



**BAI Code of Fairness, Objectivity & Impartiality
in News and Current Affairs
Guidance Notes**

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Foreword

The purpose of this document is to provide guidance on the **BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs** for both broadcasters and the public. The document should not be regarded as a complete or authoritative statement of law. These guidance notes are non-binding and are provided to assist broadcasters and the general public to interpret and apply the Code. The BAI accepts no responsibility or liability in respect of any guidance that may be given and reserves the right to revise and review any guidance provided. Broadcasters must make their own independent assessment after taking their own advice and making inquiries/research as appropriate. This document does not purport to explain all the relevant provisions of the Code or give an exhaustive list of possible applications.

The document is structured to include the relevant provisions of the Code, followed by Guidance in respect of each section. The Guidance has been developed in response to feedback on the various provisions contained within the Code.

The BAI is aware that, as the Code is implemented by broadcasters, understanding of the various provisions will evolve. Consequently, the Guidance Notes associated with the Code will be added to from time to time as the need becomes apparent.

Except where definitions are provided, the terms used in the Code should be interpreted in accordance with their natural and ordinary common meaning and/or their meaning in a broadcasting context.

The implementation date for the BAI Code of Fairness, Objectivity and Impartiality is 1 July 2013. The Code will be the subject of a statutory review of its effectiveness four years after the date of its implementation.

Comments on the guidance notes may be emailed to codes@bai.ie or forwarded by post to:

**BAI Code of Fairness, Objectivity and Impartiality-Guidance Notes,
Broadcasting Authority of Ireland,
2-5 Warrington Place, Dublin 2.**

Introduction

This Code deals with matters of fairness, objectivity and impartiality in news and current affairs content. It is prepared by the Broadcasting Authority of Ireland (BAI) in accordance with sections 42(1), 42(2)(a) and 42(2)(b) & (e) of the Broadcasting Act 2009 ('the Act').

Section 42 of the Act provides that:

- (1) The Authority shall prepare, and from time to time as occasion requires, revise, in accordance with this section, a code or codes governing standards and practice ("broadcasting code") to be observed by broadcasters.
- (2) Broadcasting codes shall provide –
 - (a) that all news broadcast by a broadcaster is reported and presented in an objective and impartial manner and without any expression of the broadcaster's own views,
 - (b) that the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views,
 - (e) that a broadcaster does not, in the allocation of time for transmitting party political broadcasts, give an unfair preference to any political party.

In developing the Code of Fairness, Objectivity and Impartiality in News and Current Affairs the BAI had regard to a range of matters set out in section 42(3) of the Act. It also had regard to its own statutory objectives, set out in section 25, in particular that, in performing its functions the BAI shall:

- Endeavour to ensure that the democratic values enshrined in the Constitution, especially those relating to rightful liberty of expression, are upheld,
- Provide a regulatory environment that will sustain independent and impartial journalism,
- Seek to ensure that any measures it takes are proportionate and will produce regulatory arrangements that are stable and predictable.

In devising the rules, the BAI has also taken into account the European Convention on Human Rights and in particular the provisions relating to freedom of expression, the right to privacy and the securing of rights without any discrimination on any ground.¹

Guidance Note

This section of the Code outlines details of the various parts of the Broadcasting Act 2009 which refer to matters of fairness, objectivity and impartiality in the broadcast treatment of news and current affairs content.

While matters of privacy are of relevance to the treatment of news and current affairs, there is separate legislation covering privacy. Individuals who believe that news and current affairs content has encroached unreasonably on their privacy should make reference to the 2009 Act when making a complaint to a broadcaster or the BAI.

Similarly, matters of harm and offence, taste and decency are covered by the 2009 Act and complainants should refer to the BAI Code Of Programme Standards if they believe news and current affairs content has caused harm or offence or is in poor taste or indecent.

Further information on making complaints about privacy, offence, harm, taste and decency is available on the complaints section of the BAI website.

Jurisdiction

The Code applies to broadcasters within the jurisdiction of Ireland. It does not apply to other services commonly received in this State, but licensed in the United Kingdom or other jurisdictions.

The term 'broadcaster' is understood in the context of the definition provided in the Broadcasting Act 2009, which is as follows:

“Broadcaster means a person who supplies a compilation of programme material for the purpose of its being transmitted, relayed or distributed as a broadcasting service (whether that person transmits, relays or distributes that material as such a service or not).”

Guidance Note

All broadcasters licensed in the Republic of Ireland and/or those who make use of a frequency or satellite capacity or up-link situated in the Republic of Ireland are required to comply with the Code. In practical terms, the Code shall apply to all radio and television services, including RTÉ radio and television services, TG4 and national, regional, local, community radio and television services licensed further to the provisions of the Broadcasting Act 2009, including temporary and institutional services (where appropriate).

¹To access a copy of the ECHR [click here](#) or go to www.ehcr.coe.int

Programmes broadcast on services licensed in the United Kingdom or in other jurisdictions are not required to comply with this Code e.g. BBC, Sky, ITV, Channel 4. This is because of the 'country of origin' principle within the AVMS Directive, which is the key piece of European legislation governing television broadcasting services throughout Europe. This principle means that television stations must obey the rules laid down in the country in which they are licensed, in other words the country in which they 'originate'.

For the avoidance of doubt, the term 'broadcaster' as used in section 39 of the Broadcasting Act does not refer to individual presenters or programme staff but rather to the company, co-operative etc., that owns and operates the broadcast service. This should not be taken to mean that individual presenters or programme staff are exempt from the obligations of this Code. In this regard, the bulk of the rules relate to editorial decisions that are the responsibility not only of the owners of broadcast services but also their staff. Broadcasters should also note that the rules also apply to freelance staff and steps should be taken to familiarise such staff with the requirements of the Code and manage compliance by such staff.

