

COMPLAINTS PROCESS STEP BY STEP

DO YOU WANT TO MAKE A FORMAL COMPLAINT?



GUIDE TO THE BSA COMPLAINTS PROCESS FOR TELEVISION AND RADIO PROGRAMMES

What type of programme can I complain about?

You can complain about any programme broadcast in New Zealand on television or radio.

When can I complain?

You need to make your complaint within **20 working days of the broadcast**. You cannot complain about a show before it has aired.

What will the BSA accept complaints about?

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| ✓ Free-to-air TV programmes | ✗ Advertising (contact the Advertising Standards Authority) |
| ✓ Pay TV programmes | ✗ Programme scheduling (contact the broadcaster) |
| ✓ Radio programmes | ✗ Broadcaster websites (contact the broadcaster) |
| ✓ Programmes viewed or listened to on demand (ONLY if you can supply details of original TV or radio broadcast and lodge your complaint within 20 working days of that broadcast) | ✗ Programmes viewed or listened to on demand – if you cannot supply details of original TV or radio broadcast (contact the broadcaster) |
| ✓ Election advertisements on television or radio (during election periods) | ✗ News and current affairs on broadcasters' websites, which has not been on TV or radio (contact the Online Media Standards Authority) |
| | ✗ Other internet content (contact provider) |
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What issues can I complain about?

You can complain about the following issues:

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| • good taste and decency | • alcohol |
| • programme information | • balance |
| • children's interests | • accuracy |
| • violence | • privacy |
| • law and order | • fairness |
| • discrimination and denigration | |

These issues are explained in detail in the Codes of Broadcasting Practice within this Codebook and on our website. The standards and guidelines contained in each code are slightly different according to where the programme was broadcast (radio, free-to-air television, pay television). There is a separate code for election programmes.

How do I complain?

To be able to go through the BSA process, complaints have to be 'formal complaints'.

If you just want to let the broadcaster know your concerns, or it is not an issue that can come to the BSA, it will be considered an 'informal complaint'.

Formal complaints have to go to the broadcaster first (unless they are privacy complaints or election programme complaints which can be sent straight to the BSA). Contact details for major broadcasters can be found on the BSA's website, www.bsa.govt.nz.

The simplest way to make a complaint is to complete an online form. Most of the major broadcasters have them. They can be accessed via our website (see, *If you are ready to make a complaint to the broadcaster now*). The BSA also has an online form that you can use if the broadcaster you are complaining about doesn't have one (see, *If you cannot find the broadcaster you're looking for*).

Please note that the formal complaint process can take some time. It is unlikely you will get an instant answer or resolution. If you complain to the broadcaster and then you go on to refer your complaint to the BSA, it could be a number of months after the original date of the broadcast that you get a final decision.

What is needed for my complaint to be a 'formal complaint'?

To make a formal complaint certain requirements must be met. A formal complaint must:

- be in writing
 - specify it is a 'formal complaint'
 - be received by the broadcaster within 20 working days of the broadcast
 - include the following details:
 - o date of the broadcast
 - o time of the broadcast
 - o title of the programme
 - o channel or station which broadcast the programme
 - o the standards you think have been breached
 - o an explanation of why you think the standards have been breached.
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What happens to formal complaints to broadcasters?

A broadcaster has **20 working days** to send you a written decision telling you whether or not your complaint has been upheld (ie, whether the programme did breach standards), and advising you of your right to refer your complaint to the BSA if you are not satisfied with its decision. (The broadcaster is allowed to extend the timeframe to **40 working days**, if it lets you know within the initial 20 working days.)

When can I refer my complaint to the BSA?

You can refer your complaint to the BSA in any of the following situations within the following timeframes:

When can I refer?

If you are unhappy with the broadcaster's decision

If the broadcaster has upheld part or all of your complaint and you are unhappy with the action they have taken to address the breach

If you have not heard from the broadcaster within 20 working days of your complaint (or within 40 working days if the broadcaster wrote to you requesting an extension)

How long do I have to refer?

