



ÚDARÁS
CRAOLACHÁIN
NA hÉIREANN

BROADCASTING
AUTHORITY
OF IRELAND

**Broadcasting Authority of Ireland
Broadcasting Complaints Decisions**

April 2020



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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, by emailing info@bai.ie or by phoning the BAI

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.

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, three¹ complaints were considered and rejected by the Compliance Committee at its meeting held on 11th December 2020. In addition, twelve complaints were considered by the Executive Complaints Forum at its meetings held on 13th and 20th January, and on 3rd and 17th February 2020. All complaints were rejected.

¹ One complaint considered at the December Compliance Committee meeting is not included in the current publication document. The complainant has made a request to the Compliance Committee not to publish the complaint decision and the Compliance Committee will consider this request at its next meeting, further to the provisions of section 48(10) of the Broadcasting Act 2009.



Rejected by Compliance Committee

Complaint Reference Number	C5192	C5253
Complainant	Dr. Fidelma Healy Eames	
Station	RTÉ One	
Programme Name	Prime Time	The Week in Politics
Broadcast Date	21 st May 2019	28 th April 2019
Broadcast Time	21:35	12:00
Programme Description	Current affairs programmes regarding Midlands North West Constituency on the European Elections 2019, featuring panel debates.	
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, 4.3, 4.4, 4.17, 4.18, 4.19, 4.22 & 4.25.	

Complaint Summary

The complaints concern two broadcasts which relate to the European Election debate for the Midlands North West constituency. The complainant is of the view that the broadcasts are linked and believes that both broadcasts failed to be fair, objective and impartial in the format adopted and the choice of contributors.

Prime Time:

With regard to Prime Time, the complainant states that out of the 17 candidates running in the Midlands North West Constituency, eight candidates were featured live in studio for the debate while eight candidates were included by way of a pre-recorded clip which lasted one minute per candidate. The complainant claims that the candidates in studio were given ample time to answer questions posed to them whereas she was given less time and was not able to reveal her ability to debate which, in the view of the complainant, amounted to unfair treatment.

The Week in Politics:

The complainant states that The Week in Politics, broadcast over three weeks before Prime Time, was another example of unfairness, as the programme only featured certain candidates. The complainant is of the view that this displayed bias on the part of the broadcaster.

The complainant considers that the criteria used by RTÉ in choosing candidates was unfair, discriminatory and failed to be transparent. As a former Senator, the complainant argues that the broadcaster should have considered the Seanad when setting out the criteria.

The complainant states that the format conveyed a message that the candidates involved in the live debate were more important and were more entitled to a chance of winning seats than those involved in the pre-recorded segment. The complainant states that the four winning MEPs were all featured on either Prime Time or the Week in Politics and considers that this is proof that the format was such that it was biased and unfair to certain candidates.



The complainant is of the view that the programmes were misleading to viewers as they did not reflect an accurate picture of all the candidates. The complainant states that she was treated unfairly and personally disadvantaged by the approach adopted by the broadcaster.

Broadcaster Response Summary

The broadcaster states that there is no statutory or regulatory requirement that all candidates in an election must be treated equally in terms of airtime. The requirement for a broadcaster is to have mechanisms to guide coverage and that the broadcaster can demonstrate to the BAI, in the context of a complaint, how they have ensured fairness, objectivity and impartiality.

The broadcaster states that past electoral performance is used as a benchmark in guiding coverage and is also an important factor in the allocation of time to those parties who qualify for a Party Political Broadcast. Further, factors such as studio capacity and the total number of candidates are significant in determining potential panel members in a live studio debate.

With regard to Prime Time, the broadcaster states there were three programmes broadcast covering each of the constituencies. With a total of 59 candidates between the three constituencies, the broadcaster considered it impracticable to have all candidates live in studio. Therefore, the broadcaster applied criteria which was based on past electoral record to achieve a fair and objective representation for panel inclusion. Eight out of 17 candidates for Midlands North West qualified for inclusion in the live programme for their constituency, however, inclusion was based on an entirely objective and impartial criteria and not on any subjective views of RTÉ editorial staff. Further, the broadcaster states that those that were not involved in the live debate were offered the chance to be included by way of one-minute video clip, resulting in eight additional candidates being included in this manner.

In response to the complainant regarding The Week in Politics, the broadcaster states that the selection of candidates was based on past electoral record but that all other candidates, including the complainant, were featured by way of a clip or an in studio graphic presentation.

The broadcaster states the complainant was included in Prime Time and The Week in Politics by way of a pre-recorded item, further, the complainant featured on a Drivetime panel and was represented online and in all programmes that covered the Midlands North West constituency.

Referring to the successful candidates, the broadcaster states that three of the four elected were all sitting MEPs who retained their seats, while the remaining candidate was a Fine Gael representative who had an established public profile.

The broadcaster is of the view that the complainant's claim of discrimination does not stand up to scrutiny and states that she was treated fairly and equitably. RTÉ believes the programmes complied fully with the requirements of the Code.



