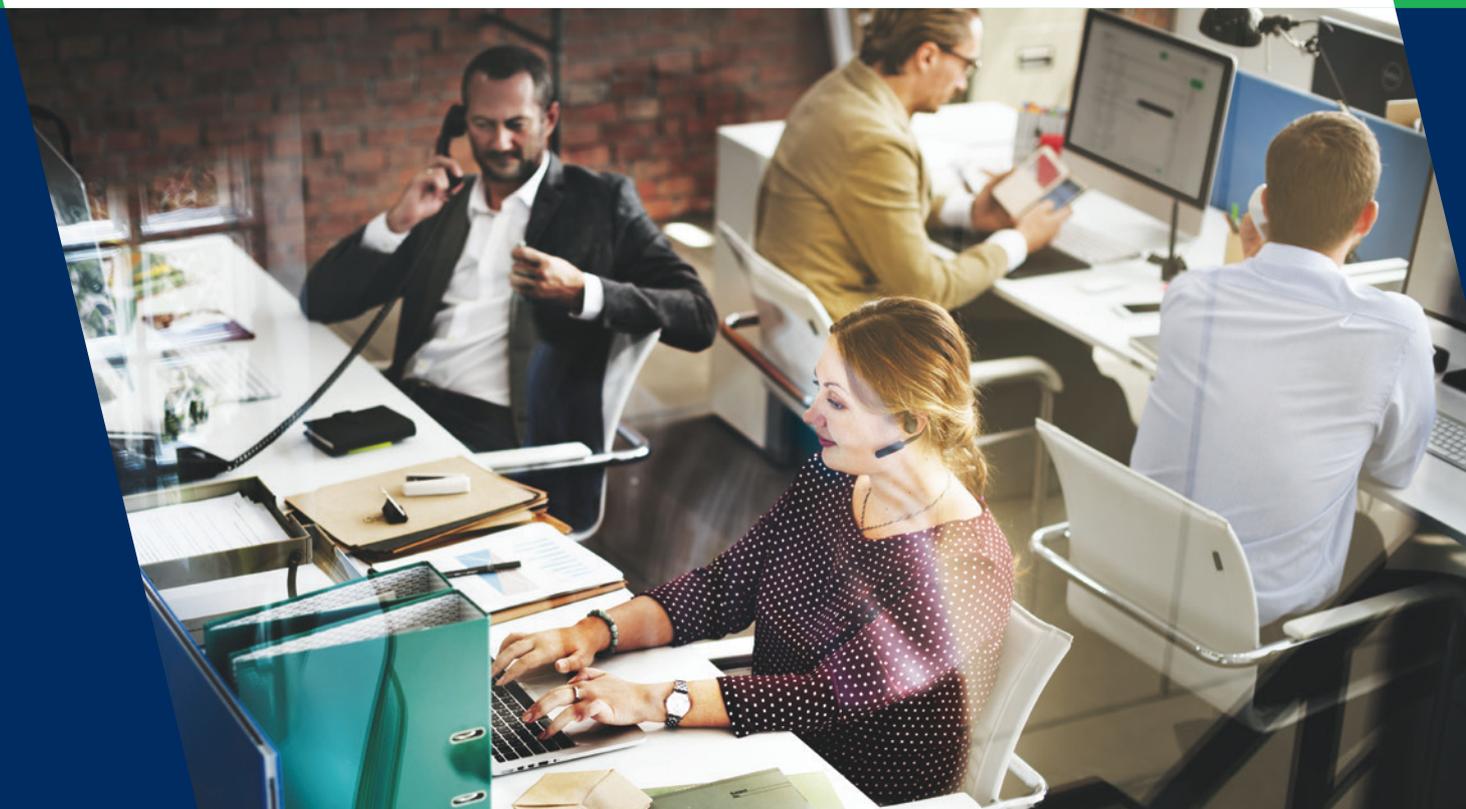


# Workplace Relations Commission

2020 ANNUAL REPORT

**WRC**

An Coimisiún um Chaidreamh san Áit Oibre  
Workplace Relations Commission



# Workplace Relations Commission

**2020 ANNUAL REPORT**

**Presented to the Minister of State for Business,  
Employment and Retail in accordance with  
sections 23(1) and 23(3) of the Workplace  
Relations Act 2015**

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# Director General's Report

“I have the pleasure of submitting to the Minister, the Annual Report of the Workplace Relations Commission (WRC) in respect of its activities in 2020. Similar to all organisations, public and private, the WRC faced challenges during the year that were unprecedented and which, at the beginning of the year, were unimaginable.”

**The WRC is staffed by just under 200 civil servants of the Department of Enterprise, Trade and Employment and the work of the WRC is supplemented by a further 44 Adjudication Officers who are contracted by the Minister to assist the Adjudication Service on a case-by-case basis. The organisation plays a vital role in Irish society and the economy generally and this role was particularly important during 2020 when, the challenges of COVID-19 notwithstanding, the staff of the WRC:**

- Provided an uninterrupted information service on employment and equality rights and industrial relations matters,
- Mediated and conciliated, remotely and in-person, in individual and collective disputes,
- Monitored and enforced compliance with employment standards and assisted in the oversight of the safe opening of work for staff and public generally,
- Designed and rolled out a new mixed model of dealing with employment rights and equality/equal status complaints, and industrial relations matters, and
- Ensured that the WRC premises and facilities provided a safe environment for our staff and visitors.

The impact of COVID-19 meant that the WRC had to quickly adapt and pivot its services.

By the end of March, following the introduction of COVID-19-related restrictions, all WRC staff were working from home and the move required the Information and Customer Service Unit quickly to have access to IT and telephony systems to function remotely. This was achieved without any significant interruption of service to the users of the *Infoline*, the WRC Website or the processing of complaints.

Shortly thereafter, appropriate PPE had been sourced and distributed to WRC Inspectors to enable them perform their inspection duties in a manner consistent with health guidelines and best practice. Throughout 2020, in combination with carrying out their primary statutory employment-related functions, inspectors also undertook onsite inspections in support of the national *Return to Work Safely Protocol* (RWSP), supporting employers and employees in putting measures in place to prevent the spread of COVID-19 in the workplace whenever restrictions eased.

The WRC also had to quickly develop a *Return to Work Safely* guide and to fit-out and re-configure its public offices in a manner consistent with Government and Health Service guidelines, to ensure the health and welfare of all staff and service users.

Perhaps most challenging, in terms of service delivery, much of the adjudication, mediation and conciliation work of the WRC was moved to on-line platforms during the year.

Very early in the pandemic, the Adjudication Service carried out an extensive consultation process with stakeholders as to how a remote approach could be delivered out securely and consistent with fair procedures and constitutional justice, and following this consultation, rolled out incrementally a new service delivery model which comprised a mix of written procedures, virtual and face-to-face hearings. Similarly, conciliation, advisory and mediation were provided, primarily remotely over a variety of platforms, but also in-person as circumstances allowed.

Separately, the development and implementation of certain relevant provisions of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 enabled the WRC make remote adjudication hearings the default - subject to a fairness and interests of justice test.

The considerable technical and practical problems associated with resolving disputes or carrying out a hearing cannot be overstated, particularly where, in most instances, no person involved is in the same room. The positive one-to-one engagement that might take place in the margins of a conciliation or a mediation, or between the parties before a hearing cannot happen as easily. And, in terms of adjudication, the requirement to ensure that hearings are carried out consistent with fair procedures is resource-heavy and time-consuming for all parties. However, as the year progressed, people became more familiar with the various processes and the feedback from stakeholders has been largely positive.

It is the intention of the WRC to investigate further if the lessons learned over the past twelve months can be built upon in the context of a “hybrid” model of conciliations, mediations and adjudications that combines the utility of virtual platforms with the undeniably more efficient and effective in-person interactions in what is, at its essence, a person-centred service.

Throughout the pandemic, the WRC has worked closely with its broad range of stakeholders across all its services, and their support, positive proposals and submissions, and constructive feedback has been both welcome and essential. As the organisation faces into a further period of uncertainty where it will have to deal with demand and service challenges related to COVID-19 and Brexit, this support and feedback will be just as crucial.

#### **But outside of COVID-19, other work continued:**

A new Mid-West regional office was opened in Ennis, Co. Clare and work on the Southern region office in Cork City progressed, albeit impacted by COVID-19;

A new case management system for Mediation Services was developed and rolled out;

A new case management system for the Conciliation Service was advanced and it will be rolled out in 2021;

New structures and policies were embedded within the Legal Division in relation to knowledge management, quality assurance and strategic planning; and

A comprehensive handbook for staff of the WRC on employment law which will also be of assistance to Adjudication Officers was produced.

Separately, in April 2020, Simons J. in the High Court, handed down his judgment in *Zalewski -v- WRC, Adjudication Officer, Attorney General, Ireland & Ors* [2020] IEHC 178 upholding the constitutionality of the Workplace Relations Act 2015 establishing the WRC and Labour Court, and certain procedural aspects. The constitutional challenge was subject to appeal before the Supreme Court which was heard in December 2020 with judgment reserved.

On 1 October, 2020, Dr. Paul Duffy’s term as Chair of the WRC concluded and Dr. David Begg was subsequently appointed as Chair by the Minister on 1 February, 2021. I would like to place on record my thanks, those of the Board and all the staff of the WRC for the support and guidance provided by Dr. Duffy during his tenure.

The singular achievements detailed in this Report would not have been possible without the unremitting commitment of the staff of the WRC and contracted Adjudication Officers, many of whom have had to deal with the stresses and losses experienced by so many people during the year. Likewise, the support of the Board, the Minister and the Department has been crucial in assisting the WRC through its most difficult period since establishment.



**Liam Kelly**  
Director General

# Key Indicators



**Infoline**  
Calls



**Website**  
Views



**Complaint**  
Applications



**Specific**  
Complaints



Adjudication Decisions  
“On Hands” fell by



Conciliations/  
Facilitations



Public Sector Pay Talks:  
**Building Momentum**



Employees Within  
**Conciliation**



Virtual Platforms Launched  
for all Services



Employment **Rights/**  
**RTWS Inspections**



**Recovered**  
Wages



**Compliance**  
Notices



Total  
**Prosecutions**



**WRC/HSA Code of Practice**  
on Bullying in the Workplace



**Followers on**  
Twitter & LinkedIn

# Workplace Relations Commission

The Workplace Relations Commission (WRC) was established on 1 October 2015 under the Workplace Relations Act 2015.

## Functions of the WRC

**The main functions of the WRC are to:**

- Promote the improvement of workplace relations, and the maintenance of good workplace relations,
- Promote and encourage compliance with relevant employment legislation,
- Provide guidance in relation to compliance with Codes of Practice,
- Conduct reviews of, and monitor developments, in workplace relations generally,
- Conduct or commission relevant research and provide advice, information and the findings of research to Joint Labour Committees and Joint Industrial Councils,
- Advise the Minister for Jobs, Enterprise and Innovation in relation to the application of, and compliance with, relevant legislation, and to
- Provide information to the public in relation to employment legislation (other than the Employment Equality Act)<sup>1</sup>.

Within this framework, the Commission's core services include the provision of pre-adjudication mediation, mediation, conciliation, facilitation and advisory services, adjudication on complaints and disputes, the monitoring of employment conditions to ensure compliance with and (where necessary) enforcement of employment rights legislation, the provision of information, and the processing of employment agency and protection of young persons (employment) licences.

## Board

The WRC has an advisory board responsible for the setting of the WRC's Strategy and annual Work Programmes. The Work Programme is submitted to the Minister for approval by 1 December every year and the next Strategy Statement is due for submission to the Minister by 1 October 2021.

The Board comprises a chairperson and 8 ordinary members appointed by the Minister for Enterprise, Trade and Employment.

1. EEA information provided by the Irish Human Rights and Equality Commission

## Board of the Commission



**Chair: Dr. Paul Duffy**  
(until 30 Sept 2020)



**Chair: Dr. David Begg**  
(from 01 Feb 2021)



**Liam Berney**



**Maeve McElwee**



**Audrey Cahill**



**Ethel Buckley**



**Geraldine Hynes**



**Richard Devereux**



**Dr. Michelle O'Sullivan**



**Deirdre O'Brien**

On 1 October, 2020, in accordance with Schedule 3 of the Workplace Relations Act, 2015, Dr. Paul Duffy's term as Chair of the WRC concluded. Dr. David Begg was subsequently appointed as Chair by the Minister on 1 February, 2021.

**During 2020, the Board met on five occasions:** the final meeting of the year was chaired by Dr. Michelle O'Sullivan as provided for by Schedule 3 of the Workplace Relations Act, 2015.

### Fees/Ethics in Public office

All Board members, Adjudicators, Rights Commissioners and relevant Officers of the Commission were advised of their obligations and/or completed the appropriate returns under the Ethics in Public Office Acts, as required.

The Chairman and members of the Board are not in receipt of any fee in connection with the performance of their duties as Board members.

### Work Programme 2021

In accordance with Section 22(1) of the Workplace Relations Act 2015, the Board prepared the WRC Work Programme 2021. This Programme was submitted in November 2020 to Mr. Damien English TD, Minister of State with responsibility for Business, Employment and Retail. The WRC Work Programme 2021 is available to download on the WRC website.

## Management Committee

The Management Committee comprises the Director General and the Directors of the various arms of the WRC:

- Mr. Liam Kelly – Director General
- Ms. Anna Perry – Director of Conciliation, Advisory and Mediation
- Ms. Aoibheann Ní Shúilleabháin – Deputy Director of Conciliation, Advisory and Mediation
- Mr. David Small – Director of Adjudication
- Mr. Pdraig Dooley – Director of Information, Inspection and Enforcement
- Ms. Derval Monahan – Director of Strategic, Digital and Corporate Affairs
- Ms. Gwendolen Morgan – Registrar and Legal Services

## Budget and Staffing

Pay	€12.340m
Non-Pay	€2.614m
<b>Total</b>	<b>€14.954m</b>

The WRC is an office of the Department of Enterprise, Trade and Employment and is funded from the overall Departmental vote.

At the end of 2020, the staff allocation stood at 192 permanent employees who are full time civil servants and part of the overall staffing of the Department of Enterprise, Trade and Employment.

The staffing is supplemented by a further 44 Adjudication Officers who are contracted to assist the Adjudication Service on a case-by-case basis

## Staffing of the Commission

WRC Staffing: End-December 2020	
Grade	Total FTE 's
Director General	1
Registrar	1
Director	5
Solicitor	1.73
AP/AO	26.20
HEO	23.90
EO	71.99
CO	60.50
<b>Total</b>	<b>192.32</b>

The WRC has five regional offices:

Dublin, Carlow, Cork, Ennis and Sligo.

## Civil Service Excellence and Innovation Award

In response to the COVID-19 pandemic the WRC across all its Divisions adapted frontline services so they could be delivered remotely, these services include the Information and Customer Service, Adjudication, Conciliation, Inspection and Mediation.

Maintaining information provision was identified as an immediate priority which necessitated an uninterrupted phone service delivery, keeping employers and employees informed in relation to employment law and associated developments. Many workplaces were experiencing significant changes in workplace practices or a total cessation of work due to COVID-19 restrictions. The WRC Information and Customer Service call centre quickly and successfully transitioned to providing its telephone service remotely. The other WRC Divisions: Adjudication, Conciliation, Advisory, Mediation and Inspection also had to identify and deliver different service models, and this was also achieved very quickly. The WRC received a Civil Service Excellence and Innovation Award for the adaption of its frontline services so they could be delivered remotely.



Liam Kelly DG with the Civil Service Excellence and Innovation Award received by the WRC



# Service Reports



# Conciliation, Advisory and Mediation Services

The full suite of services delivered by the CAM division has traditionally depended on face-to-face interaction which allows full engagement with parties who are in dispute assessing how best to achieve resolution. The impact of COVID-19 restrictions required these services largely to move to remote delivery through WebEx and other IT applications and this has proved challenging for all parties.

**Notwithstanding this, the Conciliation, Advisory and Pre-Adjudication Mediation Services as well as the Workplace Mediation Service continued to provide an impartial, timely and effective service to assist employers and workers and their representatives in their efforts to resolve disputes by agreement. The Advisory team worked with organisations, their employees and representatives to assist in developing effective industrial relations practices, procedures and structures.**

## Conciliation

Conciliation demand declined briefly during the initial phase of COVID-19 but returned to more a normal level of referrals later in the year. Delivery of the service was carried out through a mix of a limited number of restricted-attendance in-person meetings (consistent with COVID-19 public health advices) and virtually via WebEx and, where appropriate, other suitable IT platforms.

The WRC received 688 requests for conciliation involving a range of issues which required 735 conciliation conferences. The resolution success rate remained high (+80%), notwithstanding the considerable technical and practical problems associated with resolving collective disputes where, in most instances, no person involved is in the same room.

The confidential nature of conciliation brings its own challenges when carried out virtually, and the one-to-one engagement that might take place in the margins of conciliations cannot happen spontaneously. Gauging the relationship between parties and possibilities of settlement has proved, at times, much more difficult.

While many parties adapted quickly to the delivery of the virtual process, technical difficulties and variable broadband quality for some attendees brought its own difficulties. Overall, the need to focus on technical matters was at times a distraction that added an unwelcome layer of complexity for all parties and this was reflected in the reluctance by some parties to engage in the virtual process, at least initially.

Despite these difficulties, the resolution rate represented a very positive outcome in what was a very challenging year for all involved in receipt of the service and the co-operation, and occasional forbearance of all parties was of particular assistance in its achievement.

## Issues at Conciliation

**The main issues dealt with at conciliation in 2020 concerned:**

- Pay issues (39%)
- Organisational Structure such as shift work, staffing, restructuring, rosters, hours of work, change in work practices, redeployment and recruitment (22%)
- Redundancy (5%)
- Pension issues (2%)
- Types of Leave (3%)
- Benefits such as bonuses, profit sharing, service pay, sick pay, staff incentives, expenses etc (4%)
- Industrial Relations issues such as changes to conditions of employment, new technologies, union management agreements, grading, productivity, outsourcing etc. (25%)

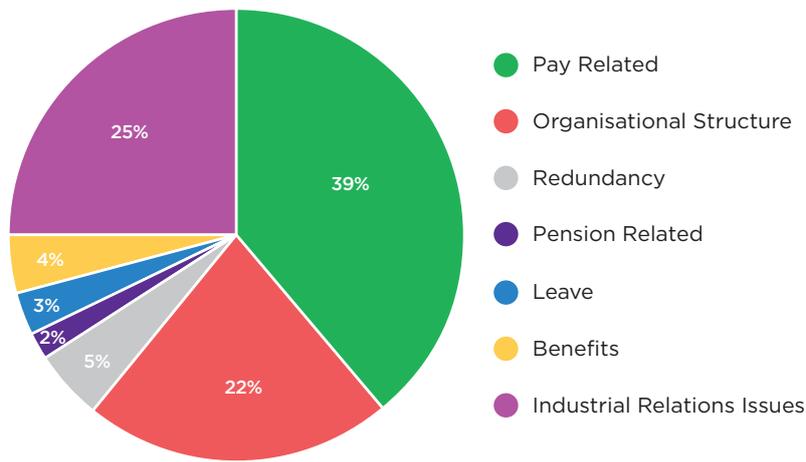


Figure 01: Issues at Conciliation 2020

The WRC brokered agreements in the private sector, e.g., Banking, Manufacturing, Pharmaceutical, Retail, Pharmacy, and in many areas of the Public Sector.

