



ÚDARÁS  
CRAOLACHÁIN  
NA hÉIREANN

BROADCASTING  
AUTHORITY  
OF IRELAND

**Broadcasting Authority of Ireland  
Broadcasting Complaints Decisions**

**June 2018**



## Contents

|  |           |
|--|-----------|
| BAI Complaints Handling Process.....   | 4         |
| <b>Rejected by the Compliance Committee.....</b>   | <b>5</b>  |
| 03/18: Tweed Solicitors: RTÉ Radio 1: Liveline: 11 <sup>th</sup> November 2017 .....                   | 6         |
| 06/18: Mr. Oliver Nash: RTÉ One TV: The Late Late Show: 12 <sup>th</sup> January 2018. ....            | 8         |
| 08/18: Mr. Tim Downing: RTÉ One TV: The Late Late Show: 12 <sup>th</sup> January 2018.....             | 10        |
| 09/18: Mr. Andrew Keogh: RTÉ One TV: The Late Late Show: 12 <sup>th</sup> January 2018.....            | 12        |
| 10/18: Mr. Robert Farrell: RTÉ One TV: The Late Late Show: 12 <sup>th</sup> January 2018.....          | 14        |
| 11/18: Dr. Paul Corcoran: RTÉ One TV: The Late Late Show: 12 <sup>th</sup> January 2018 .....          | 16        |
| 12/18: Mrs. Joan Swift: RTÉ One TV: The Late Late Show: 12 <sup>th</sup> January 2018. ....            | 18        |
| 13/18: Ms. Kelly McCarthy: RTÉ One TV: The Late Late Show: 12 <sup>th</sup> January 2018.....          | 20        |
| <b>Rejected by the Executive Complaints Forum... ..</b>  | <b>22</b> |
| 100/17: Mr. Jarlath Flynn: RTÉ Radio 1: Drivetime: 15 <sup>th</sup> September 2017.....                | 23        |
| 101/17: Mr. Gerard Keating: Newstalk: High Noon: 21 <sup>st</sup> September 2017 .....                 | 25        |
| 102/17: Mr. C.J. Barber: RTÉ Radio 1: Liveline: 25 <sup>th</sup> September 2017.....                   | 27        |
| 103/17: Mr. David Hegarty: RTÉ Radio 1: Today with Seán O'Rourke: 20 <sup>th</sup> September 2017..... | 29        |
| 104/17: Mr. Brendan O'Regan: Newstalk: Between the Lines: 28 <sup>th</sup> October 2017.....           | 31        |
| 105/17: Mr. Brendan O'Regan: Newstalk: The Pat Kenny Show: 19 <sup>th</sup> October 2017.....          | 33        |
| 106/17: Mr. Brendan O'Regan: Newstalk: The Pat Kenny Show: 15 <sup>th</sup> November 2017.....         | 35        |



|  |    |
|--|----|
| 107/17: Mr. Patrick Flynn: RTÉ Radio 1: The Ray D'Arcy Show: 7 <sup>th</sup> November 2017. ....       | 37 |
| 108/17: Ms. Aoife Traynor: RTÉ Radio 1: The Marian Finucane Show: 11 <sup>th</sup> November 2017 ..... | 39 |
| 109/17: Mr. Declan O'Brien: RTÉ Radio 1: Liveline: 9 <sup>th</sup> November 2017 .....                 | 42 |
| 01/18: Mr. Con Lynch: RTÉ Two TV: Après Match of the Day: 13th November 2017.....                      | 44 |
| 02/18: Mr. Victor Feldman: RTÉ One TV: Claire Byrne Live: 20 <sup>th</sup> November 2017 .....         | 46 |
| 04/18: Mrs. Kerstin Voigt: Newstalk: Lunchtime Live: 5 <sup>th</sup> January 2018. ....                | 48 |
| 05/18: Mr. Paddy Hayes: RTÉ One TV: Claire Byrne Live: 27 <sup>th</sup> November 2017.....             | 50 |
| 22/18: Mr. Brian McGee: Newstalk: Lunchtime Live: 21 <sup>st</sup> February 2018. ....                 | 53 |
| 23/18: Mr. Jarlath Flynn: RTÉ One TV: Six One News: 28 <sup>th</sup> January 2018 .....                | 55 |



## **BAI Complaints Handling Process**

Under the Broadcasting Act 2009, viewers and listeners to Irish radio and television services can complain about broadcasting content which they believe is not in keeping with broadcasting codes and rules. When making a complaint, the relevant programme or commercial communication should be identified, including the date of broadcast and time. The complainant should explain what it is about the broadcast that has led them to make a complaint. It is important to set out clearly the grounds of the complaint and why the programme material or commercial content does not comply with the BAI's Broadcasting Codes. A copy of the codes may be found on the BAI's website: [www.bai.ie](http://www.bai.ie), by emailing [info@bai.ie](mailto:info@bai.ie) or by phoning the BAI on 01 644 1200.

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In line with the complaint process, the viewer or listener should direct their complaint to the broadcaster in the first instance and in the manner detailed in the broadcaster's Code of Practice for Handling Complaints, a document which each broadcaster has available on its website. If a viewer or listener is not satisfied with the response from the broadcaster or if the broadcaster does not respond within the timeframe provided for in their Code of Practice (usually 21 days), then the viewer or listener can refer the complaint to the BAI for consideration.

In assessing complaint referrals, the BAI will have regard to the relevant codes and rules, the written material submitted by the relevant parties, together with the broadcast material. Complaints are assessed at Executive level by the Executive Complaints Forum and/or by the Compliance Committee of the Authority. Further information may be found on the complaints handling section of the BAI's website: [www.bai.ie](http://www.bai.ie).

The details of the broadcasting complaints decisions reached by the BAI are set out in this document. The decisions deal with the issue of whether a programme or a commercial communication did or did not comply with the relevant legal requirements and the relevant broadcasting codes or rules. The decisions do not constitute endorsement or support for the views of either parties to the complaint nor will they address every aspect of a complaint submission. The BAI will not carry out a separate or independent assessment outside of the matters raised in the complaint.

In total, 8 complaints were considered by the Compliance Committee of the BAI and 8 were Rejected. In addition, 16 complaints were considered and rejected by the Executive Complaints Forum. The decisions of the Compliance Committee were reached at its meetings held on 7th March and 18th April 2018, while the decisions of the Executive Complaints Forum were reached at six meetings held from January 8th to April 13<sup>th</sup> 2018.



**Rejected by Compliance Committee**



**Complaint made by: Tweed Solicitors on behalf of OneLife Network Ltd & OneCoin Ltd.**  
**Ref. No. 03/18**

**Station:**  
RTÉ Radio 1

**Programme:**  
Liveline

**Date:**  
11 October 2017

**1. Programme**

The complaint concerns 'Liveline', an interview and phone-in chat show broadcast each weekday afternoon from 1.45pm to 3pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2.

**3. Complaint Summary**

The complaint concerns a phone-in discussion with a caller on his experiences with OneCoin. The complainants are of the view that the programme was not fair to their interests and the programme was not presented in a fair, objective and impartial manner. The complainants believe the content was in breach of the relevant requirements of the Broadcasting Act 2009, in breach of the broadcaster's own programme content standards and failed to have any or adequate regard to accepted journalistic norms. In this regard, the complainants submit that the broadcast contained numerous false and defamatory statements and allegations relating to the complainants which were not the subject of appropriate fact checking. The complainants contend that the broadcaster had regard to material which it knew or ought to have known, was false and likely to be untrue and it asserted the truth of the content in circumstances where it knew or ought reasonably to have known, the information was false.

The complainants state that they were contacted by the broadcaster two hours in advance of the broadcast. The complainants are of the view that the broadcaster failed to put the allegations subsequently made in the broadcast to the complainants to allow fair opportunity to respond and that the time period for a response was unreasonable.

The complainants state that they provided a response in writing to the broadcaster during the programme but the broadcaster failed to have regard to this response during the broadcast.

**4. Broadcaster Response**

The broadcaster states that it was approached by a listener to the programme who advised that he had invested in OneCoin and was then terminated by the company. The broadcaster states that it was satisfied the topic was of legitimate public interest, having spoken with the Financial Conduct Authority in London, the Financial Regulators in Austria and Germany and the City of London Police. The broadcaster notes it contacted the company by email three hours before broadcast and refutes the claim made by the complainants that only two questions were put to them in this email. The broadcaster contends that the correspondence was clear about the guest who was invited to speak on the programme and the context of the discussion.

The broadcaster noted that it received a response to its email through solicitors for the complainants but that it did not provide any information that was not already communicated in the programme. The broadcaster noted that their offer to have a company spokesperson on the programme was not taken up but remains open.



## **5. Decision of the Compliance Committee**

### **Reject (Majority)**

Having considered the broadcast and the submissions from the complainants and the broadcaster and having had regard to the relevant legislation and Code, the Compliance Committee decided to reject the complaint.

The reasons for this decision are set out below-

The Compliance Committee noted that broadcasts are required to be fair to all interests concerned and presented in an objective and impartial manner and in accordance with the principles set down in the BAI's news and current affairs code, namely, the principles of fairness; objectivity and impartiality; accuracy and responsiveness; and, transparency and accountability. The Committee also had regard to the requirement for contributors to be treated fairly and honestly and for content to be compiled, produced and presented in a manner which is and can be seen to be independent, unbiased and without prejudgement.

The complainants claimed that the programme included numerous false and defamatory statements and allegations relating to the complainants and the broadcaster had regard to material which it knew or ought to have known was false and likely to be untrue. However, the complaint did not include any specific examples of statements, allegations or information that was broadcast in the programme to support this claim. The Compliance Committee did not find any evidence, in this regard, of the programme content having contravened the requirements of the Code or relevant legislation.

