



# Guidance Notes

Section Six:

Elections and Referendums

Publication date:

22 March 2017

## Section Six

# Elections and Referendums

## Guidance

### General

- 1.1 This Guidance is provided to assist broadcasters in understanding how Ofcom will usually interpret and apply the Broadcasting Code. The Guidance to Section Six should be read in conjunction with Section Five: Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions, and the accompanying Guidance to Section Five. However, Ofcom considers each case on its facts. If circumstances require, Ofcom may adapt its Guidance, as appropriate to the case.
- 1.2 Section Six applies to all Ofcom-licensed services and BBC UK television, radio and on-demand programme services<sup>1</sup>. However, there is no obligation on broadcasters to provide any election or referendum coverage (beyond that required on certain licensees and BBC services by the Ofcom rules on Party Political and Referendum Broadcasts<sup>2</sup>). Section Six is a technical and complicated area of the Code. However, broadcasters should note that Ofcom does not make compliance decisions for broadcasters. The responsibility for compliance with the Code remains with the broadcaster.
- 1.3 Where relevant weblinks are provided to illustrative and precedent cases (already published by Ofcom) which broadcasters may find helpful when considering how to interpret the Code.

### Programmes at the time of elections and referendums

#### Rule 6.1:

**The rules in Section Five, in particular the rules relating to matters of major political or industrial controversy and major matters relating to current public policy, apply to the coverage of elections and referendums.**

### Guidance

- 1.4 Rule 6.1 applies to the coverage of elections or referendums both inside and outside the UK.
- 1.5 Broadcasters should be aware that the rules in Section Five, and in particular Rules 5.11 and 5.12, apply to the coverage of elections and referendums.

---

<sup>1</sup> Funded by the licence fee.

<sup>2</sup> See [https://www.ofcom.org.uk/data/assets/pdf\\_file/0035/99188/pprb-rules-march-2017.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0035/99188/pprb-rules-march-2017.pdf)

- 1.6 Rules 6.2 to 6.12 of Section Six do not apply to Parish Council Elections in England and Community Council Elections in Scotland and Wales. However, the Rules in Section Five, and in particular Rules 5.11 and 5.12, apply to the coverage of these elections.
- 1.7 Due impartiality can be achieved over a period, for instance a General Election period in “clearly linked and timely programmes”. Furthermore, 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.
- 1.8 It is not acceptable for presenters to use their position to encourage and urge voters to support political parties or candidates.
- 1.9 The existence of a coalition government (e.g. at Westminster) has no effect on the application of Section Six, if the constituent parties of a coalition contest any election as separate parties.
- 1.10 Previous Ofcom decisions in this area include:

*Insider*, TV3:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0026/46259/issue85.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0026/46259/issue85.pdf)

*Sunday Night with Jason Donovan*, Invicta FM:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0023/46526/issue113.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0023/46526/issue113.pdf)

*The James Whale Show*, Talksport:

<http://webarchive.nationalarchives.gov.uk/20160702162827/http://stakeholders.ofcom.org.uk/binaries/enforcement/content-sanctions-adjudications/talksport.pdf>

*Arab Dream*, Al Mustakillah Television:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0028/45577/obb204.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0028/45577/obb204.pdf)

*Focus Nigeria*, AIT International:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0026/45773/obb207.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0026/45773/obb207.pdf)

*Wanted*, Resonance FM

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0012/51132/obb270.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0012/51132/obb270.pdf)

*Editorial content relating to the 2015 Nigerian Presidential election*, BEN TV

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0012/51402/issue\\_300.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0012/51402/issue_300.pdf)

*Labour Party EU Referendum Debate*, BEN TV

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0028/92863/Issue-315.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0028/92863/Issue-315.pdf)

*Hannity*, Fox News

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0023/94271/Issue-317.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0023/94271/Issue-317.pdf)

## **Rules relating to programmes at the time of elections and referendums in the UK**

- 1.11 Rules 6.2 to 6.12 apply only to those elections and referendums in the UK, as defined in the Code.

