

## **RTÉ and the Dublin Central & Galway West bye-elections**

RTÉ has a legislative and regulatory obligation to ensure that current affairs coverage is impartial, objective and fair to all interests.

In the context of elections, one of the key considerations for RTÉ in meeting this requirement is the past electoral performance of parties, groups and candidates.

This has been repeatedly endorsed as an objective and impartial metric for guiding election coverage, by the High Court, the media regulator, and in Coimisiún na Meán's most recent *Guidelines in Respect of Coverage of Electoral Events ('Election Guidelines')*.

While An Coimisiún does not issue formal *Election Guidelines* for bye-elections, RTÉ will appropriately take into account the principles set out in its most recent Guidelines (September 2025).

*For the purposes of the Dublin Central and Galway West bye-elections 2026, the RTÉ Election Steering Group will have primary regard for the results of the 2024 General Election for these constituencies, including (1) seats taken in the relevant constituency and (2) First Preference Votes achieved in the relevant constituency. This is the most recent impartial measure of electoral support.*

### **Legal and regulatory framework**

The legal and regulatory precedent is clear: decisions in respect of editorial coverage of an election rest solely with broadcasters.

With a view to achieving *fairness* in the allocation of airtime during election coverage, a proportional approach to airtime may be adopted.

In its *Election Guidelines*, An Coimisiún acknowledges that a broadcaster may reasonably have regard to a range of relevant contextual factors, including (but not limited to):

- current elected representation.
- first preference votes in a prior election.
- the presence of candidates that have agreed to campaign on aligned election issues but who are not members of a political party.
- the number of candidates being fielded in a forthcoming election.
- the need to reflect the diversity of political perspectives amongst candidates/parties participating in elections.

- the current support for parties/candidates evident from opinion polls or other data sources.

RTÉ will also take into account the acknowledgement in the *Election Guidelines* that 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 specific type of programme in question (such as general coverage, or candidate debates).

The consideration of past electoral record is not only based on *Election Guidelines* issued by An Coimisiún; its use to guide coverage has been repeatedly endorsed by both the High Court and the media regulator (including via the Broadcasting Authority of Ireland, the predecessor of Coimisiún na Meán).

In relation to the selection of participants in election debates, it has been well established via the courts that broadcasters may devise criteria in respect of participant selection.

In *Kivlehan v RTÉ* (2016), the Green Party challenged RTÉ's decision not to include them in a Leaders Debate in advance of the General Election. 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.

In *Ben Gilroy v RTÉ* (2019), in dismissing Mr Gilroy's challenge against not being included as an independent European Election candidate 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."*

The media regulator has also dismissed complaints made on the basis of a candidate's non-inclusion in *Prime Time* and *The Week in Politics* candidate debates ahead of the 2019 European Elections, noting the following [BAI decisions (C5192 /C5253)]:

- The broadcaster has editorial freedom to choose who participates in a programme;
- There is no requirement for broadcasters to include all candidates in a broadcast, and 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.

Therefore, the following points are *thoroughly* established:

- Past electoral record is an impartial and fair metric to guide coverage;
- There is *no* requirement for all candidates to be included in a broadcast or formal election debate;
- Criteria based on current electoral support is a fair and impartial way to determine participation in a formal candidate or leaders' debate.

### **Dublin Central & Galway West bye-election coverage & debates**

RTÉ provides comprehensive coverage of electoral events, appropriate to the type of election in question.

Fairness will be achieved across the totality of RTÉ's bye-election coverage.

As with previous elections, it will not be practicable to include all candidates on a live panel for TV or radio debates if such a debate is to be meaningful and informative for the audience, taking into account studio capacity, differences between audio and visual formats, the nature of the hosting programme, and the time allocated by each programme.

The courts and the media regulator have repeatedly acknowledged that this is not practicable or required.

There is also no requirement for equal time between candidates who feature within coverage.

In each election, the RTÉ Election Steering Group assesses proposals for coverage and debates, and the format may vary between programmes and between elections.

*For the purposes of the Dublin Central and Galway West bye-elections 2026, the RTÉ Election Steering Group will have primary regard for the results of the 2024 General Election for these constituencies, including (1) seats taken in the relevant constituency and (2) First Preference Votes achieved in the relevant constituency. This is the most recent impartial measure of actual electoral support.*

The RTÉ Election Steering Group will also have regard for the fact that these are two bye-elections and not national votes, and may give consideration to other factors outlined in the *Election Guidelines*, as appropriate.

### **Coverage plans**

As this is the outset of the bye-election campaign, RTÉ has set out above the considerations relevant to planned coverage.

Other related coverage will take place throughout the campaign, and routine news and current affairs coverage will continue, unrelated to these bye-elections.

Bye-election coverage will include, but not be limited to:

- *RTÉ News: Six One* – an Outside Broadcast on each constituency, including constituency profile, a panel of candidates, with graphic representation on screen and/or direction to an online resource for a full list of candidates.
- *The Week in Politics* – two programmes, one on each constituency; a panel of candidates will feature in each programme, with recorded packages or graphic representation of other candidates and/or direction to an online resource for a full list of candidates.
- *Today with David McCullagh* and *Drivetime* will feature a panel of candidates for the Dublin Central and Galway West constituencies respectively, with recorded packages or graphic representation of other candidates and/or direction to an online resource for a full list of candidates.

On RTÉ Radio 1, *Morning Ireland*, *News at One* and *This Week* will also feature coverage of both bye-elections.

The dates of these programmes are To Be Confirmed and parties and candidates will be contacted where relevant in due course.

### **The ‘dynamic’ campaign period**

The RTÉ Election Steering Group reserves the right to take account of developments during an election and to make changes to coverage plans during a campaign.

RTÉ draws attention to the following in An Coimisiún’s *Election Guidelines*:

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

### **Namechecking**

Over the course of the campaign period, other non bye-election related news and current affairs coverage will continue. This is of particular note as these are two bye-elections, in two constituencies out of 43, and not national elections.

In situations in which a politician is being interviewed in a *non-election context*, we expect that politician to refrain from using this as an opportunity to namecheck candidate(s). This is unfair to other candidates in these bye-elections.

*If this occurs on air in a live studio context, RTÉ will remind the audience that we have asked politicians to refrain from namechecking candidates.*

Thank you for taking the time to read this guidance,

**The RTÉ Election Steering Group.**

**April 23<sup>rd</sup> 2026**