The Service also provided significant assistance in facilitating public sector pay talks towards the end of 2020. The proposed agreement, *Building Momentum*, was subsequently ratified by the Irish Congress of Trade Unions on 23 February 2021.

Close to one million employees were covered by disputes referred to the Commission in 2020, albeit some of these workers may have been party to more than one dispute before the Service throughout the year.

### Referrals to the Labour Court

A total of 64 cases were referred to the Labour Court for a recommendation under Section 26(1) of the Industrial Relations Act 1990 where a resolution was not possible at conciliation. In very many of these cases, the conciliation process at the WRC played a significant role in reducing the differences between the parties, refining the matter requiring a definitive Labour Court Recommendation to resolve the dispute.

## Advisory

### Industrial Relations Reviews

Reviews of industrial relations typically comprise in-depth assessments of workplaces to identify areas of industrial relations and workplace relations concerns, and to make recommendations relating to improved practices and procedures and relationship building etc. In many instances, the Service works post-review with all concerned to implement the recommendations.

During 2020 and following on from a public consultation carried out in late 2019, the Advisory Service of the WRC completed a review of industrial relations practices in the Irish Independent Film and Television Drama Production Sector.

A total of 34 submissions was received from a broad range of stakeholders. The Review included recommendations which are now being considered by all relevant parties.

### Codes of Practice

The WRC develops Codes of Practice to give guidance and set out what it believes to be best practice in good industrial relations. Following a request from An Tánaiste in December 2020, the WRC advertised its intention to draw up a Code of Practice in relation to the Right to Disconnect which will inform both employees and employers on the right to disconnect from work outside of normal working hours.

Furthermore, a revised *Code of Practice on the Prevention and Resolution of Bullying in the Workplace* was finalised in 2020. This revised Code was a joint initiative between the WRC and the Health and Safety Authority (HSA).

## Mediation

The WRC provides two distinct forms of mediation: pre-adjudication mediation and workplace mediation.

### Pre-adjudication Mediation

Pre-adjudication mediation is available for any complaint referred to the Adjudication Service once both parties have agreed to participate, and the Director General is of the view that the matter is capable of being resolved through mediation<sup>2</sup>. The benefit of such an approach is that it allows the parties to engage and reach a solution to the complaint or dispute in a confidential and informal manner while having full control over the outcome. It also minimises the time and expense involved in preparing and proceeding to a full adjudication hearing. The parties also have an opportunity to mutually agree on a resolution that suits their needs and with a creativity that may not be available always at adjudication. A mediated agreement under Section 39 of the Workplace Relations Act 2015 is confidential and legally binding on the parties. Mediation may take place over the phone or face-to-face, depending on the complexity of the issue and the willingness of all parties to engage. Since March 2020, remote mediation has been offered to parties.

### Total Mediations

During 2020, some 2120 interventions took place. This included 864 cases that had been allocated dates for adjudication hearings prior to 13 March 2020 but were then postponed when COVID-19 restrictions were put in place. To move these cases to a conclusion without the need for an adjudication if possible, the WRC Mediation Services reviewed these cases with a view to resolving them by mediation. This involved redirecting staff from conciliation and adjudication services to assist with the review, to manage demand arising, and to ensure a swift response and engagement to additional requests for mediation, in the absence of adjudication hearings proceeding during the initial COVID-19 restriction period. In all, some 1,609 complaints in total advanced to the mediation process during 2020 and, of these, 582 progressed to full mediation of which the majority (85%) were carried out via telephone, 14% were face-to-face and the remainder “virtually”. Over 40% of all cases that were before the Mediation Services in 2020 did not require an adjudication hearing at the conclusion of the process.

When parties participate in the mediation process they do so on a without prejudice and strictly confidential basis. During 2020, in cases where agreements were reached using the pre-adjudication mediation process, the settlement terms varied from an apology through to some financial settlement terms that typically ranged from €100s to €1,000s.

All agreements are reflective of the particular/specific circumstances and issues associated with each individual case. Where agreement was not reached at mediation, the parties may have chosen to progress the complaint on to the Adjudication service. For information purposes, the Adjudication service is entirely separate to the pre-adjudication mediation service and, as such, Adjudicators are not made aware that parties may have participated in mediation.

### Mediation Review

While the WRC actively engaged with stakeholders both directly and through the website and social media channels to encourage the take up of remote mediation as an alternative means to resolving disputes, and, while many stakeholders had indicated to the WRC their willingness to utilise virtual mediation as a timely alternative in the absence of adjudication, this demand did not materialise in practice.

The WRC is and has been of the view that mediation can be of significant benefit to the parties to a dispute. In light of experience, however, it may be that parties to a dispute are reluctant to engage in mediation for reasons particular to the case. With this in mind, the WRC, in early-2021, will undertake a consultation process with its stakeholders to establish what informs parties' decisions in this regard and what changes the WRC might introduce to increase usage of the service.

### Multiple Complaints

The year also saw a continuation of a trend, first identified in 2018, of a number of multiple identical complaints submitted for adjudication with regard to the same employer where one or all parties did not accept an invitation to engage in a broad mediation process that may have resolved the matter in an effective and efficient manner for all parties concerned. Such multiple complaints all require individual processing up to and including scheduling and holding a hearing. This is very resource heavy from a tax-payer point of view and the WRC would encourage all parties to deal with such matters collectively where at all possible.

2. With the exception of for single complaints under Section 13 of the Industrial Relations Act 1969 or the Redundancy Payments Act 1967

## Workplace Mediation

Workplace mediation provides a prompt, confidential and effective remedy to workplace conflicts, disputes and disagreements. This Mediation service is provided on an ad-hoc basis and best suits disputes involving individuals or small groups of workers. These can include interpersonal differences; conflicts and difficulties between colleagues working together; the breakdown of a working relationship; and issues that arise from a grievance and disciplinary procedure, particularly before a matter becomes a disciplinary issue.

A total of 58 workplace mediation requests were received during 2020 which required 67 engagements with parties.

## Facilitation

**The Division also took an active role outside what would normally be considered traditional conciliation and, throughout 2020, facilitated discussions in 242 such engagements.**

**In this regard:**

- Support continued to be provided to the parties of the Public Service Pay Agreement (PSSA) through ongoing facilitation and the chairing of sectoral and national oversight bodies where appropriate.
- The Commission continued to chair a range of other negotiation fora such as the Irish Water Consultative Group, Health Service National Joint Council, the Teachers' Conciliation Council, and Joint Labour Committees (JLCs) - the Contract Cleaning JLC and the Security JLC. A new JLC has recently been established for the English Language School Sector and the WRC has been asked to nominate a chair.
- Officers of the Commission also played a role within the Education and Training Board (ETB) structure in their role as Appeals Officers with the ETB Appeals Procedures where its grievance, disciplinary, or bullying and harassment procedures have been initiated as well as, in the Community and Comprehensive Schools grievance procedures structure. In addition, the Service chaired the Bord Na Móna Joint Industrial Council (JIRC).
- Following a Labour Court recommendation involving a group of companies and several thousand employees, the division assisted in the counting and oversight of a multi-union ballot. A large body of work was completed which allowed nominated union representatives to view and access the counting process virtually.

## WRC Training

The delivery of education/training programmes is very much part of the Division's outreach services. The focus and priority in delivering this service is to promote positive industrial relations and positive working relationships within the workplace.

As would be expected, the delivery of this service was impacted by COVID-19 during 2020. In this regard, an alternative approach to the traditional delivery methods was designed which allowed the provision of online blended learning and included information sharing and guidance dealing with issues raised in workplaces policies and procedures e.g. grievance, disciplinary, dignity and respect in the workplace and in the successful delivering of virtual training programmes/workshops during the year.

In all, 13 interventions were delivered. This included six modules to An Garda Síochána to complete their training programme in advance of their access to the services of the WRC. The service also delivered an online workshop to political staff members of the Houses of the Oireachtas.

# Information, Inspection and Enforcement

## Information and Customer Service

### Information and Customer Service Unit

The Information and Customer Service Unit of the WRC is responsible for:

- Providing impartial information on employment rights, equality, industrial relations and employment permits to both employees and employers,
- Processing complaint applications received for Adjudication,
- Processing employment agency licenses and renewals, and
- Processing requests for licences under the Protection of Young Persons Acts for children working in film, theatre, advertising, artistic or cultural activities.

Information is provided in the following ways:

- An *Infoline* operated by experienced Information Officers (lo-call 1890 80 80 90).
- A WRC website ([www.workplacerelations.ie](http://www.workplacerelations.ie)).
- Information leaflets and other literature.
- Tailored presentations to stakeholders.
- Specific outreach activities.

The *Infoline* also provides status updates to parties to complaints and disputes, and work permit applicants.

### Employment Agency & Protection of Young Persons Licencing

Employment agency licences are renewable on an annual basis.

Some 731 such employment agency licences were issued in 2020.

In addition, the service issues licences authorising the employment of children by employers engaged in cultural, artistic, sports or advertising work. Such licences set out the conditions under which the child(ren) may be employed, governing general conditions of employment, parental consent, child supervision, education arrangements, and the maximum working times and minimum breaks appropriate to each child or group of children employed.

Some 341 licences authorising the employment of 646 children were issued in 2020.

### Information and Customer Service and COVID

In March 2020, following the introduction of COVID-19-related restrictions, the staff of the Information and Customer Service Unit transferred to off-site working and the move required all staff quickly to have access to IT and telephony systems to function remotely. This was achieved without any significant interruption of service to the users of the *Infoline*, the WRC Website or the processing of complaints.

Service Provided	2020
Telephone Calls Dealt With	52,866
Email Contacts Received	6,895
Website Pageviews (M)	2.6
Complaint Applications Received and Processed	8,103
Specific Complaints Received and Processed	18,969

Across 2020, calls received witnessed a rise in demand for information on redundancy (75%) and a fall in demand for information on employment permits (15%). Demand for information on other employment related topics was relatively consistent over the year.

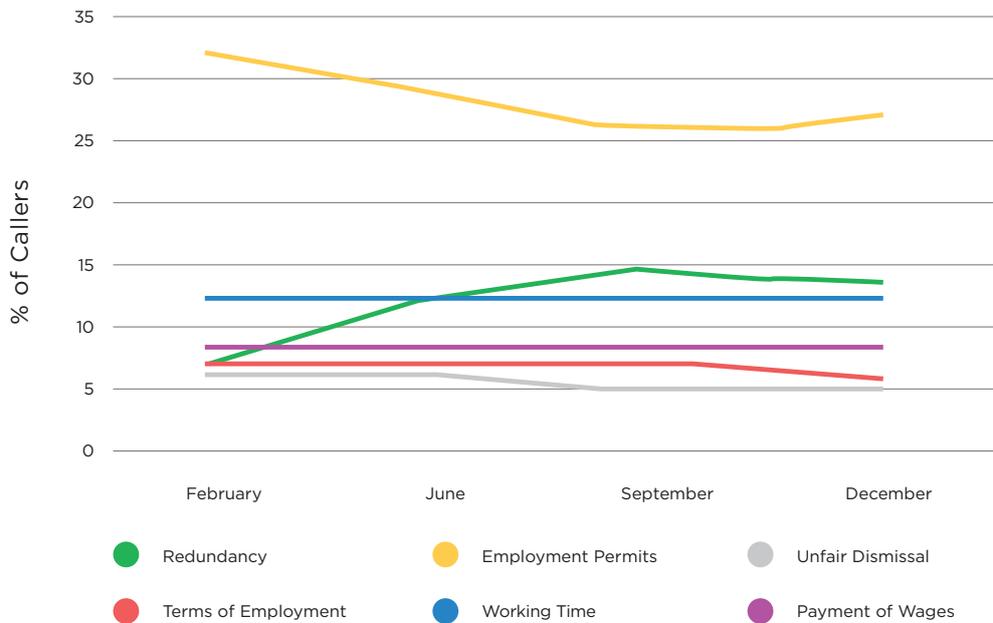


Figure 02: Infoline Topic Trends 2020

## Outreach

### #EU4FairWork Campaign

In March 2020, the European Platform for Undeclared Work launched #EU4FairWork, the first EU campaign about the benefits of declared work, with participation of the European Labour Authority. Due to the restrictions imposed by the COVID pandemic the campaign assumed a social media approach. The campaign aimed to:

- raise awareness amongst workers about their rights, the negative impact of undeclared work and how to make the transition into declared work
- make companies aware of the benefits of and their obligations to declare workers, as well as of the risk of sanctions in case of undeclared work
- encourage policymakers to better tackle undeclared work, through policy and legislation
- increase cooperation among Platform members by implementing the campaign together

The WRC Information and Customer Service participated in the campaign from March 2020 and delivered a range of key information messages across social media.



Examples of WRC Social Media Postings for #EU4FairWork Campaign

## Social Media

From the beginning of the current pandemic, the WRC has conveyed key messages via the website and social media. WRC accounts were central to delivering key information to the public in relation to altered WRC service delivery and on the rights and obligations of both employers and employees during COVID.

In this regard, in addition to information on employment rights information, updates on the cancellation/ rescheduling of adjudication hearings and conciliation meetings, face-to-face mediation and on-site inspections were also provided.



Examples of WRC Social Media “COVID-19” Postings

## Inspection and Enforcement Service

### 2020 Activity at a Glance

<b>Total inspections concluded</b>	7,687
<b>Unannounced Inspections (including RWSP Inspections)<sup>3</sup></b>	5,202
<b>Employers in Breach</b>	1,760
<b>Unpaid Wages Recovered (€M)</b>	1.66
<b>Number of Inspection Complaints Received</b>	704

The Inspection and Enforcement Services undertakes inspection of employment records to ensure employer compliance with employment law in the State. The process involves, but is not confined to examining an employer’s employment-related books and records and conducting both employer and employee interviews.

Inspectors visit places of employment to carry out these functions and these visits may be both announced or unannounced. The objective is to verify employer compliance with the relevant employment law and if necessary, to enforce compliance with the law. Compliance may include redress for the employees concerned in the form of payment of any unpaid wages arising from breaches detected.

From time to time, inspectors may be accompanied by other inspectors and inspections may also take place in tandem with An Garda Síochána and other regulatory bodies such as the Department of Social Protection and the Revenue Commissioners.

### Inspections 2020

Inspection activity is generally focused on sectors where non-compliance is suspected or as a response to complaints received regarding alleged non-compliance by specific employers. The table below contains details of inspection activity in 2020<sup>4</sup>. However, the approach and scope of inspections in 2020 required a different and innovative response due the restrictions and challenges posed by the COVID pandemic.

Of the 7,687 cases completed, some 5,202 inspections (68%) were unannounced and 147 joint inspections were carried out with An Garda Síochána and other regulatory bodies of the State.

3. National Return to Work Safely Protocol

4. Non-compliance rates shown reflect non-compliance of the employers inspected only and should not be viewed as representative necessarily of the relevant sector.

Sector	Cases Completed	No in Breach	Breach %	Unpaid Wages
Accounting & Financial Services	26	5	19%	€3,359
Activities of Households as Employers	6	1	17%	€0
Administration & Support	41	17	41%	€158,977
Advertising & Marketing	16	4	25%	€0
Agriculture	41	17	41%	€26,396
Arts, Entertainment & Recreation	70	19	27%	€85,806
Beverage Service Activities	105	28	27%	€43,457
Construction	150	53	35%	€31,501
Contract Cleaning	48	24	50%	€55,316
Education	29	10	34%	€1,966
Electrical Contracting	18	5	28%	€2,196
Equine Activities	13	12	92%	€91,456
Fishing	64	25	39%	€9,846
Food Service Activities	1,536	492	32%	€327,067
Hair & Beauty	466	144	31%	€30,564
Hotels	139	33	24%	€69,377
Human Health & Social Work	132	29	22%	€91,978
Information & Communications	36	8	22%	€144
Legal Services	6	3	50%	€0
Manufacturing	222	38	17%	€6,665
Meat Processing	11	5	45%	€876
Mechanical Eng. Building Services	15	1	7%	€0
Mining & Quarrying	2	2	100%	€0
Not Classified	4	0	0%	€0
Other Accommodation	5	3	60%	€0
Other Service Activities	256	49	19%	€4,066
Postal & Courier Services	7	0	0%	€0
Professional Services	85	29	34%	€179,309
Public Administration	9	2	22%	€295
Real Estate Activities	22	11	50%	€90
Security	31	13	42%	€74,447
Transport	87	28	32%	€23,314
Travel & Tour Operators	10	2	20%	€5,720
Veterinary & Animal Health Services	12	0	0%	€0
Warehousing & Support Activities	14	1	7%	€0
Water Supply, Sewerage & Waste Remediation	11	2	18%	€455
Wholesale & Retail Trade	3,942	645	16%	€334,633
<b>TOTAL</b>	<b>7,687</b>	<b>1,760</b>	<b>23%</b>	<b>€1,659,277</b>

## Compliance Notices

Employers are notified in writing of breaches detected in the course of an inspection. In most instances, the breaches are rectified by the employer and the inspection is concluded. Where breaches are not rectified within a reasonable timeframe, an Inspector may issue a Compliance Notice specifying the action to be taken and a specified date for completion of those actions. An employer who does not comply with the obligations under such a notice may be guilty of an offence. A total of 41 such compliance notices were issued in 2020 for breaches in relation to rest periods, annual leave, public holidays and Sunday Premium.

## Fixed Payment Notices

Where an employer fails or refuses to provide employees with a written statement of wages and deductions, an Inspector may issue a Fixed Payment Notice. A statutory fine of €1,500 applies. An employer who does not pay the fine may face summary prosecution and may be guilty of an offence. Some eight Fixed Payment Notices were issued in 2020.