### **Meaning of "election":**

**For the purpose of this section elections include a parliamentary general election, parliamentary by-election, local government election, mayoral election, Police and Crime Commissioner election, Scottish Parliament election, Welsh, Northern Ireland and London Assembly elections, and European parliamentary election.**

### **Guidance**

- 1.12 Section Six also applies to Mayoral Elections and Police and Crime Commissioner Elections.

### **Meaning of "referendum":**

**For the purpose of this section a referendum is a statutory referendum (to which the Political Parties, Elections and Referendums Act 2000 ("PPERA") applies or to which section 127 of PERA is applied) which includes a UK-wide, national or regional referendum held under the provisions of an Act of the UK Parliament or the Scottish Parliament, but does not extend to a local referendum.**

### **Guidance**

- 1.13 The existence of a coalition government (e.g. at Westminster) has no effect on the application of Section Six, if the constituent parties of a coalition contest an election as separate parties.

### **Meaning of "election period":**

**For a parliamentary general election, this period begins with the dissolution of Parliament. For a parliamentary by-election, this period begins with the issuing of a writ or on such earlier date as is notified in the London Gazette. For the Scottish Parliament elections and National Assembly for Wales elections, the period begins with the dissolution of the Scottish Parliament or the National Assembly for Wales as appropriate\_or, in the case of a by-election, with the date of the occurrence of a vacancy. For the Northern Ireland Assembly, the London Assembly and for local government elections, it is the last date for publication of notices of the election. For European parliamentary elections, it is the last date for publication of the notice of election, which is 25 days before the election. In all cases the period ends with the close of the poll.**

### **Guidance**

- 1.14 For information on particular election and referendum periods, broadcasters should consult the Electoral Commission website ([www.electoralcommission.org.uk](http://www.electoralcommission.org.uk)). If undertaking election programming, broadcasters should ensure **they** familiarise themselves with the dates of the relevant election period(s).

## Meaning of “candidate”

**Candidate has the meaning given to it in section 93 of the Representation of the People Act 1983 (as amended) and means a candidate standing nominated at the election or included in a list of candidates submitted in connection with it.**

### 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.**

### Guidance

- 1.15 Rule 6.2 concerns the coverage parties and candidates receive over an election period. Broadcasters should note that Rule 6.8 (see below) requires that due impartiality is strictly maintained within a constituency report or discussion and an electoral area report or discussion.
- 1.16 There is no obligation on broadcasters to transmit leaders’ or candidates’ debates. The editorial format for such debates (i.e. the manner in which a broadcaster presents a programme to the audience) is a matter for the broadcaster, and as appropriate, the relevant political parties as long as the broadcaster complies with the Code. Candidates’ debates which include candidates from the same constituency or electoral area must comply with Rules 6.8 to 6.12. Broadcasters should therefore consult paragraphs 1.35 onwards of this Guidance as appropriate.
- 1.17 In the case of coverage of a UK-based election, broadcasters must ensure that they give coverage, as appropriate, to the parties relevant for the type of election in question (i.e. UK-wide elections, elections in Scotland only, elections in Wales only, elections in Northern Ireland only).
- 1.18 UK-based election programming (for example, UK leadership debates) can focus on those parties that have a realistic prospect of forming the UK Government following the election in question. However, in line with Rule 6.2, broadcasters must ensure that appropriate coverage is given (in the same programming, or in linked programming, as appropriate) to other parties, if evidence of past electoral support and/or current support means it is appropriate to do so.
- 1.19 It is an editorial decision for the broadcaster as to what constitutes “appropriate coverage” in relation to Rule 6.2.
- 1.20 The concept of giving “due weight”, as required by Rule 6.2, is flexible. Its application depends on the electoral context.
- 1.21 Broadcasters can transmit items considering a party’s or parties’ policies concerning particular elections in general, and care should be taken if a party’s candidate for a particular constituency or election area contest is included in such a programme. Then, depending on the circumstances of that candidate’s inclusion in a programme, Rules 6.8 to 6.12 may apply (see below).
- 1.22 Previous Ofcom decisions in the area of Rules 6.1 and 6.2 are:

*Coverage of EU Elections, Radio Asian Fever:*

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0025/46384/issue139.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0025/46384/issue139.pdf)

*First Leaders' Debate (Plaid Cymru complaint), ITV 1:*

[http://webarchive.nationalarchives.gov.uk/20160702162827/http://licensing.ofcom.org.uk/binaries/tv/updates/election10\\_pc.pdf](http://webarchive.nationalarchives.gov.uk/20160702162827/http://licensing.ofcom.org.uk/binaries/tv/updates/election10_pc.pdf)

*First Leaders' Debate (Scottish National Party complaint), ITV 1:*

[http://webarchive.nationalarchives.gov.uk/20160702162827/http://licensing.ofcom.org.uk/binaries/tv/updates/election10\\_snp.pdf](http://webarchive.nationalarchives.gov.uk/20160702162827/http://licensing.ofcom.org.uk/binaries/tv/updates/election10_snp.pdf)

*Sky News Leaders' Debate and other programmes, Sky News:*

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0021/47190/issue161.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0021/47190/issue161.pdf)

### **Meaning of “designated organisation” and “permitted participants”:**

**Designated organisations and permitted participants are those that are designated by the Electoral Commission.**

### **Meaning of “referendum period”:**

**For referendums different periods may apply. A referendum held under the Northern Ireland Act 1998 (as amended) begins when the draft of an Order is laid before Parliament for approval by each House. In the case of a referendum held under other Acts, the time at which a referendum period commences is given in the individual Acts. In the case of an Order before Parliament, the time will be given in that Order. In all cases the period ends with the close of the poll.**

### **Guidance**

- 1.23 For information on ‘designated organisations’, ‘permitted participants’ and ‘referendum periods’, broadcasters should consult the Electoral Commission website ([www.electoralcommission.org.uk](http://www.electoralcommission.org.uk)).

### **Rule 6.3**

**Due weight must be given to designated organisations in coverage during the referendum period. Broadcasters must also consider giving appropriate coverage to other permitted participants with significant views and perspectives.**

### **Guidance**

- 1.24 Whilst there typically might be just two designated organisations in most referendums, depending on the structure of the referendum question(s), there might be more than two designated organisations in a given referendum. In such circumstances, broadcasters must ensure they give due weight to all designated organisations.
- 1.25 Rule 6.3 does not oblige broadcasters to afford designated organisations and/or representatives of each side of the debate equal airtime, or approximately equal airtime, in a mathematical sense. Rather, as with the assessment of due impartiality, there are a range of factors that may be relevant in any given case and the underlying requirement to give “due weight” should not be read as imposing any specific quantitative obligations on broadcasters in relation to their coverage. However, the amount of time provided by a broadcaster to opposing views in a

referendum may be indicative for the purposes of assessing whether due weight has been given to a wide range of significant views (Rule 5.12<sup>3</sup>) and/or designated organisations (Rule 6.3)

1.26 Broadcasters should take account of the fact that there may be a number of permitted participants in a given referendum. Rule 6.3 does not impose any obligation on broadcasters to afford “manifestly greater weight” to designated organisations when compared with other permitted participants.

1.27 A previous Ofcom decision in this area is:

Decision of the Election Committee on a due impartiality and due weight complaint brought by Vote Leave Limited in relation to ITV’s coverage of the EU Referendum:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0022/64840/decision-election-eu-referendum.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0022/64840/decision-election-eu-referendum.pdf)

## Rule 6.4

**Discussion and analysis of election and referendum issues must finish when the poll opens. (This refers to the opening of actual polling stations. This rule does not apply to any poll conducted entirely by post.) BBC ODPS are not required to remove archive content for the period when the polls are open.**

## Guidance

1.28 The purpose of Rule 6.4 is to ensure that broadcast coverage on the day of an election does not directly affect voters’ decision.

