

---

**Decision of the Election Committee on a  
due impartiality complaint from the Green  
Party Northern Ireland regarding BBC  
coverage of the run-up to the Northern  
Ireland Assembly Election 2022**

---

# Contents

---

## Section

1. Introduction and summary	3
2. Background	5
3. The Committee's Decision	12

## Annex

A1. Statutory Framework and Sections Five and Six of the Broadcasting Code	20
--	----

# 1. Introduction and summary

- 1.1 Ofcom is the UK's independent broadcast regulator. As a post-broadcast regulator, we assess content once it has been broadcast.
- 1.2 During an election period, Ofcom establishes an Election Committee<sup>1</sup> which has delegated authority from the Ofcom Board to consider due impartiality complaints in respect of election-related programmes where the complaint, if upheld, might require redress before the election.
- 1.3 The Election Committee<sup>2</sup> has considered a complaint ("the Complaint") from the Green Party Northern Ireland ("GPNI") in relation to the coverage by the BBC of the GPNI during the Northern Ireland Assembly election period, including in:
  - a) *The View* television series, broadcast on BBC 1 Northern Ireland on Thursday evenings ("*The View*") and, in particular, a series of interviews with party leaders on *The View* between 24 March and 28 April 2022 ("*The View* Leader Interviews"); and
  - b) the BBC's coverage of the GPNI during the election period for the 2022 Northern Ireland Assembly elections more generally (across its radio and television services).
- 1.4 The format of election programming is a matter of editorial freedom for the individual broadcasters, as long as the programming as broadcast complies with the Ofcom Broadcasting Code ("the Code")<sup>3</sup>. Our rules on due impartiality require that when broadcasters are dealing with matters of major political controversy and major matters relating to current public policy, such as elections to the Northern Ireland Assembly, due impartiality must be preserved and an appropriately wide range of significant views must be included and given due weight, in each programme or in clearly linked and timely programmes. Due weight must also be given to the coverage of political parties during the election period.
- 1.5 The Complaint alleged that, in excluding the GPNI from *The View* Leader Interviews and in its coverage more generally, the Broadcaster failed to comply with its obligations in respect of due impartiality (under Section Five of the Code). As the Complaint concerned material broadcast during the election period for the Northern Ireland Assembly election (which commenced on 28 March 2022 and ends with the date of the poll on 5 May 2022), there were also issues to consider under Section Six of the Code (in respect of elections).

---

<sup>1</sup> The [Terms of Reference for the Election Committee](#) are available on the Ofcom website.

<sup>2</sup> In this case the Election Committee consisted of the following members: Bob Downes (Chair, Member, Ofcom Board and Chair, Ofcom Content Board); Maggie Cunningham (Member, Ofcom Content Board); Peter Horrocks (Member, Ofcom Content Board); Kevin Bakhurst (Group Director, Broadcasting and Online Content Group and Member, Ofcom Board and Ofcom Content Board); and Adam Baxter (Director, Standards and Audience Protection, Broadcasting and Online Content Group).

<sup>3</sup> [The Ofcom Broadcasting Code \(with the Cross-promotion Code and the On Demand Programme Service Rules\) - Ofcom](#) is available on the Ofcom website.

1.6 In response to the Complaint, the BBC explained to Ofcom how it approaches its election programming and, in particular, the factors that it takes into account when considering the appropriate levels of broadcast coverage for political parties. It also explained: why it had chosen to include the GPNI in its broadcast of *Sunday Politics* on 3 April 2022 but not to include it in its *The View* Leader Interviews; and why it had chosen to include the Traditional Unionist Voice Party (“TUV”) in its *The View* Leader Interviews on 7 April 2022. The BBC further summarised its overall coverage of the GPNI and the TUV across the election period up to 22 April 2022, and its planned future coverage to the end of the election period. In addition, it explained that there would be days when one party would dominate the agenda and outlined by way of example the coverage it had given to the GPNI and the TUV on the days of their respective manifesto launches on 21 and 22 April 2022.

1.7 Having considered the Complaint and the evidence put before it, the Election Committee reached the following conclusions:

- a) The BBC’s approach to considering the GPNI’s level of past electoral and current support, including the weight it has placed on opinion poll evidence, has been reasonable during the election period to date. It was satisfied that the evidence currently available did not require the BBC to provide the GPNI with precisely the same coverage as the TUV (or, indeed, greater coverage).
- b) Regarding *The View* Leader Interviews (and linked programming) and taking account of the evidence on the GPNI and TUV’s levels of past electoral and current support, the Committee was not concerned about the BBC’s compliance with Sections Five and Six of the Code.
- c) Taking account of the BBC’s summary of its coverage of the GPNI and TUV (and again, in light of the evidence regarding the GPNI and TUV’s past electoral and current support), the Committee was not concerned about the BBC’s overall approach to the coverage of the GPNI during the Northern Ireland Assembly election period so far under Sections Five and Six of the Code.

**1.8 Ofcom’s Election Committee assessed the Complaint from the GPNI, taking into account the BBC’s submissions and the programming referred to above against the Code and, for the reasons set out below, decided to not uphold the Complaint.**

## 2. Background

- 2.1 This section provides some context to the Complaint and then summarises the Complaint itself (as well as the various further submissions made by the GPNI and the BBC between 8 and 25 April 2022).
- 2.2 Ofcom received an initial complaint from the GPNI on 8 April 2022 regarding the BBC's coverage of the GPNI in the run-up to the Northern Ireland Assembly elections, but this had not completed the BBC complaints procedure first. Ofcom received the final Complaint (once the GPNI had received a final response from the BBC) on 22 April 2022. Ofcom decided that it would be appropriate for the Election Committee to consider the Complaint on an expedited basis given that it raised substantive issues which, if upheld, might require redress before the elections to the Northern Ireland Assembly on 5 May 2022. Both the GPNI and the BBC were therefore asked to provide their submissions and/or comments in relation to the Complaint at short notice and in accordance with tight deadlines. The Election Committee was grateful for the cooperation of the parties in responding to these short deadlines.

