

## General Election 2024

On 01 November 2024, Coimisiún na Meán, published Rule 27 guidance for the *Code of Fairness, Objectivity and Impartiality in News and Current Affairs* which relates to election coverage. [Access the full document at – [www.cnam.ie](http://www.cnam.ie)]

This update to Rule 27 is in keeping with the guidance issued on 30 April last but also includes the Commission's decision in respect of the broadcast moratorium.

The guidance acknowledges that a proportional approach to the allocation of airtime in election coverage is appropriate, and that broadcasters may reasonably have regard to factors such as –

- Current elected representation
- First preference votes in a prior election
- Candidates campaigning on aligned election issues who are not members of a political party
- The number of candidates being fielded
- A diversity of political perspectives
- Current support as evident from opinion polls

The Commission acknowledges the approach to the allocation of airtime may vary depending on the type of election, the resources available to the broadcaster, the target audience, the type of programming and the particular kind of election programme (general coverage, candidate debates, etc).

The Commission also notes that broadcasters have a duty to protect audiences from content that is harmful, or which may pose legal or liability issues to the broadcaster, and that it is for broadcasters to manage these risks on a case-by-case basis, for example, by pre-recorded interviews or by declining to air views that they believe may pose such risks.

Past electoral record has been one of the key metrics in guiding RTÉ's election coverage of parties, groups and candidates over many years.

This is an objective and impartial metric and has been endorsed on several occasions in decisions of the High Court and the then regulator, the Broadcasting Authority of Ireland.

This document takes account of the latest Rule 27 guidance and sets out, in broad terms, RTÉ's approach to coverage of the General Election.

## **Legal and Regulatory Framework**

Elections are dynamic competitive events, and it is understandable that candidates and parties are keen to gain airtime to outline and promote their views.

RTÉ also draws attention to the following in the Commission's guidance:

*Broadcasters should note that elections are dynamic events, and they should give active consideration to their approach to coverage over the duration of the election campaign period and amend this approach if they consider it necessary and appropriate so as to ensure fairness, objectivity and impartiality.*

The RTÉ Election Steering Group reserves the right to take account of developments during an election, and where appropriate, to make changes to our coverage plans.

While RTÉ provides extensive election coverage across television, radio and online, the courts and the regulator have also acknowledged that in an election it is not possible, nor is there any requirement to provide airtime to every candidate, or to include every candidate where the broadcaster hosts a candidate or leaders' debate.

When RTÉ hosts a formal candidate or leaders' debate, practical issues such as available programme time, studio capacity and the requirement to devise and produce a meaningful and informed debate, inevitably mean limitations on the number of participants.

For these reasons, the courts and the regulator have previously acknowledged a broadcaster may devise criteria in respect of the selection of participants.

In this regard, RTÉ draws attention to the following –

1. In ***Tom Kivlehan Vs RTÉ*** a case in which the Green Party challenged RTÉ's decision not to include them in a leaders debate in advance of the General Election in 2016, Ms Justice Marie Baker noted:

*“it cannot be said that any individual party has a constitutional right to participate in the TV debate.”*

*“the plurality of candidates and parties has led to the requirement in the current campaign for RTÉ to adopt a formula that will inevitably exclude the leaders of certain parties having regard to the number of parties engaged in the election.”*

*“The criteria adopted by RTÉ have been made known to all relevant parties....*

Ms Justice Baker also noted it *“was not in question”* that RTÉ was entitled to draw up criteria for participation.

2. In ***Ben Gilroy Vs RTÉ*** in 2019, in dismissing Mr Gilroy's challenge as an independent European election candidate not to include him in a live television debate Mr Justice Senan Allen noted:

*"It seems to me that the selection of participants in the debate by reference to performance in previous elections is sensible and is likely to be some measure of audience interest in the participants."*

3. In the BAI Compliance Committee decisions ***(C5192 and C5253)*** arising from a complaint brought by a candidate who was not included in the *Prime Time* or *The Week in Politics* debate for the Midland North West constituency in the 2019 European elections, the Committee rejected the complaint and noted the following:

- The broadcaster has editorial freedom to choose who participates on a programme
- There is no requirement for broadcasters to include all candidates in a broadcast, further, equal allocation of airtime is not necessary to achieve fairness
- The Committee did not consider that the exclusion of particular candidates rendered the broadcasts unfair or partial
- The principle of fairness requires that the approach adopted by broadcasters should be transparent
- The criteria drawn up by the broadcaster was based on past electoral performance and the Committee noted that the broadcaster provided clear rationale for the approach
- The Committee was of the view that the criteria adopted when choosing participants in the programmes was carefully considered and applied in a manner which was equitable and fair.

A number of key points are clear from the above decisions:

- Past electoral record is an impartial and fair metric to guide coverage
- All candidates do not have to be included in a broadcast or in a formal debate
- Criteria based on current electoral support levels is a fair and impartial way to determine participation in a formal candidate or leaders' debate.

## **2024 Elections**

At the outset of this election cycle, it is important that all parties and candidates are aware of the legal and regulatory principles that inform RTÉ's approach to our coverage.

For the purposes of the General Elections, the RTÉ Election Steering Group will again have regard to past electoral record in guiding our overall coverage.

There will be 2 formal party leaders' debates on RTÉ One television, but our overall coverage will also include news reports, studio-based programmes with panels, reports, etc.

The obligation to be 'fair to all interests' does not require that every view has to be covered but rather, that a wide range of views are given to the audience across our coverage. Fairness will be achieved across the totality of coverage on television and radio.