Decision of Compliance Committee

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Committee decided to reject the complaints. The Committee's findings and reasons for the decisions are set out below.

The Compliance Committee noted that the complaints were made under Sections 4.1, 4.2, 4.3, 4.4, 4.17, 4.18, 4.19, 4.22 and 4.25 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that content is fair to all interests concerned and that the broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views.

The Committee noted that the complaints are about two related broadcasts regarding the European Election for the Midlands North West constituency. The Committee was cognisant of the complainant's view that the approach adopted by RTÉ in choosing participants for these programmes was unfair as it led to some candidates, including the complainant, being omitted from the live debates. However, the Committee noted that the broadcaster has editorial freedom to choose who participates on a programme. There is no requirement for broadcasters to include all candidates in a broadcast, further, equal allocation of airtime is not necessary to achieve fairness. The Committee did not consider that the exclusion of particular candidates rendered the broadcasts unfair or partial.

The principle of fairness requires that the approach adopted by broadcasters should be transparent. The Committee noted that the broadcaster clearly outlined the mechanisms it developed to ensure that the programmes in question were fair, objective and impartial. The criteria drawn up by the broadcaster was based on past electoral performance and the Committee noted that the broadcaster provided clear rationale for the approach. The Committee was of the view that the criteria adopted when choosing participants in the programmes was carefully considered and applied in a manner which was equitable and fair.

In considering the complainant's concerns regarding the availability of the selection criteria, the Committee noted that this is not a requirement of the Code. However, the Committee considered that it would be desirable for broadcasters to make such criteria publicly available.

The Committee considered that the mechanisms used by the broadcaster were robust and contributors were dealt with fairly. The Committee did not find anything in the approach adopted by the broadcaster, or in the content of the broadcasts, to support the complainant's assertion that the broadcasts infringed any of the sections of the Code outlined.



Rejected by Executive Complaints Forum

Complaint Reference Number	C5232
Complainant	Mr. Andrew Hehir
Station	RTÉ Radio 1
Programme Name	The Ray D'Arcy Show
Broadcast Date	24 th July 2019
Broadcast Time	15:00
Programme Description	A lifestyle and entertainment programme broadcast weekdays.
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 & Current Affairs - Rules 4.1, 4.2 & 4.17.

Complaint Summary

The complaint relates to an interview with a woman regarding her asylum status in Ireland. The complainant is of the view that the presenter did not ensure due accuracy, having regard to the facts known at the time of the broadcast, in respect of the interviewee's asylum status. The complainant believes that some statements by the presenter regarding the application process for residency were factually incorrect, particularly the presenter's comment that "people have gone through your story with a fine-tooth comb and granted you residency". The complainant maintains that this is factually incorrect as the interviewee was granted leave to remain based on her being in the State for almost 10 years.

The complainant further states that while the State did review the interviewee's refugee application, it did not grant it, instead it was rejected on almost all the points. The complainant claims that the granting of leave to remain does not indicate that the interviewee's application as a refugee was a genuine case.

Broadcaster Response Summary

The broadcaster refers to two questions posed by the complainant regarding questions put to the interviewee and responses given to these questions.

The first matter raised by the complainant relates to a comment made by the presenter, in which he stated that he didn't understand why the application process took so long. The broadcaster noted that the complainant questioned the interviewee response, in which she stated that she did not fully understand what had happened. The broadcaster states that the complainant has no first-hand knowledge of the process and is of the view that the complainant made his own observation on the relative timing of the process. The broadcaster states that there is no basis for the complainant's assertion that the question or answer was factually incorrect.

The second question posed by the complainant relates to the refugee status and residency of the interviewee. The broadcaster noted that the complainant considered that the granting of residency



was linked to the interviewee's application for refugee status, alleging that this suggested that she was granted refugee status and that the government agreed with the information she provided. The broadcaster states that this reflected the fact that she was granted residency and permission to remain in Ireland. The broadcaster further contends that the interviewee stated that her passport had been stamped and this meant that she was allowed to stay in Ireland. Further, the interviewee confirmed it would be over three years before she could apply for full citizenship.

The broadcaster does not believe there are any grounds for claiming that the questions posed were inaccurate.

Decision of Executive Complaints Forum

Having considered the broadcast and the submissions from the complainant and the broadcaster and having 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 the complaint was submitted under the Code of Fairness, Objectivity and Impartiality in News and Current Affairs, Rules 4.1, 4.2 and 4.17. The Code requires that broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The Code also states that current affairs content shall be presented with accuracy having regard to the circumstances and the facts known at the time of preparing and broadcasting an item.

The Forum noted that the complainant questioned the asylum status of the interviewee and claims that some statements made by the presenter in relation to this matter were factually incorrect. The Forum found this was a human-interest item with elements of current affairs. The Forum considered the matters raised by the complainant but found that the complainant did not provide sufficient information to support his view that factually incorrect statements were made. The Forum considered the interview in full and did not find evidence in the broadcast to support the complainant's view that the content infringed the Code.

The Forum did not consider that the programme infringed the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in the manner outlined by the complainant. As such, the complaint was rejected.