### Electoral Context to the Complaint

- 2.3 The GPNI has links with the Green Party in the Republic of Ireland and sister parties in other parts of the UK. It won its first Assembly seat in 2007. Its leader, Clare Bailey, has been an MLA for South Belfast since 2016.
- 2.4 The TUV is a unionist political party founded in 2007. Its leader, Jim Allister, is a former MEP (2004-2009<sup>4</sup>) and has been an MLA for North Antrim since 2011.
- 2.5 As outlined in Ofcom's Electoral Digest for the May 2022 elections<sup>5</sup>:
- a) In the Northern Ireland Assembly election in 2017, the GPNI obtained 2.3% of the popular vote and two seats; whereas the TUV obtained 2.6% of the popular vote and one seat. In the same elections in 2016, the GPNI obtained 2.7% of the popular vote and two seats; whereas the TUV obtained 3.4% of the popular vote and one seat.
  - b) In the General Election 2019, the GPNI obtained 0.2% of the popular vote (and did not win any seats) and the TUV did not field any candidates. In the same elections in 2017, the GPNI obtained 0.9% of the popular vote and the TUV obtained 0.4% of the popular vote (neither securing any seats).
  - c) In the European Parliament elections in 2019, the GPNI obtained 2.2% of the popular vote (and did not win any seats); and the TUV obtained 10.8% of the popular vote (and did not win any seats). In the same elections in 2014, the GPNI obtained 3.9% of the

---

<sup>4</sup> Jim Allister was elected as an MEP for the DUP in 2004. In 2007 he left the party in order to form the TUV.

<sup>5</sup> The [Electoral digest for May 2022 elections \(ofcom.org.uk\)](https://www.ofcom.gov.uk/consult/condocs/electoral/electoral_digest_for_may_2022_elections/) is available on Ofcom's website.<sup>6</sup> SMR refers to Social Market Research. This polling was delivered by the Institute of Irish Studies, University of Liverpool in association with the Irish News.

popular vote (and did not win any seats); and the TUV obtained 12.1% of the popular vote (and did not win any seats).

- d) In the Northern Ireland Local elections 2019, the GPNI obtained 2.1% of the popular vote and eight council seats; whereas the TUV obtained 2.2% of the popular vote and six council seats. In the same elections in 2014, the GPNI obtained 0.9% of the popular vote and four council seats; whereas the TUV obtained 4.5% of the popular vote and 13 council seats.

- 2.6 With regards to the upcoming Northern Ireland Assembly election, nine opinion polls have been conducted between January 2021 and 4 April 2022 in Northern Ireland. The results of these polls are set out below in Figure 1 (the “Polling Data”):

**Figure 1: Voting preference in Northern Ireland Assembly elections**

	DUP	Sinn Fein	SDLP	UUP	Alliance	TUV	Green	PBP	Others
LucidTalk (Jan 2021)	19.0%	24.0%	13.0%	12.0%	18.0%	10.0%	2.0%	1.0%	1.0%
LucidTalk (May 2021)	16.0%	25.0%	12.0%	14.0%	16.0%	11.0%	2.0%	2.0%	2.0%
LucidTalk (Aug 2021)	13.0%	25.0%	13.0%	16.0%	13.0%	14.0%	2.0%	2.0%	2.0%
SMR <sup>6</sup> (Nov 2021)	20.6%	23.5%	11.4%	13.0%	17.3%	5.6%	3.9%	1.0%	3.1%
LucidTalk (Nov 2021)	18.0%	24.0%	12.0%	14.0%	15.0%	11.0%	2.0%	2.0%	2.0%
LucidTalk (Jan 2022)	17.0%	25.0%	11.0%	14.0%	14.0%	12.0%	3.0%	1.0%	3.0%
SMR (Feb 2022)	19.4%	23.2%	9.9%	14.0%	15.6%	6.4%	6.3%	2.3%	2.9%
LucidTalk (Mar 2022)	19.0%	26.0%	11.0%	13.0%	16.0%	9.0%	2.0%	2.0%	2.0%
SMR (Mar 2022)	20.2%	27.0%	10.3%	13.5%	14.6%	5.4%	4.3%	2.1%	2.5%

## The Complaint

- 2.7 In an email dated 22 April 2022, the GPNI notified Ofcom that the BBC had decided not to uphold its complaint regarding its coverage during the Northern Ireland Assembly elections 2022, and that it wished to appeal that decision. The GPNI also attached a copy of its original complaint to the BBC, dated 5 April 2022; and the decision of the BBC’s Executive Complaints Unit (“the ECU”), dated 21 April 2022.

- 2.8 The GPNI’s initial complaint to the BBC argued that the GPNI was receiving less prominent coverage than the TUV; and that, on the basis of past electoral and current support, the

<sup>6</sup> SMR refers to Social Market Research. This polling was delivered by the Institute of Irish Studies, University of Liverpool in association with the Irish News.

GPNI should receive coverage that is equal to, if not greater than, the coverage given to the TUV. In support of this, the GPNI made the following additional points:

- a) prior to the dissolution of the Northern Ireland Assembly for the current election, the GPNI was the sixth largest party in the Assembly, with double the number of seats of the TUV;
- b) the GPNI won more local government seats than the TUV in the 2019 Northern Ireland local elections;
- c) Northern Ireland has limited opinion polling data and only one polling company (LucidTalk) had recorded an increase in TUV support compared to previous elections, while the other main set of opinion polls conducted in Northern Ireland (by the University of Liverpool/Social Market Research) did not find a comparable increase;
- d) recent opinion polling (conducted between 11 and 26 March 2022) found only a difference of 1.1 percentage points in support for the TUV compared to the GPNI, with a 3.1 point margin of error; and
- e) according to Ofcom's guidance, opinion polling data is not a sound basis upon which to offer the TUV more coverage than the GPNI and should not take precedence over past electoral performance.

2.9 However, as set out in the ECU decision of 21 April 2022, the BBC did not uphold the complaint because it considered that the evidence of past electoral and current support meant that the GPNI were not entitled to precisely equal coverage to the TUV in the election campaign, and that, in any event, the coverage given to both the parties was broadly equivalent.