In considering the email sent by the broadcaster to the complainants in advance of the broadcast, the Compliance Committee found that it was clear on the subject matter that would be covered by the programme segment, which was evidently broader than the two questions posed in the email. The Committee noted there is no requirement in the legislation or the Code for potential contributors to be provided with a comprehensive list of all questions to be asked in a programme in advance of broadcast.

The Committee was of the view that the primary purpose of the broadcaster's email was to put a request to the complainants for a spokesperson to respond to the issues that would be raised in the programme. The complainants engaged a representative to respond to the email and this was provided during the broadcast but was not referenced in the programme. The Committee found that this response did not deal with the issues raised by the broadcaster and did not address the request to put forward a spokesperson. The Compliance Committee did not view the content of the response as material to the programme and, therefore, there was no obligation for the broadcaster to take any further action in order to meet the requirements of the Code. On this basis, the Committee was satisfied that the contributors had been dealt with fairly and honestly and the programme had been fair to all interests concerned.

Based on the above, the Compliance Committee did not agree that the interview infringed the Code or the relevant legislation in the manner specified by the complainants. Accordingly, the complaint was rejected.



**Complaint made by: Dr. Oliver Nash**

**Ref. No. 06/18**

**Station:**  
RTÉ One

**Programme:**  
The Late Late Show

**Date:**  
12 January 2018

### **1. Programme**

The complaint refers to The Late Late Show, a light entertainment programme broadcast each Friday night from 9.35pm.

### **2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) (harm and offence); the BAI Code of Programme Standards - Principle 5 (Persons and Groups in Society).

### **3. Complaint Summary**

The complaint refers to a segment of the programme in which three panellists were invited to state what things they would “bin” for the New Year and one of the panellists nominated cyclists. The complainant is of the view that the way cyclists were discussed was offensive to cyclists and harmful to efforts to have a mature and constructive debate on cycling in Ireland as well as being harmful to efforts for road safety, improving the environment and public health. To support this view, the complainant pointed to examples in the content of the programme panellists comparing cyclists to animals, describing cyclist behaviour as calculated deliberately to “piss people off” and expressing the view that only bicycles with children required a safe space when overtaking in a car. The complainant also noted that the presenter inferred that there was something wrong with cycling two abreast when he posed the question “arrogant cyclists, three or two abreast; are we throwing them in the bin?”.

### **4. Broadcaster Response**

The broadcaster states that this was a comedic and light-hearted segment in which guests were asked to nominate their ‘pet hates’ and this editorial context was made clear to the audience. One of the panellists wished to put “arrogant cyclists” into the bin and her primary concern was “three or four cyclists abreast on a country road”.

The broadcaster is of the view that the main editorial goal was to amuse the audience, partly through comic exaggeration, and the segment was not a serious discussion on road use or traffic safety nor was it meant to reflect a position of the broadcaster or the show on the issue of cycling safety in general.

The broadcaster noted that the comparison of cyclists with farm animals was in the context of cyclists three or four abreast blocking the roads. The broadcaster regrets the presenter’s error in referring to cyclists *two* abreast and acknowledges that this practice is not illegal. The broadcaster refutes the claim made in the complaint that one of the panellists inferred that cyclists should not be treated with consideration. The broadcaster maintains that none of the panellists condemned all cyclists nor was there any encouragement to cause harm to cyclists.

### **5. Decision of the Compliance Committee**

#### **Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainants and the broadcaster and having had regard to the relevant legislation and Code, the Compliance Committee decided to reject the complaint.



The reasons for this decision are set out below -

The Committee had regard to the context and the format of the programme. The members noted The Late Late Show is a light entertainment programme. The complaint relates to a segment of the programme in which the panel of guests propose things that annoy them to be 'binned'. One panellist chose to nominate cyclists who cycle three or four abreast. Panellists were asked for personal views about things they find annoying and it was in this context which the comments were made. The members were of the view that the tone of the segment was humorous and light-hearted, with a focus on cyclists who demonstrate particular behaviours. The Members did not believe that the discussion could be reasonably considered as supporting discrimination or inciting hatred towards cyclists. Matters related to road traffic regulations were not deemed pertinent in this context.

The Committee was mindful of the provision set out in the Code of Programme Standards, in which persons and groups in society shall be represented in an appropriate and justifiable way and shall not be treated in a manner which prejudices respect for human dignity. The Members noted that Principle 5 has specific regard for the fact that certain individuals or groups may be considered as vulnerable and, as such, may require additional protection from discrimination. It was the opinion of the Committee that the complaint, as submitted, did not adequately demonstrate that cyclists should be considered as a vulnerable group and did not, therefore, warrant the additional protection provided for in Principle 5 of the Code.

Based on the above, the Compliance Committee did not believe that the broadcast infringed the Code or the relevant legislation in the manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Dr. Tim Downing**

**Ref. No. 08/18**

**Station:**

RTÉ One

The Late Late Show

**Date:**

12 January 2018

**1. Programme**

The complaint refers to The Late Late Show, a light entertainment programme broadcast each Friday night from 9.35pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) (harm and offence); the BAI Code of Programme Standards - Principle 5 (Persons and Groups in Society).

**3. Complaint Summary**

The complaint refers to a segment of the programme in which three panellists were invited to state what things they would “bin” for the New Year and one of the panellists nominated cyclists. The complainant claims that the programme promoted mistaken myths against cyclists and the programme presenter encouraged and magnified this “hate-speech”, aimed at dehumanising people who cycle. The complainant claims that cyclists were referred to as simply “blocking the roads”, as sheep, cows, farm animals and as arrogant. The complainant believes that this segment of the programme was offensive to people who cycle and would promote violence and aggression against cyclists.

**4. Broadcaster Response**

The broadcaster states that this was a comedic and light-hearted segment in which guests were asked to nominate their ‘pet hates’ and this editorial context was made clear to the audience. One of the panellists wished to put “arrogant cyclists” into the bin and her primary concern was “three or four cyclists abreast on a country road”.

The broadcaster is of the view that the main editorial goal was to amuse the audience, partly through comic exaggeration, and the segment was not a serious discussion on road use or traffic safety nor was it meant to reflect a position of the broadcaster or the show on the issue of cycling safety in general.

The broadcaster noted that the comparison of cyclists with farm animals was in the context of cyclists three or four abreast blocking the roads. The broadcaster regrets the presenter’s error in referring to cyclists *two* abreast and acknowledges that this practice is not illegal. The broadcaster refutes the claim made in the complaint that one of the panellists inferred that cyclists should not be treated with consideration. The broadcaster maintains that none of the panellists condemned all cyclists nor was there any encouragement to cause harm to cyclists.

**5. Decision of the Compliance Committee  
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainants and the broadcaster and having had regard to the relevant legislation and Code, the Compliance Committee decided to reject the complaint.

The reasons for this decision are set out below -

The Committee had regard to the context and the format of the programme. The members noted The Late Late Show is a light entertainment programme. The complaint relates to a segment of the



programme in which the panel of guests propose things that annoy them to be 'binned'. One panellist chose to nominate cyclists who cycle three or four abreast. Panellists were asked for personal views about things they find annoying and it was in this context which the comments were made. The members were of the view that the tone of the segment was humorous and light-hearted, with a focus on cyclists who demonstrate particular behaviours. The Members did not believe that the discussion could be reasonably considered as supporting discrimination or inciting hatred towards cyclists.

The Committee was mindful of the provision set out in the Code of Programme Standards, in which persons and groups in society shall be represented in an appropriate and justifiable way and shall not be treated in a manner which prejudices respect for human dignity. The Members noted that Principle 5 has specific regard for the fact that certain individuals or groups may be considered as vulnerable and, as such, may require additional protection from discrimination. It was the opinion of the Committee that the complaint, as submitted, did not adequately demonstrate that cyclists should be considered as a vulnerable group and did not, therefore, warrant the additional protection provided for in Principle 5 of the Code.

Based on the above, the Compliance Committee did not believe that the broadcast infringed the Code or the relevant legislation in the manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Andrew Keogh**

**Ref. No. 09/18**

|                            |   |                                 |
|----------------------------|---|---------------------------------|
| <b>Station:</b><br>RTÉ One | <b>Programme:</b><br>The Late Late Show | <b>Date:</b><br>12 January 2018 |
|----------------------------|---|---------------------------------|

**1. Programme**

The complaint refers the Late Late Show, a light entertainment programme broadcast each Friday night from 9.35pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) (harm and offence); the BAI Code of Programme Standards - Principle 5 (Persons and Groups in Society).

**3. Complaint Summary**

The complaint refers to a segment of the programme in which three panellists were invited to state what things they would “bin” for the New Year and one of the panellists nominated cyclists. The complainant claims that the comments in the programme referring to “arrogant cyclists” and those cycling side by side, while meant to be light-hearted, could encourage frustration and anger against vulnerable road users, which is dangerous and irresponsible.

**4. Broadcaster Response**

The broadcaster states that this was a comedic and light-hearted segment in which guests were asked to nominate their ‘pet hates’ and this editorial context was made clear to the audience. One of the panellists wished to put “arrogant cyclists” into the bin and her primary concern was “three or four cyclists abreast on a country road”.

The broadcaster is of the view that the main editorial goal was to amuse the audience, partly through comic exaggeration, and the segment was not a serious discussion on road use or traffic safety nor was it meant to reflect a position of the broadcaster or the show on the issue of cycling safety in general.

The broadcaster regrets the presenter’s error in referring to cyclists *two* abreast and acknowledges that this practice is not illegal. The broadcaster maintains that none of the panellists condemned all cyclists nor was there any encouragement to cause harm to cyclists.

**5. Decision of the Compliance Committee  
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainants and the broadcaster and having had regard to the relevant legislation and Code, the Compliance Committee decided to reject the complaint. .

