

WRC

An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

Workplace Relations Commission

Annual Report 2023





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Workplace Relations Commission

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2023 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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Audrey Cahill
Director General

Director General's Report

As one of my first official tasks as I take up the post of Director General, I have pleasure on behalf of the team in submitting to the Minister the Annual Report of the Workplace Relations Commission (WRC) in respect of its activities in 2023.

The WRC is staffed by over 210 civil servants of the Department of Enterprise, Trade and Employment and the work of the WRC is supplemented by a further 42 sanctioned Adjudication Officers, contracted by the Minister to assist the WRC in disposing of employment, industrial relations, equality and equal status matters on a case-by-case basis.

The WRC plays an invaluable role in Irish society in delivering its core services in a fair, consistent and independent manner. It interacts with people and businesses in many ways. Its services help to maintain industrial relations stability nationally, mediate and adjudicate in individual disputes, raise awareness of and improve industrial and employment relations generally, promote and monitor and enforce compliance with employment standards and provide recourse for people who feel they have been discriminated against in the delivery of services more generally.

All front facing services returned to face-to-face engagement in 2023 with the option to provide virtual interactions where required.

It has been another busy year for the team at the WRC and demand and output has continued to increase since its establishment. The achievements were significant as outlined in the Report:

- ▶ Over 61,800 callers were helped by our Information and Customer Service staff when looking for information on employment, equality, or industrial relations matters – up by 3% on 2022 - and there were over 4.6m pageviews of our website, up 12% on 2022.

- ▶ WRC staff across all divisions, attended over 40 outreach events involving a range of stakeholders including trade union and employer conferences, secondary schools and Local Enterprise Offices, and presentations to specific stakeholder groups. These events are a very useful and important method of engaging with the public to provide information on WRC services.
- ▶ Some 6,519 workplace inspection visits took place with the Inspectorate placing a strong emphasis on sectors including Fishers, Road Transport, Construction, Agriculture, and on the National Minimum Wage.
- ▶ A total of 4,727 inspections were completed with €1.95m recovered in unpaid wages.
- ▶ The number of hearings scheduled, and the number of hearings held, by the WRC Adjudication Service each increased by almost 13% and 12% on 2022.
- ▶ The WRC pre-adjudication mediation service delivered an additional 127 mediations in 2023 compared to the previous year, representing a 19% increase in mediations.
- ▶ The Code of Practice on the Right to Request Remote/Flexible Work was significantly advanced in 2023 for finalisation in early 2024 pending approval by Statutory Instrument. The assistance of both Ibec and ICTU is noted and their participation in producing this Code is to be commended.
- ▶ The WRC's Conciliation Service, which is central to maintaining good workplace relations in Ireland and the effective resolution of disputes, was involved in the resolution/prevention of a number of serious high-profile disputes. It's success rates remain high and continues to hold steady at around 85%.
- ▶ The WRC facilitated discussions in late 2023 between the Government and the Public Sector Trade Unions/Associations on a successor agreement to Building Momentum and this engagement continued into early 2024.

In line with the "Digital First" pillar of the Public Service ICT Strategy, the WRC began developing a new eComplaint Form in 2023. When the eComplaint Form goes live in 2024, it will enable the public to submit complaints to the WRC in a more efficient manner. The Form will be accessible across all digital platforms, from mobile and tablet to desktop.

I was appointed in February 2024 following the retirement of my predecessors, Anna Perry who was acting Director General from April 2023 to February 2024, and Liam Kelly who was Director General from 2018 until his retirement in March 2023. I would like to take the opportunity to thank both Anna and Liam for their many years of public service and commitment to the WRC, and wish them both well in their retirement.

Since my appointment, I am struck by the commitment, dedication and flexibility of all the staff of the WRC. Without their hard work, the WRC would not have been able to achieve so much in 2023 and I look forward to supporting the teams to continue to deliver our work programme as successfully as has been done up to now.