2.10 As well as informing Ofcom that it wished to appeal the BBC's decision, the GPNI also argued the following:

*"Our position in relation to the ECU's letter is that the Green Party NI's interview on Sunday Politics is not equivalent coverage to the TUV's Leader Interview on The View. The View is a flagship programme, with a bigger audience, and the TUV was allocated more time on The View than the Green Party NI received on the Sunday Politics. In addition, the TUV's interview was part of a series of interviews branded as 'Leader Interviews', which gave the impression that they are a larger party than the Green Party NI, as the Green Party NI was excluded from this series. Our position is that as a larger party than the TUV, we should be at least entitled to equivalent coverage in the election campaign".*

## **Response from the BBC**

2.11 The BBC was provided with a copy of the Complaint and asked to provide further representations, which it did on 25 April 2022.

2.12 The BBC noted in its representations that in addition to Ofcom's Code and Guidance, the BBC also publishes its own Election Guidelines to assist programme makers on how to

approach election coverage of parties in Northern Ireland with regard to Ofcom's digest of electoral support as published on 17 February 2022. At the time of publication of its guidelines, the BBC considered that the GPNI, the TUV and People Before Profit ("PBP") should be considered smaller parties in Northern Ireland given results for the Northern Ireland Assembly in 2016 and 2017 and the electoral support in subsequent elections.

- 2.13 The BBC responded to the GPNI's complaint to Ofcom by explaining that, based on past electoral support alone, it had taken the view that there was little to differentiate between the GPNI and the TUV. In reaching this view, it noted that while the number of elected candidates is a consideration, it is not the only determinative factor and must be considered alongside the overall percentage of the vote. In this regard, the BBC noted that, whilst the GPNI had gained more seats and councillors in the Northern Ireland Assembly elections in 2016 and 2017, and in the Northern Ireland local elections in 2019, it had obtained a similar (or slightly lower) share of the popular vote to the TUV. The TUV also obtained a higher share of the popular vote in the European Parliament elections in 2019 (see in particular, paragraph 2.5 above).
- 2.14 The BBC however noted that it had continued to make editorial judgments in the run-up to the election period to take account of evidence of current support and, in particular, opinion polling evidence. Specifically, whilst it recognised that opinion polling should carry less weight than actual votes, it submitted that it is reasonable for broadcasters to give a trend in opinion polls appropriate weight when making judgments about editorial coverage. It explained that, taking account of nine opinion polls in Northern Ireland between January 2021 and 4 April 2022, its view was that the TUV had demonstrated a level of current electoral support to warrant some further proportionate additional coverage. Specifically: the TUV had averaged over 9% in those polls which was substantially higher than the party's share of the vote in the 2017 elections to the Northern Ireland Assembly, whereas the GPNI was averaging just over 3% across the same nine polls. It concluded that any difference in coverage provided to the TUV and the GPNI had been proportionate and nuanced to ensure due impartiality, taking account of past electoral and current support.
- 2.15 The BBC also stated that, whilst the GPNI did not feature in *The View* Leader Interviews, it did appear on the *Sunday Politics* show. It explained that both these programme strands are BBC Northern Ireland's flagship political programmes, both broadcast on BBC 1 Northern Ireland with the same presenter and pool of specialist contributors and commentators. Both programmes, the broadcaster argued, have an established editorial reputation, whereby *Sunday Politics* routinely informs wider news coverage of political stories and developments, and their inter-relationship is shown in how the programmes refer to one another, highlighting upcoming topics or guests. In particular, the BBC pointed to:
- a) an episode of *The View* on 31 March 2022 when the audience was directed by the presenter to the (then) upcoming interviews taking place on *Sunday Politics* concerning the GPNI and the People Before Profit party ("PBP"); and

- b) the episode of *Sunday Politics* on 3 April 2022 (featuring the GPNI leader) which linked to the (then) upcoming TUV interview on *The View* of 7 April 2022.
- 2.16 The BBC also explained that it planned to ensure that in the last two campaign editions of each programme (i.e. *The View* on 28 April 2022 and *Sunday Politics* on 1 May 2022), there would be specific trails to on-demand programming on BBC iPlayer, drawing attention to the relevant interviews carried out with all the political parties, including the GPNI, which remain accessible to the audience on that platform over the remainder of the election period.
- 2.17 Based on what it considered to be an increase in current support for the TUV, the BBC explained its editorial assessment that it was justified to invite the TUV onto *The View*, which has slightly higher audience figures than *Sunday Politics*. In this instance, *The View* on 7 April attracted 65,000 viewers, whereas *Sunday Politics* on 3 April 2022 attracted 48,000 viewers<sup>7</sup>. For this reason, the BBC submitted that its approach was proportionate and appropriate and in accordance with its obligations in respect of due impartiality. The BBC confirmed that it had no plans to include the GPNI in the upcoming episode of *The View* on 28 April 2022, and explained its editorial assessment that this would be disproportionate and unfair to other parties who had appeared only once on one of the flagship programmes during the election, and that the GPNI's electoral support did not warrant such an "undue advantage". The BBC explained its assessment that the interview on *Sunday Politics* gave the GPNI an appropriate opportunity to present its views and policies to the public while giving due weight to its electoral support.
- 2.18 The BBC outlined some of the main coverage given, or confirmed as due to be given, before 28 April 2022 to the GPNI during the election period as follows:
- a) 3 April: *Sunday Politics*, BBC 1 NI, 10:02, interview with Clare Bailey (leader), repeated BBC 2, 4 April, 00:00;
  - b) 8 April: *Good Morning Ulster*, Radio Ulster, 07:44, interview with Clare Bailey;
  - c) 14 April: *Good Morning Ulster*, Radio Ulster, 07:40, health hustings (with Mal O'Hara of the GPNI and Stephen Cooper of the TUV);
  - d) 21 April: Coverage of GPNI manifesto launch in *Newsline*, BBC 1 NI, 18:30, plus reports in subsequent radio news bulletins;
  - e) 26 April: *Good Morning Ulster* featuring focus on Lagan Valley constituency (interview with Lorna Smyth of the TUV, Simon Lee of the GPNI and candidates from other parties), 07:30; and
  - f) 27 April: manifesto-based interview with a GPNI representative on *The Nolan Show*, Radio Ulster, 10:00.

---

<sup>7</sup> 41,000 and 7,000, respectively, for the initial broadcast on BBC NI and the subsequent repeat on BBC 2.

