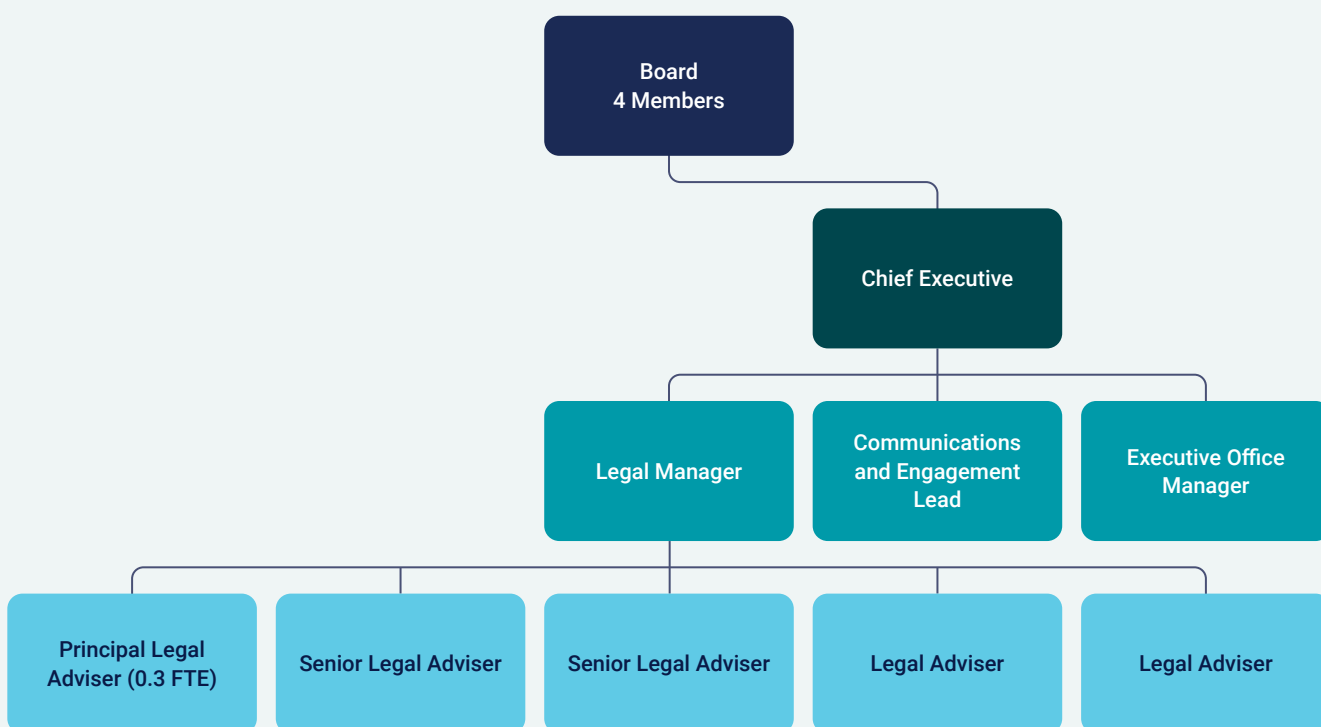
fluctuations in complaint numbers and complexity; state sector compliance requirements; health and safety and operational risks; environmental factors; and funding.

Complaint numbers have typically risen and fallen over time and are influenced by factors outside our control. Our capability planning must ensure we remain able to continue to carry out our core services allowing for fluctuations in numbers. There is likely to be significant change to our operations within the term of this SOI if the legislation to implement a mandatory news media bargaining framework progresses, with consequent demand for new capabilities and skillsets. We will meet these demands by upskilling current staff and, where necessary, recruiting to fill skills gaps.

The measures we use to assess organisational health and capability are set out in the Statement of Performance Expectations. Our goals are as follows:

- Our people are skilled and professional.
- We maintain, seek and develop ongoing opportunities for collaboration and engagement.
- Our infrastructure is fit for purpose and helps us work efficiently.

Figure 7: BSA structure





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