The reasons for this decision are set out below -

The Committee had regard to the context and the format of the programme. The members noted The Late Late Show is a light entertainment programme. The complaint relates to a segment of the programme in which the panel of guests propose things that annoy them to be ‘binned’. One panellist chose to nominate cyclists who cycle three or four abreast. Panellists were asked for personal views about things they find annoying and it was in this context which the comments were made. The members were of the view that the tone of the segment was humorous and light-hearted, with a focus



on cyclists who demonstrate particular behaviours. The Members did not believe that the discussion could be reasonably considered as supporting discrimination or inciting hatred towards cyclists.

The Committee was mindful of the provision set out in the Code of Programme Standards, in which persons and groups in society shall be represented in an appropriate and justifiable way and shall not be treated in a manner which prejudices respect for human dignity. The Members noted that Principle 5 has specific regard for the fact that certain individuals or groups may be considered as vulnerable and, as such, may require additional protection from discrimination. It was the opinion of the Committee that the complaint, as submitted, did not adequately demonstrate that cyclists should be considered as a vulnerable group and did not, therefore, warrant the additional protection provided for in Principle 5 of the Code.

Based on the above, the Compliance Committee did not believe that the broadcast infringed the Code or the relevant legislation in the manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Robert Farrell**

**Ref. No. 10/18**

**Station:**  
RTÉ One

**Programme:**  
The Late Late Show

**Date:**  
12 January 2018

### **1. Programme**

The complaint refers to The Late Late Show, a light entertainment programme broadcast each Friday night from 9.35pm.

### **2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) (harm and offence); the BAI Code of Programme Standards - Principle 5 (Persons and Groups in Society).

### **3. Complaint Summary**

The complaint refers to a segment of the programme in which three panellists were invited to state what things they would “bin” for the New Year and one of the panellists nominated cyclists. In this context, the complainant states that one of the panellists referred to “arrogant cyclists”. The complainant believes that people who cycle are already vulnerable to bad driving and even worse attitudes and believes this item encouraged the vilification of cyclists.

### **4. Broadcaster Response**

The broadcaster states that this was a comedic and light-hearted segment in which guests were asked to nominate their ‘pet hates’ and this editorial context was made clear to the audience. One of the panellists wished to put “arrogant cyclists” into the bin and her primary concern was “three or four cyclists abreast on a country road”.

The broadcaster is of the view that the main editorial goal was to amuse the audience, partly through comic exaggeration, and the segment was not a serious discussion on road use or traffic safety nor was it meant to reflect a position of the broadcaster or the show on the issue of cycling safety in general.

The broadcaster regrets the presenter’s error in referring to cyclists *two* abreast and acknowledges that this practice is not illegal. The broadcaster refutes the claim made in the complaint that one of the panellists inferred that cyclists should not be treated with consideration. The broadcaster maintains that none of the panellists condemned all cyclists nor was there any encouragement to cause harm to cyclists.

### **5. Decision of the Compliance Committee Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainants and the broadcaster and having had regard to the relevant legislation and Code, the Compliance Committee decided to reject the complaint.

The reasons for this decision are set out below -

The Committee had regard to the context and the format of the programme. The members noted The Late Late Show is a light entertainment programme. The complaint relates to a segment of the programme in which the panel of guests propose things that annoy them to be ‘binned’. One panellist chose to nominate cyclists who cycle three or four abreast. Panellists were asked for personal views about things they find annoying and it was in this context which the comments were made. The



members were of the view that the tone of the segment was humorous and light-hearted, with a focus on cyclists who demonstrate particular behaviours. The Members did not believe that the discussion could be reasonably considered as supporting discrimination or inciting hatred towards cyclists.

The Committee was mindful of the provision set out in the Code of Programme Standards, in which persons and groups in society shall be represented in an appropriate and justifiable way and shall not be treated in a manner which prejudices respect for human dignity. The Members noted that Principle 5 has specific regard for the fact that certain individuals or groups may be considered as vulnerable and, as such, may require additional protection from discrimination. It was the opinion of the Committee that the complaint, as submitted, did not adequately demonstrate that cyclists should be considered as a vulnerable group and did not, therefore, warrant the additional protection provided for in Principle 5 of the Code.

Based on the above, the Compliance Committee did not believe that the broadcast infringed the Code or the relevant legislation in the manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Dr. Paul Corcoran (Dublin Cycling Campaign)**

**Ref. No. 11/18**

**Station:**  
RTÉ One

**Programme:**  
The Late Late Show

**Date:**  
12 January 2018

### **1. Programme**

The complaint refers to The Late Late Show, a light entertainment programme broadcast each Friday night from 9.35pm.

### **2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) Harm and Offence; the BAI Code of Programme Standards - Principle 5: Persons and Groups in Society

### **3. Complaint Summary**

The complaint refers to a segment of the programme in which three panellists were invited to state what things they would “bin” for the New Year and one of the panellists nominated “arrogant cyclists”. The complainant is of the view that the following elements of the programme could be seen as inciting prejudice or hatred toward people who cycle:

- The suggestion that cyclists deliberately block people in vehicles behind them;
- The comparison of cyclists with farm animals;
- A story from one of the panellists inferring that people cycling without children are less deserving of space and respect;
- The presenter posing a question that implied cycling two abreast is not allowed or is illegal; and,
- The symbolic act of throwing a cycling helmet into a rubbish bin.

### **4. Broadcaster Response**

The broadcaster states that this was a comedic and light-hearted segment in which guests were asked to nominate their ‘pet hates’ and this editorial context was made clear to the audience. One of the panellists wished to put “arrogant cyclists” into the bin and her primary concern was “three or four cyclists abreast on a country road”.

The broadcaster is of the view that the main editorial goal was to amuse the audience, partly through comic exaggeration, and the segment was not a serious discussion on road use or traffic safety nor was it meant to reflect a position of the broadcaster or the show on the issue of cycling safety in general.

The broadcaster noted that the comparison of cyclists with farm animals was in the context of cyclists three or four abreast blocking the roads. The broadcaster regrets the presenter’s error in referring to cyclists *two* abreast and acknowledges that this practice is not illegal. The broadcaster refutes the claim made in the complaint that one of the panellists inferred that cyclists should not be treated with consideration. The broadcaster maintains that none of the panellists condemned all cyclists nor was there any encouragement to cause harm to cyclists. The broadcaster is also of the view that the cycling helmet, which was put into the “bin”, represented “arrogant” cyclists who cycle in an illegal manner and did not represent all cyclists.



## **5. Decision of the Compliance Committee Reject (Unanimous)**

Having considered the broadcast, the submissions and having regard the Broadcasting Act, 2009 - Section 48(1)(b) Harm and Offence, the BAI Code of Programme Standards, Principle 5, Persons and Groups in Society, the Committee decided to reject the complaint.

The reasons for this decision are set out below -

The Committee had regard to the context and the format of the programme. The members noted The Late Late Show is a light entertainment programme. The complaint relates to a segment of the programme in which the panel of guests propose things that annoy them to be 'binned'. One panellist chose to nominate cyclists who cycle three or four abreast. Panellists were asked for personal views about things they find annoying and it was in this context which the comments were made. The members were of the view that the tone of the segment was humorous and light-hearted, with a focus on cyclists who demonstrate particular behaviours. The Members did not believe that the discussion could be reasonably considered as supporting discrimination or inciting hatred towards cyclists. Matters related to road traffic regulations were not deemed pertinent in this context.

The Committee was mindful of the provision set out in the Code of Programme Standards, in which persons and groups in society shall be represented in an appropriate and justifiable way and shall not be treated in a manner which prejudices respect for human dignity. The Members noted that Principle 5 has specific regard for the fact that certain individuals or groups may be considered as vulnerable and, as such, may require additional protection from discrimination. It was the opinion of the Committee that the complaint, as submitted, did not adequately demonstrate that cyclists should be considered as a vulnerable group and did not, therefore, warrant the additional protection provided for in Principle 5 of the Code.

Based on the above, the Compliance Committee did not believe that the broadcast infringed the Code or the relevant legislation in the manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mrs. Joan Swift**

**Ref. No. 12/18**

**Station:**  
RTÉ One

**Programme:**  
The Late Late Show

**Date:**  
12 January 2018

### **1. Programme**

The complaint refers to The Late Late Show, a light entertainment programme broadcast each Friday night from 9.35pm.

### **2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) (harm and offence; the BAI Code of Programme Standards - Principle 5, Persons and Groups in Society).

### **3. Complaint Summary**

The complaint refers to a segment of the programme in which three panellists were invited to state what things they would “bin” for the New Year and one of the panellists nominated “arrogant cyclists”. The complainant maintains that the content, particularly the presenter’s tone and inference that cycling two abreast is not legal and safe, was harmful to cyclists.

### **4. Broadcaster Responses**

The broadcaster states that this was a comedic and light-hearted segment in which guests were asked to nominate their ‘pet hates’ and this editorial context was made clear to the audience. One of the panellists wished to put “arrogant cyclists” into the bin and her primary concern was “three or four cyclists abreast on a country road”.

The broadcaster is of the view that the main editorial goal was to amuse the audience, partly through comic exaggeration, and the segment was not a serious discussion on road use or traffic safety nor was it meant to reflect a position of the broadcaster or the show on the issue of cycling safety in general.

The broadcaster regrets the presenter’s error in referring to cyclists *two* abreast and acknowledges that this practice is not illegal. The broadcaster maintains that none of the panellists condemned all cyclists nor was there any encouragement to cause harm to cyclists.

### **5. Decision of the Compliance Committee Reject (Unanimous)**

Having considered the broadcast, the submissions and having regard the Broadcasting Act, 2009 - Section 48(1)(b) Harm and Offence, the BAI Code of Programme Standards, Principle 5 - Persons and Groups in Society, the Committee decided to reject the complaint.