<sup>8</sup> All audience figures are based on BARB and consolidated 7 day viewing.

- 2.19 It also outlined some of the main coverage given, or confirmed as due to be given, before 28 April 2022 to the TUV as follows:
- a) 4 April: *Talkback*, Radio Ulster, 12:05, interview and phone-in with Jim Allister (leader);
  - b) 7 April: *The View*, BBC 1 NI, 23:07, interview with Jim Allister (second story after interview with the SDLP leader);
  - c) 14 April: *Good Morning Ulster*, Radio Ulster, 07:40, health hustings (with Mal O’Hara of the GPNI and Stephen Cooper of the TUV);
  - d) 22 April: Coverage of manifesto launch in *Newsline*, BBC 1 NI, 18:30 and in subsequent radio news bulletins; and
  - e) 26 April: *Good Morning Ulster* featuring focus on Lagan Valley constituency (interview with Lorna Smyth of the TUV, Simon Lee of the GPNI and candidates from other parties), 07:30.
- 2.20 The BBC argued that this scheduling demonstrated the very similar level of coverage that both parties had received so far during the election period. It also drew attention to the high level of coverage that both the GPNI and the TUV would have received on the dates of their manifesto launches, on 21 and 22 April 2022 respectively.
- 2.21 The BBC explained that it takes into account the whole election campaign when making judgments about the appropriate level of coverage for each party. The broadcaster therefore outlined its planned coverage of the GPNI and TUV for the remainder of the election period. In particular, it identified programmes where the parties had agreed or been invited to attend. For the GPNI, it referred to the following planned programming after 28 April 2022<sup>9</sup>:
- a) 29 April: *Talkback*, Radio Ulster, 12:00, interview with Clare Bailey followed by phone-in;
  - b) 29 April: *Newsline*, BBC 1 NI, 18:30, clip in package profiling the smaller parties (also featuring the TUV, PBP and Aontú);
  - c) 3 May: *Good Morning Ulster* featuring focus on Newry and Armagh constituency (the BBC reported that the GPNI candidate invitation to appear was declined);
  - d) 3 May: *Newsline*, BBC 1 NI, 22:25, live response to the BBC’s NI Leaders’ Debate (alongside the TUV with clips from the PBP and a statement from Aontú); and
  - e) 4 May: *Good Morning Ulster*, live response to the BBC’s NI Leader’s Debate alongside the TUV (time tbc)<sup>10</sup>.

---

<sup>9</sup> Items from 29 April 2022 onwards were marked as “provisional”.

<sup>10</sup> The BBC noted that the GPNI had not complained about its exclusion from the main Northern Ireland Assembly leaders’ debate which is scheduled to take place at 21:00 on 3 May 2022, although it did note that the GPNI had included comments on this in a press release on this subject. The BBC confirmed, for the avoidance of doubt, that it considered that the GPNI’s evidence of electoral support did not justify an invitation as a principal participant to the debate with the main

- 2.22 For the TUV, it outlined the following planned programming after 28 April 2022<sup>11</sup>:
- a) 29 April: *Good Morning Ulster*, Radio Ulster, package by presenter with Jim Allister (leader) campaigning (circa 07:35), interview with Jim Allister (after 08:00);
  - b) 3 May: *Good Morning Ulster*, featuring focus on Newry and Armagh constituency –TUV candidate (confirmed) appearing 07:30;
  - c) 3 May: *Newsline*, BBC 1 NI, 22:25, live response to the BBC’s NI Leaders’ Debate (alongside the GPNI, with clips from the PBP and statement from Aontú); and
  - d) 4 May: *Good Morning Ulster*, live response to the BBC’s NI Leader’s Debate alongside the GPNI (time tbc).
- 2.23 The BBC argued that this planned scheduling demonstrated that both parties would continue to receive a very similar level of coverage for the remainder of the election period.
- 2.24 The BBC also referred to the fact that it had awarded both the TUV and GPNI two Party Election Broadcasts (“PEBs”), but that this did not necessarily mean that equal levels of coverage were required or appropriate in relation to other programming during the election period. It suggested that ongoing coverage allows scope for finer distinctions than the more binary decision about the allocations of PEBs.

## Statutory Framework

- 2.25 Under section 319 of the Communications Act 2003 (the “Act”), Ofcom has a duty to set such standards for the content of programmes to be included in television and radio services as appear to them best calculated to secure a range of statutory standards objectives. Ofcom has discharged this duty by producing, and from time to time revising, the Code. The standards objectives set out in the Act include special impartiality requirements relating to matters of major political and industrial controversy and major matters relating to current public policy. These may be satisfied through clearly linked and timely programmes. See the Annex for full details of the relevant statutory framework.

## Applicable provisions of the Broadcasting Code

- 2.26 The Committee considered the Complaint by reference to [Section Five \(Due impartiality and due accuracy\)](#) and [Section Six \(Elections and referendums\)](#) of the Code and accompanying Guidance Notes. See the Annex for full details of the relevant Code provisions.

---

five parties (which were: the DUP, Sinn Féin, the SDLP, the UUP and the Alliance), but that the GPNI, the TUV and PBP were being provided with “fair and impartial broadcast opportunities”, reflective of their electoral support, in timely linked programming.

<sup>11</sup> Items from 29 April 2022 onwards were marked as “provisional”.

## 3. The Committee's Decision

- 3.1 The Committee considered whether due impartiality had been preserved (and an appropriately wide range of views included and given due weight) in the BBC's coverage of the 2022 Northern Ireland Assembly election to date, and whether the BBC had provided due weight to coverage of the GPNI in that same period.
- 3.2 In doing so, it took into account the Complaint, and the BBC's submissions (including its summary of the coverage provided to the GPNI and the TUV during the election period to date, and its planned future coverage).