Complaint Reference Number	C5252
Complainant	Ms. M. Sheahan
Station	Newstalk 106-108FM
Programme Name	Lunchtime Live with Ciara Kelly
Broadcast Date	23 rd October 2019
Broadcast Time	12:00
Programme Description	A current affairs, lifestyle and human interest programme broadcast daily.
Complaint Category	Broadcasting Act 2009 - Section 48(1)(b)(harm and offence); the BAI Code of Programme Standards - Principle 5.

Complaint Summary
<p>The complainant is of the view that comments made by the presenter infringed principle five of the Code of Programme Standards. The topic discussed was the things children do which embarrasses their parents. The presenter related a story about one of her children noticing her unshaven armpits while on holiday in France. The complainant states that the presenter joked about feeling at home which, in the view of the complainant, was a reference to the myth that French women do not shave their armpits.</p> <p>The complainant found this comment offensive and queries if such comments would be acceptable if made against women from other countries. The complainant further questions why remarks like this are acceptable on air.</p>

Broadcaster Response Summary
<p>The broadcaster states that the comments complained of were made in the context of an introduction to a topic about things children say and questions they ask. The broadcaster states that the presenter recounted a personal experience by way of example and, in doing so, remarked that her unshaven armpits did not stand out because she was in France. The broadcaster states that this was her experience and she was simply sharing that with listeners. The broadcaster does not accept that this amounted to a national slur or that it infringed the Code, as suggested by the complainant.</p>

Decision of Executive Complaints Forum
<p>Having considered the broadcast and the submissions from the complainant and the broadcaster and having 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.</p> <p>The Forum noted the complaint was submitted under principle five of the Code of Programme Standards. The Code requires that the manner in which persons and groups in society are represented shall be appropriate and justifiable and shall not prejudice respect for human dignity.</p> <p>The Forum acknowledged that the complainant found the comments offensive and was of the view that the comment was derogatory about French people. Having listened to the broadcast, the Forum found that this was a light-hearted remark made by the presenter by way of introducing a humorous segment about</p>



strange or embarrassing things children say to their parents. The Forum had regard for the type of programme, audience expectation and the context in which the comment was made. The Forum did not consider that the comment condoned discrimination towards a group in society or caused undue offence.

The Forum did not consider that the broadcast infringed the Code in the manner described by the complainant. As such, the complaint was rejected.



Complaint Reference Number	C5254
Complainant	Mr. John Furlong
Station	Today FM
Programme Name	The Last Word
Broadcast Date	17 th October 2019
Broadcast Time	16:30
Programme Description	Current affairs programme broadcast daily from 4.30pm to 7pm.
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 - Rule 4.2.

Complaint Summary

The complaint relates to a segment regarding budget funding for motorways and cycleways during which the M9 motorway was discussed. The complainant takes issue with comments during the discussion which, in the view of the complainant, were inaccurate, unobjective and displayed bias against the South East of Ireland.

The complainant states that a contributor referred to the M9 motorway as the "Martin Cullen Express" and is of the view that this suggested that the only reason the motorway was built was because Martin Cullen was Minister for Transport at the time and is from Waterford. The complainant is of the view that this was a derogatory and biased comment.

The complainant also takes issue with a contributor describing the M9 motorway as being one of the most underutilised motorways in Europe. The complainant states that the presenter compounded the matter by responding that "it's the most underpopulated road in the country". The complainant acknowledges that the M9 may be underutilised but states that many motorways are operating at a similar capacity and claims that statistics from the National Roads Authority show that traffic along the M9 is comparable to many of the other motorways in Ireland.

The complainant states that the South-East region is one of the most deprived areas in the country and considers that the comments suggested that it is not in need of investment. The complainant is of the view that the comments were inaccurate, offensive and unfair.

Broadcaster Response Summary

The broadcaster confirms that during a debate on the programme about budget funding for motorways and cycleways, the M9 was referred to as being "one of the most underutilised motorways in Europe". The broadcaster states that the National Roads Authority has confirmed that although the motorway was historically underutilised when it was first built, this is no longer the case. However, the broadcaster notes that the Waterford Bridge section of the motorway is still underutilised. Further, the broadcaster refers to the Transport Infrastructure Ireland website and states that the M9 is operating at less than 80% capacity and less utilised than some of the main arteries.



The broadcaster is of the view that it should be noted that the comment was made in passing and in the context of a much broader debate in which one of the two panellists said "in defence of the motorist, these roads are sorely needed to keep workers there. In rural Ireland people are tied to their cars and these roads are desperately needed".

The broadcaster is of the view that the references to the Martin Cullen highway is accurate considering that it was built under Martin Cullen's tenure as Minister for Transport and within his own constituency.

The broadcaster is of the view that the item as a whole complied with the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs.

Decision of Executive Complaints Forum

Having considered the broadcast and the submissions from the complainant and the broadcaster and having 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 the complaint was submitted under rule 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that in their treatment of news and current affairs, broadcast matter is presented with fairness, objectivity, impartiality and with due accuracy.