## Prosecutions

Failure or refusal by an employer to comply with an employer's statutory obligations may lead to the initiation of a criminal proceeding. Some 81 employers were convicted in summary proceedings in the District Court in 2020 compared with 125 in 2019. These convictions are published in Appendix 5.

## Sectors of Interest

While Inspection activity in 2020 was primarily focused on dealing with employment complaints and more general employment inspection activity as well as sector-allocated RWSP inspections, a number of sectors remained a priority for attention.

### Fishing

The Workplace Relations Commission (WRC) contributes to multi-agency efforts to enforce the Atypical Worker Permission Scheme for Non-EEA Workers engaged on certain Irish-registered whitefish fishing vessels which was introduced by the Department of Justice and Equality in February 2016. In total, 180 fishing vessels come within the scope of that Scheme.

Some 31 desktop inspections and two on-board inspections were completed in the fisheries sector in 2020, covering 37 vessels coming within the scope of the Atypical Scheme. In total, 450 fisheries inspections have now been undertaken by WRC Inspectors since the introduction of the Atypical Scheme.

During 2020, 36 contraventions of employment rights or employment permits legislation, relating to 19 vessel owners, were detected by WRC Inspectors. This brings to 313 the number of contraventions detected by WRC Inspectors since the introduction of the Atypical Scheme. There were five instances detected in 2020 in which fishers did not have permission to work in the State.

### Meat Processing

The WRC has been active in this sector carrying out 61 inspections of plants in the period 2015-2020. Of these inspections, 29 (48%) detected breaches of employment law to some extent (e.g. inadequate records, working time and pay issues, employment permits) and recovered almost €184,000 in outstanding wages.

In 2020, 11 inspections were carried out and five employers were found to be in breach of employment law.

### Agriculture (including Horticulture)

Over 380 inspections of this sector have been carried out across the years 2015 to 2020. The average overall breach rate encountered during inspections is 48%. This relates primarily to inadequate record keeping and resultant working time and unpaid wages issues. Unpaid wages recovered amounted to €405,445 in the period.

In 2020, 41 inspections were carried out and 17 employers were found to be in breach of employment law.

## Inspections and COVID

In line with the Health Services Executive (HSE) and Government advice regarding non-essential services at the time, on-site employment-rights related inspection activity (including unannounced inspections) by WRC inspectors was suspended in March 2020. However, inspection activity continued to be progressed on a remote basis by inspectors, both in relation to current inspections and new desktop inspection activity.

The National Return to Work Safely Protocol (RWSP) was published on 9<sup>th</sup> May 2020. The RWSP supported employers and employees in putting measures in place to prevent the spread of COVID-19 in the workplace when restrictions eased. WRC Inspectors carried out onsite inspections in support of the RWSP and in that respect, combined this work with their primary statutory employment-related work.

The main areas of WRC responsibility under the RWSP include businesses engaged in the provision of accommodation, food and drink, retail and wholesale, and fishing sectors. This allocation of responsibility was formulated to avoid duplication and to work within general COVID-related guidelines in terms of reducing cross-community contamination risks more generally.

**This novel inspection model has a dual purpose:**

- Checks to ensure that employers had the required measures in place to deal with COVID in the workplace: COVID-19 Response Plan, training for employees, appropriate control measures and the appointment of a worker representative,
- Checks to ensure that the employer was in compliance with the requirements of Irish employment law.

**To enable WRC Inspectors to support the RWSP a number of measures were actioned:**

- All inspectors were designated as key Essential Workers and were authorised to travel to and from their own places of work and to and from employers' places of business for the purpose of their inspection duties.
- All inspectors completed the safety training required in the Return-to-Work Protocol in preparation for the recommencement of on-site visits and were provided with the necessary PPE.
- New inspection procedures were put in place to govern RWSP inspections and all inspectors received training, in collaboration with the HSA.

In 2020, WRC Inspectors carried out 5,202 inspections in support of the RWSP and 87% of the employers inspected were found to be in compliance with the RWSP protocol. The WRC Information, Inspection and Enforcement Division is also a member of the Regulators Forum, a consultative body which was established to facilitate cooperation, and allow for ongoing engagement, discussion, and information sharing relating to inspection of and compliance with COVID-19 related public health guidance.

**International Activities**

The European Labour Authority (ELA), which was established in June 2019, provides support to EU countries in the areas of cross-border co-operation and enforcement of relevant Union law, including facilitating joint inspections. The WRC is represented on the board of the ELA by the Director of Information Inspection and Enforcement Division, who participated in four meetings of the Board of the ELA in 2020. Due to COVID restrictions, all meetings were held online.

**The WRC also attended the following ELA events:**

- Seminar on Bogus Self Employment Air Transport Sector
- ELA Working Group on Information
- ELA Working Group on Inspections

**The WRC participated in several meetings/seminars under the European Platform tackling undeclared work:**

- Workshop on Cross Border Sanctions
- Workshop on fraudulent temporary agency work
- Plenary Meeting of Platform for Tackling Underdeclared Work
- Webinar on COVID-19 challenges for enforcement bodies

# Adjudication Service

## Function

The Adjudication Service investigates disputes, grievances and claims made by individuals or small groups under employment, equality and equal status legislation. The legislation under which complaints may be made is set out in Appendix 2.

All Decisions and Recommendations of the Service are published on the WRC website in an anonymised format with the exception of complaints taken under the Employment Equality Acts, Equal Status Acts and the Pensions Acts, where the parties are named other than where the Adjudication Officer decides there is a valid reason to anonymise.

## Challenge of COVID-19

In processing terms, all complaint applications require acknowledgement and must be processed effectively and efficiently, and then scheduled for hearing. In addition, all relevant submissions when received, must be shared with other relevant party(ies), uploaded onto the WRC’s case management system and associated with the casefile prior to hearing. The impact of COVID-19 meant that this processing had to be executed by WRC staff working from home. In addition, hearings post COVID-19 were carried out via a mix of face-to-face where health guidelines permitted and “virtual”.

All these factors presented very significant logistical challenges for the Service throughout the year.

## Complaints Received

Over the course of 2020, some 8,103 complaint applications were received, which encompassed 18,969 individual complaints (i.e., 2.4 specific complaints per application on average) all of which require to be processed, heard and decided on if they proceed to a full hearing.

While the number of complaints and specific complaints received decreased by 2.5% and 9.4% respectively, compared with 2019, it represented the highest total received in any other year since 2015.

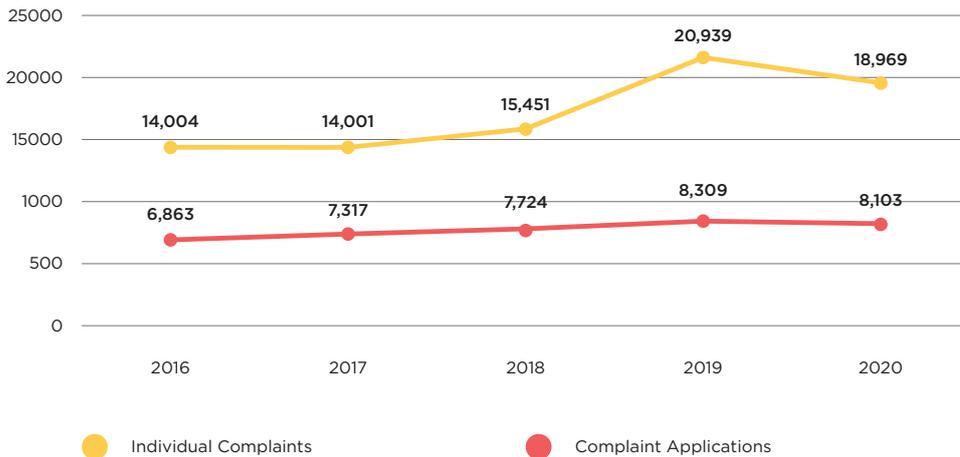


Figure 03: WRC Complaints Received Year on Year 2016 to 2020

The decline in 2020 from 2019 may have arisen from what was a noticeable surge (4452) in a particular type of Hours of Work related “class” cases submitted across a number of months in 2019 (see Figure 04 below), albeit a sizeable spike in complaints relating to the Redundancy Payments Act 1967 was received in June 2020 relating to one particular employment.

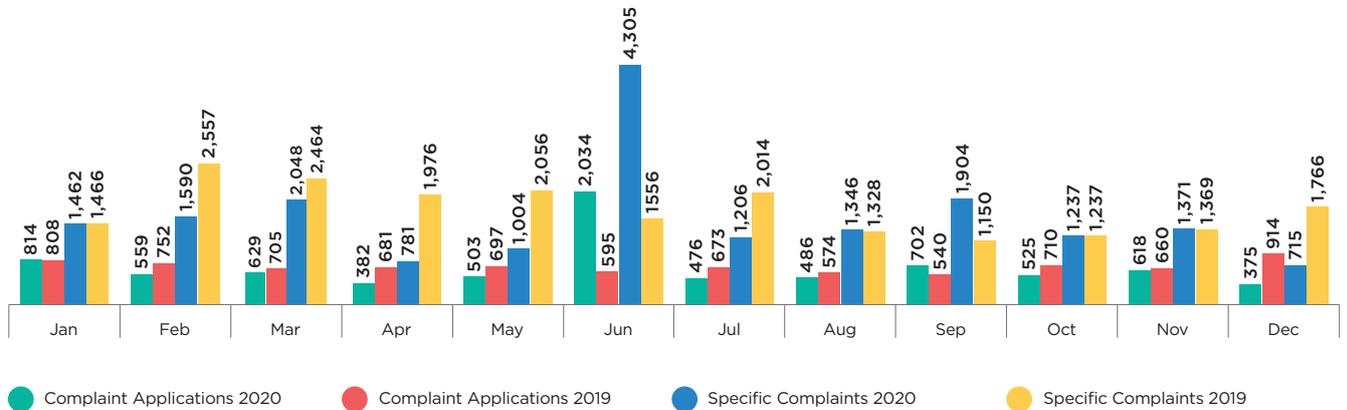


Figure 04: Complaint Applications and Specific Complaints by Month: 2020/2019

### Complaint Breakdown

The legislative breakdown of these complaints is set out in Appendices 2 and 3.

Specific complaints in relation to Pay (4,117) were the most prevalent followed by Redundancy (3,894), and Hours of Work (3,150). A six-fold increase took place in the number of redundancy cases received in 2020 as compared to 2019 (647). The number of complaints received in relation to Agency Working, at 219, represented another significant increase, albeit from a relatively low number of complaints received in each of the previous five years where they recorded between 24 and 47 complaints annually.

At 1,331 specific complaints, a notable decrease (-27%) occurred in claims relating to Discrimination/Equality & Equal Status: the lowest number of complaints in this category received in any one year since the establishment of the WRC.

Also, of considerable note, is the reduction in the number of cases in the Hours of Work category from 2019; while still a significant category of complaints and is the third highest category of complaints received in 2020, it represents just half the number of complaints (6,266) received in 2019. In this regard, it may indicate a return to a more normal annual level absent the surge in related Hours of Work cases witnessed in 2019 and referred to earlier.

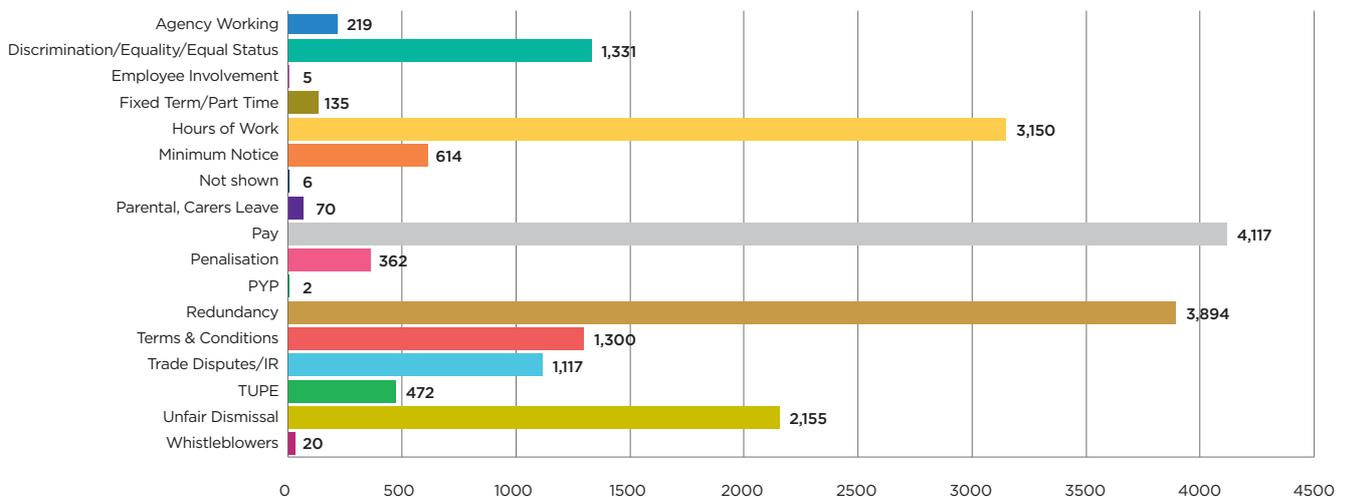


Figure 05: Specific Complaints by Complaint Type

## Hearings

Specific complaint applications increased in 2018 by 10% on 2017 and by a further 35% on 2018 during 2019, giving rise to a cumulative increase of 50% over the two-year period. While extremely challenging, it should be borne in mind, however, that this increase included multiple related complaints, so called “class actions” which fall to be dealt with outside of the routine case management process.

Additional resources were allocated by way of administrative staff and an expanded external Adjudication Officer cadre. The external Adjudication Officers were appointed in August 2019, and following the required certification, become operational in October 2019. The impact of the additional resources was quickly apparent as the number of adjudication case hearings held in the first two months of 2020 was the highest achieved for the period since the establishment of the WRC and by the end of February 2020, the median processing time had fallen by two weeks as compared to the end of 2019.

However, the necessary public health restrictions introduced to counteract COVID-19 impacted heavily on adjudication hearings from that date onwards. Pre-COVID-19, the WRC’s model for delivering a hearing service was by way of face-to-face in person hearings only. Mindful of the requirement of the need for consent in relation to hearings other than face-to-face, the WRC undertook a comprehensive consultation process (see below) with its stakeholders to ensure that, in offering “virtual” hearings in such a context, the parties would have confidence in the procedures, process, technology, and ultimately in the fairness of the hearings and decision.

Following the consultation, the WRC, in May 2020, began scheduling virtual hearings for July onwards, but, until the removal of the requirement for consent by way of the relevant provisions of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 and SI 359/2020, the take-up of virtual hearings was very low (18%). Possible reasons for the low take-up are explored further below.

In the restricted context which applied both nationally and across county boundaries, the WRC had a period of ten weeks only available to it in which face-to-face hearings on WRC premises were feasible, allowing for proper notice, albeit a challenging timetable of four hearing start times daily was put in place. These time slots for in person hearings were set out in the published Service Delivery document.

As a direct consequence, some 1,899 adjudication hearings were held in 2020 (1609 face-to-face and 290 “virtual”); less than half held in 2019. In this regard, some 800 face-to-face adjudication case hearings scheduled to be heard in April and May were cancelled on foot of COVID-19 restriction announcements. In addition, some 750 hearings that would normally take place in June/July could not be scheduled while, of the 252 virtual hearings offered between July and October, only 39 proceeded as consent was not obtained to have the hearings held virtually for the remaining 213. Post-October, some 100 objections to “virtual” hearings were lodged (poor broadband, ICT and other technical issues, the complexity of the case) and, in the interest of justice and fair procedures, 60% of these objections were successful.

All of these issues, individually and collectively, which, in opportunity terms, totalled over 2000 “lost” hearings, impeded severely the delivery of hearings regardless of delivery model. And, given the additional resources in terms of external Adjudication Officers which came on stream in 2019, the number of hearings would likely have been even higher absent-COVID-19. However, since S.I. 359/2020 came into force in September 2020, the WRC has scheduled 100 such virtual hearings a week on average, which is similar to the overall hearing level that pertained in 2019, is currently scheduling 130 hearings a week, and will increase this further if possible. The WRC will review its approach to reinstating in person hearings when easing of restrictions allow. This incremental approach is necessary to ensure that parties have full confidence in the capacity of the IT system and the remote hearing process.

Taken together with an enhanced focus on mediation as a method to resolve more straightforward complaints, and absent a significant increase in demand during 2021, this approach will return the WRC to pre-COVID-19 equilibrium in hearings/complaints terms by early-2022.

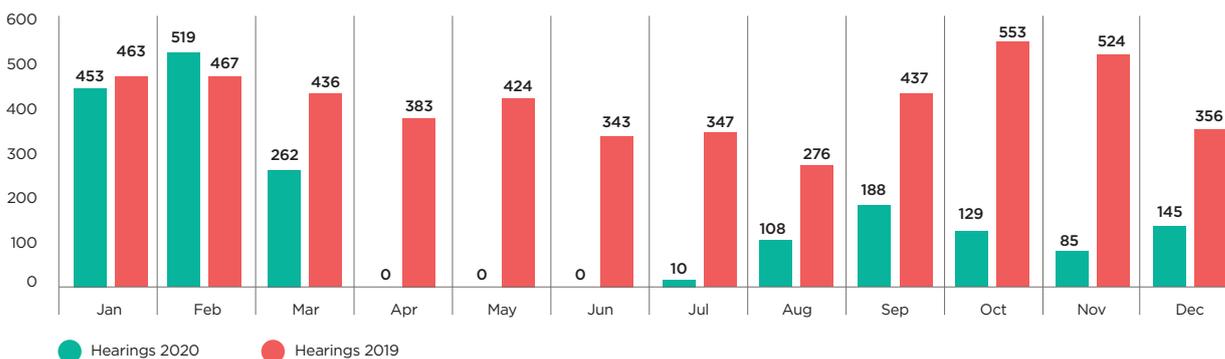


Figure 06: Hearings Held By Month: 2020

## COVID-19 Response

### Stakeholder Consultation

The WRC quickly sought to put in place alternative models to process and dispose of complaints following the first national “shut down” in March. In April 2020, the Adjudication Service carried out an extensive consultation process and, to assist this, published a *Consultation Paper on Remote Hearings and Written Submissions*, which formed the basis for discussions and submissions from stakeholders as to how any new approach could be carried out securely and consistent with fair procedures and constitutional justice.