Broadcasters should note that they are editorially responsible for all content carried and accordingly the requirements of this code apply to content commissioned and acquired by broadcasters.

The Rules and principles do not apply to website content or to other content that is not linked to content that has been broadcast. Notwithstanding this, the BAI may have regard, where appropriate, to such content should it provide information or context for the investigation of a complaint or in the context of a statutory investigation.

Guidance Notes

It is not intended that this Code will set out each and every rule in relation to the preparation, treatment and broadcast of news and current affairs content. In this regard, broadcasters, programme makers and citizens should have regard to the Guidance Notes which have been developed in conjunction with this Code. These notes are provided as an aid to understanding the intent of the principles and rules and the manner of their application in a broadcast context. The BAI will update the Guidance Notes from time to time.

Guidance Note

The BAI does not provide a clearance service for programme material. While the BAI is happy to provide general advice on the Code, it will only provide more specific advice in relation to atypical programme material which is submitted in the following manner:-

- 1. Requests for advice must be submitted in writing.*
- 2. The submission should clearly state the section/s of the Code about which advice is being sought, together with details of the issue to which the relevant section of the Code pertains.*
- 3. The BAI will view the request received and will endeavour to provide an initial response to the query as soon as possible. However, broadcasters should note that this could take up to two working days or longer if the query is especially complex.*
- 4. The BAI response will set out in writing the BAI's view in relation to the submission.*

5. Any view expressed by the BAI in relation to the advice being sought by the broadcaster is without prejudice to any subsequent complaint which may be taken by a member of the public and which may be referred to the Compliance Committee for adjudication and decision.
6. Queries can be sent by post or emailed to: codes@bai.ie.

Complaints

If a viewer or listener has a complaint or is dissatisfied with the manner in which a broadcaster is complying with this Code, the matter should, in the first instance, be referred directly to the relevant broadcaster. Further information on the complaints process is available on www.bai.ie or by phoning 01 6441200.

The effective date of this Code is 1st July 2013.

Guidance Note

The BAI website contains a section which details the complaints process and also provides supporting information in relation to how a member of the public can make a complaint on a range of matters, including a complaint relating to fairness, objectivity and impartiality in news and current affairs content. Complaints will be assessed on the basis of the broadcast material and written submissions from the broadcaster and the complainant(s). The decisions of the BAI on complaints that have been considered are published regularly.

The BAI Guide for Listeners and Viewers in relation to the Complaints Process sets out detailed information in relation to the matters that can be complained of under legislation. The BAI also offers support, through its Executive staff, for those members of the public who require assistance and additional information in relation to making a complaint. The BAI is currently in the process of reviewing its complaints procedures and, once complete, any related material will be updated on-line.

1. Code Objectives

The objectives of the Code are:

- To set out clearly the minimum standards and practices that are expected of broadcasters in their treatment and broadcast of news and current affairs content;
- To provide general guidance to broadcasters to assist in their decision-making processes, as they pertain to news and current affairs content;
- To promote independent and impartial journalism in the provision of news and current affairs content;
- To inform and generate awareness among citizens with regard to standards they may expect in relation to news and current affairs content;

- To protect the interests of citizens, in their right to access fair, objective and impartial, news and current affairs content.

Guidance Note

In developing a set of objectives for this Code, the BAI had regard to the relationship between the regulator, the broadcaster and the citizen. Therefore the objectives of the Code are informed by: the BAI's role in facilitating independent and impartial journalism; ensuring that there is clarity as to the minimum standards that a broadcaster should achieve in how they treat and broadcast news and current affairs content and well as providing broadcasters with guidance where necessary.

The objectives of the Code are also concerned with the citizen and in particular through ensuring that their right to fair, objective and impartial news and current affairs content is protected, while at the same time providing them with the necessary information to consider whether standards in relation to news and current affairs content are being met by broadcasters.

2. Principles Underpinning the Fairness, Objectivity and Impartiality Rules

This section outlines the principles which underpin this Code. In addition to the specific rules outlined in Section 4, the principles provide direction as to the general standards expected in order to achieve fairness, objectivity and impartiality in the treatment of news and current affairs content. Thus, a broadcaster is expected not only to comply with the rules, but also to apply these general principles to its news and current affairs content.

The principles which shall be applied in this Code, together with a brief narrative, are set out below:

Fairness: The BAI is committed to ensuring that, through the implementation of this Code, individuals and organisations that are the subject of news and current affairs content, or persons who contribute to news and current affairs programmes or items, are treated fairly and honestly. Viewers and listeners have a legitimate expectation that a broadcaster will demonstrate an even-handed approach to how news and current affairs content is presented and interrogated and how contributors are treated. The principle of fairness does not necessarily require that all possible opinions on a subject are addressed or that they should receive equal air-time.

The approach to covering issues, including those of public controversy or current public debate, should be guided by ensuring equitable, proportionate coverage.

Objectivity & Impartiality: The principles of objectivity and impartiality are concerned with ensuring that news and current affairs content is compiled, produced and presented in a manner which is and can be seen as independent, unbiased, and without prejudgement.

The rules set out in this Code with regard to objectivity and impartiality should not be taken to imply that a presenter or a reporter cannot convey critical views or pursue vigorous lines of questioning. Indeed, this is often required in order to achieve fairness, objectivity and impartiality. What is necessary, however, is that production, reporting and questioning on any news or current affairs item is credible, trustworthy and editorially independent.