The reasons for this decision are set out below -

The Committee had regard to the context and the format of the programme. The members noted The Late Late Show is a light entertainment programme. The complaint relates to a segment of the programme in which the panel of guests propose things that annoy them to be ‘binned’. One panellist chose to nominate cyclists who cycle three or four abreast. Panellists were asked for personal views about things they find annoying and it was in this context which the comments were made. The members were of the view that the tone of the segment was humorous and light-hearted, with a focus on cyclists who demonstrate particular behaviours. The Members did not believe that the discussion



could be reasonably considered as supporting discrimination or inciting hatred towards cyclists. Matters related to road traffic regulations were not deemed pertinent in this context.

The Committee was mindful of the provision set out in the Code of Programme Standards, in which persons and groups in society shall be represented in an appropriate and justifiable way and shall not be treated in a manner which prejudices respect for human dignity. The Members noted that Principle 5 has specific regard for the fact that certain individuals or groups may be considered as vulnerable and, as such, may require additional protection from discrimination. It was the opinion of the Committee that the complaint, as submitted, did not adequately demonstrate that cyclists should be considered as a vulnerable group and did not, therefore, warrant the additional protection provided for in Principle 5 of the Code.

Based on the above, the Compliance Committee did not believe that the broadcast infringed the Code or the relevant legislation in the manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Ms. Kelly McCarthy**

**Ref. No. 13/18**

**Station:**  
RTÉ One

**Programme:**  
The Late Late Show

**Date:**  
12 January 2018

### **1. Programme**

The complaint refers to The Late Late Show, a light entertainment programme broadcast each Friday night from 9.35pm.

### **2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) (harm and offence); the BAI Code of Programme Standards - Principle 5 (Persons and Groups in Society).

### **3. Complaint Summary**

The complaint refers to a segment of the programme in which three panellists were invited to state what things they would “bin” for the New Year and one of the panellists nominated “arrogant cyclists”. The complainant maintains that the views expressed by the panellists and the presenter amplified an “anti-cyclists mob mentality” which may put cyclists at further harm from aggressive motorists feeling validated by such views. The complainant suggests the following elements of the programme contributed to this:

- The suggestion that cyclists deliberately block cars;
- The comparison of cyclists with farm animals;
- A suggestion from one of the panellists that people cycling without children are less deserving of space on the road;
- The presenter implying that cycling two abreast is not acceptable or is illegal; and,
- The act of throwing a cycling helmet into a bin.

### **4. Broadcaster Response**

The broadcaster states that this was a comedic and light-hearted segment in which guests were asked to nominate their ‘pet hates’ and this editorial context was made clear to the audience. One of the panellists wished to put “arrogant cyclists” into the bin and her primary concern was “three or four cyclists abreast on a country road”.

The broadcaster is of the view that the main editorial goal was to amuse the audience, partly through comic exaggeration, and the segment was not a serious discussion on road use or traffic safety nor was it meant to reflect a position of the broadcaster or the show on the issue of cycling safety in general.

The broadcaster noted that the comparison of cyclists with farm animals was in the context of cyclists three or four abreast blocking the roads. The broadcaster regrets the presenter’s error in referring to cyclists *two* abreast and acknowledges that this practice is not illegal. The broadcaster refutes the claim made in the complaint that one of the panellists inferred that cyclists should not be treated with consideration. The broadcaster maintains that none of the panellists condemned all cyclists nor was there any encouragement to cause harm to cyclists.



## **5. Decision of the Compliance Committee Reject (Unanimous)**

Having considered the broadcast, the submissions and having regard to Broadcasting Act 2009 - Section 48(1)(b) Harm and Offence, the BAI Code of Programme Standards - Principle 5, Persons and Groups in Society, the Committee decided to reject the complaint.

The reasons for this decision are set out below -

The Committee had regard to the context and the format of the programme. The members noted The Late Late Show is a light entertainment programme. The complaint relates to a segment of the programme in which the panel of guests propose things that annoy them to be 'binned'. One panellist chose to nominate cyclists who cycle three or four abreast. Panellists were asked for personal views about things they find annoying and it was in this context which the comments were made. The members were of the view that the tone of the segment was humorous and light-hearted, with a focus on cyclists who demonstrate particular behaviours. The Members did not believe that the discussion could be reasonably considered as supporting discrimination or inciting hatred towards cyclists.

The Committee was mindful of the provision set out in the Code of Programme Standards, in which persons and groups in society shall be represented in an appropriate and justifiable way and shall not be treated in a manner which prejudices respect for human dignity. The Members noted that Principle 5 has specific regard for the fact that certain individuals or groups may be considered as vulnerable and, as such, may require additional protection from discrimination. It was the opinion of the Committee that the complaint, as submitted, did not adequately demonstrate that cyclists should be considered as a vulnerable group and did not, therefore, warrant the additional protection provided for in Principle 5 of the Code.

Based on the above, the Compliance Committee did not believe that the broadcast infringed the Code or the relevant legislation in the manner specified by the complainant. Accordingly, the complaint was rejected.



**Rejected by Executive Complaints Forum**



**Complaint made by: Mr. Jarlath Flynn**

**Ref. No. 100/17**

**Station:**

RTÉ Radio 1

**Programme:**

Drivetime

**Date:**

15 September 2017

The complaint concerns 'Drivetime', which is a news and current affairs programme broadcast each weekday evening from 4.30pm to 7pm.

**1. Complaint Category**

Broadcasting Act 2009, Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity & Impartiality in News and Current Affairs, section 4: rules 4.1, 4.2 and 4.17

**2. Complaint Summary**

The programme included a discussion on the 8th Amendment to the Constitution and a reporter referred to it as "the Eighth or the abortion amendment" when speaking of the anticipated referendum on this amendment. The complainant is of the view that the phrase "abortion amendment" is inaccurate and "a propagandist distortion of the truth" that gives the appearance of the 8th Amendment restricting or denying a right to a person. As such, the complainant believes the use of this phrase amounted to a contravention of the principles and standards of accuracy in the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

**3. Broadcaster Response**

The broadcaster refutes the complainant's claim that the use of the phrase "abortion amendment" as a short-hand reference to the 8th Amendment to the Constitution is inaccurate, "propagandist" or evidence of an expression of editorial opinion. The broadcaster refers to the political context in which the 8th Amendment was introduced in which the Pro-Life Amendment Campaign and the Government parties of the time intended it to secure a constitutional ban on abortion. As such, the broadcaster does not believe the phrase "abortion amendment" is inaccurate or constitutes an infringement of the Code.

**4. Decision of the Executive Complaints Forum  
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint.

The Forum's views and basis for the decision are set out below-



The Forum noted that the use of the term "abortion amendment" by the presenter was a reference to an anticipated referendum on the 8th Amendment to the Constitution. The Forum was of the view that the term was used for identification purposes, to distinguish between the various upcoming referenda, and listeners to the programme would be aware of what the presenter was referring to. The Forum found no evidence that this term would mislead the audience or that it contained any inherent bias. The use of this language, in the context of the programme, did not amount to a lack or absence of fairness, objectivity or impartiality.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Codes in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Gerard Keating**

**Ref. No. 101/17**

**Station:**

Newstalk

**Programme:**

High Noon

**Date:**

21 September 2017

**1. Programme**

The complaint concerns 'High Noon', which is a current affairs/magazine style programme broadcast daily from 12 noon to 2pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2.

**3. Complaint Summary**

The complaint concerns an interview conducted by Dr. Ciara Kelly with dietician, Aoife Hearne, on health supplements and superfoods. The complainant is of the view that the interview included a number of factual inaccuracies, unsubstantiated claims and omissions of fact by the interviewee that were not adequately challenged or corrected by the presenter. For example, claims of a lack of regulation of food supplements, the advice given in relation to food substitutes for supplements, claims made in relation to potential contamination of food supplements and claims made in relation to the lack of benefits from taking supplements. The complainant also believes that the interview included leading questions that, when taken with the rest of the interview, resulted in a biased, one-sided programme that amounted to an attack on the food supplement sector and could seriously mislead the public with "damaging" misinformation.

**4. Broadcaster Response**

The broadcaster noted the programme is a human interest/lifestyle and magazine format programme and the interview was a 'personal view' or 'authored' segment. The broadcaster further noted the context of the interview, that it was introduced on foot of a recent newspaper article regarding bacteria found in food supplements and the interviewee was asked to discuss a NUIG study covered in that day's news which found the presence of faecal bacteria and antibiotic resistant bacteria in samples of algae-based superfoods. The interview then extended to cover the interviewees views on superfoods and food supplements.

The broadcaster contends that the interviewee's view is that people should mostly be able to satisfy their nutritional requirements by eating food and that superfoods are a fad. The broadcaster does not agree with the complainant that she attacked the food supplement industry



or advised people not to take food supplements, but rather she acknowledged the advantages of food supplements for some groups of people in society, e.g. pregnant women. The broadcaster refutes the complainant's claim that the interviewee's advice on food substitutes for supplements included any inaccuracies or was misleading to the public. The broadcaster also notes that the interviewee's points on bacterial contamination of supplements was on foot of the NUIG study which raised this issue in the research undertaken.

The broadcaster disputes the claim that the programme contained information that was incorrect and inaccurate and believes that the production, reporting and questioning was credible, trustworthy and editorially independent and compliant with BAI codes.

#### **5. Decision of the Executive Complaints Forum Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint.

The Forum's views and basis for the decision are set out below-

The Forum had regard to the type of programme and the context of the interview; this was a topical, magazine style programme that included an interview with a professional dietician on superfoods and food supplements in the context of a current news item on a related research study. The interview took place at the National Ploughing Championships, where the topic of food and related matters would be of interest to attendees and listeners. The Forum noted the topic was current because the research was mentioned in a news item but it is not, in and of itself, the subject of current public controversy and debate. In that context, the editorial approach was to examine the subject through an expert interview and it was not a current affairs-style report.