Following this two-stage consultation, the WRC initiated trialling of ICT platforms that would form the basis of “virtual” hearings. This trialling was carried out with the assistance of key stakeholders and users of the service in May 2020 and in early-June published the proposed service delivery model which comprised a matrix of mediation, and adjudication services.

**The WRC mediation response has been outlined earlier in this Report. Insofar as adjudication applied, the following approaches in addition to face-to-face hearings (where possible) were proposed:**

#### Written Procedure

Disposing of a complaint by written procedure was identified as being a feasible approach, particularly in relation to more straightforward cases where there is no or little disagreement on the facts of the case. However, objection to the procedure by any party means the case cannot be disposed by this means. This proposed approach was broadly welcomed as a viable alternative to a relevant hearing. From May 2020, however, in cases selected by the WRC as possibly suited, such consent was largely absent. Recent engagements with stakeholders indicate that the WRC should persist with this offering and it is a central feature to disposing of cases effectively during 2021.

### Virtual Hearings

The stakeholder engagement in April indicated considerable support for the concept of virtual hearings in the absence of face-to-face hearings. Work commenced building and testing the virtual platform for remote hearings through April and was successfully trialled in May with stakeholders. Guides on remote hearings for parties/representatives were developed and included in the Service Delivery document published and issued to stakeholders. A virtual hearing checklist for unrepresented parties was also published.

However, initial take up of the model was low. It may be that the approach suggested and broadly welcomed at the time was novel and, understandably, parties who are involved in matters of considerable import may have been reluctant to be early adopters. However, experience of the virtual platform has been largely positive and this, together with the positive impact of SI 359/2020, means that the majority of virtual hearings now proceed.

### Postponement Requests

Some 872 postponement requests were received from the parties for 2020. Of postponements sought some 669 were granted – a slight increase on what would be seen as the norm in previous years. Many of these related to requests arising from pre-booked holidays/ other arrangements, long-term illness while the remainder arose primarily due to issues relating to COVID-19.

The revised postponement procedure introduced in February 2020 was reviewed and revised to take into account the changed circumstances and to allow for objections to virtual hearings as provided for by SI 359/2020. Of the latter, 103 requests were made opposing remote hearings of which some 58 applications were granted, and 45 applications were refused. As the parties become more attuned to virtual hearings the level of such objections and the reasons to grant them are expected to decline during 2021.

### Decisions

A total of 1,629 decisions were issued in 2020, a decrease of 46% on the 3,029 decisions issued in 2019. This decrease arose as considerably less hearings took place during 2020 compared with 2019.

However, it should be borne in mind that at end-2020 only some 200 decisions await issuing post-hearing compared with over 600 at end-2019. This represents the lowest level of “decisions on hands” since the establishment of the WRC.

## Legacy Cases

In October 2015, the WRC inherited some 4,000 'legacy' adjudication complaints which had been submitted to the Rights Commissioner Service, the Employment Appeals Tribunal, and the Equality Tribunal prior to establishment. At end-2020 only nine such cases remained to be disposed. All cases have proved complex, difficult to schedule due to parties' unavailability over the period and all had been scheduled to be heard in 2020 but were postponed as a consequence of the COVID-19 restrictions. Those suitable to virtual hearings have been scheduled or heard while the remainder await the first available face-to-face hearing date.

## Referrals Under the Equal Status Acts 2000-2015

The year witnessed a decline in complaint referrals under the Equal Status Acts 2000-2015. In 2020, some 305 referrals were made under the Acts, relating to 452 specific grounds. This is compared to 439 referrals in 2019 relating to 648 specific grounds: an annual reduction of just under 30% on referrals compared with 2019 and continues a trend first apparent in 2017.

Within the overall referrals, some increases took place in relation to Civil Status (360%), Sexual Orientation (75%) and Disability (25%) on 2019.

## Equal Status Complaints Received: 2019/2020

Equal Status	2019	2020	% Difference
Age	62	31	-50%
Civil Status	5	23	360%
Disability	73	91	25%
Family Status	24	23	-4%
Gender	89	45	-49%
Member of Traveller Community	97	51	-47%
Race	159	76	-52%
Religion	36	30	-17%
Sexual Orientation	12	21	75%
Housing Assistance (HAP)	91	61	-33%
<b>Total</b>	<b>648</b>	<b>452</b>	<b>-30%</b>

Total Equal Status Complaints received year on year 2019 to 2020

## Referrals made under Employment Equality Acts 1998-2015

In 2020, some 939 Employment Equality complaint referrals were received citing 1,260 specific grounds compared to 1,288 referrals citing 1,733 specific grounds in 2019. This represented a 27% decrease on 2019 complaint referrals.

Within this, the number of complaints in relation to Religion declined by 61%, Age by 54%, and Civil Status by 50%. Disability (290) and Gender (278) were the most cited grounds of referrals made under the Acts although both respective figures were somewhat lower than 2019.

## Employment Equality Acts Referral: 2019/2020

Employment Equality	2019	2020	% Difference
Age	452	206	- 54%
Civil Status	78	39	-50%
Disability	329	290	-12%
Family Status	184	187	2%
Gender	431	278	-35%
Member of Traveller Community	2	6	200%
Race	183	210	15%
Religion	50	19	-61%
Sexual Orientation	24	25	4%
<b>Total</b>	<b>1733</b>	<b>1260</b>	<b>-27%</b>

Total Employment Equality Complaints received year on year 2019 to 2020

## Referrals Received Under the Pensions Act 1990

In 2020, some 18 referrals were received under the Pensions Act 1990 as compared to 94 referrals received in 2019, 17 in 2018, 35 in 2017 and 9 in 2016. This represents an 80% decline in referrals from 2019.

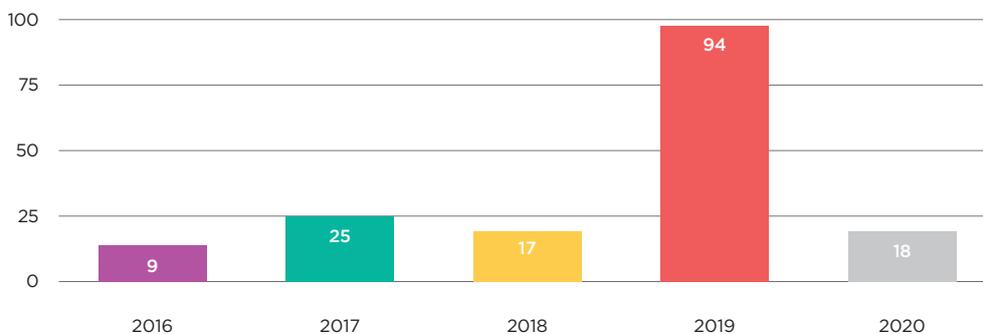


Figure 07: Referrals under Pension Acts: 2016-2020

## Labour Court Decisions on WRC Appeals

In 2020, the WRC was notified of 208<sup>5</sup> decisions issued by the Labour Court in relation to appeals from WRC Adjudication Officer Decisions/Recommendations. Of the decisions notified some 110 decisions (52%) were upheld/affirmed, 39 decisions (19%) were overturned, and 51 decisions (25%) varied.

### Labour Court Outcomes: 2017-2020

Outcomes	2017	2018	2019	2020
Decisions Issued	351	372	383	208
Upheld	171	179	171	110
Varied	84	88	110	51
Overtured	91	99	81	39
Failed: Time-limits/Jurisdiction/Other	5	6	21	8

Total Labour Court Outcomes: 2017-2020

## Stakeholder Engagement

As part of ongoing dialogue with external stakeholders, the Adjudication Service engaged in an extensive consultation process in relation to delivery of services during the COVID-19 pandemic. This culminated in the revised matrix of service delivery model for dealing with complaints, published in June 2020.

In addition, later in the year, the WRC carried out bilateral meetings with key stakeholder groups as part of its commitment to ongoing service improvement and customer consultation/feedback mechanisms, in line with our customer service evaluation and reporting commitments.

5. This figure does not represent all cases dealt with or decisions issued by the Labour Court in the calendar year

# Strategic, Digital and Corporate Division

## Governance

The WRC must ensure that its activities and resources are applied in the most efficient and effective manner, in compliance with governance requirements. This includes regular ongoing monitoring of progress against business plans, regular review of the risk environment and, where necessary, action to mitigate potential risks.

The Division provides key resource and facilities support for the WRC in the delivery of its core objectives. The Division is responsible for corporate governance, budgets, business planning, risk and information management, ICT, staffing, communications, supporting the work of the Divisions, servicing the Board, Director General and providing financial management and facilities management across all WRC locations.

## COVID-19 Response

2020 proved to be a very challenging year for the Division. The impact of COVID-19 meant that the WRC had to quickly adapt and pivot its services to deal with unprecedented circumstances. By the end of March, all WRC staff were working remotely and shortly thereafter, appropriate PPE had been sourced and distributed to WRC Inspectors to enable them carry out their inspection duties in a manner consistent with health guidelines and best practice.

**Over the period of the pandemic during 2020, the Division was central to:**

- supplying staff with the ICT equipment to work from home,
- providing a range of its services “virtually”,
- fitting-out and reshaping its public offices in a fashion that allows the WRC to safely deliver face-to-face services (subject to general COVID-19 restrictions),
- developing and posting videos for all staff and users in relation to premises-specific lay-out and ingress and egress requirements,
- developing and delivering a *Return to Work Safely* guide for all staff, that is in line with the latest Government and Health Service guidelines, to ensure that the health and welfare of all staff and service users.

## Human Resources

**The Corporate Division supports the staff in the delivery of the core objectives of the WRC.**

The WRC saw many staff changes during the year in terms of retirements, transfers and promotions. It was a particularly difficult period for new entrants to the WRC as the majority of their training and interaction with managers and colleagues took place virtually and the support provided by their colleagues was invaluable.

Staff capacity, succession planning, training and staff engagement were also advanced in 2020 while the well-being of staff and staff morale who are remote working was a priority for the organisation. This included a number of innovative measures such as the publication of an in-house staff magazine, updates, webinars and a number of coffee/quiz sessions.

## Information Communications and Technology

Throughout 2020, the Corporate Division continued to work with the Department's ICT Unit to build upon the progress previously made in developing and deploying web-based, user-friendly ICT solutions.

Notwithstanding the work required in the COVID-19 response, the Business Systems Support team maintained and improved the internal systems and support programs throughout 2020, supporting the WRC business units and working to deliver the *WRC ICT Strategy 2019-2022*.

A new case management system for Mediation Services was developed and rolled out during 2020; this new system will deliver enhanced management reporting capabilities and case management efficiencies. Similarly, a new case management system for the WRC's Conciliation Services will be designed and built during 2021.

Further enhancements in the use of technology were advanced via the Department of Public Expenditure and Reform *Our Public Service 2020 (OPS2020)* framework agreement, on the possible uses for Robotic Process Automation, (RPA), within the WRC environment. This will be progressed during 2021.

## Communications and Outreach

### Website

The WRC website was a vital source of information and an interface with the WRC for service users, particularly in relation to updates on service delivery models and employment rights, both generally, and aligned to COVID-19 developments in the area.

Since the launch of the revised website in May 2019, the site has been regularly reviewed to ensure that it complies fully with all web standards in terms of the structure, layout and content and that it follows web standards laid out by the World Wide Web Consortium (W3C) and the Irish National Disability Authority. Further, in 2020, to enhance the user accessibility of the website, changes based on suggestions from the Irish Computer Society in conjunction with the National Disability Authority, were implemented.

### Information Videos

WRC outreach events were severely restricted during 2020. To assist visitors for Face-to-Face hearings in WRC Offices during COVID-19 restrictions, information videos were developed and are available on the WRC website to inform parties and representatives of the housekeeping arrangements for accessing hearings in WRC offices in Lansdowne House, Ennis and Sligo.

The same concept was utilised in preparing tenders for work on premises that obviated the need for prospective tenderers to visit the building during particular periods of COVID restrictions.

### Social Media

During the COVID-19 period, the WRC social media channels were used to share information updates with the public. The reach of these platforms increased throughout 2020 and currently the WRC\_IE Twitter account has more than 1,300 followers and the WRC LinkedIn more than 4,600: increases in 85% and 300% respectively.

## WRC Office Premises

### Opening of WRC Ennis Office

The Ennis Regional Services office of the Workplace Relations Commission was formally opened on the 11 February 2020 by the then Minister of State for Trade, Employment, Business, EU Digital Single Market and Data Protection, Mr. Pat Breen. This represented a further step in the WRC's Regional Programme, which aims to provide, to the greatest extent possible, the same range of services in all its premises.



**Minister of State for Trade, Employment, Business, EU Digital Single Market and Data Protection, Pat Breen and Liam Kelly, Director General, WRC at the official opening of the WRC Ennis office.**

### Other Offices

The Southern Region office, located in Cork city, had been scheduled to be opened by the end of 2020. However, COVID-19 restrictions and interruptions to construction schedules, have resulted in delays that will see the new facility, opening during the first half of 2021. The WRC premises in Carlow was significantly reconfigured mid-2020 to enable adjudication and mediation hearings be held in a secure and safe manner for all parties.

At end-2020, the WRC initiated a review of physical accessibility within Lansdowne House and an action plan, where required, will be rolled out in 2021.

## Public Sector Equality and Human Rights Duty

The Irish Human Rights and Equality Commission Act 2014 introduced a positive duty on public bodies to have due regard to human rights and equality issues in the exercise of its functions and a proactive approach is taken to implement this duty throughout the work of the WRC. Creating an accessible and inclusive space for everybody who uses or works in our offices is a key priority.

In line with established principles and Section 42 of the Irish Human Rights and Equality Act 2014, the WRC places a strong emphasis on the right to fair procedures, the right to privacy, equal access and equal treatment in all aspects of the services provided. Such considerations were factored into the design of remote hearings and related procedures. Against the backdrop of remote working in a pandemic, the WRC continues to work to ensure the dignity and welfare of all staff is protected and a culture of participation and respect is encouraged.

The human rights and equality issues affecting staff include the right to fair procedures, the right to privacy, equal access, equal treatment and dignity in the workplace. All internal policies are kept under review to ensure compliance with best practice in those areas, including, for example the *Dealing with Unreasonable Customers* policy introduced during 2020 which protects staff against third party harassment.

### Protected Disclosures Act 2014

As a public body, the WRC is required under Section 22 of the Protected Disclosures Act 2014 to publish an annual report in relation to the number of protected disclosures made to it in the preceding year, and the action taken in response to any such protected disclosures.

Pursuant to this requirement, the WRC confirms that one report was received and is under investigation in accordance with the provisions of the Protected Disclosures Act, 2014 from 1<sup>st</sup> January 2020 to 31<sup>st</sup> December 2020. Further, in 2020, the Director General was designated a 'prescribed person' pursuant to Section 7 of the 2014 Act and SI 367/2020 Protected Disclosures Act 2014 (Disclosure to Prescribed Persons) Order 2020.

# Legal Services

## Function

The Division's primary aim is to provide effective support so that legally robust systems are in place throughout all activities of the WRC. In this regard, the Legal Division advises the WRC in relation to its wide range of functions from adjudication, to inspections, conciliations, mediation and information provision. It also provides relevant employment law and equality law updates and support to Adjudication Officers.

During 2020, new structures and policies were embedded within the Division to streamline further the work of the Division principally in relation to knowledge management, quality assurance and strategic planning.

## Research

In 2020, the Division produced a comprehensive handbook for staff of the WRC on employment law which will also be of assistance to Adjudication Officers. In addition, with the assistance of interns, the Division carried out a comprehensive analysis of the previous years' jurisprudence and a detailed report will be published in 2021.

Further, some 15 case summaries representing a snapshot of the broad range of decisions issued by the WRC in 2020 are at Appendix 4.

## Legislative Amendments

The Division assisted in the development and implementation of certain relevant provisions of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020 and SI 359/2020<sup>6</sup>, which designates the WRC as a body empowered to hold remote hearings. The new statutory framework bolstered existing powers and, in the context of the WRC response to COVID-19, has enabled the WRC to make remote adjudication hearings the default - subject to a fairness and interests of justice test. More long-term, the Legal Division has also been actively engaged with the Department in relation to a suite of measures to enhance the functioning of the WRC and the provision of effective remedies, along with work on other COVID-19-related legislation.

## Stakeholder Engagement

The challenges of remote working notwithstanding, the Division actively engaged with a wide range of external stakeholders and established links with the Court Service and other quasi-judicial decision-making bodies both in Ireland and internationally to share best practice particularly in the fast-moving context of the pandemic disruption.

## Staffing

In early-2020, Ms. Gwendolen Morgan was appointed by the Minister as WRC Registrar. The Legal Division comprises a Registrar, a Legal Advisor and a Legal Researcher and administrative support.