1.29 Previous Ofcom decisions in this area are:

*Superscoreboard*, Clyde 1:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0028/47584/issue162.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0028/47584/issue162.pdf)

*News*, RT

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/50069/obb261.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/50069/obb261.pdf)

*The Political Slot*, Channel 4

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0026/46835/issue273.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0026/46835/issue273.pdf)

*Your World with Neil Cavuto*, Fox News

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0028/88750/Issue\\_311\\_of\\_Ofcoms\\_Broadcast\\_and\\_On\\_Demand\\_Bulletin.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0028/88750/Issue_311_of_Ofcoms_Broadcast_and_On_Demand_Bulletin.pdf)

## Rule 6.5

**Broadcasters may not publish the results of any opinion poll on polling day itself until the election or referendum poll closes. (For European Parliamentary elections, this applies until all polls throughout the European Union have closed.)**

## Guidance

---

<sup>3</sup> Rule 5.12 states that: “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”.



- 1.30 In the case of European Parliamentary Elections, where different EU Member States hold polling days on different days, broadcasters should not publish the results of any opinion poll until the polls have closed in the case of the final EU Member State where polling is taking place.

## Rule 6.6

**Candidates in UK elections, and representatives of permitted participants in UK referendums, must not act as news presenters, interviewers or presenters of any type of programme during the election period. BBC ODPS are not required to remove archive content for the period when the polls are open.**

### Guidance

- 1.31 This Guidance should be read in conjunction with the Guidance in paragraphs 1.20 and 1.21 of the Guidance to Section Five: Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions.
- 1.32 Rule 6.6 is concerned not just with preventing electoral issues from being reported in a partial manner. The rule is designed to help secure the integrity of the democratic process, and the public's trust in that integrity, through preventing any unfair electoral advantage being afforded to a particular candidate, through their appearance on licensed services. Reading the news may unfairly confer authority and gravitas upon a candidate. Importantly, newsreading may give the candidate many hours of exposure to the electorate which are not matched by equivalent exposure given to other candidates.
- 1.33 Previous Ofcom decisions in this area are:

News, London Greek Radio:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0031/46687/issue\\_65.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0031/46687/issue_65.pdf)

*The Agenda with Yvonne Ridley* and *Politics and the Media*, Islam Channel:

<http://webarchive.nationalarchives.gov.uk/20160702162827/http://stakeholders.ofcom.org.uk/binaries/enforcement/content-sanctions-adjudications/islamchannel.pdf>

*Wake Up With Huggy*, Bay FM Radio (Exmouth)

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0030/45957/obb232.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0030/45957/obb232.pdf)

*Young and Gifted*, ATN Bangla UK

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/50069/obb261.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/50069/obb261.pdf)

## Rule 6.7

**Appearances by candidates (in UK elections) or representatives (of permitted participants in UK referendums) in non-political programmes that were planned or scheduled before the election or referendum period may continue, but no new appearances should be arranged and broadcast during the period. BBC ODPS are not required to remove archive content for the period when the polls are open.**



## Guidance

- 1.34 The purpose of Rule 6.7 is to ensure that candidates or representatives of permitted participants in UK referendums do not appear in non-political programmes to try to gain political advantages.