The Forum noted that the complaint relates to a motoring segment on The Last Word in which the discussion focused on general transport issues including motorways, traffic congestion, electric vehicles and the Luas/train infrastructure. The Forum had regard for the complainant's view regarding the veracity of a claim made in the context of this discussion that the M9 was the most underused motorway in Europe.

The Forum was of the view that the comment made, in the context of the overall programme, was fair and impartial and that it was a minor part of a larger discussion regarding transport policy. The Forum noted that the discussion covered the costs associated with upgrading roads and developing other transport infrastructure. It was the view of the Forum that use of the term Martin Cullen Express was a colloquial expression and that the comments about the traffic volume on the M9 did not render the discussion partial or unfair, when considered in the context of the entire programme.

The Forum was of the view that the programme did not infringe the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in the manner outlined by the complainant. As such, the complaint was rejected.



Complaint Reference Number	C5259	C5260
Complainant	Mr. Kevin T. Finn	
Station	RTÉ One	
Programme Name	Claire Byrne Live	
Broadcast Date	13 th November 2019	2 nd December 2019
Broadcast Time	22:30	
Programme Description	Current affairs programme broadcast each Monday evening.	
Complaint Category	Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs - Rules 4.1 and 4.2. Section 48(1)(b)(harm and offence); the BAI Code of Programme Standards - Principle 5.	

Complaint Summary

The complaint relates to two related broadcasts which contained discussions regarding the relationship between Prince Andrew and Jeffrey Epstein and allegations made against Prince Andrew. The complainant is of the view that the discussions were not balanced and were discriminatory against men.

Broadcast on 18th November 2019

The complainant is of the view that the initial broadcast, which featured Brenda Power and Anton Power, failed to be fair or impartial as the complainant feels that there was no independent commentator and no contrary views were offered.

Broadcast on 2nd December 2019

The complainant believes that the second broadcast, which featured Brenda Power and focused on the interview with Prince Andrew's accuser, failed to be fair, objective or impartial. The complainant is of the view that the programme should have featured an independent commentator and also offered a contrary viewpoint. Further, the complainant is of the view that the presenter failed to ask critical questions about the interview or to challenge the views put forward. The complainant considers that both Brenda Power and Claire Byrne put forward the same viewpoint without exploring any alternative views.

Broadcaster Response Summary

Broadcast on 18th November 2019

The broadcaster states that the programme included clips from the interview with Prince Andrew and his views were therefore represented.

Broadcast on 2nd December 2019

The broadcaster states that the programme was aired almost two weeks after the BBC interview with Prince Andrew was aired, a period in which he had ample time to set out his views. The broadcaster considers that Prince Andrew's position in respect to the matters discussed are well established and known in the public domain. At the commencement of the item, the presenter noted that an earlier



programme had dealt with Prince Andrew's interview and stated that "tonight his accuser has been having her say". The broadcaster states that the initial programme focused on the interview with Prince Andrew and the follow-up programme focused on the interview with the accuser. Further, in the latter programme the presenter read out a statement from Buckingham Palace in response to the interview with Prince Andrew's accuser. The broadcaster states that the complainant's assertion that there was no alternative view is factually incorrect.

The broadcaster is of the view that Brenda Power is a well-established commentator and writer, who provided analysis of the interview. The broadcaster maintains that there is no merit to the view that two women discussing the matter could constitute discrimination against men in general or against Prince Andrew in particular.

The broadcaster believes the broadcasts were entirely compliant with the statutory and regulatory provisions.

Decision of Executive Complaints Forum

Having considered the broadcasts and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaints. The Forum's views and reasons for these decisions are set out below.

The Forum noted the complaints were submitted under rule 4.1 and 4.2 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that broadcast matter is presented in an objective and impartial manner and without any expression of the broadcaster's own views. The complaints were also made under principle five of the Code of Programme Standards, which requires that the manner in which persons and groups in society are represented shall be appropriate and justifiable and shall not prejudice respect for human dignity.

Claire Byrne Live – 18th November

The Forum noted that the complaint related to a discussion regarding an interview Prince Andrew had given on the previous Saturday on the BBC. The two guests on Claire Byrne Live were asked their opinion of the interview as a whole and, in particular, of a number of segments which were included in the programme. The discussion focused on Prince Andrew's decision to participate in the interview and the subsequent reaction to the interview, rather than on the content of the interview itself.

Claire Byrne Live - 2nd December

The Forum noted that this complaint related to a segment of the programme which focused on an interview with a woman who is at the centre of the allegations against Prince Andrew. The woman detailed her experience and perspective. The Forum had regard for the complainant's view that the segment was neither objective nor impartial in its treatment of Prince Andrew as his perspective was not adequately presented. Further, the complainant believes that the presenter failed to ask the studio guest robust questions or to offer a contrary opinion which resulted in the discussion not being fair or impartial.



The Forum found that the segment on Claire Byrne Live on 18th November was fair and impartial. The Forum noted that the focus of the segment was the context for the BBC interview and the reaction to the broadcast, rather than the interview itself. The Forum did not find any evidence in the broadcast to support the view that it lacked objectivity or impartiality in the manner raised by the complainant.