### GPNI and TUV past electoral and current support

- 3.3 Before considering the programming to which the GPNI and the BBC had specifically referred it, the Committee considered the submissions made by both the BBC and GPNI regarding the GPNI and TUV's past electoral and current support. The Committee recognised that this would be an important contextual factor when determining whether due impartiality had been preserved in accordance with Section Five of the Code, and whether due weight had been provided to coverage of the GPNI in accordance with Section Six of the Code.
- 3.4 In particular, and as the Code itself states, "due" is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. "Due" means adequate or appropriate to the subject and nature of the programme. So "due impartiality" does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel and the likely expectation of the audience.
- 3.5 Consistent with this, paragraph 1.21 of Ofcom's Guidance Notes on Section Six of the Code recognises that the concept of giving "due weight" is flexible and that its application depends on the electoral context.
- 3.6 In addition:
- a) in respect of the requirement to preserve due impartiality under Rule 5.11, paragraph 1.7 of Ofcom's Guidance Notes on Section Six of the Code provides that due impartiality during election campaigns does not mean that balance is required in any simple mathematical sense. In their coverage of elections, broadcasters – in fulfilling their obligations to preserve due impartiality – should take a consistent approach to the assessment of the level of coverage given to all the candidates. Broadcasters may have regard to any measurable and objective evidence of the likely level of electoral support for particular candidates, and the relevant political context, in deciding relative levels of coverage for different candidates in the same election; and
  - b) in respect of the requirement under Rule 6.2 to give due weight to coverage of the GPNI, the Rule itself provides that in determining the appropriate level of coverage to

be given to parties, broadcasters must take into account evidence of past electoral support and/or current support.

Paragraph 1.47 of Ofcom’s Guidance Notes on Section Six of the Code states that greater weight should be placed on actual performance of a political party in elections than on the level of its current support. Ofcom’s Guidance Notes on the Code seek to assist broadcasters in understanding how Ofcom will usually interpret and apply the concept of “current support”. They make clear that evidence of significant current support should be interpreted in a “straightforward way”, taking into account all factors (paragraph 1.43), and that broadcasters should put weight on evidence of current support that is objective and measurable (including opinion poll data, where it is available) (paragraph 1.47). The weight placed on opinion poll evidence of current support should be determined with reference to factors such as the number of polls taken; the degree to which the candidate is polling above the margin of error for a particular poll; the degree to which polling suggests a consistent level of support throughout the election period; and who conducted the poll<sup>12</sup>.

- 3.7 The Committee considered the evidence of past electoral support for the GPNI and TUV that was available to it, and the BBC’s approach to assessing that evidence<sup>13</sup>. In particular, it considered the results of the Northern Ireland Assembly elections in 2017 and 2016 ; the General Elections in 2019 and 2017; the European parliament elections in 2019 and 2014; and the Northern Ireland local elections in 2019 and 2014, as set out at paragraph 2.5. The Committee also took into account evidence of current support as set out in the Polling Data at Figure 1 above.
- 3.8 The Committee emphasised that its intention is always to undertake a balanced assessment having regard to the totality of the relevant evidence, and agreed that all of the evidence set out above was relevant when determining the appropriate coverage to provide to the GPNI in the run-up to the 2022 Northern Ireland Assembly elections (including by way of comparison with the level of coverage provided to the TUV).
- 3.9 On the issue of past electoral support, the Committee was in broad agreement with the approach taken by the BBC. It considered that the overall percentage of the popular vote in previous elections was a relevant factor alongside the number of seats actually obtained. Taking account of both the numbers of elected candidates and overall percentage of the popular vote received, the Committee considered that the evidence suggested broadly equivalent past electoral support for the GPNI and TUV. Whilst the GPNI had secured more seats in the Northern Ireland Assembly elections in 2017 and 2016, and in the Northern Ireland Local elections in 2019, the Committee recognised that the TUV had secured a similar (and, in some cases, higher) share of the popular vote. It also noted that the TUV had secured a materially higher share of the overall vote in the European elections in 2019.

---

<sup>12</sup> For instance, a poll conducted by a member of the British Polling Council might carry more weight.

<sup>13</sup> Neither the GPNI or the BBC referred to past electoral performance in the General Election 2019, where the GPNI achieved 0.2% (no seats) (the TUV did not field any candidates); and the General Election 2017, where the GPNI achieved 0.9% and the TUV 0.4% (neither securing any seats).

- 3.10 The Committee took into account Ofcom’s Guidance that greater weight should be placed on the actual performance of a political party in elections than on the level of its current support. This reflects the fact that electoral performance is a measure of how voters have actually exercised their democratic choice whilst there is greater uncertainty associated with support in opinion polls, which may not translate into actual votes or seats at an election. This does not however mean that evidence of current support should carry no weight at all. Whilst less weight should be placed on levels of current support as opposed to actual performance, the Committee was satisfied that some weight should be put on such evidence where this is objective and measurable, such as opinion poll data.
- 3.11 Considering the Polling Data specifically (in relation to the polls conducted between January 2021 and 4 April 2022), the Committee recognised that – whilst the six polls conducted by LucidTalk suggested that current support for the TUV was materially higher than for the GPNI – the three polls conducted by Social Market Research suggested that current support for the GPNI was similar (albeit lower) to that of the TUV. It also recognised that the most recent poll published on 4 April 2022 indicated that the TUV only benefitted from a 1.1% difference in support compared to the GPNI.
- 3.12 In this context, the Committee cautioned against reliance on a single poll and considered it reasonable for the BBC to have used an average across all relevant polls in order to obtain a more holistic view of the GPNI’s and TUV’s level of current support.
- 3.13 Taking account of the Polling Data, the GPNI’s average support in polling at the time of publication was 3.1%, whereas the TUV’s was 9.4%. The Committee recognised that the Polling Data indicated relatively higher levels of current support for the TUV than the GPNI, and that this was a sufficiently material difference that the BBC was entitled to take account of when making editorial decisions regarding the level of coverage afforded to those parties during the election period.
- 3.14 Taking into account all of the above, the Committee found that the BBC’s approach to considering the evidence on the GPNI’s level of past electoral and current support (including its approach to opinion poll evidence) had been reasonable during the election period to date. The Committee was also satisfied that that evidence did not require the BBC to provide the GPNI with precisely the same coverage as the TUV (or, indeed, greater coverage) and that it was within the BBC’s editorial discretion to provide for some difference in coverage between the TUV and GPNI, provided that any differences were appropriate in light of the evidence on past electoral and current support.**

### ***The View Leader Interviews***

- 3.15 In its complaint, the GPNI specifically referenced *The View* Leader Interviews in support of its view that the BBC had failed to give appropriate coverage to it (taking account of the GPNI and TUV’s relative levels of past electoral and current support). The Committee therefore specifically considered the BBC’s approach to *The View* Leader Interviews and whether it gave rise to any due impartiality concerns under Sections Five and Six of the Code.