Accuracy & Responsiveness: Audiences are entitled to, and do, trust that the news and current affairs content they access from the broadcast media is accurate. Accurate information enables citizens to participate more fully in a democratic society. Accuracy is therefore a fundamental principle associated with the broadcast of news and current affairs content and should always take priority over the speed with which content can be delivered. It is also acknowledged that despite best efforts, inaccurate information can sometimes be conveyed, whether explicitly or implicitly. The principle of responsiveness is designed to ensure that broadcasters adopt fair, timely and appropriate remedies in handling the broadcast of inaccurate information.

Transparency & Accountability: the principles of transparency and accountability are concerned with ensuring that practices and procedures adopted by broadcasters in sourcing, compiling, producing and presenting news and current affairs are visible, open to scrutiny, robust and accessible. This is particularly the case where a decision to broadcast may impact on an individual's privacy.

Guidance Note

The BAI was conscious that, in developing a Code of this nature, a set of principles underpinning the rules contained in the Code would be important, since no set of rules could address every eventuality. It is therefore intended that broadcasters would comply with both the rules and the principles set out in the Code.

The Guidance which has been developed in respect of the principles attempts to address the questions, views and uncertainty expressed in the consultation process to develop the Code, a workshop held with broadcasters, as well as drawing on research and experience from other jurisdictions. A number of general considerations are outlined, in addition to the provision of guidance in respect of the principles contained in the Code.

Each broadcaster has the editorial freedom to make choices in relation to what issues to cover in a news and current affairs context. The BAI cannot nor should it make decisions or have a role in requiring broadcasters to cover a news and current affairs issue. The Code is not intended to govern perceptions of 'bias' on the basis of topics and/or subject areas that a broadcaster has chosen not to cover. In the context of this Code, a decision not to cover a particular event or news story is not de facto evidence of a lack of fairness, objectivity and impartiality on the part of a broadcaster. In implementing the Code, the BAI will consider the news and/or current affairs content contained in the broadcast that is the subject of the complaint and make a determination on that basis and having taken into account written submissions by the complainant and the broadcaster.

It is not always the case that the omission of a viewpoint/perspective in relation to a particular issue will automatically result in unfairness and indeed, there is no requirement to cover every aspect of an item in order to achieve fairness.

The principle of fairness refers to ensuring that the approach to covering issues, particularly those of public controversy or current public debate should be equitable and proportionate. From an implementation perspective what is important is that the broadcaster can demonstrate or outline the approach that it took to ensuring that its coverage was equitable or proportionate. It is important to note that the individual nature of the content in question will inevitably influence what might be seen as equitable or proportionate. Furthermore, emphasis is placed here on matters of public controversy or of current public debate.

While the principles and rules apply to all news and current affairs content, matters of public controversy or of current public debate can often be those where there is a heightened awareness of or interest in the issues at play. It is in these instances where broadcasters can have a significant impact and where additional care is called for.

Appropriate implementation of a fairness principle should not be taken to mean that an 'artificial balance' is required in order to comply with the Code, nor should it be taken to imply that equal allocation air-time is always necessary to achieve fairness. Conversely, demonstration of an equal allocation of air-time to different views on a particular subject may not satisfactorily discharge a broadcaster's obligations in respect of fairness. It will be necessary for a broadcaster to consider the range of ways in which fairness is achieved and to ensure that active consideration is given to ensuring its achievement whether through the selection of contributors, the time allocated to a news and current affairs issue, the scope of the debate, the structure of the programme or the role of the presenter.

The nature of current affairs coverage is such that the presenter plays a critical role in challenging the views of guests and contributors, in the public interest. Rigorous and/or challenging questioning in the context of an interview does not necessarily constitute unfairness.

The principle of accuracy implies that material broadcast, particularly where it relates to matters of public controversy or current public debate, should be supported by evidence, which may need to be corroborated from a variety of sources, dependent on the nature of the content. There is a significant responsibility placed on broadcasters in ensuring that sources or information are valid. There is also an acknowledgement that, despite best efforts, broadcasters can get facts wrong. The principle of responsiveness requires that corrections are made speedily and, as a general principle, the correction should be proportionate to the prominence given to the original broadcast.

The principle of transparency and accountability requires that the practices and procedures adopted by broadcasters are visible, open to scrutiny, robust and accessible. This principle should not be taken to imply that broadcasters are required to divulge sources of information for the content broadcast. Rather the principle is focussed on ensuring that the broadcaster can demonstrate the decision-making process associated with the production of content. This would be particularly important in instances where the approach to programme making involves techniques such as surreptitious recording or door-stepping.

Guidance on General Considerations in relation to the Principles

Definitions: In developing this Code, the BAI has not provided definitions in relation to terms such as news, current affairs, public interest, editorial justification and so forth. The experience of regulation has underlined the importance of being able to apply the various statutory codes in a flexible manner in order to best respond to the subject matter under consideration. Therefore, there will be terms which are easily understood by broadcaster and citizen alike, whereas in other instances a series of questions will need to be posed in order to reach a decision in relation to compliance or a complaint. In a Code, such as this one, it will often be the process adopted or the manner in which the broadcaster handled the issue that will indicate whether the correct course of action was taken, or whether the approach adopted is in breach of the Code's provisions.

Notwithstanding this, and so as to provide some guidance as to the indicative characteristics of news and current affairs content, the following should be noted:

- News programming includes news bulletins (including extended bulletins) providing factual information on national, international, regional, local and community events .
- Current affairs programming includes explanation and analysis of current events and issues, including matters which are either of public controversy or the subject of current public debate.

News and current affairs content often overlap within one programme and broadcasters should be mindful of this when considering how to ensure compliance with this Code.