Finally, I would like to thank the Minister and the Department for their support throughout the year which is necessary if the WRC is to carry out its statutory functions to the full. I also wish to acknowledge and thank the Chairperson and the Board for their advice and support which has also been central to the achievements during the year.

Audrey Cahill
Director General

Key Indicators



61,823

Infoline
Calls (+3%)



4,600,000

Website
Views (+12%)



1,660

Employment
Agency/ Child
Licences Issued



€1,950,600

Unpaid Wages
Recovered (+39%)



6,519

Inspection
Visits



Inspection Campaigns:

Fishers, Road Transport,
National Minimum Wage,
Construction, Agriculture



14,158

Specific Complaints
Received (+11%)



4,765

Adjudication
Hearings (+12%)



2,951

Adjudication
Decisions Issued (+50%)



85%

Conciliation
Success Rate



44

Outreach
Events



4

New Information
Videos Published



Followers:

X: +12%
LinkedIn: +75%



**Robotic Process
Automation
introduced for
processing complaints**



3



Workplace Relations Commission (WRC)

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 Enterprise, Trade and Employment 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).

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 of the Commission

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 most recent Strategy Statement was submitted to the Minister in 2021.

The Board comprises the Chairperson Dr David Begg, and eight ordinary members appointed by the Minister for Enterprise, Trade and Employment as provided for in the Workplace Relations Act 2015.

The Board has two statutory functions, which are:

- ▶ to prepare, in consultation with the Director General of the WRC, an annual Work Programme for the forthcoming year for the approval of the Minister.
- ▶ in consultation with the Director General, to prepare and submit a three-year Strategy Statement to the Minister setting out the WRC's planned strategy for the next three years.

The Board met on four occasions in 2023.



Dr David Begg
Chairperson



Ms. Ethel Buckley



Mr. Stephen Driver



Ms. Judith Fitzgerald



Ms. Sinead Gogan



Mr. George Maybury



Mr. Brendan McGinty



Mr. Barry O'Brien



Ms. Virginija Petrauskaite



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

Management Committee

The Management Committee comprises the Director General and the WRC Divisional Directors:



**Ms. Audrey Cahill –
from 13 February 2024**
Director General



Ms. Anna Perry
*Director of Conciliation, Advisory and
Mediation January 2023 to 31 March
2023*
*Director General (acting)
01 April 2023 to 12 February 2024*



Mr. Liam Kelly
*Director General
to 31 March 2023*



Ms. Aoibheann Ní Shúilleabháin
*Deputy Director of Conciliation,
Advisory and Mediation*



Mr. David Small
Director of Adjudication



Mr. John Kelly
*Director of Information,
Inspection and Enforcement*



Ms. Derval Monahan
*Director of Corporate,
Strategy and Digital Services*



Ms. Gwendolen Morgan
*Registrar and Director of Legal
Services*

Budget and Staffing

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

The WRC's budget for 2023 totalled €16,833,000.

Pay (€)	14,219,000
Non-Pay (€)	2,614,000
Total (€)	16,833,000

At the end of 2023, the staff allocation stood at 215 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 42 sanctioned Adjudication Officers who are contracted to assist the Adjudication Service on a case-by-case basis.

Figure 1 - WRC Staffing: End December 2023

Grade (and equivalents)	Total Staff
Director General	1
Registrar	1
Director	5
Solicitor	3
AP/AO	29
HEO	29
EO	83
CO	64
Total	215

The WRC has five regional offices: Dublin, Carlow, Cork, Ennis and Sligo.

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Service Reports

4.1 | Information, Inspection and Enforcement

Information and Customer Service

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

- ▶ Providing impartial information on legislation governing employer obligations, employee's employment rights, employment equality, equal status obligations of service providers, industrial relations and employment permits to both employees and employers,
- ▶ Processing Complaint Applications received for Adjudication/Mediation,
- ▶ Processing Employment Agency licences and renewals, and
- ▶ Processing requests for licences under the Protection of Young Persons Acts for the employment of children working in film, theatre, advertising, artistic or cultural activities.