6. [Civil Law and Criminal Law \(Miscellaneous Provisions\) Act 2020 \(Section 31\) \(WRC\)\(Designation\) Order 2020](#)



# Appendices



# APPENDIX 1

## Work Programme 2020: Divisional Programmes

### Conciliation, Advisory and Mediation

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Provide timely, effective and efficient Conciliation service and ensure demand is met whilst maintaining delivery of all services	Provide conciliation in an appropriate timeframe to facilitate resolution of industrial relations disputes. Proactively engage with service users to support and provide assistance in the maintenance of positive industrial relations	As and when required by clients throughout 2020	Maintenance of high success rate in the resolution of industrial relations disputes.	1000 conciliation and facilitations with 80%+ success rate in very challenging and novel circumstances
Enhance client usage of relevant mediation services of WRC	Maintain 2019 face to face mediation levels and increase telephone by 10% and provide more mediation regionally where required	Throughout 2020	2019 levels of participation in the face-to-face mediation process maintained and telephone increased by 10%. User survey undertaken. Cases triaged effectively and efficiently to bring about an overall reduction in numbers advancing to adjudication process in rights-based claims.	Extensive engagement on complaints submitted to identify and offer mediation as appropriate and mediation provided in line with demand
Chair and facilitate various different industrial relations and statutory fora in both the private and public sector	Facilitate discussions in a timely fashion. Assist parties deal with all issues in accordance with procedures and operations as set out in agreed terms of reference	Throughout 2020	Effective delivery, operation and conclusion of all issues raised in accordance with protocols and procedures with the agreement of all parties	All requests for facilitation fully met and chaired appropriately
Ensure effective two-way communication with primary clients	Maintain effective dialogue with key clients in all regions and nationally	At all times during 2020	Effective operation of communication channels maintained	Ongoing dialogue maintained throughout a challenging year for all parties
Improve site-specific workplace relations	Carry out reviews of industrial relations, chair joint working parties, facilitate resolution of individual disputes including referrals under the IR Act 2015 and deliver workplace mediation as required	Throughout 2020	Effective, tailored programme delivery, high service user satisfaction, improved workplace relations	Assistance provided as required to high satisfaction and outcome level
Provide workplace knowledge sharing	Develop and deliver further appropriate educational programmes with emphasis on employment rights and industrial relations principles	Throughout 2020	High Client Satisfaction – better understanding of issues and improved workplace relations	Some 13 interventions and online workshops delivered
Oversee transition An Garda Síochána into WRC processes	Work with all parties on information sharing and process management Develop and deliver further appropriate educational programmes with emphasis on employment rights and industrial relations principles Work with all parties on information sharing and process management	Throughout 2020 as required	Smooth transition achieved	Six tailored modules developed and delivered to An Garda Síochána to assist transition

## Adjudication

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Reduce median time between hearing/receipt of submissions and issuing of decision	While observing the independence of the Adjudicators provide administrative support and oversight to achieve the goal	Throughout 2020	Median time reduced to 8 months (subject to overall demand levels remaining constant)	Median time reduced by two weeks in Q120: subsequently effected by impact of COVID-19
Early receipt of concise submissions	Work with stakeholders to achieve this and explore development of templates or sample submissions to be published on website	Q1 2020 onwards	Informative submissions received in a timely manner	Worked with stakeholders to achieve: some evidence of improvement
Deliver high quality decisions	Monitor and review quantity and availability of adjudicators to ensure delivery capacity.	Throughout 2020	High quality decisions issued	Decisions accepted in 90% of cases
	Internal Quality Control Review Group will review decisions to identify learning points, to ensure consistency of decisions in common areas, to improve the service provided to customers of the Adjudication Service.	Throughout 2020	Internally and externally recognised and delivered WRC adjudication standard	Quality control maintained

## Inspection and Enforcement Services

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Promote and enforce compliance with employment law	Risk-based inspections, complaint-based inspections, with other State bodies where appropriate	Throughout 2020	5000 workplace visits	7700 inspections which incorporated 5200 WRC RTWS inspections
	Prosecute, as appropriate, offences of non-compliance with employment legislation	Throughout 2020	A 90% successful prosecution rate	81 prosecutions completed
	Issuing and processing of Compliance (where feasible) and Fixed Payment notices <sup>7</sup>	Throughout 2020	Notices issued appropriately and having effect	48 Compliance/Fixed Payment Notices issued
Focused targeting of non-compliant employers, sectors, regions	Utilise data and new risk model to produce outcome	Q2 2020 onwards	More effective and measurable targeting of non-compliant employers and sectors – 25% of inspections will be focused on higher-risk sectors	WRC targeted specific sectors in line with WRC/HSA RTWS Memo of Understanding
Enforce awards arising from decisions of adjudication and Labour Court proceedings	Pursue enforcement of decisions and awards arising from decisions of adjudication and Labour Court in relation to adjudication and inspection activity	Throughout 2020	Decisions and awards pursued in manner that maximises efficiency and effectiveness	71 Cases Closed
Issue licences and enforce legislation in relation to Employment Agencies and the employment of Young Persons	Licenses processed and issued in an efficient and lawful manner	Throughout 2020	1000 licences issued	1072 licences issued
Co-operate with other enforcement agencies	Facilitate training, staff exchanges, joint inspections and sharing of appropriate data, review MoUs to ensure compliance with GDPR requirements	Throughout 2020	Successful activities underpinned by legislation and appropriate MoUs, e.g. MoU with Revenue Commissioners completed and one MoU with a foreign agency nearing completion	Memo of Understanding agreed with: <ul style="list-style-type: none"> <li>• HSA (RTWS),</li> <li>• Revenue</li> <li>• Dept Transport - Road Transport Operator Licence Unit</li> <li>• Private Security Authority</li> </ul>
Leveraging technology to drive compliance	The new inspection platform will provide data to enhance targeting of inspections	Q1 2020 onwards	Enhanced efficiencies arising from capture and usage of data	ERCES platform central to efficient data collection and usage under COVID-19 inspection model
Carry out targeted campaigns in the identified sectors	Campaigns carried out effectively and efficiently	Q1 2020 onwards	Positively impact compliance and create/enhance awareness of relevant rights and duties	WRC targeted specific employment sectors in line with WRC/HSA RTWS MoU. Inspections also carried out in meat processing, fishing and agriculture sectors
Initiate SME client representative information and education programme to improve compliance generally	Work with Communications and Information Unit to ensure programme is effective and efficient	Throughout 2020	Improved knowledge base in these employments by end-2020 – better compliance through targeted campaigns 2020	Impacted by COVID-19 but COVID-19 related social media campaigns developed with employees and employers of SMEs in mind

7. See Labour Court decision (CNN194), Boots Retail (Ireland) Ltd.

## Information and Customer Services

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Provide non-directive information on WRC activities generally, employment legislation and redress mechanisms through a variety of delivery formats	Provide a high quality accessible, customer-focused and user-friendly response to telephone, email, white mail and other employment rights enquiries	Throughout 2020	90% of queries dealt with at initial query	53,000 calls dealt with: 90% dealt with at initial query and 6,900 emails dealt with
	Co-ordinate the targeted participation of the WRC at employment law seminars, presentations, exhibitions, roadshows, webinars, etc.	Throughout 2020	Key events identified, targeted message deliver effectively and efficiently	WRC participated in EU-wide #EU4FairWork campaign, IR and employment law seminars
	Use new WRC social media platforms to raise awareness of employment legislation, relevant decisions, WRC activities/remit and promote WRC redress mechanisms to the public.	Throughout 2020	Increased awareness of the WRC and its remit/ services using social media accounts. Key events, days, campaigns, research and data identified and effectively publicised on social media. 10% y.o.y increase in following on WRC social media platforms	COVID-related social media and information videos generated and widely-viewed. Web Views: 2.6m Campaigns, messages co-ordinated and reach of social media increased throughout 2020: WRC Twitter and LinkedIn followers increased by 85% and 300% respectively
Efficient processing of complaints and applications to the WRC	All complaints processed in a timely and efficient manner and referred to the appropriate redress forum	Throughout 2020	All current complaints processed efficiently and effectively (this process dealt with some 15,000 specific complaints in 2018) - 90% of files created within 10 working days and respondent put on notice	19000 specific complaints processed and up to date albeit hard copy complaint processing impacted for a period by COVID-19 restrictions
Deliver Outreach and Communications Strategy	Identify WRC activities and external events that can be used to enhance efficiency and effectiveness of WRC generally	Q2 2020	Increased awareness and understanding of the WRC, its identity, role and functions, across industrial relations, employment rights, equality and equal status matters, WRC suite of services marketed, bespoke seminars, roadshows, and presentations delivered to stakeholders and target audience	The impact of the pandemic resulted in the cancellation of outreach events scheduled in Q2 of 2020. The Communications goals were re-aligned with the Government strategy relating to pandemic messaging and the workplace
	Complete Equal Status campaigns in relation needs of minority ethnic and the LGBT+ communities	End-2020	Increased awareness of WRC role in this area and rise in relevant referrals to WRC	Impacted by COVID-19 response: priority for 2021
	Prepare bespoke targeted printed guides and templates for employees and employers	Q3 2020	Guides and templates launched and being used and accessed	New procedural documentation for adjudication and submission templates designed

## Legal Affairs

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
WRC legal service operating effectively and efficiently	Structures, procedures, and business processes operating efficiently	Throughout 2020	Legal service established and fully functional.	Legal services efficiently and effectively delivered and new structures introduced
Provide appropriate legal training to staff and adjudicators – legally sound approach to all activities of WRC	Identify training structures, training needs and deliver. Provide training of legal services staff as needs arise and ensure CPD achieved	Throughout 2020	Training being implemented and Adjudicators up to date on jurisprudence	Training Delivered
Manage legal services used within the WRC	Provide for legal services where appropriate (including panels for legal advice where appropriate)	Throughout 2020	Systems functioning effectively	Managed appropriately
Manage and provide for timely, effective and robust legal advice on all aspects of legal matters before the WRC	Consider correspondence, provide advice, brief Counsel where necessary, manage case progress and outcome, liaise with CSSO, AGO and DBEI on legal issues as appropriate.	Throughout 2020	WRC manages legal matters effectively and efficiently. WRC has effective role in relevant legislative developments	Quality advice provided
Maintain a specialised database and library facility for AOs and WRC staff generally  Set and manage legal costs within budget parameters	Ensure appropriate access to relevant external databases such as Westlaw, Bailii, etc. virtual and physical library kept up to date Monitor spend on legal costs/ identify efficiencies	Throughout 2020	Databases and library in place and fully utilised	New systems and structures introduced successfully, and database maintained Costs managed appropriately
Inform stakeholders of trends in complaints and decisions	Publish analyses of employment rights complaints and WRC decisions with particular regard to equality and equal status cases	Quarterly	Legal Costs managed effectively, efficiently and within budget Commentaries published	Impacted by COVID-19 advice and support prioritisation; some WRC case summaries published in the legal press
Work with DBEI to identify legal issues impacting on delivery of statutory remit	Identify key legislative priorities and assist progression where possible and liaise with DBEI in context of High Court constitutional challenge	Throughout 2020	Issues identified with Department and progressed as appropriate	Key COVID-related legislation introduced and broader review of legislation under way with DETE

## Strategic, Digital and Corporate

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Maintain robust corporate governance framework in WRC	Oversee and monitor internal standards/policies/procedures	Throughout 2020	Corporate governance in WRC in line with best practice	Robust governance delivered
Ensure WRC carries out statutory functions within budget	Oversee efficient and effective expenditure, monitor service demand and activity levels and liaise regularly with DBEI in this regard	Throughout 2020	Work programme achieved consistent with proper utilisation of budget allocation	Resources provided within budget
WRC has functional flexibility	Ensure that the WRC can respond quickly to shifting demand and resource patterns across the full range of its activities.	Throughout 2020	WRC able to respond quickly to Divisional demand spikes and shifting resource patterns	WRC responded to fluctuating COVID-19 demands throughout 2020
Manage the WRC risk-based strategic, business planning performance culture at all levels of the organisation	Assist in implementation of, Board strategy and Work Programme and roll out via Corporate, Divisional, Unit and personal business plans, measure and take remedial action against risks and report on progress to MC and Board on a regular basis	Throughout 2020	WRC operating within coherent strategic and business plan framework	Risk and business framework fully operational
Enhance and inform the policy debate on workplace relations developments	Identify areas of policy concern and input to policy formulation	Throughout 2020	Input provided and understood	Achieved by way of presentations, engagement with stakeholders, DETE and publications
South WRC region providing full service in WRC premises	Work with OPW to ensure the southern WRC region can facilitate the delivery of all WRC services by Q3	Throughout 2020	Office fully operational	Mid-west office opened; southern region progressed but delayed by COVID-19
Monitor ICT systems to ensure they facilitate the delivery of efficient and effective WRC services	Review quarterly and update where needed	Throughout 2020	Easy to use ICT systems working efficiently and effectively	ICT systems maintained and functioning
Design and roll out new eComplaints facility	Easy to navigate web-based form that improves overall user experience and delivers internal operational efficiencies	Q4 2020	Designed and operational	Delayed by ICT-related demands to provide remote service delivery during of COVID-19
Complete build of Conciliation, Facilitation, Mediation, and Advisory IT platform.	Work with DBEI and internal partners to complete second phase of user-friendly case management system that enhances efficiencies and service delivery	Q4 2020	Full system operational	Mediation platform successfully rolled out: conciliation platform delayed by ICT-related demands to provide remote service delivery during of COVID-19
Leveraging Technology to improve efficiencies and use of resources	WRC will work with DBEI to explore the potential uses of enhanced automated processes	Throughout 2020	Potential uses identified and medium-term strategy developed	Technology key to successfully developing and providing remote services during 2020, medium term RPA strategy identified and initiated
	Work with Inspection Risk Modelling Project to assist build of risk IT evaluation system as required	Q3 2020 onwards	Risk Model operational	Completion of project impacted by COVID-related inspection priorities and sector targeting of RTWS which utilised risk-based approach
	Work with stakeholders to evaluate effectiveness of new website and amend as decided	Q3 2020 - Q4 2020	Website upgraded if required	Website enhanced following engagements with the Irish Computer Society and the National Disability Authority

# APPENDIX 2

## Legislation by which complaints may be submitted to the Adjudication Service

- Organisation of Working Time Act 1997
- Unfair Dismissal Acts
- Industrial Relations Acts
- Payment of Wages Act 1991
- Terms of Employment (Information) Act 1994
- Redundancy Payments Acts
- Employment Equality Acts
- Minimum Notice and Terms of Employment Act 1973
- European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 ((S.I. No. 131 of 2003) (other than Regulation 4(4) (a))
- Equal Status Acts
- Protection of Employees (Fixed-Term Work) Act 2003
- National Minimum Wage Act 2000
- Regulation 5, 8, 9, 10, 11 or 12 of the European Communities (Road Transport) (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations 2012 (S.I. No. 36 of 2012)
- Safety, Health and Welfare at Work Act 2005
- Maternity Protection Act 1994
- Parental Leave Act 1998
- Protection of Employees (Part-Time Work) Act 2001
- Protection of Employees (Temporary Agency Work) Act 2012
- European Communities (Organisation of Working Time) (Mobile Staff in Civil Aviation) Regulations 2006 (S.I. No. 507 of 2006)
- Regulation 6 of European Communities (Protection of Employment) Regulations, 2000 (S.I. No. 488/2000)
- Protected Disclosures Act 2014
- European Communities (Organisation of Working Time) (Activities of Doctors in Training) Regulations 2004 (S.I. No. 494 of 2004)
- European Communities (Working Conditions of Mobile Workers engaged in Interoperable Cross- border Services in the Railway Sector) Regulations 2009 (S.I. No. 377 of 2009)
- Employment Permits Act 2006
- Consumer Protection Act 2007
- Pensions Acts
- Health Act 2004

- Criminal Justice Act 2011 noting that Criminal Justice (Corruption Offences) Act 2018 is part of Schedule 1 of the 2011 Act
- European Union (Reporting, Analysis and Follow-up of Occurrences in Civil Aviation) Regulations 2020 (S.I. 195/2020) in relation to a complaint of a contravention of Article 16(9) of EU Regulation 376/2014
- Competition Act 2002
- Carer's Leave Act 2001
- Protections for Persons Reporting Child Abuse Act, 1998
- Protection of Employees (Employers' Insolvency) Act, 1984
- National Asset Management Agency Act 2009
- Chemicals Act 2008
- Regulation 19 of the European Communities (European Public Limited - Liability Company) (Employee Involvement) Regulations 2006 (S.I. No. 623 of 2006)
- Regulation 20(1) of the European Communities (European Cooperative Society) (Employee Involvement) Regulations 2007 (S.I. No. 259 of 2007)
- Charities Act 2009
- Regulation 39(1) of the European Communities (Cross- Border Mergers) Regulations 2008 (S.I. No. 157 of 2008)
- Inland Fisheries Act 2010
- Protection of Young Persons (Employment) Act 1996
- An Employment Regulation Order under S.42C (inserted by S.12 of the Industrial Relations (Amendment) Act 2012) of the Industrial Relations Act 1946
- A sectoral employment order within the meaning of Chapter 3 of Part 2 of the Industrial Relations (Amendment) Act 2015
- Property Services (Regulation) Act 2011
- Adoptive Leave Act 1995
- Central Bank (Supervision and Enforcement) Act 2013
- Registered employment agreement within the meaning of Chapter 2 of Part 2 of the Industrial Relations (Amendment) Act 2015
- Prevention of Corruption (Amendment) Act 2001
- Paternity Leave and Benefit Act 2016
- Employees (Provision of Information and Consultation) Act 2006
- Protection of Employment Act 1977
- Transnational Information and Consultation of Employees Act 1996
- Further Education and Training Act 2013

## Explanatory Note:

The legislative basis for the referral of complaints and disputes to the Director General of the WRC for adjudication arises from a number of different enactments which include the Workplace Relations Act 2015, the Unfair Dismissals Act 1977, the Employment Equality Act 1998, the Equal Status Act 2000, the Pensions Act 1990, the Protection of Employees (Employers' Insolvency) Act 1984, the Redundancy Payments Act 1967 and the Industrial Relations Act 1969.

The legislative basis for the referral of complaints and disputes under most of the enactments in respect of which the Director General of the WRC has first instance jurisdiction are governed by the provisions of **Section 41 of the Workplace Relations Act 2015 (No. 16 of 2015)**.

Section 41 of the Workplace Relations Act 2015 creates a common procedure for the presentation of complaints and the referral of disputes under various pieces of employment legislation to the Director General of the Commission. The individual employment enactments under which a person can present a complaint or refer a dispute to the Director General of the WRC in accordance with the provisions of Section 41 are listed in Schedule 5 of the Workplace Relations Act 2015.

The provisions of Section 41 of the Workplace Relations Act 2015 have been amended by the Section 24(b) of the Industrial Relations (Amendment) Act 2015 (S.I. No. 329 of 2015) and Section 20(1)(g) of the National Minimum Wage (Low Pay Commission) Act 2015 (S.I. No. 411 of 2015).

The legislative basis for the referral of complaints to the Director General of the WRC under the Unfair Dismissals Act 1977 arises from Section 8 of that Act (the relevant provisions of Section 8 of the **Unfair Dismissals Act 1977** have been amended by Section 80 of the Workplace Relations Act 2015 and Sections 14 and 20(1)(l) of the National Minimum Wage (Low Pay Commission) Act 2015 (S.I. No. 410 of 2015).

The legislative basis for the referral of complaints to the Director General of the WRC under the **Employment Equality Act 1998** arises from Section 77 of that Act (the relevant provisions of Section 77 of the Employment Equality Act 1998 have been amended by Section 83 of the Workplace Relations Act 2015).

The legislative basis for the referral of complaints to the Director General of the WRC under the Equal Status Act 2000 arises from Section 21 of that Act (the relevant provisions of Section 21 of the **Equal Status Act 2000** have been amended by Section 84 of the Workplace Relations Act 2015).

The legislative basis for the referral of complaints to the Director General of the WRC under the **Pensions Act 1990** arises from Part VII of that Act (the relevant provisions of Part VII of the Pensions Act 1990 have been amended by Section 82 of the Workplace Relations Act 2015).