Current affairs programmes vs. Current affairs content: Whereas news, by its nature is readily understood as being the broadcast of facts relating to events that have occurred, there can occasionally be less certainty as to what constitutes current affairs. Some programmes will be readily identifiable as current affairs, either through the manner in which they are promoted by the broadcaster or in the nature of the items that the programme covers. There will be occasions where light entertainment programmes, magazine-style programmes or programmes that are predominantly music-driven may contain current affairs content. It is important to note that, in the context of a complaint, the approach of the BAI will be to focus on the content referred to in the complaint and to determine whether it falls to be considered under the Code.

In the process of developing the Code of Fairness, Objectivity and Impartiality, the question arose as to whether it remained appropriate to place requirements on broadcasters of the nature set out in the Broadcasting Act 2009, particularly in the context of the proliferation of news and current affairs outlets and content sources where the same requirements for fairness, objectivity and impartiality are not in place. There are a number of issues which merit consideration here. Firstly, there is a legal requirement for the BAI to develop a Code of Fairness, Objectivity and Impartiality. Secondly, there is also a high volume of listenership and viewership to Irish radio and television, and in particular to the news and current affairs output of these services. Irish citizens place a high level of trust in these sources of news and current affairs. Therefore the BAI was strongly of the view that a Code of this nature should serve to strengthen and not diminish the quality of content available in this area of broadcasting.

*As the Code applies to news and current affairs content, the requirements apply to more than just news and current affairs programming as discussed. Accordingly, broadcasters are encouraged to ensure that **all** staff involved with the production and presentation of programmes that may contain news and current affairs content would familiarise themselves with the Code. The BAI also encourages feedback on the experience of implementing this Code so that Guidance can be revised and updated, as appropriate.*

3. Compliance & Assessment

- In the treatment of news and current affairs content, broadcasters shall comply with the principles and rules specified in this Code. Broadcasters should be mindful of all the provisions of this Code as programme material may be required to comply with one or more applicable provision.
- News and current affairs content shall be assessed in whole and in context and with reference to:-
 - The provisions of the Broadcasting Act 2009 (as amended);
 - The principles of the Code;
 - The rules of the Code;
 - Contextual factors including, but not limited to, the type of programme concerned and audience expectations;
 - The procedures, practices and policies of the BAI.
- Broadcasters shall comply with the spirit as well as the letter of the Code.

Guidance Note

In assessing news and current affairs content for compliance with the provisions of the Code, it is important to note that regard will be had firstly to the rules relating to the content concerned, followed by a consideration of the relevant principle. Contextual factors will also be important and these can vary according to: the nature of the content; the programme and channel type; the likely audience expectation in relation to the content; and the extent to which the content and the approach to it is signalled to the audience

4. Rules

The following rules shall apply to the treatment of all news and/or current affairs content.

Fairness, Objectivity and Impartiality - Statutory Duties of Broadcasters

1. In their treatment of news and current affairs content broadcasters shall comply with section 39 (1) (a) & (b), section 39 (2) and section 39 (5) & (6) of the Broadcasting Act 2009.

39.—

(1) Every broadcaster shall ensure that—

- (a) all news broadcast by the broadcaster is reported and presented in an objective and impartial manner and without any expression of the broadcaster's own views,
 - (b) the broadcast treatment of current affairs, including matters which are either of public controversy or the subject of current public debate, is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of his or her own views, except that should it prove impracticable in relation to a single broadcast to apply this paragraph, two or more related broadcasts may be considered as a whole, if the broadcasts are transmitted within a reasonable period of each other,
- (2) Nothing in subsection (1)(a) or (b) prevents a broadcaster from transmitting party political broadcasts provided that a broadcaster does not, in the allocation of time for such broadcasts, give an unfair preference to any political party.
- (5) A broadcaster shall ensure that the broadcast treatment of any proposal, being a proposal concerning policy as regards broadcasting, which is of public controversy or the subject of current public debate, which is being considered by the Government or the Minister, shall be reported and presented in an objective and impartial manner.
- (6) Paragraphs (a) and (b) of subsection (1), in so far as they require the broadcaster not to express his or her own views, do not apply to any broadcast made under subsection (5).

2. In their treatment of news and current affairs content broadcasters shall comply with the following principles as articulated in this Code:

- Fairness;
- Objectivity & Impartiality;
- Accuracy & Responsiveness;
- Transparency & Accountability.

Fairness Rules

3. A broadcaster shall deal fairly with contributors to current affairs content or with persons or organisations referred to in that content.

4. In the normal course of events, interviewees for news and current affairs content shall be made generally aware of the subject matter and the nature and format of their contribution, so that their agreement to participate constitutes informed consent.

5. A broadcaster shall not generally broadcast any news or current affairs interview with any person without the consent of that person. The broadcast of any news or current affairs content in the absence of consent must be editorially justified. Requests for withdrawal of consent shall be given due consideration by the broadcaster, having regard to the public interest, natural justice and the principles of fairness, objectivity and impartiality.

Guidance Notes

The requirement for interviewees to be made 'generally aware' of the subject and format of an interview should not be taken to mean that the detail of the questions to be asked as part of the interview should be provided. Rather, this rule should be taken to mean that enough information should be provided so as to facilitate an ability to prepare for the interview. It is important to note that the nature of the programme and the nature of the contribution will impact on the level and type of consent required. Examples of consent might include knowing who the other contributors to the item are; what the nature of the contribution is, i.e. whether live or pre-recorded, edited or unedited.

The rules in relation to consent are not intended to preclude presenters from asking supplemental questions of interviewees. In many circumstances, the nature of an interviewee's position whether in public life, by virtue of their profession, or the subject on which they agreed to be interviewed will often appropriately lend itself to supplementary or related questions.