In this regard, RTÉ also draws attention to decision C5527 of the then BAI Compliance Committee which rejected a complaint concerning the 2021 Dublin Bay South by-election and, in considering a range of election programmes noted that *"the broadcaster planned its approach to achieving fairness in its bye-election coverage across television and radio together and this approach was set out in writing prior to the bye-election and circulated to the candidates and made available on the broadcaster's website."*

### **Party Leader Debates**

For the General Election, RTÉ Television will host two main debates featuring party leaders.

#### **RTÉ One**

#### **Debate Criteria:**

It is not practical or feasible to include every party contesting the election in a party leaders' debate.

RTÉ will host 2 separate party leader debates – one featuring the 10 parties with Dáil representation; a second and final debate featuring 3 party leaders (FF, FG, and SF).

In keeping with past decisions of the courts and the broadcasting regulator, the RTÉ Election Steering Group has determined the following criteria for party leaders' debates:

#### **Criteria: 10 Party Leaders / *Upfront With Katie Hannon***

RTÉ has previously set out criteria for the offering of Party Political Broadcasts (now referred to as "Party Political Programmes" in legislation) for the General Election.

The same criteria will apply to this debate:

- A party must be on the Register of Political Parties
- Any party which achieved 2% or more of the First Preference Vote in the last General Election and/or
- Has at least 1 TD elected in the out-going Dáil.

There are currently 10 parties on the Register of Political Parties who have Dáil representation and who fulfil the criteria above.

As Dáil representation reflects a level of public support each of the 10 parties are invited to participate on the following basis:

A: The party leader is nominated to represent the party

B: If a party has a collective or shared leadership, the party will nominate a sitting TD, who is contesting the General Election, to represent the party in the debate.

C: Notwithstanding the above, a party cannot have two representatives in the same debate.

### **Criteria: 3 Party leaders / Prime Time**

The leaders of the three biggest parties in the Dáil will be invited to participate in a studio based debate.

The three biggest parties are the only parties to have each attained more than 20% of the First Preference Vote in the last General Election and to have won over 30 Dáil seats.

The above criteria apply only to determining participation on the 2 television constituency debates hosted by *Upfront/Prime Time* on RTÉ One.

Parties and candidates should note that participation in the above debates does not mean that participation is automatically guaranteed in other programmes and election coverage.

### **Format**

The dates and formats for the above 2 television debates – *Upfront With Katie Hannon* and *Prime Time* will be notified separately to the relevant parties by the respective programmes.

### **Party Leader Interviews**

In addition to the above television debates, each of the 10 party leaders with Dáil representation will be invited for interview on the following programmes:

*Six One News*

*Today with Claire Byrne*

*Morning Ireland*

This will afford a party leader with Dáil representation ample opportunity to be interviewed about their respective election manifestos.

### **Overall Coverage**

For the purposes of the General Election, the following considerations will guide our overall coverage across television, radio and online:

- Past electoral record to include currently elected persons, the share of first preference votes for parties, political groups and candidates in the 2020 General Election and the 2024 Local and European Elections
- Diversity and range of views
- Opinion polling data

Primacy is given to past electoral record in guiding overall coverage. RTÉ's coverage across television, radio and online will be comprehensive, reflecting a diverse range of views and opinions.

RTÉ, as the national broadcaster, has a significant and important role in elections but it is also the case that parties and candidates have access to multiple digital/online platforms to promote their electoral message.

Aside from the party leaders' debates our coverage will include studio-based programmes that are focused on issues, constituencies etc. Given the overall number of parties and candidates contesting the General Election, it will not be possible to provide airtime, either live or pre-recorded to every party or every candidate in every constituency, and RTÉ's decisions on participants will reflect the broad approach outlined above.

News and current affairs programmes across television and radio will feature themed discussions on issues with panels, and there will also be constituency-based programmes.

Again, it is important to note that in determining the allocation of airtime – both live and pre-recorded reports – RTÉ will have regards to electoral performance, as outlined above. There are also practical and logistical limitations, such as programme time and studio space.

This will mean that there will be broadcasts where some parties and candidates will not be included. In some cases a party or candidate not included in a 'live' broadcast may feature in a pre-recorded report, but this is not guaranteed.

This is in keeping with past decisions of the courts and the broadcasting regulator. It is not possible to feature every party and every candidate on a programme.

It should also be noted that the allocation of airtime for live studio discussions, debates etc among those contesting the election (including pre-recorded reports) will be confined to candidates.

This does not preclude a representative of a party, or a candidate being interviewed separately for the purposes of analysis or discussion.

The RTÉ Steering Group will provide fair coverage to parties and candidates taking account of the all the above factors.

## **Namechecking**

Over the course of the election period, other non-election news and current affairs coverage will continue. In situations where a politician is being interviewed in a non-election context we expect that politician to refrain from using this as an opportunity to namecheck a party or candidate(s). This is unfair to others contesting the election.

*Where this happens, in a 'live' studio context, RTÉ will remind the audience that we asked politicians to refrain from namechecking a party or candidates.*

## **Summary**

As outlined above, RTÉ's approach to the General Election 2024 takes account of past court and regulatory decisions and the updated guidance for Rule 27 published by Coimisiún na Meán on 01 November 2024.

Fairness between parties and candidates will be achieved across the totality of RTÉ's coverage on television and radio programmes, providing the audience with a diverse range of views.

## **RTÉ Election Steering Group**

**Date: November 2024**