The research findings were raised in the programme and the interviewee was invited for her opinions on it, which included relevant commentary on the contamination of food supplements. The discussion then extended to her expert views on a range of related matters in the area of nutrition and health and the use of supplements. The Forum noted the interviewee's comments on the lack of regulation of food supplements was in comparison to medicinal products and she acknowledged that some people require and benefit from taking food supplements. The Forum did not agree that the questions posed by the presenter or the views expressed by the interviewee amounted to an attack on the food supplement sector or that the programme demonstrated bias against that sector. The Forum did not agree that the views expressed by the interviewee amounted to disseminating damaging misinformation to the public. On this basis, the Forum did not find evidence in the content of a lack of fairness, objectivity or impartiality.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Codes in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. C. J. Barber**

**Ref. No. 102/17**

**Station:**

RTÉ Radio 1

**Programme:**

Liveline

**Date:**

25<sup>th</sup> September 2017

**1. Programme**

The complaint concerns 'Liveline', an interview and phone-in chat show broadcast each weekday afternoon from 1.45 pm to 3pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 and 4.2.

**3. Complaint Summary**

The complaint concerns a one-hour discussion pertaining to alleged human rights abuses that arise from the Israel/Palestine conflict. Mr. Mike Murphy introduced the segment by recounting his experiences and observations from his recent visit to Palestine and this was followed by a discussion with other contributors to the programme.

The complainant argues that the time allocation, moderation and presentation style of the discussion demonstrated an underlying bias in favour of Mr. Murphy's views and led to a one-sided discussion and distorted debate. The complainant believes the time allocated to the discussion was weighted in favour of a "pro-Palestinian" position and the tenor and nature of the questions and the manner in which each side was treated by the presenter demonstrated bias. The complainant notes that those who advocated the "pro-Israeli" position were not given the same opportunities to express their views uninterrupted by the presenter. On this basis, the complainant is of the view that the programme contravened the rules in relation to fairness, objectivity and impartiality.

**4. Broadcaster Response**

The broadcaster noted that Mr. Murphy and Mr. McColgan were given time to tell their personal, first hand, eyewitness accounts of trips to Israel/Palestine. The main points of debate were the eye witness testimony, primarily of Mr. Murphy, gleaned from places such as airport arrivals and border checkpoints. The broadcaster further notes that three callers were given the opportunity of offer perspectives additional to those given by the two eyewitnesses.



The broadcaster contends that the presenter interrupted as and when it was deemed necessary in order to keep contributors focused on the key points of the discussion. The broadcaster does not believe that these interruptions demonstrated bias in favour of or against one side or that there was anything in the presenter's manner that amounted to aiding one side of the debate. The broadcaster notes that the presenter did not articulate a partisan position.

The broadcaster observed, with reference to the BAI's Code, that the principle of fairness does not necessarily require that all possible opinions on a subject are addressed or that they should receive equal airtime.

#### **5. Decision of the Executive Complaints Forum Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint.

The Forum's views and basis for the decision are set out below-

The Forum noted that broadcasters are required to deal fairly with contributors, to facilitate a range of views and to ensure presenters do not express their own views such that a partisan position is advocated.

The Forum had regard to the type of programme and the context of the interview; this is a topical, caller-driven programme dealing with a range of issues. The programme included an interview with Mike Murphy, in the context of an article published in a national newspaper describing his personal experience when travelling in Israel and Palestine, and callers were then allowed to contribute their views. The Forum was of the view that this was a personal account by a well-known figure of his experience of what he witnessed when in Israel and Palestine and the segment was not a current affairs report or debate about the Israeli/Palestinian conflict.

The content centered on the interviewee's personal experience and the Forum found that the interventions by the presenter generally entailed bringing the focus of the conversation back to this personal account as opposed to focusing on wider geo-political matters. The Forum found that the presenter's questions and comments were appropriate in this context and there was no evidence in the content of presenter bias or the presenter expressing his own views or advocating a partisan position. In considering the complainant's concerns about the time allocated to different contributors, the Forum noted that the principle of fairness does not necessarily require that all possible opinions on a subject are addressed or that different viewpoints receive equal air-time.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. David Hegarty**

**Ref. No. 103/17**

**Station:**

RTÉ Radio 1

**Programme:**

Today with Seán O'Rourke

**Date:**

20<sup>th</sup> September 2017

**1. Programme**

The complaint concerns 'Today with Sean O'Rourke', which is a mid-morning current affairs magazine with the stories of the day, analysis, sports coverage, in-depth features and consumer interest. The programme is broadcast each weekday morning from 10am to 12 noon.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1, 4.2, 4.19 and 4.22. Broadcasting Act 2009 - Section 48(1)(b) (harm & offence); the BAI Code of Programme Standards - Principle 5 (Persons and Groups in Society) and Principle 6 (Protection of the Public Interest).

**3. Complaint Summary**

The complaint concerns an interview with Dr. Keelin O'Donoghue of the UCC Infant Centre and the parent of a baby diagnosed with anencephaly. The complainant believes the presenter of the programme demonstrated bias by not stating that the baby in the womb is a patient too, by leaving the doctor to make reference to "termination of the pregnancy" and by not challenging the interviewee on her view that the Citizens Assembly had done "valuable work".

**4. Broadcaster Response**

The broadcaster noted the editorial focus of the broadcast was on the experience from the point of view of parent and doctor of a diagnosis of anencephaly leading to stillbirth, in the context of the International Stillbirth Alliance Annual Conference due to take place later that week. In the course of the interview, the doctor was asked about the options available to parents in such situations. The broadcaster is of the view that the question put to the interviewee and the language used was impartial. The broadcaster further notes that the editorial perspective of the item was neither the broad subject of pregnancy termination nor the conclusions or nature of the Citizens' Assembly and there was no expression of the presenter's own views. On this basis, the broadcaster believes the content did not infringe on the Code of Fairness, Objectivity and Impartiality.



The broadcaster is of the view that there was no reference in the complaint to material that contravened the Code of Programme Standards and there is no basis to uphold the complaint under this Code.

**5. Decision of the Executive Complaints Forum  
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Codes, the Forum decided to reject the complaint.

The Forum's views and basis for the decision are set out below-

The Forum noted that the topic of the programme was stillbirth and the editorial approach was to look at this subject through interviews with a parent who had experience of stillbirth and a medical doctor. This was topical because there was a related conference on the subject due later that week. During the course of the interviews, the issues of termination and the work of the Citizens' Assembly on the 8th Amendment to the Constitution arose, however, the programme was not a current affairs report or interview on these matters. In this context, the nature of the questions posed by the presenter and the language used was appropriate to the subject matter and the selected interviewees. The Forum also found no evidence in the content of presenter bias or the presenter expressing her own views or advocating a partisan position.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Codes in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Brendan O'Regan**

**Ref. No. 104/17**

**Station:**

Newstalk

**Programme:**

Between the Lines

**Date:**

28<sup>th</sup> October 2017

**1. Programme**

The complaint refers to an interview on Between the Lines, a lifestyle and current affairs programme broadcast on Saturday mornings from 8am – 9am.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality - Rules 4.1, 4.2, 4.3 and 4.22.

**3. Complaint Summary**

The complainant believes the programme did not meet the standards of fairness, objectivity and impartiality in the Code because all of the people on the panel were "negative" to the 8th Amendment, pro-life and pro-8th perspectives were absent from the discussions and the presenter did not sufficiently question or challenge the contributors or facilitate the inclusion of opposing views.

**4. Broadcaster Response**

The broadcaster notes that the programme was not a debate on the 8th Amendment but a discussion about the details and significance of Savita Halappanavar's death from a political, medical and legislative perspective. The guests were chosen with this in mind and included the Minister for Justice at the time, Alan Shatter, and the medical expert who led the HSE inquiry into her death, Dr. Kumaran.

The broadcaster is of the view that the interview with Mr. Shatter was largely focussed on the politics of the issues and was not a pro-life versus pro-choice debate. The presenter challenged the interviewee on his view that Savita's death was due to the 8th Amendment and did not express any views or adopt a partisan position. The interview with Dr. Kumaran largely concerned the investigation he conducted into her death and the presenter put some appropriate and challenging questions to him. The final two guests were Alison O'Connor, journalist, and Fergus Finlay, CEO of Barnardos Children's Charity Ireland, who were both neutral on the issue of the 8th Amendment.

The broadcaster notes that the Code does not require the presence of a representative with opposing views on a topic and the presenter can ensure that a range of views are included. The



broadcaster is of the view that the presenter fulfilled this role and the programme was transparent, credible, fair, balanced and impartial.

**5. Decision of the Executive Complaints Forum  
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint.

The Forum's views and basis for the decision are set out below-

The Forum noted the context of the programme, the anniversary of Savita Halappanavar's death, and found the selection of contributors appropriate in this context. The Minister of Justice at that time and the medical professional who carried out an inquiry into her death were interviewed to get their perspectives having been personally involved in the case; they were not interviewed on the basis of their personal opinions on abortion or the 8th Amendment to the Constitution nor was the editorial approach a pro-choice versus pro-life debate on these issues. The other two contributors to the programme were providing their views and opinions on the issues of the day and were not selected solely on the basis of this particular segment or subject matter. The Forum found the questions posed by the presenter appropriate to the context of the programme and sufficient to provide fairness, objectivity and impartiality in dealing with the subject matter.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Brendan O'Regan**

**Ref. No. 105/17**

**Station:**

Newstalk

**Programme:**

The Pat Kenny Show

**Date:**

19<sup>th</sup> October 2017

**1. Programme**

The complaint refers to an interview on The Pat Kenny Show, a news and current affairs broadcast each weekday morning from 9am - 12 noon.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2, 4.3 and 4.22.