3.16 *The View* is a BBC Northern Ireland programme, focussing on political debate and analysis. It is broadcast on BBC 1 Northern Ireland on Thursday nights after the main late night BBC network and local news at around 10.40pm and is presented by Mark Carruthers. Between 24 March 2022 and 28 April 2022, *The View* had, or is due to, broadcast a series of interviews with political party leaders, referred to as “the Leader Interviews”, in the run up to the Northern Ireland Assembly election on 5 May 2022.

3.17 The Leader Interviews included:

- 24 March: Interview with Naomi Long (Alliance leader);
- 31 March: Interview with Doug Beattie (UUP leader);
- 7 April: Interviews with Colum Eastwood (SDLP leader) and Jim Allister (TUV leader);  
and
- 14 April: Interview with Mary Lou McDonald (Sinn Féin leader).

A programme to be broadcast on 28 April will include an interview with Jeffrey Donaldson (DUP leader).

3.18 The Committee considered that *The View* Leader Interviews was properly to be regarded as a programme relating to matters of “major political and industrial controversy” and “major matters relating to current public policy”, because it concerned coverage of the Northern Ireland Assembly election<sup>14</sup>.

3.19 Ofcom underlines there is no obligation on broadcasters to transmit leaders’ or candidates’ interviews. The format of any election programming is a matter of editorial freedom for the individual broadcasters and, as appropriate, the relevant political parties, as long as the programming complies with Ofcom’s rules on due impartiality and due weight is given to the coverage of parties during the election period.

3.20 As noted at paragraph 3.4 above, the Code states that “due” is an important qualification to the concept of impartiality. “Due impartiality” does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel and the likely expectation of the audience. Context is important.

3.21 In particular, the Committee noted that it is an editorial matter for a broadcaster as to how it maintains due impartiality. As explained at paragraph 1.33 of Ofcom’s Guidance Notes on Section Five of the Code, whether or not due impartiality has been preserved will depend on a range of factors such as, for example: the nature of the programme; the programme’s presentation of its argument; the transparency of its agenda; the audience it is aimed at; and the audience’s expectations.

3.22 The Committee considered whether the BBC’s decision not to include the GPNI in *The View* Leader Interviews, when the TUV had been included, was, by itself, indicative of a failure by the BBC to preserve due impartiality or to not include (and give due weight to) an

---

<sup>14</sup> Rule 6.1 of the Code states that the rules in Section Five apply to the coverage of elections.

appropriately wide range of significant views in the programme as broadcast. In the Committee's view, the BBC was justified in its decision to not include the GPNI in *The View* Leader Interviews.

- 3.23 In this regard, the Committee noted paragraph 1.7 of Ofcom's Guidance Notes on Section Six of the Code, which provides that broadcasters may have regard to any measurable and objective evidence of the likely level of electoral support for particular candidates, and the relevant political context, in deciding relative levels of coverage for different candidates in the same election.
- 3.24 The Committee considered that the fact that the leader of the TUV was interviewed on *The View* Leader Interviews on 7 April 2022 did not, taking account of the evidence on past electoral and current support (referred to from paragraph 3.7 above), require that the leader of the GPNI should be interviewed in that particular series.
- 3.25 In particular, the Committee reiterated its view (at paragraph 3.14 above) that the evidence on past electoral and current support did not require the BBC to provide the GPNI with precisely the same coverage as the TUV (or, indeed, greater coverage) and that it was within the BBC's editorial discretion to provide for some difference in coverage as between the TUV and GPNI, provided that any differences were appropriate in light of the evidence on past electoral and current support.
- 3.26 The Committee also noted that it is for the broadcaster to determine how it complies with the special impartiality requirements in Section Five of the Code. The format of election programming is a matter of editorial freedom for the individual broadcasters and, as appropriate, the relevant political parties, as long as the programming complies with Ofcom's rules on due impartiality and due weight is given to the coverage of parties during the election period.
- 3.27 The Committee noted however that, in deciding to proceed with *The View* Leader Interviews without including an interview with the GPNI, the BBC had to ensure that the programme as broadcast (including linked programmes) complied with the requirements of the Code. Paragraph 1.17 of Ofcom's Guidance Notes on Section Five of the Code makes clear that there are a range of editorial techniques for maintaining due impartiality, and due impartiality can be achieved over clearly linked and timely programmes.
- 3.28 The Committee therefore went on to consider whether the inclusion of an interview with Clare Bailey, the leader of the GPNI, on *Sunday Politics* on 3 April 2022 was sufficient to ensure due impartiality is achieved.
- 3.29 *Sunday Politics* is a weekly political talk show broadcast on BBC 1 Northern Ireland at 10am on Sunday mornings (and repeated on BBC 2 Northern Ireland later the same day). It is presented by Mark Carruthers and includes discussion of the latest political news, including through interviews and debates with politicians and other guests.
- 3.30 The Committee recognised that there are some differences between *The View* and *Sunday Politics*. In particular, that:

- a) they are broadcast at different times (the first broadcast of *Sunday Politics* being on a Sunday morning, and *The View* Leader Interviews broadcasting relatively late on a Thursday evening);
- b) the figures provided by the BBC indicate that the audience for *Sunday Politics* is smaller than the audience for *The View* (see paragraph 2.17 above); and
- c) whilst *The View* is an ongoing political discussion programme in much the same way as *Sunday Politics*, the former had positioned its broadcast episodes during the election period as a series of interviews with political party leaders (including with the five largest parties contesting the Northern Ireland Assembly elections). This was evident from the studio backdrop to those programmes, which said 'Leaders' Interviews'. By comparison, there was no similar backdrop in *Sunday Politics*. Further, when referring *The View's* audience to the 3 April 2022 edition of *Sunday Politics* (featuring an interview with Clare Bailey of the GPNI), Mark Carruthers stated only that he would be talking to a 'representative' of the GPNI and did not draw explicit attention to the fact that he would be interviewing the GPNI's leader.