You have **20 working days** from when you receive the broadcaster's decision

You have **20 working days** from when you receive the broadcaster's decision

You have **60 working days** from the date of the original broadcast

How do I refer my complaint to the BSA?

You need to write to the BSA asking for a review (by post, or email us at info@bsa.govt.nz).

Or you can complete the Refer a Complaint form on the BSA's website, www.bsa.govt.nz.

If you:

- are unhappy with the broadcaster's decision, you should outline the reasons why
- have not received a decision, you should include the date you lodged your complaint with the broadcaster so that the timeframe can be checked.

What happens when I have referred my complaint to the BSA?

When you refer a complaint, the BSA will:

- write to you and outline the process
- send a copy of your complaint to the broadcaster for comment, and ask for a recording of the broadcast and for copies of all correspondence relating to your complaint
- make sure that you have an opportunity to comment on any information provided by the broadcaster
- notify you when your complaint is going to be determined (once all the information is received) and when you might expect to receive the BSA's decision.

The Authority's board meets to consider complaints approximately every five weeks. In most cases it will only take one meeting to decide the complaint, and you will receive a decision within 20 working days of the meeting.

Some complaints are more complex. Additional time may be needed to collect more information, consider orders and/or finalise the decision. If that is the case, the BSA team will keep you informed.

Please note that the complaints process – from the referral to the BSA up until the Authority's decision being issued – can take some time, usually several months, or sometimes longer if the case is complex or further information is required.

Can I get name suppression?

The BSA's written decision will include your name and the decision will be published on the BSA website.

The board only considers requests for name suppression when dealing with privacy complaints, or in other exceptional circumstances. Name suppression is rare.

If you believe there are special reasons why you should receive name suppression, please advise the BSA in writing – you can do this at any time before the decision is released.

If name suppression isn't granted, we will let you know and you may be given an opportunity to withdraw your complaint.

What orders can the BSA make?

If the BSA upholds a complaint, it may make orders.

If the BSA is considering making an order it will write to you and to the broadcaster asking for your views on whether/what orders are appropriate. It then decides whether to make, or not make, any order, before releasing the final decision. The Authority considers both parties' submissions and takes into account a number of factors including, but not limited to:

- the seriousness of the breach, and the number of upheld aspects of the complaint
- the degree of harm caused to any individual, or to the audience generally
- the objectives of the upheld standard(s)
- the attitude and actions of the broadcaster in relation to the complaint (eg, whether the broadcaster upheld the complaint and/or took mitigating steps; or whether the broadcaster disputed the standards breach and/or aggravated any harm caused)
- whether the decision will sufficiently remedy the breach and give guidance to broadcasters, or whether something more is needed to achieve a meaningful remedy or to send a signal to broadcasters
- past decisions and/or orders in similar cases.

The most common orders are:

- a broadcast statement, eg, a correction, a summary of the decision or an apology
- costs to the Crown (a fine, essentially) of up to \$5,000
- compensation for a breach of privacy, of up to \$5,000
- compensation for a portion of any legal costs reasonably incurred.

What happens when the BSA releases a decision?

The written decision will be sent to you and to the broadcaster. You will be asked to keep the decision confidential for a few days until it is publicly released.

The decision is published on the BSA website, and in the monthly BSA newsletter. Sometimes the BSA issues a media statement about a decision of interest. The BSA never releases the contact details of complainants to the media.

Can a BSA decision be appealed?

Yes. BSA decisions can be appealed to the High Court, by either party (the broadcaster or the complainant), within one month of the decision.

If a broadcaster appeals a decision to the High Court, the complainant is named as the other party but can choose not to participate in the proceedings.

FOR MORE INFORMATION YOU CAN GO TO THE BSA'S WEBSITE, WWW.BSA.GOV.TZ