**3. Complaint Summary**

The complainant believes the programme did not meet the standards of fairness, objectivity and impartiality in the Code because the interviewee declared himself to be on the side of repealing the 8th Amendment and argued strongly in favour of it and the presenter's interviewing was facilitatory and supportive rather than questioning and challenging. The complainant believes this was demonstrated in the lack of challenge to the interviewee's use of the phrase "anti-choice" to describe those opposed to repeal and the use of the term "safe" in relation to abortion. The complainant was also of the view that the presenter did not sufficiently challenge the interviewee's reference to Dr. Kumaran's suggestion that everyone at the Oireachtas Committee was "abortionist".

**4. Broadcaster Response**

The complaint concerns an interview with Dr. Peter Boylan by Pat Kenny on the issue of the 8th Amendment to the Constitution.

The broadcaster notes that Dr. Peter Boylan was invited to take part in the programme in his role as Chairperson of the Institute of Obstetricians and Gynaecologists to outline the evidence he gave at the Oireachtas Committee on the 8th Amendment the previous day and to discuss his personal experience.

The broadcaster notes that the principle of fairness does not necessarily require addressing all possible opinions on a subject. The broadcaster is of the view that the interview was fair, balanced and impartial and that the presenter asked challenging questions and put opposing views to the



interviewee. The broadcaster provided examples of these questions and comments in its response.

**5. Decision of the Executive Complaints Forum  
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Codes, the Forum decided to reject the complaint.

The Forum's views and basis for the decision are set out below-

The interview with Dr. Peter Boylan focused on the evidence given by him the previous day to the Oireachtas Committee on the 8th Amendment. The Forum found that the questions and challenges posed by the interviewer were appropriate to the discussion and subject matter. The interviewee used certain terms and phrases to express his own views. Considering the programme in whole and in context, the Forum was of the view that the language and phrases used and the interviewee's treatment by the presenter did not infringe on the requirements for fairness, objectivity and impartiality.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Codes in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Brendan O'Regan**

**Ref. No. 106/17**

**Station:**

Newstalk

**Programme:**

The Pat Kenny Show

**Date:**

15<sup>th</sup> November 2017

**1. Programme**

The complaint refers to an interview on The Pat Kenny Show, a news and current affairs broadcast each weekday morning from 9am -12 noon.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2 and 4.22.

**3. Complaint Summary**

The complaint concerns a discussion on the 8th Amendment with a representative of the National Women's Council of Ireland, presented by Pat Kenny.

The complainant believes the programme did not meet the standards of fairness, objectivity and impartiality in the Code mainly because of the language used by the presenter. The complainant objected to the presenter using the terms "anti-choice" and "so-called pro-life" believing these to denigrate pro-life people and those who favour keeping the 8th Amendment. The complainant was also of the view that the presenter did not sufficiently challenge the interviewee on the effect of repealing the 8th Amendment or on abortion itself.

**4. Broadcaster Response**

The broadcaster stated its view that the programme was fair, objective and balanced and the broadcaster does not believe there is any issue with the language used by the presenter.

**5. Decision of the Executive Complaints Forum  
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint.



The Forum's views and basis for the decision are set out below-

The presenter interviewed Orla O'Connor, Director of the National Women's Council of Ireland (NWCI), about a range of issues including reproductive health care and the 8th Amendment to the Constitution, in the context of a forthcoming campaign by the NWCI. The Forum found that the questions and challenges posed by the interviewer were appropriate in this context. The interviewee used certain terms and phrases to express the views of the NWCI. Considering the programme in whole and in context, the Forum was of the view that the language and phrases used and the interviewee's treatment by the presenter did not infringe on the requirements for fairness, objectivity and impartiality.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Patrick Flynn**

**Ref. No. 107/17**

**Station:**

RTÉ Radio 1

**Programme:**

The Ray D'Arcy Show

**Date:**

7<sup>th</sup> November 2017

**1. Programme**

The complaint concerns 'The Ray D'Arcy Show', a lifestyle/entertainment programme broadcast each weekday afternoon from 3.00 - 4.30pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - section 4: rules 4.1 and 4.2.

**3. Complaint Summary**

The complaint concerns the subject of same sex reproduction/surrogacy and the issuing of a passport. The complainant believes the presenter of the programme demonstrated bias and expressed a personal view that amounts to campaigning by stating "change the law" in respect of surrogacy laws and obtaining a passport for babies born by same sex surrogate parents.

**4. Broadcaster Response**

The broadcaster noted that the editorial focus of the broadcast was on the experience from the point of view of a parent who is a surrogate mother who underwent IVF and successfully got pregnant. Her Irish female partner wished to obtain an Irish passport for their baby, but under the Irish Nationality and Citizenship Act 1956, this was not permitted as the baby was born in the UK.

The broadcaster is of the view that the presenter elucidated the facts of this human-interest situation from the Irish mother's viewpoint and the interview was balanced by the presenter by his reading out of several texts and emails in response to the item. The broadcaster states that when the presenter said "Let's change the law", he was reading out a text from the listener and this was not an expression of his own views.

**5. Decision of the Executive Complaints Forum  
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint.



The Forum's views and basis for the decision are set out below-

The Forum had regard to the type of programme and the context of the interview; this was a topical, magazine-style programme that included an interview with a woman trying to obtain an Irish passport for her baby born with the assistance of IVF. The Forum was of the view that this was a human-interest story and not a current affairs report or debate on the subject of reproduction within same sex relationships. The content focused on the interviewee's personal experience and the difficulties and constraints she faced within Ireland's current legal system. The Forum found that the presenter's questions and comments were appropriate in this context.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Ms. Aoife Traynor**

**Ref. No. 108/17**

**Station:**

RTÉ Radio 1

**Programme:**

The Marian Finucane Show

**Date:**

11<sup>th</sup> November 2017

**1. Programme**

The complaint concerns 'The Marian Finucane Show', which is a magazine style programme that includes elements of current affairs, lifestyle and human-interest topics. The programme is broadcast every Saturday and Sunday morning from 11am to 1pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (Fairness, objectivity and impartiality in current affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 and 4.2. Broadcasting Act 2009 - Section 48(1)(b) (harm & offence); the BAI Code of Programme Standards - Principle 3 (Protection from Harm) and Principle 5 (Persons and Groups in Society).

**3. Complaint Summary**

The complaint concerns an interview with Katie Ascough, former president of UCD Student's Union, which covered the issue of abortion and the 8th Amendment to the Constitution. The complainant contends that, at times, the interviewee presented misleading information and was not sufficiently challenged on these by the presenter. The complainant is also of the view that the references to bullying by the interviewee and presenter amounted to accusations of bullying by a group of people in UCDSU which constitutes unfair treatment of these people.

The complainant also believes that broadcasting, without any warning, the interviewee's description of holding a 13-week-old foetus did not demonstrate due sensitivity to the potential harm such content could have on women who have experienced a miscarriage and women who have had abortions.

**4. Broadcaster Response**

The broadcaster noted the editorial focus of the broadcast was to provide a personal insight into the interviewee's recent impeachment as President of UCO Students Union by her student peers and to speak about her upbringing and pro-life views.

The broadcaster refutes the claim made by the complainant that the interviewee misrepresented facts on the vote of the UCO Students Union in favour of a pro-choice position on abortion. The broadcaster also notes that the interviewee does not directly accuse anyone of bullying but describes her personal experience of a difficult and stressful time and the presenter drew her out



on these experiences without any expression of her own opinion. The broadcaster also argues that the presenter put appropriate challenges to the interviewee throughout.

The broadcaster also contends that the interviewee's story of her mother's miscarriage and seeing her brother at 13 weeks development is content of a nature that is within the remit of the programme and the audience would be accustomed to hearing such controversial matters being handled on the programme.

The broadcaster believes the content did not infringe on the Code of Fairness, Objectivity and Impartiality or the Code of Programme Standards.

#### **5. Decision of the Executive Complaints Forum Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Codes, the Forum decided to reject the complaint.

The Forum's views and basis for the decision are set out below-

The Forum noted that broadcasts are required not to misrepresent views and facts in such a way as to render them misleading and to deal fairly with contributors and those referenced in the content. The Forum also noted that broadcasters are required to take due care to ensure audiences are not exposed to harmful content and to ensure content does not stigmatize, support or condone discrimination or incite hatred against persons or groups in society.

The Forum had regard to the type of programme and the context of the interview; this is a magazine style programme that includes elements of current affairs, lifestyle and human-interest topics. The interview was with Katie Ascough, former UCO Student's Union President. The Forum was of the view that this was a human-interest story about her personal experience and upbringing and her impeachment for removing abortion information when distributing Student's Union literature; it was not a current affairs report or debate on abortion or the 8th Amendment to the Constitution.

The interviewee was given the opportunity to discuss her experiences and the presenter intervened with relevant questions and challenges. The Forum found that the presenter's interventions were appropriate in this context and that any claims made by the interviewee would be understood by the audience as coming from her perspective. The Forum were also of the view that the content, when taken in whole and in context, was not misleading for audiences. During the programme, the interviewee was asked whether she thought her treatment by others felt like bullying. Neither the presenter nor the interviewee directed any accusations of bullying at any individual or group and the Forum found no evidence of people referenced in the content being dealt with unfairly. The Forum further noted no evidence in the content of stigmatising, supporting or condoning discrimination or incitement to hatred against persons or groups in society.