With regard to the segment on 2nd December, the Forum found this piece to be fair and impartial. In so far as the programme addressed the allegations against Prince Andrew, the Forum found that the perspective presented by the guest was counterbalanced by the inclusion of details of a press release issued by Buckingham Palace.

The Forum did not consider that the broadcasts infringed the Codes in the manner described by the complainant. As such, the complaints were rejected.



Complaint Reference Number	C5266
Complainant	Mr. Richard Mitchell
Station	Newstalk 106 - 108 FM
Programme Name	Moncrieff
Broadcast Date	13 th December 2019
Broadcast Time	14:00
Programme Description	A light entertainment programme covering a wide range of topics.
Complaint Category	Broadcasting Act 2009 - Section 48(1)(b)(harm and offence); the BAI Code of Programme Standards - Principles 1, 2 and 4.

Complaint Summary

The complaint relates to language used during a segment called 'Movies and Booze', in which the presenter discusses the latest cinema releases and various drinks.

The complainant objects to the use of the word 'shitty' by the presenter at 3:44pm on a Friday afternoon. The complainant states that he tuned into the programme at the end of an audio clip from a film featuring Ryan Reynolds. Following the clip, the presenter stated that "I love the way I'm allowed to say 'shitty' but Ryan Reynolds isn't".

The complainant found the use of the word offensive and objectionable, especially given the time of day when children might reasonably be expected to be listening. The complainant is of the view that the word had no relevance to the segment and that it was gratuitous.

Broadcaster Response Summary

The broadcaster acknowledges that the complainant was offended but does not consider that the use of the word 'shitty' contravenes the Code when used on a one-off basis and considered in context. The broadcaster is of the view that the word is used in reasonably common parlance and does not believe that it is considered coarse or offensive by the majority of adults.

The broadcaster states that Newstalk's target audience is people between 30 – 50 years-old and states that their listenership figures show that their audience is entirely over 18. Furthermore, regular listeners to the programme would know that it often features content unsuitable for a younger audience.

The broadcaster states that it discussed the importance of avoiding inappropriate language with the programme team, however, it does not consider that the programme content infringed the BAI Codes.

Decision of Executive Complaints Forum

Having considered the broadcasts and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaints. The Forum's views and reasons for these decisions are set out below.



The Forum noted the complaint was submitted under principles one, two and four of the Code of Programme Standards. The Code requires that broadcasters have respect for community standards, be mindful of the importance of context and for the protection of children when broadcasting programmes.

The Forum noted that the complaint refers to the use of the word 'shitty' by the presenter during a segment which was broadcast with a live audience from the Stella Cinema in Rathmines. The complainant is of the view that the use of this term at 3.44pm, when children may have been listening, infringed the Code.

The Forum was of the view that the programme and segment are aimed at an adult audience who are likely to be familiar with the tone and content of this regular segment. The Forum noted that the term caused offence to the complainant but did not consider that it would have caused undue offence to the general audience. The Forum was also mindful that broadcasters share a responsibility with parents and guardians in protecting their children from exposure to inappropriate and harmful programme material.

The Forum did not consider that the broadcast infringed the Code in the manner described by the complainant. As such, the complaint was rejected.



Complaint Reference Number	C5270
Complainant	Mr. Enda Fanning
Station	RTÉ Radio 1
Programme Name	Drivetime
Broadcast Date	26 th November 2019
Broadcast Time	17:50
Programme Description	Olivia O'Leary provides a weekly political column during Drivetime.
Complaint Category	Broadcasting Act 2009 - Section 48(1)(a)(fairness, objectivity and impartiality); the BAI Code of Fairness, Objectivity and Impartiality in News and Current Affairs – Rule 4.1.

Complaint Summary

The complainant relates to a segment of the programme which featured Olivia O'Leary's political column. The complainant is of the view that the segment failed to be fair or impartial as it linked Sinn Féin to the hate messages of extreme right-wing, anti-immigrant politics.

The complainant believes that Ms. O'Leary, in her comments, gave a clear impression that the Sinn Féin party is home for right-wing, anti-immigrant extremists. The complainant considers the item to be negative towards Sinn Féin and consider that it was unfair and impartial, particularly given that it was broadcast during a by-election.

Broadcaster Response Summary

The broadcaster states that listeners are familiar with Olivia O'Leary's personal political column. On this programme, Mary Wilson introduced the column by asking "why Ireland doesn't have a big ultra nationalist anti-immigrant party like some other European countries?". The broadcaster is of the view that the item did not link Sinn Féin with far-right nationalism. The broadcaster considers that the item, described the party as being left of centre and stated that it helped to stop the development of a Le Penn 'national front' type of vote. The broadcaster contends that the item was fair to Sinn Féin and provided a context for how the party has closed off political space for xenophobic, racist political parties or groups.

The broadcaster states that the Code allows for authored items and states that Olivia O'Leary's segment is well-established and considers that audiences would expect her to deliver an independent analysis of political and other current issues. The broadcaster believes this broadcast was entirely compliant with the statutory and regulatory provisions.