3.31 The Committee recognised that, as a result, coverage on *Sunday Politics* is not precisely the same as coverage on *The View* Leader Interviews, and that a party leader's appearance on the latter may, particularly for smaller parties, be seen as a 'boost' for them reputationally and politically.

3.32 However, the Committee also noted that both *The View* and *Sunday Politics* are weekly political programmes broadcast by the BBC's main Northern Ireland channel (BBC 1 Northern Ireland), with the same presenter, Mark Carruthers, and in the same studio. They are both styled as serious political programmes in which the presenter and guests debate topical political issues relevant to Northern Ireland. Further, *The View* Leader Interviews and 3 April 2022 edition of *Sunday Politics* featured in-depth interviews with party leaders, aimed at challenging them on their policies in advance of the upcoming elections. The Committee acknowledged the GPNI complaint that Clare Bailey had received less airtime in *Sunday Politics* than Jim Allister had received in his appearance on behalf of the TUV on *The View* Leader Interviews. However, the Committee considered that "due impartiality" in programming does not require that different views should be given an equal division of time. In any event, it noted that the time difference between the two appearances was minimal, with Clare Bailey being given just over eight minutes and Jim Allister being given approximately 11 minutes.

3.33 The Committee was of the view that, notwithstanding any differences between the programmes, they are targeting a similar audience and, on the facts of this case, have been clearly linked and timely programmes. This was evident from the clear links made between the programmes by the presenter<sup>15</sup>.

---

<sup>15</sup> For example, (i) at the end of the 31 March 2022 edition of *The View*, Mark Carruthers specifically referenced the upcoming edition of *Sunday Politics* and the fact that he would be speaking to representatives of the GPNI (and People Before Profit party) in that programme, (ii) at the end of the 3 April 2022 edition of *Sunday Politics* (featuring an interview

- 3.34 In light of the above, the Committee was satisfied that due impartiality had been preserved in *The View* Leader Interviews and linked programming.
- 3.35 The Committee also did not consider that there was any evidence that the BBC had failed to include an appropriately wide range of significant views and perspectives in *The View* and linked programming. It noted that Clare Bailey as leader of the GPNI had been able to express her views during the interview on *Sunday Politics* and that the GPNI had not referred in its complaint to any particular issue on which it holds significant views and perspectives and which it considers should have been (but were not) included to ensure that the BBC was complying with its obligation to include an appropriately wide range of significant views and perspectives in its programming.
- 3.36 Taking all these factors into account, the BBC's approach to the format of *The View* Leader Interviews and linked programming did not raise any concerns for the Committee under Sections Five and Six of the Code.**

## Overall BBC coverage during the election period

- 3.37 Having considered *The View* Leader Interviews specifically, the Committee then considered whether, in light of the Complaint and the evidence before it, it had any concerns regarding the BBC's overall coverage of the GPNI during the election period and, in particular, whether the BBC might have failed to give due weight to it.
- 3.38 The Committee noted that, unlike the rules in Section Five of the Code (which apply to specific programmes or linked programmes), Rule 6.2 concerns the coverage of parties and candidates over an entire election period. It noted that election periods can last for a number of weeks (over five, in the case of the upcoming Northern Ireland Assembly elections) and it could not, given the need to expedite this complaint, view all of the BBC's coverage of the election from the last four weeks.
- 3.39 Whilst the Complaint specifically referred to *The View* Leader Interviews in support of the GPNI's view that the BBC had failed to comply with the Code, it did not identify any other specific BBC programming during the election period. The BBC was therefore asked to provide information on how it has ensured that due weight had been given to the GPNI in its election coverage.
- 3.40 In its submissions, the BBC summarised its main coverage of the GPNI (and TUV) up to 22 April 2022, as well as its planned future coverage of both parties up to the end of the election period. The GPNI did not dispute the accuracy of this summary<sup>16</sup>.

---

with the leader of the GPNI), Mark Carruthers specifically referenced the upcoming edition of *The View*, and (iii) at the end of the 7 April 2022 edition of *The View* (featuring an interview with the leader of the TUV), Mark Carruthers specifically referenced the upcoming *Sunday Politics* show.

<sup>16</sup> Ofcom wrote to the GPNI on 25 April 2022 enclosing a full copy of the BBC's scheduling information between 3 April and 4 May 2022 and seeking the GPNI's views in relation to the accuracy of this schedule before 10am the following day. To date no response has been received by the GPNI.

- 3.41 The Committee considered that the BBC had included very similar coverage on its television and radio services for both the GPNI and the TUV during the election period. In addition to the GPNI's appearance on *Sunday Politics* on 3 April 2022 and the TUV's appearance on *The View Leader Interviews* on 7 April 2022, the Committee noted that the GPNI had appeared on *Good Morning Ulster*, Radio Ulster, on 8 April 2022, and again with the TUV on 14 April 2022, with a further joint appearance for both parties having taken place on 26 April 2022. It also noted that both the GPNI and the TUV manifesto launches had been covered in *Newsline*, BBC 1 NI, on 21 April 2022 and 22 April 2022 respectively, and that the GPNI's manifesto launch had featured on *The Nolan Show*, Radio Ulster on 27 April 2022. While the TUV had appeared on *Talkback*, Radio Ulster for an interview and phone-in on 4 April 2022, the Committee noted that the GPNI were scheduled to appear on the same programme for an interview and phone-in on 29 April 2022. With regards to the BBC's planned future coverage from 29 April 2022 onwards, the Committee noted that both parties had been offered a similar number of further appearances on *Good Morning Ulster*, Radio Ulster<sup>17</sup>, and *Newsline*, BBC NI, including live responses to the Leaders Debate on 3 May 2022<sup>18</sup>.
- 3.42 The Committee reiterated that it is an editorial decision for a broadcaster as to how it should approach coverage across the election period, as long as – across the election period – it provides an appropriate level of coverage to parties. It also noted that Ofcom's Guidance on Rule Six of the Code provides that, in their coverage of elections, broadcasters should take a consistent approach to the assessment of the level of coverage given to all the candidates (paragraph 1.7).
- 3.43 The Committee was of the view that, taken as a whole, the BBC has afforded the GPNI and TUV broadly similar coverage to date, and that any differences were within the editorial discretion of the BBC and clearly took into account evidence on the GPNI and TUV's past electoral and current support (discussed from paragraph 3.3 above). The Committee recognised the difficult nature of the editorial decisions made by the BBC, where the evidence on past electoral and current support is finely balanced.
- 3.44 Taking account of all of the above, the Committee did not have any concerns about the BBC's overall approach to coverage of the GPNI during the Northern Ireland Assembly election period so far, including its compliance with Rules 5.11, 5.12, 6.1 and 6.2 of the Code.**

## Conclusion

- 3.45 For the reasons set out above, the Committee decided to not uphold the Complaint.**

---

<sup>17</sup> The GPNI and the TUV have both been offered spots on this programme on 29 April 2022, and 3 May 2022, although the BBC stated in its representations that the GPNI had declined the invitation to attend the programme on 3 May 2022.