Occasionally, a broadcaster may receive a request for withdrawal of consent on the part of an interviewee prior to broadcast. In certain circumstances new facts or information may arise which will validate the request for withdrawal, or where the harm caused by broadcasting the item might be greater than the public interest.

The rule relating to withdrawal of consent should not be taken to imply that a request for withdrawal of consent should be acceded to in every case. Rather, the broadcaster should be able to demonstrate, in the context of a complaint, the range of factors that it took into account where a request to withdraw consent was refused. In the interests of clarity, a request for withdrawal of consent refers to interviews given prior to the broadcast of a programme and not to the re-use of such interviews. Issues may arise with the re-use of an interview and this is dealt with under the rules covering archive material (Rule 10).

More generally, broadcasters should note that consent cannot reasonably be taken to endure for all time. Therefore, broadcasters should consider the extent to which the consent given for an interview can continue to be relied upon over time and in different programming contexts. In most cases, this may not be a problem. But where it might become a problem (for example, in the case of the use of archive material) then the issue of consent should be given further consideration so as to ensure continued fairness, objectivity and impartiality.

For the avoidance of doubt, a contributor to a programme is one who is actively involved in the content and not an individual whose appearance is incidental or coincidental e.g. A person(s) that appears in the camera shot but who is not participating in the programme.

The BAI has considered and rejected complaints that have been made solely on the basis that it was the view of the complainant that the people included on a discussion panel was evidence of a lack of fairness, impartiality and objectivity. A broadcaster has editorial independence and is perfectly entitled to explore an issue with a panel of its own choosing. In considering whether the people included on a discussion panel is a factor in whether a complaint should be upheld, regard will be given to the programme content in its entirety, including the contributions by the presenter, listeners and viewers or reports included in the programme, amongst other factors.

As indicated, the 2009 Act prohibits a broadcasting organisation from expressing its own views on news and current affairs content, including matters of public controversy and debate. However, the Act does permit a broadcasting organisation to give its own views on a policy concerning broadcasting and which is a matter of public controversy and being considered by the Government or the Minister for Communications. However, the treatment of any such policy issue must be objective and impartial and a broadcaster cannot use its service to pursue a preferred outcome in respect of a particular broadcasting policy.

Further guidance on party political broadcasts will be provided in guidelines issued in advance of elections and referenda. Compliance with any such guidance is required further to Rule 27 of this Code. Broadcasters should note that no payment or similar consideration is permitted for the airing of such broadcasts, including charges for the use of studios.

- 6.** Care shall always be taken with the inclusion of interviews with children or vulnerable people in news or current affairs content. In all cases, the overriding principle must be to avoid the broadcast of material that may be unfair or detrimental to their interest.

The consent of a parent, guardian or legal representative shall generally be obtained prior to the broadcast of any interview with a child less than 16 years of age or a vulnerable person, where the subject matter is of a sensitive or serious matter or where not to do so could be deemed unfair. A decision to broadcast an interview in the absence of such consent must be justified in the public interest.

7. Where a person or organisation refuses to contribute to news and current affairs content or chooses to make no comment, the broadcast shall make this fact clear and shall report in a reasonable manner the person/organisation's explanation for declining to participate, where not to do so could be deemed unfair.
8. The refusal of a person or organisation to participate will not preclude the broadcast of news and current affairs content. However, the broadcaster has a responsibility to reflect, as far as practicable, the views of the absent party and to do so fairly.
9. The editing process shall not distort the context or meaning of the original interview.

Guidance Notes

The involvement of children in news or current affairs content should, as a general principle, be approached cautiously. Of paramount importance is the well-being, welfare and dignity of the child, irrespective of their eagerness to participate in the content and/or the consent given by a parent or guardian. It is recognised that the nature of the subject matter will impact on the issue of consent, so for example while a report on exam results from a school might generally require the consent of the school principal, a report on youth suicide or anti-social behaviour will require much more careful consideration.

Where subject matter is of a sensitive or serious nature, for example, reporting on illegal activity or anti-social behaviour among young people, the issue of identification of the individuals involved must be carefully considered. Notwithstanding the provision of consent, the longer-term impact of the broadcast on the individual and their future must be balanced against public interest concerns.

The use of the phrase 'vulnerable people' in the Code is intended to address those individuals whose circumstances or well-being requires that extra care is taken with regard to issues of consent.

Irish and European legislation defines a child as being a person under the age of eighteen. The Code deals primarily with issues of consent relating to those under the age of sixteen, in recognition of both maturity of young people, particularly those aged sixteen and over and of the wide variety of circumstances where a child might be interviewed ranging from less serious to more serious content. The guiding principle is that the more serious or controversial the subject matter, the more caution required in relation to consent of a young or vulnerable person.

A decision of a guest not to participate in a programme does not automatically preclude a broadcaster from coverage of an item with which the absent guest is associated. However, there is an onus on the broadcaster to provide the context for non-participation of a guest where not to do so could be deemed unfair.

In those instances where a guest refuses to contribute or states that there is 'no comment' on a matter, there is no requirement on the broadcaster to read out, in full, statements from the guest or any organisation that they represent. However, the broadcaster has a responsibility to reflect, as far as practicable, the views of the absent party and to do so fairly. In this regard, the content of a statement will often set out the views of the absent party.

The decision not to participate in a discussion on the part of an guest should not be taken to imply a deliberate attempt on the part of the guest, or an organisation that they represent, to avoid being interviewed. There are often valid reasons for non-participation in a news and current affairs item. Nonetheless, there is still a requirement for the broadcaster to achieve the principles of fairness, objectivity and impartiality in relation to content, so there will be an expectation that the presenter will ensure that discussion on a news and current affairs issue is not one-sided and that alternative perspectives are presented, including the views of those not in attendance insofar as appropriate and practical.