Decision of Executive Complaints Forum

Having considered the broadcast and the submissions from the complainant and the broadcaster and having 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 the complaint was submitted under rule 4.1 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that in their treatment of news and current affairs broadcast matter is presented with fairness, objectivity and Impartiality.

The Forum noted that the complaint relates to comments made by Olivia O’Leary during her political column on Drivetime which the complainant considers were unfair to Sinn Féin.

The Forum noted that Olivia O’Leary’s political column is a regular weekly slot on Drivetime in which the presenter gives a personal perspective on a variety of topics. The Forum considered that listeners would be familiar with the segment including the presentation style of the presenter. The Forum noted that authored segments of this nature are permissible under the Code and that audiences would identify these segments as such. The Forum noted that the complainant considered that the author linked Sinn Féin to right-wing anti-immigrant policies, however, the Forum did not find evidence in the broadcast to support this assertion.

The Forum was of the view that the programme did not infringe the Code of Fairness, Objectivity and Impartiality in News and Current Affairs in the manner outlined by the complainant. As such, the complaint was rejected.



Complaint Reference Number	C5271
Complainant	Mr. Con Barber
Station	Newstalk 106-108FM
Programme Name	Newstalk Breakfast - Riff
Broadcast Date	2 nd January 2020
Broadcast Time	08:00
Programme Description	This is a weekday morning fast-paced daily news and current affairs talk show including news, sport, business and entertainment.
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 4.23.

Complaint Summary

The complaint refers to a segment on the programme regarding a post on a Midlands Parish Facebook page, posted on Christmas Eve, which stated that IVF treatment is totally incompatible with the Catholic faith. The complainant was offended by a comment made by the presenter when he referred to this stance as ridiculous, thereby insinuating that the Parish's position had no merit. The complainant is of the view that the presenter's comment was neither balanced nor objective and that people's beliefs for or against IVF should not have been dismissed in such a manner.

Broadcaster Response Summary

The broadcaster states that this segment of the programme is called 'Riff' and is a regular feature on Newstalk Breakfast. The focus of this riff was the presenters' hopes for 2020. The comment was made during a discussion on the Minister for Health, Simon Harris. The presenters were discussing the merits of the use of the Minister's time in commenting on the item which had been posted on the Midlands Parish Facebook page. One of the presenters stated the piece was ridiculous and expressed the view that people would see it for what it was. The broadcaster states that the comment made was in context of the wider point about the Minister commenting on the post and did not relate to any individual who shares the views outlined in the post.

The broadcaster states that there was no intention to dismiss the views of listeners who agree with the Church's stance. Further, the broadcaster acknowledges that the topic could have been explored more fully with the comment being made in a better manner. However, the broadcaster also believes that the programme, taken as a whole, was in compliance with the Code.

Decision of Executive Complaints Forum

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaints. The Forum's views and reasons for these decisions are set out below.

The Forum noted the complaint was submitted under rules 4.1, 4.2 and 4.23 of the Code of Fairness, Objectivity and Impartiality in News and Current Affairs. The Code requires that broadcast matter is



presented in a fair, objective and impartial manner and without any expression of the broadcaster's own views.

The Forum had regard to comments made by the presenter which, in the opinion of the complainant, were unfair and offensive. The Forum noted that the comment was made in the context of a daily item in which the presenters discuss a variety of topics. The Forum considered that regular listeners would be familiar with the segment and expect to hear personal views offered by the presenters. The Forum noted that the discussion focused on the presenters' hopes for 2020, which was relevant in the context of the new year. The Forum did not consider that the content which was the subject of the complaint constituted current affairs and, as such, the requirements set out in the Code of Fairness, Objectivity and Impartiality in News and Current Affairs do not apply to this programme. As such, the complaint was rejected.



Complaint Reference Number	C5272
Complainant	Mr. Richard Mitchell
Station	RTÉ 2FM
Programme Name	Jennifer Zamparelli on 2FM
Broadcast Date	13 th November 2019
Broadcast Time	11:00
Programme Description	Music-driven entertainment programme.
Complaint Category	Broadcasting Act 2009 - Section 48(1)(b)(harm and offence); the BAI Code of Programme Standards, Principles 1, 4 and 5.

Complaint Summary

The complaint relates to language used during a discussion between the presenter and a reporter about the Kardashians which, in the view of the complainant, was offensive. The complainant states that the word 'shit' was used on two separate occasions. The words 'Jesus Christ' and 'God' were also used as swear words, without any apology being made. The complainant is of the view that use of this language at the time of broadcast infringed the Code.

The complainant contends that later in the programme the presenter warned two phone-in guests that they were live on-air and stated that they should not curse. The presenter repeated this later in the programme when one of the guests said 'shit'. The complainant questioned the policy around the use of bad language on the programme.