<sup>18</sup> Both the GPNI and the TUV have been invited to appear on *Newsline*, BBC 1 NI on 3 May at 22:25; and *Good Morning Ulster* (time to be confirmed) to react to the NI Leaders Debate taking place on 3 May at 21:00 on BBC 1 NI. The NI Leaders' Debate itself is scheduled to include leaders from the five biggest parties (The DUP, Sinn Féin, the SDLP, Alliance and the UUP).

# A1. Statutory Framework and Sections Five and Six of the Broadcasting Code

## Statutory Framework

- A1.1 Under section 319 of the Communications Act 2003 (the “Act”), Ofcom has a duty to set such standards for the content of programmes to be included in television and radio services as appear to them best calculated to secure a range of statutory standards objectives. Ofcom has discharged this duty by producing, and from time to time revising, the Code.
- A1.2 Specifically, the standards objectives include an objective that the impartiality requirements set out in section 320 of the Act are complied with (section 319(2)(c)). Section 320 imposes certain “special impartiality requirements” in respect of “matters of political or industrial controversy” and “matters relating to current public policy”. In particular, section 320(1)(b) requires “the preservation, in the case of every television programme service..., of due impartiality, on the part of the person providing the service, as respects all of those matters”.
- A1.3 Section 320(4)(a) provides that the requirement in section 320(1)(b) “may be satisfied by being satisfied in relation to a series of programmes taken as a whole”.
- A1.4 Section 320(5) provides that Ofcom’s standards code shall contain provision setting out the rules to be observed in connection with (a) the application of the requirement specified in section 320(1)(b), and (b) the determination of what, in relation to that requirement, constitutes a “series of programmes”.
- A1.5 Section 320(6) then provides that any provision made for the purpose of section 320(5)(a) must, in particular, take account of the need to ensure the preservation of impartiality in relation to the following matters (taking each matter separately) – (a) matters of major political or industrial controversy, and (b) major matters relating to current public policy, as well as of the need to ensure that the requirement specified in section 320(1)(b) is satisfied generally in relation to a series of programmes taken as a whole<sup>19</sup>.

## Applicable provisions of the Broadcasting Code

- A1.6 Section Five of the Code contains rules in relation to “Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions”.
- A1.7 The BBC’s election coverage, including the *The View* Leader Interviews and other programming relating to the Northern Ireland Assembly election, were properly to be regarded as relating to “matters of major political or industrial controversy” or “major

---

<sup>19</sup> In the absence of a complaint post-broadcast of the programme from any person affected, the Committee did not consider any fairness issues under Section Seven of the Code. This Section of the Code is pursuant to section 3(2)(f) of the Act and section 107 of the Broadcasting Act 1996.

matters relating to current public policy". Such matters are defined in Section Five as being "...generally... matters of current public policy which are of national, and often international, importance...". The Committee also noted, in this regard, that Rule 6.1 of the Code provides that the rules in Section Five of the Code relating to major matters relating to current public policy "apply to the coverage of elections and referendums".

A1.8 As such, the Committee considered the following provisions of Section Five of the Code to be relevant.

- **Rule 5.11:** "...due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service (listed above) in each programme or in clearly linked and timely programmes".
- **Rule 5.12:** "In dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented".

A1.9 The Committee also considered the meaning of "due impartiality" as defined at the beginning of Section Five of the Code:

"Due" is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. "Due" means adequate or appropriate to the subject and nature of the programme. So "due impartiality" does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. Context, as defined in Section Two: Harm and Offence of the Code<sup>20</sup>, is important".

A1.10 In addition, the Committee considered the meaning of "series of programmes taken as a whole" as set out in Section Five of the Code:

"This means more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience. A

---

<sup>20</sup> In relation to the meaning of "context", Section Two states that: "Context includes (but is not limited to):

- the editorial content of the programme, programmes or series;
- the service on which the material is broadcast;
- the time of broadcast;
- what other programmes are scheduled before and after the programme or programmes concerned;
- the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally or programmes of a particular description;
- the likely size and composition of the potential audience and likely expectation of the audience;
- the extent to which the nature of the content can be brought to the attention of the potential audience for example by giving information; and
- the effect of the material on viewers or listeners who may come across it unawares."

series can include, for example, a strand, or two programmes (such as a drama and a debate about the drama) or a 'cluster' or 'season' of programmes on the same subject".

- A1.11 It noted that there is no definition in the Code for the term "clearly linked and timely programmes".
- A1.12 As well as the provisions of Section Five, the Committee considered Section Six of the Code in relation to "Elections and Referendums" as the Complaint related to programming broadcast within the election period for the 2022 Northern Ireland Assembly Election. Section Six sets out rules relating to, amongst other things, the preservation of due impartiality in the coverage of elections and the giving of due weight to political parties in coverage during the election period.
- A1.13 The Committee considered the following provision of Section Six of the Code to be relevant.
- Rule 6.2:** "Due weight must be given to the coverage of parties and independent candidates during the election period. In determining the appropriate level of coverage to be given to parties and independent candidates broadcasters must take into account evidence of past electoral support and/or current support. Broadcasters must also consider giving appropriate coverage to parties and independent candidates with significant views and perspectives".
- A1.14 The Committee noted that the "election period" for the Northern Ireland Assembly election, for the purposes of Section Six of the Code, commenced on 28 March 2022 and will end on 5 May 2022, i.e. the polling date for that election.