## Rules relating to constituency coverage and electoral area coverage in elections

### General

- 1.35 Previous restrictions concerning constituency reporting placed on broadcasters by the Representation of the People Act 1983 (“RPA”) before it was amended have been removed. Put simply, under the old rules if a broadcaster wished to interview a candidate about his/her constituency then the broadcaster was obliged to offer an opportunity to all the candidates standing (whether or not they wanted to take part). In effect this meant that one candidate from any party could veto the whole report. The result was that broadcasters rarely actually interviewed any of the candidates. Instead they used natural sound of some of the candidates and/or interviewed representatives of the relevant parties (e.g. the party Chairman).
- 1.36 Before repealing this part of the RPA, Government (and political parties) wanted to be satisfied that the broadcasters and regulators would agree on new guidelines aimed at creating a more workable set of rules but ensuring that due impartiality (as required by statute) was maintained. A specific role for the Electoral Commission was introduced, whereby its views must be taken account of before any rules are introduced or amended.

### Rule 6.8

**Due impartiality must be strictly maintained in a constituency report or discussion and in an electoral area report or discussion.**

### Rule 6.9

**If a candidate takes part in an item about his/her particular constituency, or electoral area, then broadcasters must offer the opportunity to take part in such items to all candidates within the constituency or electoral area representing parties with previous significant electoral support or where there is evidence of significant current support. This also applies to independent candidates. However, if a candidate refuses or is unable to participate, the item may nevertheless go ahead.**

### Rule 6.10

**Any constituency or electoral area report or discussion after the close of nominations must include a list of all candidates standing, giving first names, surnames and the name of the party they represent or, if they are standing independently, the fact that they are an independent candidate. This must be conveyed in sound and/or vision. Where a constituency report on a radio service is repeated on several occasions in the same day, the full list need only be broadcast on one occasion. If, in subsequent repeats on that day, the constituency report does not give the full list of candidates, the audience should be directed to an appropriate website or other information source listing all candidates and giving the information set out above.**

## Guidance

- 1.37 During election periods, if a broadcaster transmits a report or discussion featuring candidates standing in a constituency or electoral area, this may qualify as a “constituency report or discussion” or “electoral area report or discussion” (see Rule 6.8 of the Code). Rules 6.8 to 6.12 then apply. A constituency/electoral area report or discussion might be in the form of: a programme; programme item or segment; report; or interview, which raises or covers issues about a candidate’s electoral area, or raises the profile of the candidate in connection with his/her electoral area. A useful test for broadcasters is to ask whether a report or discussion could be seen as promotional for a candidate within his/her electoral area.
- 1.38 In cases where a broadcaster is not intending to broadcast a constituency/electoral area report or discussion, broadcasters should take care that whenever a candidate is featured in programming, that by virtue of that candidate’s contribution, the content does not unintentionally become an electoral area report or discussion.
- 1.39 There is a range of editorial techniques by which broadcasters can comply with Rule 6.8, but broadcasters should ensure that they reflect the viewpoints of candidates, as appropriate and in accordance with Rule 6.9 in particular.
- 1.40 As mentioned in paragraph 1.38, a report can unintentionally focus on a constituency/electoral area, merely by promoting a candidate in a certain manner. Whether programmes or broadcast items which profile particular candidates are constituency/electoral area reports may on occasions be difficult to judge and depends on the type of profile and how the report was scripted. A report in the 2015 UK general election period on David Cameron or Ed Miliband, and what sort of Prime Minister they would be, would have been acceptable. But a profile which examines a candidate simply because they or their constituency may be of interest and raises their profile in connection with their constituency (e.g. Caroline Lucas in Brighton Pavilion in the 2015 General Election) could be problematic, if other candidates were not given a chance to take part in that broadcast item, or in closely linked and timely programmes (see paragraph 1.50 below).
- 1.41 Overall, the principal point for broadcasters is to ensure that when interviewing candidates in reports that either raise issues about their constituency/electoral area or raise the profile of the candidate in connection with their constituency/electoral area, other candidates in the constituency/electoral area (as described in Rule 6.9) have an opportunity to take part as appropriate. As mentioned in paragraph 1.37 above, a useful test for broadcasters is to ask whether a report could be seen as promotional for a candidate within his/her constituency/electoral area. If it is, then it requires input from, at least, the other main parties and potentially others depending on the constituency/electoral area.
- 1.42 When considering whether to offer to include party or independent candidates in an electoral area report or discussion, broadcasters must give particular regard to whether there is evidence such candidates have “significant current support”.
- 1.43 In interpreting Rule 6.9, “evidence of significant current support” should be interpreted in a straightforward way, and should take account of all relevant factors, and not only electoral support. However, in deciding whether there is evidence of a candidate having “significant current support”, broadcasters should clearly place more reliance on objective and measurable evidence of the level of support for a candidate. Where this evidence exists, it helps ensure that a broadcaster treats all candidates in an election reasonably and fairly, and with the due impartiality required