Broadcaster Response Summary

The broadcaster states that the word was used inadvertently by the programme's entertainment reporter when she was using a phrase which contains the profanity. The broadcaster states that the language and phraseology was used in the course of a conversation and it was not the intention of either the presenter or the reporter to cause offence. However, the broadcaster acknowledges that the comment did offend the complainant and states that the complainant's concerns were shared with the editorial team.

Decision of Executive Complaints Forum

Having considered the broadcasts and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for this decision is set out below.

The Forum noted the complaint was submitted under principles one, four and five of the Code of Programme Standards. The Code requires that broadcasters should have respect for community standards, be mindful of the needs of children and have respect for persons and groups in society.



The Forum noted that the complaint relates to the use of language during the programme. The complainant takes exception to the use of a number of words, particularly as the presenter asked two phone-in guests not to curse.

The Forum noted that the complaint relates to a segment in which the entertainment reporter discusses entertainment news. The segment is a regular feature and the programme is aimed at adults and the content is appropriate for the intended audience. The Forum noted that the language was offensive to the complainant, however, the Forum did not consider that it caused undue offence. Further, the Forum was of the view that the manner in which the language was used was conversational and not gratuitous. In addition, available research indicates that the words are not generally seen as causing widespread offence. The Forum noted that the broadcaster states that it will communicate the complainant's concerns to the editorial teams. The Forum considered the programme in the context of the likely audience, the station and programme type and determined that the content did not infringe the Codes as presented by the complainant. As such, the complaint was rejected.



Complaint Reference Number	C5273
Complainant	Mr. Richard Mitchell
Station	RTÉ Radio 1
Programme Name	Liveline
Broadcast Date	13 th November 2019
Broadcast Time	13:45
Programme Description	Phone-in chat show broadcast on weekdays.
Complaint Category	Broadcasting Act 2009 - Section 48(1)(b)(harm and offence); the BAI Code of Programme Standards - Principle 1.

Complaint Summary

The complaint relates to language used during a discussion on bullying. The complainant takes issue with the word 'shit' being used during the broadcast without an apology.

Further, the complainant states that the programme featured a clip of a malicious message which was originally sent to a person via snapchat. The original recording was not included in the programme, instead the clip which was featured in the programme was a recording of the message voiced by an actor. The complainant states that while the name of the person was bleeped out on several instances, the words 'bitch' and 'fuck' were uncensored.

The complainant states that the clip also included the view that the girl should hang herself. The complainant is of the view that this is potentially harmful to listeners, especially at a time when children could be listening.

The complainant believes that the language used was unsuitable at the time of broadcast and that it was unjustified in a pre-recorded item.

Broadcaster Response Summary

The broadcaster states that the length of the recording was 20 seconds and was aired during a discussion about bullying. It is the view of the broadcaster that the discussion was emotional and honest in its interrogation of the use of social media in bullying. The discussion was part of a national debate on the national broadcaster.

The broadcast states that the clip referred to by the complainant originated as part of a longer recording done by a young boy, which was then sent to a 15-year-old girl. The broadcaster took an editorial decision to include the clip as it demonstrated the nature of material which is on social media and was relevant to the debate.

The clip was first aired on the 12th November with the permission of the mother of the girl in question. The broadcaster states that, prior to the first broadcast, the presenter gave a lengthy health warning to listeners and warned parents who might have children listening. Prior to the clip being played the second time, on the following day, the presenter mentioned that the audio was played the day before and required a health warning. The presenter also stated that the clip



contained bad language and was venomous. The broadcaster maintains that the recording was played to illustrate that the nature and means of abuse had changed. It was played in the context of the discussion and was not played gratuitously.

The broadcaster states that Liveline is a live programme in which listeners often give frank accounts of their experiences and sometimes use coarse language in describing their lives or discussing sensitive issues. The broadcaster contends that the programme deals with adult themes and is for an adult audience. The broadcaster is of the view that listeners know that sensitive issues will be aired and that some topics may not be suitable for younger people. Further, the broadcaster argues that the language which is the subject of the complaint is prominent in everyday discourse in Ireland.

The broadcaster acknowledges that for some people the use of language remains sensitive, however, the decision was taken to air the clip twice precisely because of its force, context and relevance.

Decision of Executive Complaints Forum

Having considered the broadcast and the submissions from the complainant and the broadcaster and having 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 the complaint was submitted under principle one of the Code of Programme Standards. The Code requires that the broadcasters have respect for community standards.

The Forum noted that the complaint referred to language used during a discussion on bullying, particularly in relation to language in a pre-recorded clip. The Forum noted that the presenter moderated the discussion and provided a warning before the clip was played. Further, the broadcaster provided strong editorial justification for the inclusion of the clip. The Forum noted that the discussion was emotive and, in this context, the use of bad language by some callers could not be deemed to cause undue offence. Given both prior warnings, the topic under discussion and audience expectation around such an emotive issue, the Forum did not consider that the broadcast infringed the Code of Programme Standards and did not cause harm or undue offence in the manner described by the complainant. As such, the complaint was rejected.