The legislative basis for the referral of complaints to the Director General of the WRC under the **Redundancy Payments Act 1967** arises from Section 39 of that Act (the relevant provisions of Section 39 of the Redundancy Payments Act 1967 have been amended by Section 76 of the Workplace Relations Act 2015).

The legislative basis for the referral of complaints to the Director General of the WRC under the **Protection of Employees (Employers' Insolvency) Act 1984** arises from Section 9 of that Act (the relevant provisions of Section 9 of the Protection of Employees (Employers' Insolvency) Act 1984 have been amended by Section 81 of the Workplace Relations Act 2015).

The legislative basis for the referral of a trade dispute to the Director General of the WRC under the **Industrial Relations Act 1969** arises from Section 13 of that Act (the relevant provisions of Section 13 of the Industrial Relations Act 1969 have been amended by Sections 8, 40(9) and Schedule 2 Part 1 Item 2 of the Workplace Relations Act 2015). See also the Garda Industrial Relations (Amendment) Act 2019, which commenced in February 2020.

# APPENDIX 3

## Number of complaints received under each piece of legislation

Adjudication	Total number of specific complaints received
<b>Legislative base</b>	
Section 27 of the Organisation of Working Time Act, 1997	4209
Regulation 6 of the European Communities (Protection of Employment) Regulations 2000	3344
Section 8 of the Unfair Dismissals Act, 1977	1906
Section 6 of the Payment of Wages Act, 1991	2555
Section 7 of the Terms of Employment (Information) Act, 1994	1204
Section 13 of the Industrial Relations Act, 1969	1120
Section 77 of the Employment Equality Act, 1998	973
Section 12 of the Minimum Notice & Terms of Employment Act, 1973	614
Section 39 of the Redundancy Payments Act, 1967	537
Regulation 10 of the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003)	471
Section 21 Equal Status Act, 2000	340
Industrial Relations Acts	255
Section 25 of the Protection of Employees (Temporary Agency Work) Act, 2012	219
Section 28 of the Safety, Health & Welfare at Work Act, 2005	158
Section 14 of the Protection of Employees (Fixed-Term Work) Act, 2003	123
Regulation 18 of the European Communities (Road Transport)(Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations 2012 - S.I. No. 36/2012	117
Section 24 of the National Minimum Wage Act, 2000	186
Section 45A of the Industrial Relations Act, 1946	80
Section 23 of the Industrial Relations (Amendment) Act, 2015	70
Schedule 2 of the Protected Disclosures Act, 2014	58
Section 18 of the Parental Leave Act, 1998	41
Section 30 and 31 of the Maternity Protection Act, 1994	32
Section 16 of the Protection of Employees (Part-Time Work) Act, 2001	28
Section 81(e) of the Pensions Act, 1990 as amended by the Social Welfare (Miscellaneous Provisions) Act, 2004	18
Section 86 of the Employment Equality Act, 1998	17
Section 9 of the Protection of Employees (Employers' Insolvency) Act, 1984.	12
Regulation 15 of the European Communities (Organisation of Working Time) (Mobile Staff in Civil Aviation) Regulations 2006 - S.I. No. 507 of 2012	11
Section 27 of the Paternity Leave and Benefit Act, 2016	8
Schedule 2 of the Criminal Justice Act, 2011	7
Section 18A of the Organisation of Working Time Act, 1997	6
Section 6(1) of the Prevention of Corruption (Amendment) Act, 2010	6
Section 20(1) of the Industrial Relations (Amendment) Act, 2015	5
Schedule 3 of the Employees (Provision of Information & Consultation) Act, 2006	5
Part 14 Section 103(55M) of the Health Act, 2007	5
Regulation 8 of the European Communities (Working Conditions of Mobile Workers engaged in Interoperable Cross-Border Services in the Railway Sector) Regulations, SI No. 377 of 2009	4
Section 24 of the National Minimum Wage Act, 2000	4
Section 19 of the Carer's Leave Act, 2001	3
Schedule 2 of the Employment Permits Act, 2006	3
SI No. 494 of 2004 and Clauses 6 of the EC (Working Conditions of Mobile Workers engaged in Interoperable Cross-Border Services in the Railway Sector) Regulations, 2009-SI No. 377 of 2000	2
Schedule 6 of the Consumer Protection Act, 2007	2
Section 62(2) of the Charities Act, 2009	2
Section 9 of the Industrial Relations (Miscellaneous Provisions) Act, 2004	2
Schedule 5 of the Central Bank (Supervision and Enforcement) Act, 2013	2
Section 26 of the Chemicals Act, 2008	2
Regulation 10 of S.I. No.494/2004 - European Communities (Organisation of Working Time)(Activities of Doctors in Training) Regulations, 2004	1
Section 67(5) of the Property Services (Regulation) Act, 2011	1
Section 8(1) of the European Communities (Working Conditions of Mobile Workers Engaged in Inter- Operable Cross-Border Services in the Railway Sector) Regulations 2009 - S.I. No. 3	1
Section 35 of the Further Education and Training Act, 2013	1
Section 18 of the Protection of Young Persons (Employment) Act, 1996	3
Other/not specified	196
<b>Total</b>	<b>18969</b>

# APPENDIX 4

## Notable WRC Adjudication Decisions

### 2020 Annual Report Case Summaries

#### Organisation of Working Time Act & Annual Leave

**A Facilities Coordinator v A Bakery**  
[ADJ-00019188] (11/06/20)

**Claim for compensation which had accrued as a result of annual leave under the Organisation of Working Time Act 1997. The Adjudication Officer adopted a conformity reading of the EU law-based provisions and awarded the complainant cesser pay.**

The complainant asserted that he was due thirty-one days of annual leave at the time his employment ended. He referred a complaint under the Organisation of Working Time Act 1997 ('OWTA'). Section 23 of the OWTA sets out an employee's entitlement to 'cesser pay' in compensation for a balance of annual leave not taken. The complainant submitted that because of work demands, he was not able to avail of the full complement of annual leave every year. He submitted that the respondent had maintained improper records of annual leave taken. He said that holidays were flexible, and he might be called in for maintenance work over Christmas as the bakery remained open over the holiday period.

After examining the relevant provisions of the Working Time Directive (2003/88/EC) and the EU Charter of Fundamental Rights, the Adjudication Officer noted that the right to annual leave is a fundamental social right. From his examination of CJEU jurisprudence, the Adjudication Officer noted that the onus is on the employer to ensure that the employee can actually avail of annual leave. Moreover, the employer must exercise all due diligence in ensuring that leave is taken. Where the employer has failed to exercise all due diligence, EU law precludes a domestic provision that seeks to limit the accrual of annual leave or the payment of the allowance in lieu.

Where carried over annual leave is to lapse, this situation must be accurately conveyed to the employee and in a timely fashion. The Adjudication Officer held that the respondent did not meet the burden to show that all due diligence was exercised to ensure that the complainant availed of annual leave. The Adjudication Officer also found that the respondent did not show that it had accurately conveyed to the complainant in a timely fashion that the accumulated annual leave would lapse.

As the complainant called for cesser pay in lieu of his unused annual leave, the Adjudication Officer then looked to answer the question of whether the complainant could include the historic untaken annual leave in the calculation of cesser pay at the end of his employment. Applying a conforming interpretation in order to give effect to the applicable EU law, the Adjudication Officer held that the complainant had a total annual leave entitlement of twenty-four days per year. Twenty of these days emanated from the OWTA/Working Time Directive and four additional days emanated from the contract. This was a claim under the OWTA, and the complainant relied upon EU law to succeed. He could only succeed to the extent that there has been a contravention of EU law. The Adjudication Officer found that the complainant was able to claim 20/24ths of this outstanding leave, as this was the measure of his statutory and Directive entitlement.

The complainant was awarded **€6,000**, made up of €5,215 as cesser pay (as arrears of pay) and €785 for breach of a statutory right and which did not constitute arrears of pay.

**Security Worker v Security Company****[ADJ-00029014] (17/12/20)**

**Complaint under the Organisation of Working Time Act 1997, concerning a failure by the respondent to provide work or payments to the complainant except on occasion during a specified period. The Adjudication Officer found in favour of the complainant.**

The complainant referred a complaint to the WRC in which he alleged that his employer, the respondent, had failed to provide him with certain work or payments, contrary to terms of his employment. He lodged a complaint under the Organisation of Working Time Act 1997 ('OWTA'). He had been employed by the respondent as a security worker since 2007. The respondent did not attend the hearing.

The complainant stated in his complaint form that he worked on average 20 hours per week for the respondent, as stated in his original terms of employment from 2007. These terms were updated in 2008 to state that the complainant's hours of work would vary and be determined on a weekly basis. The complainant claimed that during the period of 6 April to 31 May 2020 the respondent offered him no rostered hours.

The complainant also submitted a claim under Rostering and Make-Up Time Process ('MUT') for short hours and informed the respondent of his intention to refer a complaint about his short hours to the WRC on 10 June. He was told that HR would look into the matter further, and that they would be in contact with him concerning his MUT claim. The complainant stated that he received no such call other than one from an unknown number which he was unable to respond to. Following this incident, it was put on his schedule, "*contact to employee, he not available to work*", meaning that he was unable to claim under MUT.

The Adjudication Officer considered the MUT Policy as referenced by the complainant. She found that it appeared to cover situations where the employer had contracted hours available but failed to provide the employee with such hours for some reason. It did not, however, provide for situations where no rostered hours were offered to the employee and on an ongoing basis, such as in the current circumstances. Accordingly, she found that the terms of the MUT Policy were not applicable to the complainant's case.

In determining whether the complainant was entitled to a payment for the specified period from April to May, the Adjudication Officer examined Section 18 OWTA as amended by the Employment Law (Miscellaneous Provisions) Act 2018. She found that where an employee must make themselves available for work when and as the employer requires, that their weekly hours must exceed zero. The Adjudication Officer noted that due to the lack of formality caused by the suspension rather than lay-off of the complainant's employment, that he was left on a zero hours contract. Accordingly, he was entitled to receive a payment, as calculated under Section 18(4) OWTA. The Adjudication Officer also considered Section 18(5) OWTA, determining that it did not apply as the complainant was not notified of a lay-off as defined under the Redundancy Payments Act 1967.

Based on the uncontested evidence, the Adjudication Officer found in favour of the complainant, that he had established an entitlement to payment for the period between April to May 2020 in accordance with the OWTA. She awarded the complainant €1,572.75.

**Redundancy Payments****A Driver v A Haulage Company****[ADJ-00026100] (29/05/20)**

**Complaint brought under the Redundancy Payments Act 1967 following an incident with a third party. The complaint failed as the complainant was unable to establish that a redundancy had occurred.**

The complainant referred a complaint to the WRC in December 2019, in which he contended that he was entitled to a redundancy payment from the respondent. He claimed that the respondent had removed him from his job at a particular location and had failed to offer him reasonable alternative employment under the Redundancy Payments Act 1967 ('1967 Act').

The complainant stated that he was employed by the respondent for 24 years at the point of his redundancy. As part of his daily employment, he would collect his truck from a specific premises close to his home, before working exclusively on a property owned by the respondent's main client. Following an incident at the property, the complainant was banned by the owner from accessing the property. The complainant submitted that he was told by the respondent that the only other work available for him would have involved driving to Dublin to collect and return his truck each day, amounting to an additional trip of 380 miles every day, which he claimed to be unreasonable.

The respondent submitted that following the incident in question, it conducted a full investigation and attempted to convince the client to lift the ban. It offered work to the complainant in Dublin while the investigation was ongoing, which was turned down. When the client refused to allow the complainant to return to the site, it offered the complainant the alternative work in Dublin once more, as it had no other work available. It submitted that as the work was still there on the client's site, and had to be done, that this was not a redundancy or lay-off situation, but rather one where the complainant was incapable of carrying out the work for which he was being employed to do.

The Adjudication Officer considered sections 7, 11 and 12 of the 1967 Act in determining whether the complainant was entitled to a statutory redundancy payment. He highlighted the decision in *St. Ledger v Frontline Distribution Ireland Ltd* [1995] ELR 160, which emphasised that impersonality and change are key elements of the definitions of redundancy under the 1967 Act. The Adjudication Officer found that as neither party claimed that the complainant had been dismissed, then he could not be redundant under Section 7(2). Equally, on the basis of the evidence provided, the complainant had not been placed on lay-off per Section 11(1).

As a result of these findings, it was found that the respondent had work and was willing to provide the complainant with that work, but that the complainant was unable to do the work for which he was employed. Accordingly, the redundancy complaint failed.

## Unfair Dismissal

### A Door Manufacturer v A Joinery Firm

[ADJ-00017045] (18/08/20)

**Complaint under the Unfair Dismissals Act 1977 following a dismissal which was due to an incident of gross misconduct (physical assault of a colleague). Despite the misconduct, the Adjudication Officer found the dismissal to be procedurally unfair.**

The complainant was dismissed from his employment for gross misconduct due to an incident with another employee (Mr. A) and brought a complaint under the Unfair Dismissals Act 1977 ('1977 Act'). The complainant claimed that the penalty of dismissal was disproportionate in the circumstances and that the respondent failed to apply proper procedures when effecting his dismissal.

It was agreed that a dispute arose in relation to the use of the forklift between the complainant and Mr. A, and that Mr. A had insulted the complainant several times prior to and following this incident. It was also common case that the complainant threw a punch at Mr. A. The respondent adduced evidence indicating that the complainant's punch did make contact with Mr. A's head. The complainant disputed this contention, but conceded that he had in fact thrown the punch with the intention of making contact with Mr. A. The CCTV footage of the incident could not definitively conclude if the complainant's punch had actually made contact. It was also agreed that the complainant and Mr. A subsequently fell to the floor and proceeded to grapple with each until they were separated.

The Adjudication Officer highlighted that the complainant had been provided with an Employee Handbook in which it stated that "*dangerous behaviour, fighting and physical assault*" constitute examples of gross misconduct which are liable to be punished by summary dismissal. The Adjudication Officer found that the complainant's behaviour fell within this category of behaviour. After considering the evidence, the Adjudication Officer was satisfied that the respondent had taken into account mitigating factors e.g. the complainant had an unblemished disciplinary record during his seven years of service. The Adjudication Officer noted that the complainant's violent, aggressive and dangerous behaviour was totally unacceptable in the workplace and could have potentially resulted in very serious and grave consequences. Therefore, notwithstanding the mitigating factors put forward on behalf of the complainant, the sanction of dismissal was proportionate in the circumstances of the present case.

Notwithstanding this finding, as often happens in unfair dismissal decisions, the Adjudication Officer held that there were several aspects of the respondent's process which did not meet the required standards of procedural fairness set out in the Industrial Relations Act, 1990 (*Code of Practice on Grievance and Disciplinary Procedures*) (*Declaration*) Order 2000. The Adjudication Officer took particular issue with the fact that the Operations Manager was involved in both the role of investigator and decision maker. While the Adjudication Officer noted that it can be difficult to separate these roles in small businesses, in this case he found that the roles could have been separated by the respondent. The Adjudication Officer also noted that how the CCTV footage was used was unfair. Moreover, it was inequitable for only the complainant to have been suspended pending the outcome of the disciplinary process.

According to the Adjudication Officer, the totality of procedural deficiencies which occurred throughout the disciplinary process fatally imperilled the fairness of the complainant's dismissal. The complainant was held 70% responsible for the dismissal and accordingly was awarded €7,500.00.

**A Former Sales Executive v A Travel Company [ADJ-00027968] (02/12/20)**

**Industrial Relations Dispute under Section 13 of the Industrial Relations Act 1969 where the worker dismissed had less than 12 months' service. The Adjudication Officer found in their favour.**

This 'trade dispute' under Section 13 of the Industrial Relations Act 1969 ('1969 Act') concerned an unfair dismissal. The complainant did not have the requisite 12 months' service required to bring a claim under the Unfair Dismissals Act 1977. An employee who may not have statutory rights under the Unfair Dismissals Acts, may refer an industrial relations dispute that she/he was unfairly dismissed under the 1969 Act. It is important to note the different rules in relation to these 'claims of interest' in contrast to employment 'claims of right', which constitute the majority of complaints heard by the WRC.

The complainant submitted that he was summarily dismissed having worked for the respondent travel company as a sales executive from June 2019 until April 2020. In the course of his employment, he had been furnished with 'Statements of Main Terms'; he was advised that he should refer to the Employee Handbook for details of disciplinary rules and procedures, but no such handbook was ever provided to the complainant.

In early 2020, following a change in management, the complainant sought clarity regarding a proposed change to the payroll date and advised that he would seek independent advice prior to signing new contract terms. This led to a fractious telephone exchange with the respondent, but no formal disciplinary action was initiated. Subsequently, details of a private conversation with his line manager concerning the complainant's disappointment with work developments following the onset of COVID-19 were disclosed to the respondent. This resulted in another telephone confrontation during which the complainant was issued with a formal verbal warning.

Two weeks later, the complainant was dismissed by video meeting which had been described to him only as: 'Follow up to verbal warning'. The respondent acknowledged that there was no issue with the complainant's job performance but cited dissatisfaction with the manner in which the complainant operated within the business. An email followed confirming the dismissal citing "*Unsatisfactory standards of performance following training*". At an internal appeal hearing, the respondent again failed to provide details of the alleged unsatisfactory performance.

The Adjudication Officer found that there was a complete absence of fair procedures in accordance with the general principles of natural justice and as required by S. 1. No. 146/2000, Industrial Relations Act 1990 (Code of Practice on Grievance and Disciplinary Procedures). Specifically, the complainant was not furnished with disciplinary procedures, nor was he given any notice of the nature of the meeting during which he was dismissed (or afforded representation at same), and no reasoning was provided for upholding the dismissal on appeal. If there had been shortcomings in the complainant's performance, then, at a minimum, he should have been informed of this and provided with the necessary supports and training. The Adjudication Officer determined that the respondent had orchestrated a sham disciplinary process leading to dismissal; whilst the correspondence furnished may have had the appearance of following process, it amounted to no more than going through the motions and the decision to dismiss had been a *fait accompli* from the outset.

It was recommended that the respondent make an **ex-gratia payment of €10,000** to the complainant in compensation for the manner in which he was dismissed.

## Protected Disclosure

**A Telecoms Senior Professional v A Utility Company [ADJ-00027189] (01/12/20)**

**Complaint under the Protected Disclosures Act 2014 following negative performance reviews. The Adjudication Officer found against the complainant on the basis of the evidence provided.**

The complainant referred a complaint to the WRC concerning an allegation that he was victimised as a result of a protected disclosure made, contrary to schedule 2 of the Protected Disclosures Act 2014 ('2014 Act'). The complaint was initially made under Section 6(1) of the Prevention of Corruption (Amendment) Act 2010, but due to its having been repealed a request was made, and granted, that the complaint be heard under the 2014 Act.