by the Code, and that a broadcaster can demonstrate it has done so when applying Rule 6.9. One obvious objective and measurable evidence of “significant current support” for a candidate is opinion poll evidence, where it is available.

- 1.44 In considering the degree to which opinion polling data constitutes evidence of significant current support, broadcasters may take account of for example:
- the number of polls (if more than one);
  - the degree by which a candidate is polling above the margin of error for a particular poll;
  - the degree to which a range of polls (if more than one) by the same polling organisation<sup>4</sup> demonstrate a consistent level of support for a candidate both leading up to and during an election period (i.e. less weight should be given to: ‘one-off’ stand alone polls; or a single poll that shows a candidate’s support is materially different to other poll ratings for that candidate); and
  - whether or not a particular poll has been conducted by a member organisation of the British Polling Council (“BPC”)<sup>5</sup>.
- 1.45 Broadcasters should consider all relevant evidence in judging significant current support. In addition to opinion polls (if available), there may be other factors which broadcasters can consider in assessing current levels of support. However, broadcasters should be mindful of the degree of consistency and objectivity of each type of evidence.
- 1.46 If no polls are conducted in relation to a particular election, broadcasters should use what evidence that is available to them, when making any decisions as to whether particular candidates should be invited to take part in a given constituency/electoral area discussion or report. For example, candidates with “previous significant electoral support” may include individuals occupying an elected office or position that is being contested in the election in question, or a comparable elected office.
- 1.47 Below is a list of the factors Ofcom takes into account in weighing different types of evidence when taking decisions in the area of elections. These factors reflect the approach we have taken to complaints and in our previous reviews of the list of larger parties:
- we place greater weight on the actual performance of a political party in elections over opinion poll data. This reflects the fact that electoral performance is a measure of how voters have actually exercised their democratic choice. This compares with the greater uncertainty associated

---

<sup>4</sup> Broadcasters can also ascertain a candidate’s level of support by comparing a candidate’s poll rating across a range of polls by different organisations. However, due to the different methodologies used by different polling organisations, broadcasters should give less weight to a candidate’s polling performance over a range of polls by different polling organisations to that candidate’s polling performance over a range of polls conducted by the same polling organisation.

<sup>5</sup> The British Polling Council (BPC) is an association of polling organisations that publishes opinion polls, and consists of all the leading polling organisations in the UK. The BPC states that it “aims to encourage the highest professional standards in public opinion polling and to advance the understanding, among politicians, the media and general public, of how polls are conducted and how to interpret poll results” (see <http://www.britishpollingcouncil.org/>).

with support in opinion polls, which may not translate into votes or seats at an election;

- in considering past electoral support, we take into account factors such as the electoral performance of parties (including the numbers of elected candidates and overall percentage of vote received) in the previous set of corresponding elections<sup>6</sup> over at least two electoral cycles;
- we also take into account performance in other relevant past elections being contested at the same time, as well as performance in past elections not being contested at a given time;
- we take into account the electoral performance of parties over at least two electoral cycles when considering performance in any given type of elections. However, we place less weight on the evidence of electoral performance two or more electoral cycles ago given the historical nature of this evidence;
- where relevant we consider evidence in relation to the different devolved nations of the UK;
- whilst putting less weight on levels of current support as opposed to actual performance, we put weight on evidence of current support that is objective and measurable. One type of objective and measurable evidence of current support is opinion poll data, where it is available. There may be other types of evidence of current support but in considering such evidence we would take into account the consistency and objectivity of each type of evidence; and
- our intention is always to undertake a balanced assessment having regard to the totality of relevant evidence.