At another point in the programme, the interviewee spoke about her views and experience concerning her mother's miscarriage. While the Forum acknowledged the sensitive nature of this subject, it also noted that the programme is aimed at an adult audience and deals frequently with topics of a sensitive nature such that this content would be in line with audience expectations of the programme. The Forum was of the view that the broadcaster showed appropriate care for the audience in its treatment of this content.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Codes in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Declan O'Brien**

**Ref. No. 109/17**

**Station:**

RTÉ Radio 1

**Programme:**

Liveline

**Date:**

9<sup>th</sup> November 2017

**1. Programme**

The complaint concerns 'Liveline', an interview and phone-in chat show broadcast each weekday afternoon from 1.45pm to 3pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (Fairness, objectivity and impartiality in current affairs) BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 and 4.2. Broadcasting Act 2009 - Section 48(1)(b) (harm & offence); the BAI Code of Programme Standards - Principle 3 (Protection from Harm) and Principle 5 (Persons and Groups in Society).

**3. Complaint Summary**

The complaint concerns a phone-in discussion with a caller and his opinions on employing younger women who are contemplating pregnancy.

The complainant believes the manner in which the presenter treated the caller was inappropriate and disrespectful, in particular, a condescending comment about going back into retirement. The complainant is of the view the presenter demonstrated a clear bias against the caller and his apology at the end was not sincere.

**4. Broadcaster Response**

The broadcaster noted the focus of the broadcast was in respect of a controversy surrounding Minister John Halligan, who had asked a job applicant if she was married. The broadcaster noted that the caller made some contentious points and it is the role of the presenter to challenge callers on contentious views.

The broadcaster contends that the presenter's comments were "off the cuff" and not meant to demean people who are retired. The broadcaster noted that the presenter apologised if he was unfair at the end of the programme.

**5. Decision of the Executive Complaints Forum  
Reject (Unanimous)**



Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Codes, the Forum decided to reject the complaint.

The Forum's views and basis for the decision are set out below-

The Forum noted that broadcasters are required to deal fairly with contributors. The Forum also noted that broadcasters are required to take due care to ensure audiences are not exposed to harmful content and to ensure content does not stigmatize, support or condone discrimination or incite hatred against persons or groups in society.

The Forum had regard to the type of programme and the context of the interview; this is a topical, caller-driven programme dealing with a range of issues. The programme included a discussion about employing women who may be considering having children. The discussion was in the context of a recent news story concerning Minister John Halligan asking a job applicant if she was married. The Forum noted that this programme format is driven by opinions from callers on topical matters and the editorial approach is not a current affairs debate or report on the subject in question.

The Forum noted the well-established presenting style of engaging robustly with contributors in an informal manner and further noted that audiences and contributors alike would be familiar with this approach and expect it of the programme. The Forum was of the view that the caller was given adequate time to contribute his views and respond to the challenges put to him. The Forum acknowledged the comment made by the presenter could potentially have caused offence to the individual concerned, however, it was not directed at a wider group in society and would be unlikely to cause undue offence to the audience. The Forum noted the presenter apologised to the individual concerned. The Forum found no evidence in the programme of content that would cause harm or would stigmatise, support or condone discrimination or incite hatred against persons or groups in society.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Codes in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Con Lynch**

**Ref. No. 01/18**

**Station:**

RTÉ Two

**Programme:**

Après Match of the Day

**Date:**

13<sup>th</sup> November 2017

**1. Programme**

The complaint concerns an Irish satirical comedy programme which looks back at football events in the past.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) (harm & offence); the BAI Code of Programme Standards - Principle 1 (Respect for Community Standards), Principle 3 (Protection from Harm) and Principle 5 (Persons and Groups in Society)

**3. Complaint Summary**

The complaint concerns a segment which dealt with the visit of Pope John Paul II to Galway. The complainant is of the view the programme profaned the sacredness of Mass and the Eucharist by mocking the 'presentation of the gifts', the presentation of the bread for consecration, the chief celebrant Pope John Paul II, and the composition and recitation of the 'Hail Mary'. The complainant also believes the use of the recording of the Pope's visit within the programme was a distortion of the truth.

The complainant contends that the nature of the content as outlined above failed to show respect for the prevailing standards of communities in Ireland, it offended to the point of likely causing harm to the Catholic faith and Church and to the beliefs and faith of the viewers, and failed to show due respect for religious views, images, practices and beliefs.

**4. Broadcaster Response**

The broadcaster notes, with reference to the BAI's Code, that there is no guarantee that programmes will be free from offence and, when broadcasters cater to a diverse audience, there may be times when offence is caused to some. Broadcasters are required by the Code to guide viewers and listeners by use of warnings and appropriate scheduling to avoid causing offence. In this context, the broadcaster notes that the programme is a long- established comedy brand, the audience understands this and knows what to expect of the programme, and it is placed in a post-watershed slot with a mature audience warning. The broadcaster is of the view that the editorial focus of the comedy is not the Mass or the Catholic Church, but is a commentary on the era, a satirical look back at how things were in Ireland in the late 1970's.



## **5. Decision of the Executive Complaints Forum Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint.

The Forum's views and basis for the decision are set out below-

The Forum noted that broadcasters are required to consider general community standards when making programmes, to take due care to ensure audiences are not exposed to harmful content and to show due respect for religious views, images, practices and beliefs in programming.

In considering this complaint, the Forum noted that this is a long-established comedy programme that looks at footballing events and draws on and reflects aspects of Irish culture and society, including religion. The Forum acknowledged that, while this content may cause offence to some, critical scrutiny of religion is permissible and the way the programme dealt with religious images and practices was justifiable in the context of the programme.

Given the potential to cause offence, the Forum noted that broadcasters are required to show due care for audiences by considering a range of contextual factors when making and broadcasting programmes and these include, among other things, the programme genre, the time of broadcast and audience expectations of the programme. The Forum noted that this is a comedy programme and one of the functions of comedy is to push the boundaries of acceptable speech. The programme was broadcast at 10.35pm and was, therefore, aired after the watershed when it is accepted that content of a more adult nature can be broadcast. The Forum also had regard to audience expectation, including the comedic style of *Aprés Match* which is well-known to adult audiences in Ireland.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Victor Feldman**

**Ref. No. 02/18**

**Station:**

RTÉ One

**Programme:**

Claire Byrne Live

**Date:**

20<sup>th</sup> November 2017

**1. Programme**

The complaint concerns 'Claire Byrne Live', a current affairs programme broadcast on Monday nights at 10.35pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2. Broadcasting Act 2009 - Section 48(1)(b) (harm & offence); the BAI Code of Programme Standards - Principle 5 (Persons and Groups in Society).

**3. Complaint Summary**

The complaint concerns an interview with Kevin Sharkey on the issue of homelessness. The complainant is of the view the presenter made a racist remark when she stated "a lot of people here would think it odd that you a black man would hold such a view".

**4. Broadcaster Response**

The broadcaster notes that the comment attributed to the presenter in the complaint is inaccurate. The broadcaster states that the presenter's remark was "I think people, looking at you tonight, a black man who has spoken before about having his own racist experiences, people would be really surprised to hear you taking that view".

The broadcaster observed that the presenter commented that people would be surprised to hear his views, which is not the same as saying that people would think it was odd for him to hold those views. The broadcaster also noted the context of the remark, which followed views expressed by Kevin Sharkey about border control and restricting immigration which he has not voiced previously on broadcast media, whereas he has spoken about abuse directed at him by people assuming he is a foreign national.



## **5. Decision of the Executive Complaints Forum Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Codes, the Forum decided to reject the complaint.

The Forum's views and basis for the decision are set out below-

The Forum noted that broadcasters are required to deal fairly with contributors. The Forum also noted that broadcasters are required to take due care to ensure audiences are not exposed to harmful content and to ensure content does not stigmatise, support or condone discrimination or incite hatred against persons or groups in society.

The complaint concerned an interview with Kevin Sharkey who was speaking on the programme in his capacity as someone who had been homeless and has previously spoken publicly about this issue. During the programme, Mr. Sharkey stated that "Irish people should be seen in a more favourable light than someone who has just come six months ago" and he went on to express a view that Ireland should control its borders as UK does. This prompted the presenter to query this view, stating "I think that people looking at you tonight, a black man who has spoken before about having his own racist experience, people will be really surprised to hear you taking that view". The Forum was of the view that this was a legitimate question for the presenter to ask in the context of the interview and it was put to the interviewee in an appropriate and respectful manner. The Forum found no evidence in the content that the interviewee was treated unfairly or that racist views were expressed.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Codes in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mrs. Kerstin Voigt**

**Ref. No. 04/18**

**Station:**

Newstalk

**Programme:**

Between the Lines

**Date:**

5<sup>th</sup> January 2018

**1. Programme**

The complaint refers to an interview on Lunchtime Live, a lifestyle programme broadcast each weekday morning from 12 noon to 1pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality - Rules 4.1, 4.2, 4.3, 4.17, 4.19, and 4.21.

**3. Complaint Summary**

The complaint concerns an interview with Ms. Sandra Higgins, founder of Eden Farmed Animal Sanctuary and the campaign "Go Vegan World". The complainant is of the view that the presenter's interviewing style was humiliating and showed a lack of respect for the interviewee. The complainant believes that the presenter expressed biased and incorrect opinions to provoke the interviewee. Overall, the complainant believes the programme displayed a lack of fairness and objectivity.

**4. Broadcaster Response**

The broadcaster is of the view that the interview was a robust exchange between the presenter and the interviewee on a topic that can illicit strong reactions. The broadcaster noted that the interviewee is a professional and used to taking part in strong debates and was allowed time during the discussion to speak uninterrupted and unchallenged. The broadcaster is also of the view that it is the presenter's job to challenge and put opposing viewpoints on a topic and the programme facilitated the expression of a range of views.