A decision not to participate is likely to impact on how the views of the absent party are presented and those who chose not to participate in a programme are advised to take this into account when considering how their views or the position of their organisation is handled in a news and current affairs item. A decision not to participate does not remove the obligation to be fair to all parties referenced in a news and current affairs item and care is required on the part of broadcaster. The approach taken to coverage of an item where one of the parties involved has declined to participate will depend on the issues under discussion.

The production of news and current affairs content often necessitates editing in order to more effectively communicate key points of information and/or to remove commentary which is not relevant to the subject matter under discussion. The Code recognises the legitimacy of this practice but underlines the importance of ensuring that the editing process and the manner in which content is packaged does not result in a distortion of the contributor's views. It is also important to be aware that some contributors may not be familiar with the programme production process and that in some instances it may be useful to outline how the editing process works in the context of obtaining consent for their contribution to a programme. The rule should not be taken to imply that all unedited material should be retained by the broadcaster, or that an unedited copy of the recording should be provided to a contributor. In the event of a complaint or compliance issue, assessment will be on the basis of the material available and the arguments made by the complainant and the broadcaster.

- 10.** A broadcaster shall ensure that the re-use of any material in a news and current affairs context, including the use of archive material, does not create unfairness or result in inaccuracies.

Guidance Notes

In the re-use of material in a current affairs context, particularly in the case of archive footage, broadcasters should be mindful that the passage of time may have resulted in significantly changed circumstances for the person/s who are the subject of the footage. Therefore, steps should be taken to ensure fairness in the re-use of material insofar as it is practical. This may include a decision not to include certain archived footage. For example, due to the passage of time the circumstances of an individual may have changed so dramatically that the re-use of archive material may be problematic. Therefore, broadcasters have an obligation to consider whether, in such circumstances, any re-broadcast might, of its essence, be unfair and, therefore, impermissible.

11. The re-construction or re-enactment of an event in news or current affairs content shall be clearly identified as such and should be authentic in its depiction of the event(s) in question.

Guidance Notes

Some types of current affairs programmes will broadcast re-enactments or reconstructions in order to, for example recall events or to enlist the assistance of the public. The Code calls for clear signalling of such reconstructions or re-enactments in order to minimise the potential for confusion amongst the audience. It also recognises that complete accuracy would not be possible, but rather the reconstruction or re-enactment should strive to be as authentic and faithful as possible to the circumstances of what occurred.

12. The use of secret or undisclosed recording or filming in current affairs content shall only be used in exceptional circumstances. It must be warranted and a broadcaster shall have appropriate procedures in place for the authorisation of such recordings at the most senior editorial level. Such authorisation shall be in writing.

The following considerations are essential elements in determining if secret or undisclosed recording or filming is warranted:

- The item being covered is demonstrably in the public interest and the broadcaster has evidence of matter that merits coverage;
 - The co-operation of the subject is unlikely to be forthcoming;
 - There is reason to believe that coverage of the subject matter will be frustrated as the content cannot reasonably be obtained by other means.
13. Any person secretly filmed or recorded shall be afforded the opportunity to participate in the news and current affairs content that will include the recording if, in the opinion of the broadcaster, not affording the opportunity to participate would be unfair to that person.

14. By its nature, a direct unarranged approach (“door-stepping”) to an interviewee may contravene fairness. However, in appropriate circumstances it may be justifiable to dispense with the normal practice of making arrangements for an interview directly with an interviewee, or with a representative, and with suitable notice. “Door-stepping”, may be appropriate in circumstances where:

- The item being covered is demonstrably in the public interest;
- The interviewee is unlikely to co-operate if approached in the normal way, and;
- The approach to the individual(s) is necessary to the authenticity and credibility of the content in question.

Guidance Notes

The practices of both surreptitious filming/recording and door-stepping involve a degree of infringement on the right to privacy of an individual. For this reason broadcasters need to ensure that the use of surreptitious filming/recording or door-stepping is warranted and clearly in the public interest.

Individuals who are in the public eye, or who are under investigation, their family and their friends, retain the right to privacy, notwithstanding the fact that their private behaviour can raise legitimate issues of public interest.

As a general rule, the greater the degree of intrusion into the privacy of an individual, the greater the level of justification required for use of the technique.

If consent for an interview cannot be obtained from an individual/organisation, then the infringement on privacy must be warranted. Where secret filming is used, the subject of the filming should be offered the right to respond in advance of the broadcast.

The use of secret filming should be clearly based on evidence available to the broadcaster and the use of secret or undisclosed recording as a ‘fishing expedition’ is not permitted i.e. where it is undertaken, where no prima facie evidence exists, with a view to uncovering by accident incriminating or newsworthy information.

It would be important that practices and procedures in respect of door-stepping and surreptitious recording are developed and implemented by broadcasters and that, in the event of complaint, contemporaneous records are available to outline the course of action which was taken in each case.

Door-stepping, in the context of the rules, should not be taken to mean vox pops, nor are they intended to prevent legitimate questioning at certain events, e.g. the interviewing of politicians after meetings or asking representatives for a comment after talks, or the A.G.M. of a meeting etc.

15. Broadcasters shall have in place appropriate policies and procedures for handling contributions via social media.

Guidance Note

This code pertains to the use of social media in a broadcasting context. The requirement to have in place policies, procedures and the use of social media in current affairs, as set out in this Code, relates to the manner in which social media is used on-air. Notwithstanding this, the BAI may have regard, where appropriate, to a broadcaster's social media output, on- and off-air, should it provide information or context for the investigation of a complaint or in the context of a statutory investigation.