1.48 Some elections may see a significant number of independent candidates. In considering constituency/electoral area reports and discussions about these elections, broadcasters – in fulfilling their obligations to comply with Rules 6.8 to 6.12 – should take a consistent approach to the assessment of the level of coverage given to candidates. Broadcasters should note that the Code allows broadcasters to include all candidates standing in a particular election in constituency/electoral area reports and discussions about that particular constituency or electoral area.

1.49 Where candidates have been offered a chance to take part in a constituency/electoral area report or discussion, and have declined to take part, this should normally be made clear to the audience.

1.50 Broadcasters may structure a constituency/electoral area report or discussion over a series of broadcasts, for example in the form of a series of candidate interviews in different programmes. However, in line with Rule 5.6<sup>7</sup>, the broadcaster should ensure that the fact that a constituency/electoral area report or discussion is being split over several programmes is clearly signalled to the audience, and that Rule 6.10 is complied with (i.e. a list of all candidates is included) in each separate programme as required.

---

<sup>6</sup> including Westminster Parliamentary by-elections.

<sup>7</sup> Rule 5.6 states that: “The broadcast of editorially linked programmes dealing with the same subject matter (as part of a series in which the broadcaster aims to achieve due impartiality) should normally be made clear to the audience on air”.

- 1.51 With the advent of locally-elected posts, such as directly-elected mayors and Police and Crime Commissioners, some broadcasters may wish to conduct candidates' debates in relation to such posts. As mentioned above, there is no obligation on broadcasters to transmit candidates' debates. However, if they do so they must comply with all the rules relating to electoral area reports or discussions (Rules 6.8 onwards). The editorial format for such debates is a matter for the broadcaster, and as appropriate, the relevant political parties. However, the broadcasters must ensure that they comply with the Code.
- 1.52 Broadcasters should ensure, even if they have complied with Rules 6.8 and 6.9, they include a list of candidates in each constituency/electoral area report or discussion.
- 1.53 Previous decisions which broadcasters may find useful in the area of Rules 6.8, 6.9 and 6.10 are:

*Election 2010*, Bangla TV; and  
*Local Election Output*, 102.4 Radio Hartlepool:  
[https://www.ofcom.org.uk/data/assets/pdf\\_file/0028/47584/issue162.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0028/47584/issue162.pdf)

*News and Jonotar Moncho*, Bangla TV; and  
*ATN Bangla Europe News*, ATN Bangla:  
[https://www.ofcom.org.uk/data/assets/pdf\\_file/0019/46090/issue177.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0019/46090/issue177.pdf)

*Matt Forde*, Talksport:  
[https://www.ofcom.org.uk/data/assets/pdf\\_file/0028/47593/obb185.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0028/47593/obb185.pdf)

Decision of the Election Committee on a Due Impartiality Complaint Brought by Siobhan Benita in relation to *The Battle for London – The Mayoral Debate*, ITV1, 24 April 2012  
<http://webarchive.nationalarchives.gov.uk/20160702162827/http://stakeholders.ofcom.org.uk/binaries/enforcement/election-committee/siobhan-benita-itv.pdf>

Decision of the Election Committee on a Due Impartiality Complaint Brought by Siobhan Benita in relation to *The London Debate*, Sky News, 19 April 2012  
<http://webarchive.nationalarchives.gov.uk/20160702162827/http://stakeholders.ofcom.org.uk/binaries/enforcement/election-committee/siobhan-benita-sky.pdf>

*UK Local Election 2014*, Geo News  
[https://www.ofcom.org.uk/data/assets/pdf\\_file/0021/46560/obb263.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0021/46560/obb263.pdf)