**5. Decision of the Executive Complaints Forum  
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint.



The Forum's views and reasons for the decision are set out below-

The Forum noted that broadcasters are required to deal fairly with contributors, to facilitate a range of views and to ensure presenters do not express their own views such that a partisan position is advocated. The Forum further noted the requirement that content is presented with due accuracy and that views and facts should not be misrepresented or presented in such a way as to be misleading.

The Forum had regard to the type of programme and the context of the interview. The programme is a mix of current affairs, lifestyle and human-interest stories and this segment included an interview with Ms. Sandra Higgins, a campaigner on veganism. The issue was topical because of the launch of a campaign on veganism, however, the Forum noted that the programme was not a current affairs-style report or debate on the issue.

The Forum found that the interview contained some robust exchanges and the discussion became heated at times, however, the presenter's tone was respectful to her guest and the interviewee was given ample opportunity to convey her views. The Forum also considered the presenter's questions, challenges and interventions as appropriate in the context of the interview and they did not include an expression of her own views or advocacy of a partisan position. The Forum noted that rigorous and/or challenging questioning in the context of an interview does not necessarily constitute unfairness. Finally, the Forum found no evidence in the content of a lack of due accuracy or of views and facts being misrepresented in any way.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and the Code in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Paddy Hayes**

**Ref. No. 05/18**

**Station:**

RTE One TV

**Programme:**

Claire Byrne Live

**Date:**

27<sup>th</sup> November 2017

**1. Programme**

The complaint concerns Claire Byrne Live, a current affairs programme broadcast each Monday night at 10.35pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) (fairness, objectivity and impartiality in news and current affairs); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rules 4.1 & 4.2.

**3. Complaint Summary**

The complaint concerns RTE's coverage of a news story regarding the discovery of an email in the Department of Justice that appeared to indicate that then Minister of Justice, Frances Fitzgerald, may have been aware of the legal strategy being adopted against Maurice McCabe at the O'Higgins Commission.

The complainant is of the view that the broadcaster's coverage of this story demonstrated a lack of impartiality. The complainant believes that the broadcaster appeared to make a collective decision that the email in question represented prime facie evidence of poor political judgement and then demanded the political head of the Minister. The complainant also believes that the presenter became an active participant in the political attack on the Minister. The complainant is of the view that the broadcaster dismissed or at least diminished the Minister's contention that she was obliged not to interfere in the process.

**4. Broadcaster Response**

The broadcaster states that it is satisfied it operated with fairness and impartiality in covering this story. The broadcaster notes that the focus of the story was whether the Minister could have credibly been unaware of the legal strategy and it was not on whether she should have or could have intervened on the matter. The broadcaster refutes the claims made in the complaint that there was a collective decision by RTE on matters pertaining to the Minister's political judgement or that the presenter or broadcaster joined in demands for the political head of the Minister. The broadcaster noted that the journalist covering this story rigorously executed the obligations of impartiality by seeking and gathering the views of Government and others from high-level,



credible sources. The broadcaster also makes that point that it clearly conveyed the Minister's own position by reading and picturing on screen her only public statements on the matter.

## **5. Decision of the Executive Complaints Forum Reject (Majority)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Codes, the Forum decided to reject the complaint.

The Forum's views and reasons for the decision are set out below-

The Forum noted that broadcasters must ensure that current affairs content is compiled, produced and presented in a manner which is and can be seen to be, independent, unbiased and without prejudgement. The Forum further noted that broadcasters are required to facilitate a range of views and to ensure presenters do not express their own views such that a partisan position is advocated.

The Forum had regard to the context and format of the programme. The programme was covering a breaking news story in which an email from the Department of Justice to the then Minister of Justice indicated that the Minister appeared to have been aware of the legal strategy to be used at the O'Higgins Commission of Investigation. Journalist, Katie Hannon, reported on the recent developments in the story and the presenter, Clare Byrne, interviewed Jim O'Callaghan, Fianna Fail T.D., and Simon Coveney, Fine Gael T.D. Simon Coveney left after he was interviewed and the programme continued with contributions from the other panellist, journalist Fintan O'Toole, from Alan Kelly, Labour Party T.D., and from members of the studio audience, which included political representatives of Sinn Fein and the Worker's Party. The programme also took updates from a reporter outside of Leinster House on developments from a meeting between the Taoiseach and the leader of Fianna Fail, which was held at the same time as the programme was broadcast.

The focus of the programme was on the potential political ramifications of the discovery of the email, including the potential for the Minister for Justice resigning or being asked to resign and the possibility of a General Election being called if she didn't. The Forum found that while a considerable proportion of the programme was focussed on the possible resignation of the Minister, the presenter facilitated the expression of a range of views across the party political spectrum and the Government representative, Simon Coveney, was given ample time to convey his opinions on the matter. The programme also presented on-screen and read out tweets from the Minister for Justice on the issue and reported the views expressed by the Government press office. The Forum found no evidence in the content of a collective decision by the broadcaster to seek the resignation of the Minister for Justice. The Forum was also of the view that the questions and interventions by the presenter were appropriate in the context of the programme and the breaking news story and found no evidence of any expression of her own views or advocacy of a partisan position.



In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Brian McGee**

**Ref. No. 22/18**

**Station:**

Newstalk

**Programme:**

Lunchtime Live

**Date:**

21<sup>st</sup> February 2018

**1. Programme**

The complaint concerns 'Lunchtime Live', a lifestyle programme broadcast each weekday from 12 noon to 2pm.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(b) harm & offence; the BAI Code of Programme Standards - Principle 6 (Protection of the Public Interest).

**3. Complaint Summary**

The complaint concerns an interview with Ms. Brenda Power, discussing the trial and conviction of Ms. Catherine Nevin, in the context of her having recently passed away. The complainant claims the presenter and the interviewee asserted that Catherine Nevin was probably innocent of murder and most likely convicted for misogynistic reasons. The complainant is of the view that this assertion is a dangerous attack on the courts and jury system.

**4. Broadcaster Response**

The broadcaster maintains that this segment was a review of a court case from over 20 years ago and the media coverage around it, which included discussion about the defendant's clothes, demeanor and the books she read. The broadcaster states that the guest put forward well documented facts in relation to the case and expressed a personal view on it. The broadcaster states that "on numerous occasions" in the programme, it was clarified that Catherine Nevin was tried and convicted and reference was made to the sensitivities around the Nevin family. The broadcaster refutes the claim that there was an attack on the court or judicial system in the programme.

**5. Decision of the Executive Complaints Forum  
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Code, the Forum decided to reject the complaint.

The Forum's views and reasons for the decision are set out below-



The Forum noted that broadcasters are not permitted to broadcast anything likely to promote, or incite, to crime or as tending to undermine the authority of the State. The Forum further noted that this should not inhibit broadcasters from challenging public policy or having open debates about how government and society operates.

The complaint concerned an interview with a journalist who was on the programme to discuss a high-profile court case from nearly 20 years ago, in which Ms. Catherine Nevin was convicted of murdering her husband. The interviewee discussed the facts of the case, the reporting of it in the media and expressed her personal views on the factors that played a part in the outcome of the case. The interviewee expressed her doubts and concerns about aspects of the case that she believes may have been unfair to the defendant.

The Forum found that it is a legitimate editorial approach to examine old court cases from a historical perspective and to include opinion on how those cases were conducted and the outcomes of them. Panelists or interviewees on programmes are entitled to express their opinions on such cases and there may be times where those opinions are contrary to the findings of the court. The Forum does not believe that the views expressed amounted a dangerous attack on the courts and jury system and there was no evidence in the content of material that would tend to undermine the authority of the State.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Code in manner specified by the complainant. Accordingly, the complaint was rejected.



**Complaint made by: Mr. Jarlath Flynn**

**Ref. No. 23/18**

**Station:**

RTÉ One

**Programme:**

Six One News

**Date:**

28<sup>th</sup> January 2018

**1. Programme**

The complaint concerns an item on the Six One News.

**2. Complaint Category**

Broadcasting Act 2009 - Section 48(1)(a) fairness, objectivity and impartiality in current affairs; the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1, 4.2, 4.17 and 4.19.

**3. Complaint Summary**

The complaint concerns a report on the Six One News in which a reporter referred to "abortion laws" in Ireland. The complainant expresses a view that Ireland doesn't have abortion laws and the use of the term by the broadcaster constitutes a propagandist misleading of the public into believing that the 2013 Protection of Life During Pregnancy Act is an "abortion act".

**4. Broadcaster Response**

The broadcaster refers the complainant to sections of the Protection of Life During Pregnancy Act 2013 and maintains that it clearly and explicitly refers to the lawfulness of a procedure "in the course of which, or as a result of which, an unborn human life is ended".

The broadcaster refutes the claim that it misleads the public, stating that it does not have a view on the upcoming referendum on repealing the 8th Amendment to the Constitution and it does its utmost to represent all sides of the argument as accurately, fairly and impartially as possible.

**5. Decision of the Executive Complaints Forum  
Reject (Unanimous)**

Having considered the broadcast and the submissions from the complainant and the broadcaster and having also had regard to the relevant legislation and Codes, the Forum decided to reject the complaint.

The Forum's views and reasons for the decision are set out below-



The Forum noted the requirements for broadcasters that news is presented with due accuracy and that views and facts shall not be misrepresented or presented in such a way as to render them misleading.

The Forum noted that the correspondent used the term "abortion laws" in the report. The Forum found that this term was used as a short-hand reference to the range of constitutional and legislative provisions governing terminations of pregnancy. The Forum was of the view that the term "abortion laws" would be generally understood by audiences in this context and did not agree that it is inaccurate or misleading. The Forum also found that the use of this term in this context did not amount to a lack or absence of fairness, objectivity or impartiality.

In view of the above, the Forum did not agree that the programme infringed the requirements of the legislation and Codes in manner specified by the complainant. Accordingly, the complaint was rejected.