Information on employment rights, employment permits, equality and other workplace legislation is provided through:

- ▶ An *Infoline* operated by experienced Information Officers (0818 80 80 90)
- ▶ The WRC website (www.workplacerelations.ie)
- ▶ Tailored outreach presentations to stakeholders.
- ▶ General and targeted outreach.
- ▶ The *Infoline* also provides status updates to parties on complaints referred for Adjudication and to Employment Permit applicants awaiting a permit.

The Information and Customer Service Unit saw a general increase in most of its activities in 2023 compared with 2022 (Figure 2). Website pageviews increased by over 12%, while telephone calls dealt with increased by 3%.

Separately, Employment Agency licences processed increased significantly (10%), whereas Child Employment licences issued dropped by 12%. Outreach activities also increased from 34 in 2022 to 44 in 2023. Complaint Applications processed was down by 1% as are referenced in Figure 2.

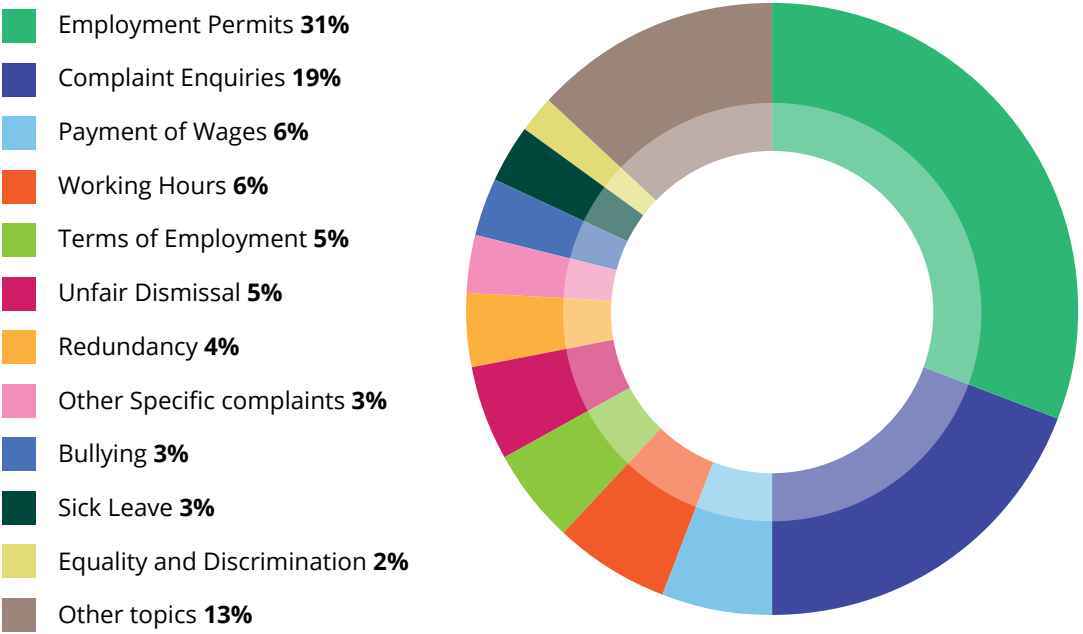
Figure 2: Information and Customer Service Unit Activity: 2023

Key Activities	2023	2022
Phone calls dealt with	61,800	59,700
Website Pageviews	4,600,000	4,200,000
Complaint Applications Processed	6,100	6,200
Outreach Activities ¹	44	34
Employment Agency Licences issued	1,028	936
Child Employment Licences issued	632	722
No. of children employed under licence	1,496	1,655

Calls to Information and Customer Service

As in 2022, the number of telephone calls to the Infoline continues to increase – as have most of the activities of the Information and Customer Service Unit. Figure 2 above illustrates the 3% increase in calls dealt with in 2023.