The complainant was employed as an engineer by the respondent since 2006. He received negative performance reviews in 2018 and 2019. He claimed that this had occurred due to him 'whistle-blowing' on his Team Leader over an incident which had occurred in 2012, and for calling out his Department Manager for failing to investigate the issue properly. He claimed that the negative reviews amounted to victimisation. The complainant initially raised his concerns with HR and then the CEO of the company, and in both cases it was found that there was no evidence to support his claims.

The respondent contested the complainant's allegations of victimisation. It submitted that following the negative review, the complainant was notified of the appeals procedure, and was offered further training to improve his communications skills, which he chose not to take up. When the matter was brought up with the CEO, a forensics team was contracted to investigate the issue further, and an extensive review was carried out over a number of months which ultimately led to the finding that the allegations made by the complainant were unfounded.

The Adjudication Officer considered whether the events as described by the parties constituted protected disclosures for the purpose of the 2014 Act (Section 5(1)). She outlined the requirements for such a finding, namely that:

- i. an employee must have a reasonable belief that a wrongdoing... has occurred,
- ii. they must communicate... the alleged wrongdoing to... their employer... or another person, and
- iii. they must show that, because of their communication about the alleged wrongdoing, they have been penalised.

The Adjudication Officer noted the fact that the complainant provided no explanation as to why he had not reported the incident with the Team Leader from 2012 to 2018, which suggested that he was not possessed of any reasonable belief that the issue was serious enough to warrant reporting. It was further evident that neither the complainant's Department Manager nor HR considered that there had been a wrongdoing, and that they had followed fair procedures when investigating the complaint.

On the basis of the evidence provided, it was held by the Adjudication Officer that the complainant had not made a protected disclosure. Accordingly, the complaint failed.

## Employment Equality Act 1998 Cases

### Discrimination on Grounds of Gender and Family Status

#### A Training Specialist v A Pharmaceutical Company [ADJ-00025115] (26/06/20)

**Complaint under the Employment Equality Act 1998 on grounds of gender, family status and disability, concerning a decision by the respondent to unilaterally alter the complainant's contract of employment in relation to flexible working. The Adjudication Officer did not uphold any of the complainant's grounds.**

The complainant was employed by the respondent from 2004 until her resignation in 2019. She had originally been employed on a full-time basis, which was reduced to a working week of 23 hours following her return to work after a period of maternity leave. The respondent sought to terminate this agreement in 2019 on the basis that the operational needs of the business had changed and she was required to work a 39-hour week. It was submitted by the complainant that the respondent sought to unilaterally alter the amendment in question to her contract of employment, which had provided for a permanent reduction in her weekly working hours to 23 hours per week. She claimed that this amounted to discrimination on the aforementioned grounds and brought a claim under S77 of the Employment Equality Act 1998 ('EEA').

The Adjudication Officer proceeded to examine each ground individually. With regards to the disability ground, he considered whether the diagnosed stress that the complainant was suffering from at the material time was a 'disability' within the meaning of Section 2(1) of the EEA. The Adjudication Officer applied the reasoning of the Labour Court in the case of *Health Service Executive North West v Patricia Cullen Killoran EDA1830* where the definition of disability was discussed. He found that he had not been presented with sufficient medical evidence to conclude that the stress in question had occurred as a result of an abnormality or malfunction, and that accordingly the complainant had not been subjected to discrimination on this ground.

On the grounds of gender and family status, there was some dispute between the parties as to whether the reduced working hours arrangement was a permanent or temporary amendment to the complainant's contract of employment. On the basis of the evidence provided, the Adjudication Officer found that the arrangement in question was not envisaged as a permanent amendment to the complainant's contractual terms and that its continuation was contingent of the business needs of the organisation. He did find however, that the provision introduced by the respondent to increase the complainant's working week did put her at a disadvantage on the grounds of her gender and family status, and that accordingly a *prima facie* case of indirect discrimination had been established. However, it was equally held that the respondent satisfied the test for objective justification due to the real business needs of its organisation, and that it had also considered alternative solutions to the problem.

On the basis of the evidence provided, the Adjudication Officer held that whilst the complainant was successful in establishing a *prima facie* case of indirect discrimination on grounds of gender and family status, that this had been rebutted by the respondent on the basis of objective justification. Equally, it was held that the complainant had failed to establish a claim of discriminatory dismissal or victimisation. Accordingly, the complaint failed.

**Yvonne O'Rourke v Minister for Defence  
[ADJ-00007375] (02/12/20)**

**Complaint on the grounds of gender under the Employment Equality Act 1998 in which the respondent treated the complainant's prolonged absence on pregnancy-related grounds as equivalent to sick leave by a male colleague. The Adjudication Officer found that this constituted discrimination and awarded maximum damages, and interest.**

The complainant was a former captain in the Irish Air Corps, she brought a complaint under Section 77 of the Employment Equality Act 1998 ('EEA'). The former captain saw two periods of maternity leave treated by the respondent as being the equivalent to sick leave by a male officer. As a result, she received a poor performance rating in 2010 and 2011, which negatively impacted on her ability to attend mandatory training required for the promotion to the rank of commander.

The complainant raised an internal grievance with the respondent as she felt she had been treated less favourably due to her gender, and there was a formal investigation carried out by the respondent. The respondent found partially in favour of the complainant, and her poor performance review was amended to "good" rather than "poor". Additionally, she was recommended to take part in the training needed to be eligible for the promotion to the rank of commander. However, by the time the recommendation had been formally processed, the complainant's health had deteriorated, and she was unable to attend the training and later had to retire on the grounds of ill-health.

The Adjudication Officer considered whether the complainant had been discriminated against by the respondent on the grounds of gender in relation to promotion, due to the treatment of her absences on maternity leave in her performance appraisals, which hindered her access to the training necessary to become eligible for promotion. The Adjudication Officer noted that the Court of Justice of the European Union has long-established that maternity leave and pregnancy-related sick leave are conditions which only women can experience, and which must not be equated with sick leave absences which a man might accrue. Therefore, any less favourable treatment based on these types of absences from the workplace is *prima facie* discrimination on the grounds of gender.

Applying this view, the Adjudication Officer highlighted that the same applies to management decisions which negatively impact the worker who is absent on maternity leave or pregnancy-related illness. Moreover, the Adjudication Officer commented on the limited information on anti-discrimination law within the respondent's internal guidelines and agreed with the complainant's legal representative in that the complainant had fallen victim to the respondent's major system failure.

The Adjudication Officer found that the complainant had been discriminated against on the gender ground and awarded the complainant the maximum award of two years' salary plus her military service allowance of €4,495 per annum, amounting to a total of **€117,814, plus interest** pursuant to the provisions of Section 82(5) EEA. The Adjudication Officer also ordered the respondent to undertake a policy review and to implement a training programme to address the systems failures related to pregnant personnel which had become apparent in the course of the investigation.

## Age Discrimination

### **Fitzpatrick & Boyle v Commissioner of An Garda Síochána and the Minister for Justice, Equality and Law Reform [DEC-E/2020/002]; [DEC-E/2020/003] (05/10/20)**

**Two linked age discrimination complaints brought under the Employment Equality Act 1998 - EU aspects of these cases were challenged through the courts before the landmark decision of the CJEU in Case C-378/17 which found in favour of the WRC, and upheld tribunals' power to disapply national law where it conflicted with EU law.**

The decisions of the Adjudication Officer in DEC-E/2020/002 and DEC-E/2020/003 were identical and may be summarised together. In each case, the complainant claimed that he was discriminated against by the respondent on the grounds of age, in terms of Section 6(2) and contrary to Section 8 of the Employment Equality Act 1998 ('EEA'), when the Public Appointments Service declined to process the complainant's application to become a member of An Garda Síochána whilst acting on behalf of the respondent. The hearing of these cases was delayed as a result of judicial review proceedings, which ultimately resulted in a preliminary reference to the CJEU (*Case C-378/17*) from the Irish Supreme Court. In that case, it was found that EU law must be interpreted as precluding national legislation under which a national body established by law lacks jurisdiction to disapply a rule of national law that is contrary with EU law.

In the substantive complaint before the WRC, following clarification from the CJEU, the Adjudication Officer found that the evidence produced by the complainants was sufficient to establish a *prima facie* case of discrimination against the respondents, on the basis that the Public Appointments Service had been acting on behalf of the respondents in rejecting the applications, and that this rejection had only occurred because of the age of the complainants. However, the Adjudication Officer examined whether the respondents could share equal liability for the discrimination and found that this was not the case. He examined the definition of 'respondent' under Section 77 of the EEA, and found that as the Public Appointments Service had been acting as an agent for the Commissioner of An Garda Síochána, that the latter was the correct respondent for the purpose of the proceedings.

The Adjudication Officer then analysed whether the respondent could avail of the defence of objective justification under Section 37(2) of the EEA. It was found that the characteristic resulting in the difference of treatment in these cases did constitute a genuine and determining occupational requirement, and that the objective of the age limitation was legitimate. However, the Adjudication Officer did not agree that the requirement was proportionate on the basis of the evidence provided. In particular, it was noted that no physical fitness tests were conducted on members after attestation. This meant that the respondent was unable to demonstrate that there would be a significant number of members unable to perform the more physically demanding duties if the age limit were not to apply.

Accordingly, it was held that the respondent had failed to discharge the probative burden established by the complainants. The respondent was ordered to pay **€12,700** in compensation to each complainant.

A separate but linked challenge *Fitzpatrick v Public Appointments Service* DEC-E/2020/001 failed on the grounds that the Public Appointment Service, as an employment agency per Section 2 EEA, was simply acting on instructions and that PAS had no power to depart from the Garda recruit age limit which was set by Ministerial Order. Its defence under Section 11.3 EEA in relation to employment agencies was upheld.

## Age Discrimination and Compulsory Retirement

### **Gordon v Garda Commissioner & Minister for Justice & Equality [DEC-S2020-004] (07/10/20)** **Complaint under the Employment Equality Act 1998 on grounds of age, following a mandatory retirement imposed upon the complainant. The Adjudication Officer found that the mandatory retirement was objectively justified.**

This case involves a complaint made by the complainant that he was discriminated against by the respondent on the grounds of age under the Employment Equality Act 1998 ("EEA") and Article 2(2) Employment Equality Directive 2007/78/EC.

The complainant had previously held the rank of Chief Superintendent within An Garda Síochána. Upon turning 60 years old, he was forced into mandatory retirement in accordance with An Garda Síochána regulations. He claimed that this amounted to unlawful discrimination, as he had no wish to retire and believed he could still be an asset to the organisation in his position.

In her decision, the Adjudication Officer found that the complainant had successfully established a *prima facie* case of discrimination. This was found to be the case on the basis of the complainant's submission that compulsory retirement at a certain age must amount to a presumption of discrimination.

The Adjudication Officer then turned to consider whether there was objective justification for the mandatory retirement. Reference was made to the decision of the CJEU in *Palacios de la Villa C-411/05*, in which a wide margin of appreciation was afforded to member states on the matter where the restriction pursued a legitimate aim, and the means used to achieve that aim were appropriate and necessary. The Adjudication Officer was satisfied that the mandatory retirement age established a legitimate aim, and the means to achieve this aim were appropriate and necessary.

Accordingly, it was held that whilst the complainant was successful in establishing a *prima facie* case of discrimination, that the presumption of discrimination was rebutted by the respondent on the basis that the provision in question pursued a legitimate aim, was necessary to pursue the aims of the respondent, and was proportionate in its effect. As a result, the respondent was found to have satisfied the criteria for objective justification, and the complaint failed.

## Equal Status Act 2000 cases

### Discrimination on grounds of Religion

#### Student v Community School

[ADJ-00027446] (19/11/20)

**Complaint on the grounds of religion under the Equal Status Act 2000 where the respondent allegedly favoured the admission of Church of Ireland students over others. The Adjudication Officer found that this constituted discrimination.**

This case involved a claim made by the complainant that she was discriminated against by the respondent on the grounds of religion, contrary to Section 7(2) of the Equal Status Act 2000 ('ESA') in relation to education providers. The respondent in this case is a designated Community College, which allegedly favoured the admission of Church of Ireland students over students of other religious faiths, including those of no faith.

The complainant submitted that as the respondent is a non-denominational school its practice of favouring Church of Ireland students is *prima facie* discriminatory and unlawful under the ESA. She referred to a letter from the school which stated, "*As per our enrolment policy pupils of Church of Ireland faith attending anonymised National School...have priority when it comes to enrolment in First Year.*". It was further submitted that the complainant had exhausted the internal appeal process, and that her mental health had begun to deteriorate as a result of the ordeal.

The respondent for its part rejected the complainant's assertion that it is a non-denominational school, and stated instead that it is a, "*designated school and multi-denominational with a unique ethos reflected in how it is governed*". In its Admissions Policy and Procedure 2020-21, the respondent states that due to there being no non-fee-paying post-primary school for Church of Ireland children in the vicinity, that, "*it was designated as a listed post-primary school for Church of Ireland children in order to protect the rights of this minority*". Accordingly, the respondent submitted, with reference to guidance provided by the Department of Education and Skills, that as it is providing for the needs of Church of Ireland students, that the practice to favour such students is acceptable.

The Adjudication Officer rejected the respondent's arguments, finding in favour of the complainant.

He found it impossible to reconcile the stated policy of the school; that it was multi-denominational and did not favour any religious faith, or none, over another, with the fact that Church of Ireland students were prioritised for admission into first year. Furthermore, due to the stated policy, he found that it could not rely on the defence under Section 7(3) of the ESA to rebut the presumption of discrimination.

The Adjudication Officer found that the respondent was engaging in prohibited conduct and in accordance with Section 27(1)(b) of the ESA ordered that the complainant be admitted into second year of the respondent institution in the school year 2021-2022. In addition, he ordered that the practice of giving priority to Church of Ireland students in the area cease and that the respondent update its Admissions Policy and Procedure to ensure compliance with the ESA.

## Discrimination on the grounds of Disability & Reasonable Accommodation

### An Airline Passenger v An Airline

[ADJ-00027569] (15/12/20)

**Complaint brought under the Equal Status Act 2000, claiming discrimination on grounds of disability where reasonable accommodation was not provided to the complainant who needed special assistance when boarding her flight. The Adjudication Officer found in favour of the complainant.**

The complainant brought a claim on the ground of disability under the Equal Status Act 2000 ('ESA') following an incident at an airport while travelling from a city in England to Dublin in December 2019. Despite making the airline aware of her need for special assistance due to her muscular dystrophy, the complainant was not provided with assistance to board the respondent's plane. An avi-ramp is a mechanism that conveys a wheelchair up the steps to the aircraft. An ambi-lift is a wheelchair lift used to board passengers with reduced mobility onto the aircraft. Rather than providing the complainant with an ambi-lift or avi-ramp, she was pushed up the steps of the plane by a minibus driver, causing her pain, distress and humiliation.

The airline recognised that the complainant was indeed entitled to special assistance when boarding her flight under the provisions of EC Regulation 1107/2006, concerning the rights of people with disabilities and those with reduced mobility when travelling by air. However, the airline argued that the complaint was misdirected and should be dismissed as they were not the service provider, rather it was the company that provides the ambi-lift/avi-ramp who were at fault. The airline's position was that their responsibility ends when they communicated the need for assistance to the contracted provider.

However, the Adjudication Officer found that this argument was flawed. The Adjudication Officer accepted that the provision of assistance to people with disabilities at an airport is designated, under Article 8 of Regulation 1107/2006, to the managing body of the airport. An airline passenger however, has no contractual relationship with the managing body of an airport and they rely on the airline from whom they purchase their flight, or the airline operating the flight, to provide the assistance that they require. The Adjudication Officer went on to highlight that from the position of the airline passenger, it is the airline who, as set out at Section 5(6)(b) of the ESA, is "*the person responsible for providing a service,*" including any assistance that may be required to board and disembark an aircraft.

While the Adjudication Officer noted that the provision of special assistance is designated to the managing body of an airport, she also noted that in line with Section 4(1) of the ESA the responsibility of an airline is "*to do all that is reasonable*" to ensure that, if their passenger requests special assistance, that the required assistance is available. This must mean more than simply setting up an electronic communication with the contracted provider. The Adjudication Officer noted that it would not have been difficult or expensive for the airline provider to check with the service provider that the lift was available for the complainant. Even up to the point that the complainant had been brought to the plane, the Adjudication Officer noted it would have been reasonable for the airline to contact the contracted service provider to check whether a lift had become available for the complainant.

The Adjudication Officer ordered the airline to pay the complainant **€8,000**, as a measure of compensation for the discomfort and humiliation she suffered. The airline was also ordered to put in place a process to check that, at boarding and disembarking, where a passenger with a disability or reduced mobility has requested assistance, that such assistance is provided.

## Discrimination on housing assistance ground

**A Tenant v A Letting Company  
[ADJ-00023816] (19/08/20)**

**Complaint under the Equal Status Act 2000, where the letting agency reneged on a tenancy agreement once it had discovered that the complainant was a Housing Assistance Payment ('HAP') recipient. The complainant was awarded €8,500 compensation.**

The complainant submitted a complaint of discrimination on the grounds of housing assistance under the Equal Status Act 2000 ('ESA') as amended by the Equality (Miscellaneous Provisions) Act 2015. The complainant had joint custody of his daughter with his former partner. With HAP approval, he had moved to Dublin to start work and for his first month he lived in shared accommodation. It was a priority for him to find suitable accommodation to allow him to host his daughter.

The complainant viewed the property at the centre of this case and had agreed terms for the tenancy. However, on disclosure of his HAP status, the respondent expressed the view that the complainant ought to have disclosed this earlier as the landlord did not like HAP. To satisfy the respondent and landlord, the complainant agreed to pay one month's rent upfront. The complainant arranged to sign the contract and pick up the keys to the property. It was at this time that the respondent informed him that the landlord had chosen to rent the property to someone else.