Complaint Reference Number	C5277
Complainant	Mr. Richard Mitchell
Station	RTÉ Radio 1
Programme Name	Arena
Broadcast Date	21 st January 2020
Broadcast Time	19:30
Programme Description	An arts and cultural show broadcast weekday evenings.
Complaint Category	Broadcasting Act 2009 - Section 48(1)(b)(harm and offence); the BAI Code of Programme Standards - Principle 1.

Complaint Summary

The complaint relates to language broadcast during a discussion on the career of political satirist and producer, Armando Iannucci. The complainant takes issue with the inclusion of several uncensored uses of the word 'fuck' during an extract from a programme Iannucci created, called 'The Thick of It'.

Broadcaster Response Summary

The broadcaster states that the subject matter on the programme was the career of the satirist and film maker Armando Iannucci. The item referred to by the complainant related to the discussion on the character Malcolm Tucker from 'The Thick of It'. The broadcaster states that Arena is an arts and culture programme. The broadcaster believes that, given the genre, listeners understand that art often contains language which some people find challenging.

The broadcaster states that before playing the clip, the presenter alerted listeners that it was potty mouthed throughout. Furthermore, the discussion in advance of the clip set the tone for what was to come. The broadcaster stated that the discussion included a reference to how swearing is intrinsic to the comedy of that entire series and is especially true of the character Malcolm Tucker. The broadcaster claims that bleeping out the language would have changed the dynamic and impact of the piece.

The broadcaster maintains that the advance notice given provided ample warning to any listener who was likely to be offended by the language. The broadcaster believes the discussion had clear editorial justification and was entirely in keeping with the relevant statutory provisions.

Decision of Executive Complaints Forum

Having considered the broadcast and the submissions from the complainant and the broadcaster and having had regard to the relevant legislation and Code, the Forum decided to reject the complaint. The Forum's views and reasons for this decision are set out below.

The Forum noted the complaint was submitted under principle one of the Code of Programme Standards. The Code requires that broadcasters should have respect for community standards.



The Forum noted that the complaint referred a discussion on the life and career of satirist and film maker Armando Iannucci. The complainant takes exception to the use of the word 'fuck' on several occasions during a clip from 'The Thick of it' which was played during the discussion.

In considering this complaint, the Forum had regard to the context and format of the programme. Arena is an arts and cultural style programme which is broadcast between 7-8pm on weekdays. The Forum notes that Arena is aimed at an adult audience and considered that listeners would be familiar with the type of content.

The Forum was of the view that listeners were given ample warning of bad language being contained in the clip prior to it being played. The Forum determined that the clip was appropriate given the context of the topic and considered that the discussion prior to the clip being played would have indicated to audiences that the programme was aimed at an adult audience. The Forum was mindful that the language used was offensive to the complainant, however, it noted that there is no guarantee that programme material will be free from offence. The Forum considered the type of programme, the time of broadcast and the inclusion of prior warnings and did not find the content to be unduly offensive.

The Forum did not consider that the broadcast infringed the Code of Programme Standards in the manner described by the complainant. As such, the complaint was rejected.



Complaint Reference Number	C5278
Complainant	Mr. Richard Mitchell
Station	Today FM
Programme Name	The Last Word
Broadcast Date	20 January 2020
Broadcast Time	16:30
Programme Description	News and Current Affairs programme with opinionated debates on issues that matter to listeners.
Complaint Category	Broadcasting Act 2009 - Section 48(1)(b)(harm and offence); the BAI Code of Programme Standards - Principle 1.

Complaint Summary

The complaint relates to language broadcast during a discussion on songs used by political parties during election time. A clip was played from a campaign video made by a former TD and now MEP, featuring several of their contributions during their time in Dáil Éireann. The complainant states that the clip contained the word 'fuck'. The complainant objects to this word being repeated six or seven times without any censorship. The complainant maintains that this infringed principle one of the Code.

Broadcaster Response Summary

The broadcaster states that in advance of airing the clip, the presenter issued a warning regarding the imminent coarse language. The clip was part of a wider topic concerning Irish Election Songs and, as such, was pertinent to the piece in question. Given the context, the broadcaster does not believe the Code was infringed.

Decision of Executive Complaints Forum

Having considered the broadcast and the submissions from the complainant and the broadcaster and having 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 the complaint was submitted under principle one of the Code of Programme Standards. The Code requires that broadcasters have respect for community standards.

The Forum noted that the complainant considered that the programme did not comply with the Code, given the language played during the piece and took exception to a clip being played in which one former TD swore repeatedly in a political song. The Forum was of the view that the music segment is a regular feature on The Last Word and audiences would be familiar with the adult-nature of the programme. The segment featured a discussion regarding political songs and was included in the context of the forthcoming general election. The Forum noted that a warning had been issued prior to the clip which contained bad language. The Forum determined that the clip was appropriate given the context of the topic being discussed.



The Forum was mindful that the language used was offensive to the complainant, however, it noted that there is no guarantee that programme material will be free from offence. The Forum considered the type of programme, the time of broadcast and the inclusion of prior warnings and did not find the content to be unduly offensive.

The Forum did not consider that the broadcast infringed the Code in the manner described by the complainant. As such, the complaint was rejected.