Media consumption has changed significantly over the past number of years and as a consequence, there has been a proliferation of sources of information, not least through social media platforms such as Twitter. Two of the principles underpinning the rules contained in this Code are accuracy and responsiveness. Accuracy in respect of news and current affairs is of paramount importance in sustaining the high levels of trust that Irish audiences currently have in Irish broadcast media.

Accuracy is often not just about getting the facts right. Where there are matters of public controversy or matters of current public debate, a variety of views and opinions often need to be considered, in addition to the stated facts. Often, in the case of social media it is important to be aware that online sources of information are not subject to the same degree of regulation and from a news and current affairs perspective, there is no statutory requirement for fairness, impartiality and objectivity.

Therefore, in utilising online sources for the production of news and current affairs broadcast content, whether in the compilation of a programme or in the broadcast of contributions, there is a particular onus on the broadcaster to ensure accuracy and to adhere to the principles outlined in the Code. In this regard, the BAI has set out a number of points that broadcasters may find useful when considering the use of social media:

- *Reliability of the social media source: Is the information first hand? Is it authentic? Has it been cross-checked against other possible sources? Is any further consent required before the information is broadcast (for e.g. information relating to a child?)*
- *Veracity of information: what steps have been taken to verify the information? Is there any possibility that the information is a 'wind-up' or hoax? Is the information current?*
- *Potential for bias: is the information emanating from a lobby or representative group? Are there any political/ religious/commercial affiliations?*
- *Respect for privacy: although information may have been posted to a social media or on-line site, will the privacy of an individual or their family be unreasonably encroached upon as a consequence of broadcasting the information? Is the broadcast of the information in the public interest?*

16. Any undertaking given to a contributor relating to confidentiality or anonymity shall be clear and be honoured. Any associated audio-visual techniques utilised in both filming and editing shall be carefully applied to ensure complete confidentiality is achieved and commitments given are fully honoured.

Guidance Note

There will be instances and circumstances where news and current affairs content can only be broadcast on the basis of retaining the confidentiality of a source or of protecting the identity or a contributor through the use of various audio-visual techniques such as image pixilation, voice distortion or the use of a 'voice-over' by another person. Where a commitment is given to retain confidentiality or anonymity, a broadcaster should clearly agree the extent of the anonymity that will be provided with the contributor/source.

Where the identity of an individual is obscured on-screen, broadcasters should ensure that attention is also given to other possible identifiers of an individual, for example their home/locality, their car, descriptions of the circumstances surrounding their contribution etc.

In the course of programme compilation, care should also be taken with regard to records relating to a confidential/anonymous source

Objectivity & Impartiality Rules

17. News and current affairs content shall be presented with due accuracy, having regard to the circumstances and the facts known at the time of preparing and broadcasting the content.
18. Two, or more, related broadcasts may be considered as a whole if the broadcasts are transmitted within a reasonable time period and such links are made clear to the audience.
19. Views and facts shall not be misrepresented or presented in such a way as to render them misleading. Presenters should be sensitive to the impact of their language and tone in reporting news and current affairs so as to avoid misunderstanding of the matters covered.
20. A significant mistake shall be acknowledged and rectified as speedily as possible, in an appropriate and proportionate manner. A broadcast correction or clarification shall have regard to the time and circumstances of the original broadcast.

Guidance Note

The rules in relation to news and current affairs content refer to presentation with 'due accuracy'. The use of the word 'due' is important in that it recognises that the accuracy required is adequate and appropriate, having regard to the circumstances known at the time of broadcast. The rule also recognises that stories will evolve and are not static and they will therefore require updating and revision over the course of a broadcast or a news cycle.

The Broadcasting Act 2009, in addressing the duties of broadcasters provides that, in order to achieve fairness, objectivity and impartiality two, or more related broadcasts may be considered as a whole if the broadcasts are transmitted within a reasonable period of each other.

The Act does not stipulate what constitutes a reasonable period and neither does the Code or the guidance seek to establish hard and fast rules in respect of timeframes. To do so would unnecessarily restrict the editorial freedom of broadcasters; would not appropriately recognise the sometimes evolving nature of news and current affairs broadcasting and; would not acknowledge the nature of a broadcast schedule where programmes are broadcast daily, weekly or indeed seasonally. However, the key principle that should guide the broadcaster's decision in respect of linked broadcasts is audience knowledge. Broadcasters should use appropriate mechanisms to notify audiences whether the subject covered is as part of a series or whether alternative views will be covered in another programme. The BAI will not generally consider a broadcast to be linked if such a link is made 'retrospectively' following receipt of a complaint.

The rules require that presenters should be sensitive to their use of language and tone when presenting news and current affairs content. Broadcasters should broadly be mindful of the impact of language in its ability to sensationalise or conversely underplay a story. In respect of tone, while there is a clear acknowledgement that the presentation of news and current affairs can often involve robust and heated exchanges, nevertheless the requirements in respect of tone relate to the respect and dignity of an individual, which should be afforded to them regardless of their viewpoint or public standing.

- 21.** A news presenter and/or a reporter in a news programme may not express his or her own view on matters that are either of public controversy or the subject of current public debate.
- 22.** It is an important part of the role of a presenter of a current affairs programme to ensure that the audience has access to a wide variety of views on the subject of the programme or item; to facilitate the expression of contributors' opinions – sometimes by forceful questioning; and to reflect the views of those who cannot, or choose not to, participate in content. This being so, a presenter and/or a reporter on a current affairs programme shall not express his or her own views on matters that are either of public controversy or the subject of current public debate such that a partisan position is advocated.
- 23.** 'Personal view' or 'authored' current affairs segments or programmes can be appropriate, subject to normal editorial controls. This does not exempt the segment or programme – or a series of related segments/programmes – from the statutory obligations to be impartial, objective and fair to all interests concerned. Similarly, an "authored" item or programme may be permitted if part of a series of related segments/programmes which, taken together, will discharge the statutory obligations.