The complainant's representative submitted that the complainant had been treated less favourably on housing grounds and this treatment had resulted in a personal crisis of grave proportions. Therefore, the complainant sought maximum compensation. On 24 January 2020, the respondent's appointed solicitors sent an email to the WRC denying any wrongdoing and refuting any complaint made. They indicated that they had attempted to contact the complainant's representative and offered to the value of one month's rent (€1,400) to the complainant. It was confirmed that neither the respondent nor its representative would be present at the hearing. The Adjudication Officer noted that despite being invited to apply for an adjournment, the respondent failed to engage any further with the WRC. The Adjudication Officer expressed that this reflected a "staggering disrespect for a statutory tribunal" by the respondent.

The Adjudication Officer found that the complainant had established a *prima facie* case of direct discrimination on the grounds of housing and this was not rebutted by the respondent. The Adjudication Officer noted the intention of the HAP scheme to bridge a gap between homelessness and housing by empowering tenants and providing landlords with a commercially sound transaction. Additionally, the Adjudication Officer highlighted that the discrimination had an enduring and detrimental effect on the complainant's personal life - contrary to the intention of the HAP scheme.

The complainant was awarded **€8,500** in compensation for the effects of the prohibited conduct and the Adjudication Officer ordered the respondent to familiarise themselves with HAP and the statutory importance of the Equal Status Act. Moreover, the respondent was ordered to undertake a review of the tenancy application process at their business to ensure "*it is equality proofed*". The Adjudication Officer specifically noted that "*[t]his should consist of the introduction of a standard operational procedure consisting of a chronological documentation of the process with records of both party's involvement in the entire process.*"

## Discrimination on Grounds of Membership of the Traveller Community

**Marina McCarthy v Gurrabraher Credit Union [ADJ-00025710] (24/06/20)**

**Complaint under the Equal Status Act 2000 on grounds of membership of the Traveller community, concerning an application for a loan. The Adjudication Officer found in favour of the complainant.**

The complainant referred a complaint to the WRC alleging that she had been discriminated against by the respondent credit union in the way her application for a loan was dealt with. In particular, she claimed that the respondent refused to issue her with a loan refusal letter, and that the manner in which she was treated constituted discrimination under the Equal Status Act ('ESA').

The complainant gave evidence that she was seeking a grant for a mobile home from the City Council for herself and her children. To achieve this, she was required to demonstrate that she had applied to two financial institutions for a loan to indicate a lack of finances. She applied to the respondent credit union and was informed she would hear back in 48 hours, which did not occur. Upon following up on the matter, she was informed by the senior manager of the branch that she could give the complainant the letter she needed, but if she did, then "they'd all be down looking for one". The complainant submitted that this occurred in the public area of the respondent's premises and made her feel humiliated.

The senior manager in question gave evidence on behalf of the respondent, stating that she treated the complainant with due respect and courtesy on the day in question. She accepted that she said words to the effect that, 'they'll all be down looking for one', but that this referred to credit union members generally rather than members of the Traveller community. It was contested that the letter of refusal was not granted initially as the complainant was not an active member of the credit union when she applied for the loan, but that eventually a letter of this type was sent to the complainant satisfying her request.

The Adjudication Officer set out the burden of proof for discrimination under Section 38A of the ESA. He found that the complainant had established a presumption of discrimination under Section 3 of the ESA, and that accordingly the burden of proof shifted to the respondent to disprove this. The Adjudication Officer held that although the reasons submitted by the respondent for refusing the loan were plausible, that the rejection of the reasonable request to issue a letter declining the application on the day in question constituted a discriminatory act. It was also found that the way the senior manager behaved towards the complainant was discriminatory.

Based on the evidence provided, it was held that the complainant had successfully established a *prima facie* case of discrimination against the respondent, which had not been rebutted. Accordingly, the Adjudication Officer found in favour of the complainant and awarded her €5,000 in compensation.

**James McCarthy v Cork City Council [ADJ-00018849] (02/07/20)**

**Complaint under the Equal Status Act 2000 on grounds of gender and membership of the Traveller community, concerning the allocation of social housing. The Adjudication Officer found in favour of the complainant.**

The complainant referred a complaint under Section 6 of the Equal Status Act 2000 ('ESA'), on the basis that the Council had discriminated against him by reason of his gender and membership of the Traveller community in allocating social housing.

The complainant had been on the housing list for 22 years and 10 months. He was separated from his partner but retained custody of their two children. He also had a series of complex medical issues. Residing in a damaged mobile home, he submitted that he should have been a priority for rehousing. In 2018, in line with the housing allocation (CBL) system, the complainant alleged that he was guaranteed a house by the respondent's Traveller Liaison Officer, but this was rejected when the Council became aware of anti-social behaviour concerning the complainant's son. The complainant submitted that he had never been informed that an incident such as this would prevent him from securing the house. He contended that if he was from the settled community, or if he were a woman, he would not be left on the housing list for almost 23 years.

The respondent argued that the CBL system could not be discriminatory, as it could not break down bidders into categories such as gender or ethnic minority status. At the hearing, it was acknowledged that the complainant had not been medically examined for the purpose of prioritising housing, and that the complainant's son had never been criminally charged with anti-social behaviour.

The Adjudication Officer noted the lack of transparency within the allocation system, and the Housing Officer's apparent unfettered discretion in allocating housing. Relying on *O'Brien v Iarnród Éireann* DEC-S2003-029, she inferred direct discrimination on the basis of imputed membership of the Traveller community from the Housing Authority's canvas to continue bidding in the face of a real time offer in the complainant's preferred area. She inferred further discrimination from the respondent's handling of the complaint of anti-social behaviour. She also found that the CBL was not blind to discrimination as the complainant clearly applied for housing as a male member of the Traveller Community.

On the basis of her findings, the Adjudication Officer found that the respondent had discriminated against the complainant on the basis of his membership of the Travelling Community. She did not find the claim on grounds of gender to be well-founded. Accordingly, she awarded the complainant **€8,000** in compensation for the distress caused by the Council's prohibited conduct.

# APPENDIX 5

## Convictions 2020

Employer	Sector	Legislation of which Conviction Relates	Address
Rong Bin Limited	Food & Beverage Service Activities	Employment Permits Acts 2003 and 2006	The Square, Dromcollogher, Co Limerick
Oran Car Wash Limited	Other Service Activities	Employment Permits Acts 2003 and 2006	Orantown Centre, Oranmore, Co Galway
Thi Hi Tran	Food & Beverage Service Activities	National Minimum Wage Act, 2000 Organisation of Working Time Act, 1997 Employment Permits Acts 2003 and 2006	Main Street, Robertstown, Naas, Co Kildare
Waqas Tahir	Food & Beverage Service Activities	Organisation of Working Time Act, 1997 Employment Permits Acts 2003 and 2006	3 Clarendon Court, Kill, Co Kildare
Mr. Munib Kasim Zaman	Food & Beverage Service Activities	Employment Permits Acts 2003 and 2006	Sarsfield Street, Oldbridge, Clonmel, Co Tipperary
Super Car Wash Limited	Cleaning Activities	Employment Permits Acts 2003 and 2006	Delta Retail Park, Ballysimon Road, Co Limerick
TZ Lin & Xu Ltd	Food & Beverage Service Activities	Employment Permits Acts 2003 and 2006	1st Floor, Darcy's Bar, Skycourt Shopping Centre, Shannon, Co. Clare
Peter Howley	Wholesale and Retail Trade	Employment Permits Acts 2003 and 2006	Ennis Road, Gort, Co Galway
Edson Alves Cristaldo	Other Service Activities	Employment Permits Acts 2003 and 2006	Ballindereen, Ballindereen, Co Galway
Qin Juan Gao & Ding Chen	Accommodation and Food Service Activities	Employment Permits Acts 2003 and 2006	Schooner House, South Quay, Wicklow Town
Mo Mo Asian Food Ltd	Food & Beverage Service Activities	Employment Permits Acts 2003 and 2006	6 Mary Street, New Ross, Co Wexford
Malik And Sons Cuisine Limited	Food & Beverage Service Activities	Employment Permits Acts 2003 and 2006	The Square, Dromcollogher, Co Limerick
J.T.E. Limited	Food & Beverage Service Activities	Employment Permits Acts 2003 and 2006	Seafield, Maree, Oranmore, Co Galway
MMD Rockland Limited	Accommodation	Employment Permits Acts 2003 and 2006	Main Street, Ballyvaughan, Co Clare
Basakha Singh	Food Service Activities	Employment Permits Acts 2003 and 2006	9 Surehaven Road, Phoenix Park Racecourse, Castleknock, Dublin 15
Suvha Laxmi Trading Ltd	Food Service Activities	Organisation of Working Time Act, 1997 Employment Permits Acts 2003 and 2006	Mt Everest At Katmandu, 51 Main Street, Bray, Co Wicklow
Keydew Foods Limited	Manufacturing	Employment Permits Acts 2003 and 2006	Lourdes Road, Roscrea, Co Tipperary
Zhi Wang	Food Service Activities	Employment Permits Acts 2003 and 2006	Celbridge Main Street, Celbridge, Co Kildare
Icanix Capital Services Limited	Construction	Organisation of Working Time Act, 1997	Rathwac, Marlinstown, Mullingar, Co Westmeath
Rami Yasein	Food Service Activities	Employment Permits Acts 2003 and 2006	92-93 Irish Town, Clonmel, Co Tipperary
Tramyard Kitchen Ltd	Food Service Activities	National Minimum Wage Act, 2000	Church Road, Greystones A63 X920, Co Wicklow
Said Shah & Ghulam Hazara	Food Service Activities	Employment Permits Acts 2003 and 2006	5 Main Street, Camolin, Co Wexford

Employer	Sector	Legislation of which Conviction Relates	Address
Donovan De Jager	Food Service Activities	Organisation of Working Time Act, 1997 Workplace Relations Act, 2015	Mill Street, Birr, Co Offaly
Jundi Weng	Food Service Activities	Organisation of Working Time Act, 1997 Employment Permits Acts 2003 and 2006	St Mary's Road, Edenderry, Co Offaly
Sunil Kumar	Food Service Activities	Employment Permits Acts 2003 and 2006	Unit 2, Sallins Road, Naas, Co Kildare
Capri Grill Limited	Food Service Activities	Workplace Relations Act, 2015	Poplar Square, Naas, Co Kildare
19 Mary Asian Food Limited	Food Service Activities	Employment Permits Acts 2003 and 2006	19 Mary Street, Clonmel, Co Tipperary
Damien Wasilewski	Construction	National Minimum Wage Act, 2000 Organisation of Working Time Act, 1997 Workplace Relations Act, 2015	44 Caragh Green, Naas, Co Kildare
Dundalk Massage Centre Limited	Hair & Beauty	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	35 Castletown Road, Dundalk, Co Louth
Mushrooms & Poultry Services Limited	Agriculture	Employment Permits Acts 2003 and 2006	Killnamaddy, Ardaghy, Co Monaghan
Jade House Limited	Food Service Activities	Employment Permits Acts 2003 and 2006	Main St, Ballymahon, Co Longford
Abdeslam Ennaoui	Food Service Activities	Employment Permits Acts 2003 and 2006 Workplace Relations Act, 2015	Main St, Oughterard, Co Galway
Matthew Reidy	Food Service Activities	Employment Permits Acts 2003 and 2006	Pallas Derg, Newtown, Co Tipperary
Randhawa and Singh Ltd	Food Service Activities	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	Church Street, Ferbane, Co Offaly
Oulo Ltd	Food Service Activities	Organisation of Working Time Act, 1997 Employment Permits Acts 2003 and 2006	River Street, Clara, Co Offaly
F & F Freitas Ltd	Beverage Service Activities	Employment Permits Acts 2003 and 2006	Main Street, Ferbane, Co Offaly
Lee Boon Chieng	Food Service Activities	Employment Permits Acts 2003 and 2006	Unit 2, Monread Avenue Leisure Centre, Naas, Co Kildare
Ballon Meats Unlimited Company	Meat Processing	Employment Permits Acts 2003 and 2006	Raheen House, Ballon R93 A4T1, Co Carlow
S & T Restaurant Limited	Food Service Activities	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	Block B Unit 2, Newpark Shopping Centre, Co Kilkenny
Aine Deasy, Patrick Deasy	Fishing	Workplace Relations Act, 2015	Strand View, Raheen, Union Hall, Co Cork
Guardex Ltd	Security	Employment Permits Acts 2003 and 2006	Mooretown, Co Kildare
Chilli Tamoto Ltd	Food Service Activities	Employment Permits Acts 2003 and 2006	Parnell Street, Mountmellick, Co Laois

Employer	Sector	Legislation of which Conviction Relates	Address
Rujin Cai	Food Service Activities	Employment Permits Acts 2003 and 2006	55 Main Street Templemore, Co Tipperary
WM Doyle Construction Limited	Construction	Organisation of Working Time Act, 1997 Workplace Relations Act, 2015	Glentire Heights, The Ballagh, Enniscorthy, Co Wexford
Lin Shao	Food Service Activities	Employment Permits Acts 2003 and 2006	28 Dublin Road, Bray, Co Wicklow
Oriental Cook-In Takeaway	Food Service Activities	Organisation of Working Time Act, 1997 Employment Permits Acts 2003 and 2006	Unit 12, Hazel Court, Bay Estate, Dundalk, Co Louth
Eastpride Catering Limited	Food Service Activities	Employment Permits Acts 2003 and 2006	University Court, Castletroy, Co Limerick
Huyen Cole	Hair & Beauty	Employment Permits Acts 2003 and 2006	10 St Lomans Terrace, Mullingar, Co Westmeath
O'Briens Chips Annacotty Limited	Food Service Activities	Employment Permits Acts 2003 and 2006	Annacotty Village, Annacotty, Co Limerick
Imran Malik	Wholesale & Retail Trade	Employment Permits Acts 2003 and 2006	45A Kilgarron Park, Enniskerry, Wicklow A98 KP99
Z - We - Ton (Alandale) Limited	Food Service Activities	Employment Permits Acts 2003 and 2006	Newtown Centre, Castletroy Shopping Centre, Co Limerick
Dehinder Marine Limited	Fishing	Employment Permits Acts 2003 and 2006	Cooscrooneen, Union Hall, Co Cork
Lan Wang	Food Service Activities	Employment Permits Acts 2003 and 2006	Main Street, Castlebellingham, Co Louth
Mr. Jianhui Bi and Ms. Yi Huang	Food Service Activities	Employment Permits Acts 2003 and 2006 National Minimum Wage Act, 2000	Swan House, 73 West Street, Drogheda, Co Louth
Hailan He	Food Service Activities	Employment Permits Acts 2003 and 2006	Unit 2, Castle Street, Castleconnell, Co Limerick
Inara's Limited	Food Service Activities	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	Unit 3, Patrick Street, Dundalk, Co Louth
Lim Seok Chen	Food Service Activities	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	Main Street, Ballyhaunis, Co Mayo
Kickham Garden Limited	Food Service Activities	Organisation of Working Time Act, 1997 Protection of Young Persons (Employment) Act, 1996 Employment Permits Acts 2003 and 2006	Wellington Place, Wellington Street, Clonmel, Co Tipperary
Wanqi Sun	Food Service Activities	Employment Permits Acts 2003 and 2006	Unit 3, Cashel Road, Clonmel, Co Tipperary
Ming Moon Limited	Food Service Activities	Employment Permits Acts 2003 and 2006	Unit 3 Castlevue, Castle Street, Roscommon
The Dao Noodle Box Limited	Food Service Activities	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	39 West Street, Drogheda, Co Louth
Golden Spring Chinese Takeaway Limited	Food Service Activities	Employment Permits Acts 2003 and 2006	Unit 260 Gandon Court, Fairgreen, Portlaoise, Co Laois

Employer	Sector	Legislation of which Conviction Relates	Address
<b>Lion King Chinese Restaurant Limited</b>	Food Service Activities	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	11 O'Loughlin Road, Co Kilkenny
<b>Steve and Suzie Limited</b>	Food Service Activities	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	Kilmeague, Naas, Co Kildare
<b>Montravia Limited</b>	Hotels	Employment Permits Acts 2003 and 2006	Ballina/Killaloe, Co Clare
<b>Punjabi House Restaurant Limited</b>	Food Service Activities	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	7 Dublin Road, Drogheda, Co Louth
<b>Waqar Hussain</b>	Other Service Activities	Employment Permits Acts 2003 and 2006	Unit 2C, Kilkerrin Park, Liosban Ind Estate, Co Galway
<b>ECIG Store Ltd</b>	Wholesale & Retail Trade	Organisation of Working Time Act, 1997 Workplace Relations Act, 2015	23 Town Park Centre, Galway City
<b>Zudi Limited</b>	Food Service Activities	Organisation of Working Time Act, 1997 National Minimum Wage Act, 2000 Employment Permits Acts 2003 and 2006	8 Fitzherbert Wood, Navan, Co. Meath
<b>BBIF Limited</b>	Food Service Activities	Employment Permits Acts 2003 and 2006	Main St, Ballymahon, Co Longford
<b>Martin Joyce</b>	Wholesale & Retail Trade	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	119 Thomas Street, Dublin 8
<b>G N T Hennessy Limited</b>	Beverage Service Activities	Organisation of Working Time Act, 1997	35 Upper Castle Street, Tralee, Co Kerry
<b>Farhan Aslam</b>	Food Service Activities	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	4 Pearse Street, Athlone, Co Westmeath
<b>Xing Yao Limited</b>	Food Service Activities	Employment Permits Acts 2003 and 2006 Organisation of Working Time Act, 1997	Unit 3 Kenna Centre, Athlone, Co Westmeath
<b>The Butlers Pantry Holding Limited</b>	Wholesale & Retail Trade	Employment Permits Acts 2003 and 2006 Workplace Relations Act, 2015	Unit 16-18, Southern Cross Business Park Boghall Road, Bray, Co Wicklow
<b>Shpetim Muga</b>	Food Service Activities	Employment Permits Acts 2003 and 2006	Main Street, Killucan, Co Westmeath
<b>APC Ventures Limited</b>	Wholesale & Retail Trade	Employment Permits Acts 2003 and 2006	17 Bramble Drive, Foxwood, Butlerstown, Co Waterford
<b>John Abbot</b>	Professional Services	Organisation of Working Time Act, 1997	Ballygurteen, Paulstown, Co Kilkenny
<b>Omiya Limited</b>	Beverage Service Activities	Employment Permits Acts 2003 and 2006	Patrick Street, Tullamore, Co Offaly
<b>S Security Group Limited</b>	Security	Workplace Relations Act, 2015	114 The Quay, Waterford
<b>Tianfu Limited</b>	Food Service Activities	Employment Permits Acts 2003 and 2006	The Square, Claremorris, Co Mayo



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An Coimisiún um Chaidreamh san Áit Oibre  
Workplace Relations Commission