*Sheffield Live News*, Sheffield Live TV  
[https://www.ofcom.org.uk/data/assets/pdf\\_file/0037/49699/issue\\_283.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0037/49699/issue_283.pdf)

Decision of the Election Committee on a due impartiality complaint brought by the Respect Party in relation to *The London Debate*  
[https://www.ofcom.org.uk/data/assets/pdf\\_file/0019/53173/respect-party-itv-lbc.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0019/53173/respect-party-itv-lbc.pdf)

## **Rule 6.11**

**Where a candidate is taking part in a programme on any matter, after the election has been called, s/he must not be given the opportunity to make constituency points, or electoral area points about the constituency or electoral area in which s/he is standing, when no other candidates will be given a similar opportunity.**

## **Guidance**

- 1.54 After an election period has commenced, a broadcaster can include comments from a candidate about wider political or policy matters (not directly connected with his/her electoral area). For instance, a report about an internal political party issue could interview a number of candidates from that party from different electoral areas. However, these reports should not touch on matters relating to particular constituencies/electoral areas (for example, local schools or hospitals) unless other candidates in the same constituency or electoral area, as appropriate, are offered the opportunity to take part in the programme.
- 1.55 Another potential regulatory issue for such reports is that broadcasters should ensure due impartiality is maintained over the service during election periods (Rule 6.1). So similar opportunities to explore policy matters should be given to other parties i.e. if one party is given the opportunity to put their views, other relevant parties should be given similar opportunities within the election period. A broadcaster may of course, as appropriate and taking account of the context, take a party-wide approach to discussing a particular issue, involving a number of candidates from different parties in one report or discussion.
- 1.56 There is, in principle, no problem in interviewing candidates in the round about policy issues – provided Rule 6.11 is complied with (i.e. such candidates must not be permitted to make points so as to promote their candidacy in respect of his/her constituency/electoral area). For example, a report which examined health policy around the country, and included candidates standing in different constituencies/electoral areas, could be acceptable, as long as there was no promotion of any candidate in any constituency/electoral area.

### **Rule 6.12**

**If coverage is given to wider election regions, for example in elections to the Scottish Parliament, Welsh Assembly, Northern Ireland Assembly, London Assembly or European Parliament, then Rules 6.8 to 6.12<sup>1</sup> apply in offering participation to candidates. In these instances, all parties who have a candidate in the appropriate region should be listed in sound and/or vision, but it is not necessary to list candidates individually. However, any independent candidate who is not standing on a party list must be named. Where a report on a radio service is repeated on several occasions in the same day, the full list need only be broadcast on one occasion. If, in subsequent repeats on that day, the constituency report does not give the full list of candidates, the audience should be directed to an appropriate website or other information source listing all candidates and giving the information set out above.**

### **Guidance**

- 1.57 In elections where candidates are being elected from multi-member constituencies or electoral areas, there are likely to be a number of candidates being fielded by each individual party. In each electoral contest, for each party that would qualify for inclusion in constituency/electoral area report or discussion by virtue of Rule 6.9, there is no obligation on broadcasters to offer every candidate representing a single party the opportunity to take part in that constituency/electoral area report or discussion. However, at a minimum, broadcasters should ensure that they do offer the chance to take part in that constituency/electoral area report or discussion to each party that would qualify by virtue of Rule 6.9.
- 1.58 Where more than one candidate from the same party is being featured in the same constituency/electoral area report or discussion in a multi-member constituency or electoral area, it is an editorial decision for the broadcaster as to how much time to

give each candidate from the same party. However, broadcasters must ensure that due impartiality is strictly maintained in a constituency/electoral area report or discussion (as required by Rule 6.8) and that due weight is given to relevant parties (as required by Rule 6.2).

1.59 A previous Ofcom decision in this area is:

*UTV Live Tonight*, UTV:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0031/47794/issue141.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0031/47794/issue141.pdf)