24. A 'personal view' or 'authored' programme or segment shall be clearly signalled to the audience at the outset, or in the case of a series of segments or programmes, at the start of each one.

Guidance Notes

Presenters of news and current affairs programmes play a critical role in ensuring objective and impartial coverage of items, particularly matters that are of public controversy or the subject of current public debate. In the case of news presenters and reporters, in light of the fact that news is centrally concerned with the presentation of facts it would be inappropriate that personal views be expressed in relaying such facts.

Often the format for a news programme will involve a mixture of news reportage, followed by an interview between the news presenter and the reporter on a particular item. In these instances, a reporter can often be asked their opinion in relation to outcomes on the matter that they are reporting, based on their professional, journalistic assessment on the matter. These types of exchanges are permissible under the Code, but, similar to the rule on current affairs presenters, they should not be a vehicle for the biased views of the reporter.

It is acknowledged that some current affairs output can be synonymous with personalities, where the manner in which the presenter presents or interviews contributors can be keenly anticipated by audiences. Often the nature and style of the presenter is a key factor in what engages audiences and draws them into consideration and debate on matters of public controversy and current public debate.

The audience will also often trust that the presenters' approach may be instrumental in getting to the heart of the issues at hand. These factors contribute to some of the key reasons why news and current affairs coverage is trusted to such an extent by Irish audiences. However, with this level of trust comes a significant level of responsibility on the part of the broadcaster and in the case of these particular rules, the presenter. The Code seeks to prevent a partisan position being advocated by the presenter and to guard against a presenter using his/her programme to pursue an agenda, via comments, choice of guest etc., such that a biased view on an issue is articulated.

Authored programmes can be seen as being somewhat similar to an opinion piece in a newspaper. They are currently most easily identified as regular insert pieces in current affairs programmes and often cover a wider variety of topics from a regular contributor. However, presenters of the authored programmes or inserts are not permitted to pursue a persistent point of view against a particular group or person which is not justified by the context or the public interest.

25. Each broadcaster shall have and implement appropriate policies and procedures to address any conflicts of interests that may exist or arise in respect of anyone with an editorial involvement in any news or current affairs content, whether such person works on-air or off-air.
26. Any personal, professional, business or financial interest of anyone with an editorial involvement in news or current affairs content that calls into question (or that might reasonably be perceived as calling into question) the fairness, objectivity or impartiality of a programme or item, shall be brought to the attention of the audience.

To this end broadcasters shall satisfy themselves that they are in a position to be aware of the relevant interests of the personnel concerned, and to determine whether the interest concerned is of such extent as would warrant the withdrawal of any person from further involvement in the item or programme.

Guidance Note

A broadcaster's reputation for fairness, impartiality and objectivity is an important part of its relationship with its audience. Regular listeners and viewers have a right to trust the integrity of the news and current affairs content that they hear and expect that editorial decisions are not influenced by the outside activities or personal or commercial interests of programme makers or those who appear on air.

News and current affairs output may at any time deal with any issue, cause, organisation or individual and it will be to the detriment of audiences and broadcaster should there be doubts over the integrity and objectivity of editorial teams.

Conflicts of interest can arise for anyone who is responsible for news and current affairs content and relevant staff and their managers need to be conscious of this possibility. It is also important that broadcasters take appropriate measures to ensure, insofar as possible, that independent producers or freelance staff do not have any interests which could undermine the fairness, objectivity and impartiality of the output they produce for the broadcasters.

The nature of the conflict and the appropriate response by the broadcaster to the conflict will vary depending on the nature of the conflict and the news and current affairs item to be covered. Accordingly, a list of the categories of conflicts is not provided in the guidance. Broadcasters and programme makers are best placed to make a determination on this matter in terms of day to day programming.

The rules under this heading are not intended to preclude outside activities, rather, they require broadcasters to actively manage the potential for conflicts and to take appropriate steps to ensure that outside activities and interests are managed.

In the context of a complaint, broadcasters are expected to be in a position to demonstrate that steps have been taken to monitor and handle any potential conflicts of interest.

Election & Referendum Coverage

- 27.** Coverage of an election or a referendum shall comply with guidelines and codes of practice issued from time to time by the BAI.

Guidance Notes

Prior to the development of the Code of Fairness, Impartiality and Objectivity, the BAI had in place a Broadcasting Code on Referenda and Election Coverage. On the implementation date of this Code, July 1st 2013, there will be a requirement for broadcasters to adhere to guidelines and codes of practice issued by the BAI from time to time in relation to election or referendum coverage.

These guidelines will be issued in advance of a forthcoming election or referendum and will include guidance on the application of the requirement for fair, objective and impartial news and current affairs in the context of an election or referendum. Guidance on the implementation of a moratorium, the allocation of airtime and on the use of party political will also be provided.

Legal Requirements and Guidance

- 28.** Broadcasters and programme makers shall adhere to all legislative requirements when sourcing, compiling, producing and presenting news and current affairs content.
- 29.** Broadcasters shall have due regard to guidance issued in respect of this Code.

Guidance Note

Whereas broadcasters are not required to comply with the Guidance Notes provided in this Code, there is a requirement to have due regard to them in arriving at decisions in respect of the compilation and production of news and current affairs content.