Figure 3: Infoline Topic Trends: 2023

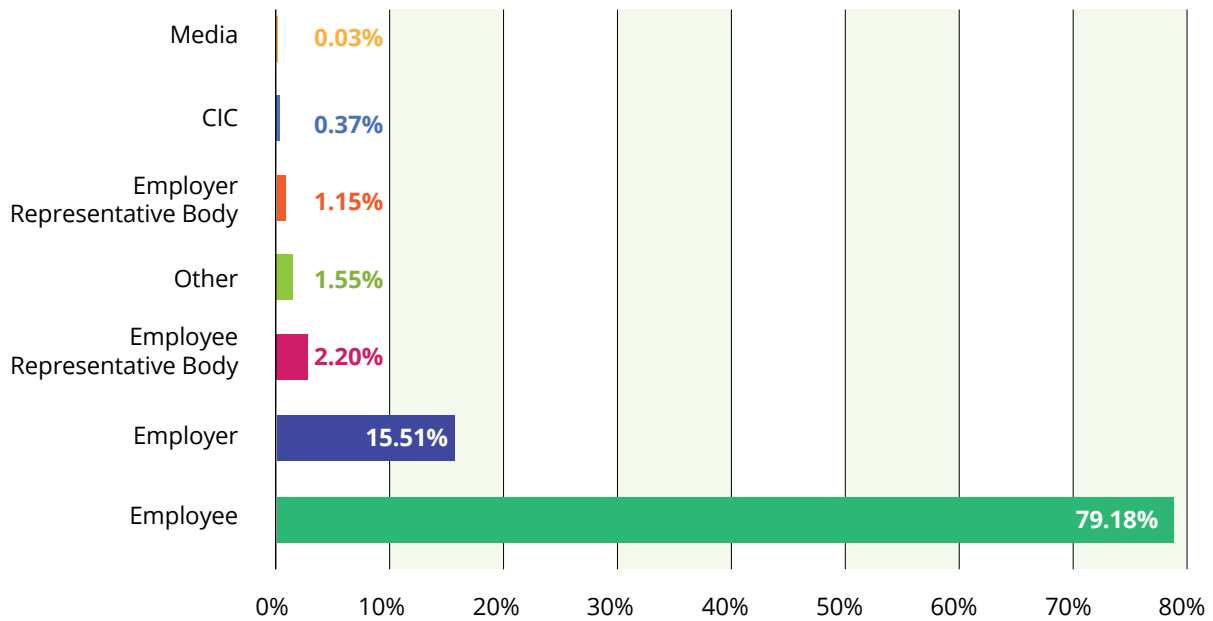


1 Including activities such as presentations, briefings, conferences, and events.

Figure 3 illustrates the topics on which the *Infoline* provided information to callers in 2023. Information on Employment Permits was provided to 31% of callers, a decline from 38% in 2022. Other common topics dealt with during the year were the status of complaints submitted to the WRC (19%), queries on working hours (including leave, breaks, night work and Sunday work) and queries relating to wages, both accounted for 6% each.

The caller type dealt with in 2023 is set out below. Employees comprise over three-quarters of all callers. Employer callers account for close to 16% of calls, while calls from representative bodies (employees and employers) accounts for 3% of calls dealt with.

Figure 4: Infoline Caller Type



Outreach and Campaigns

The Information and Customer Service Unit plays an integral role in the overall Outreach Programme of the WRC. This is achieved through presentations to various groups on employment legislation, attendance at exhibitions, design and production of information booklets, leaflets and other literature, social media, videos and management of the website. In 2023, the WRC attended 44 events (including schools and colleges, enterprise bodies, business and employee representative bodies and state bodies), this was a 30% increase in activity from 2022.

A number of campaigns took place throughout the year including:

- ▶ increases in the National Minimum Wage,
- ▶ employment rights of Seasonal Workers in Ireland (#rights4all seasons), and
- ▶ changes to Terms and Conditions of Employment

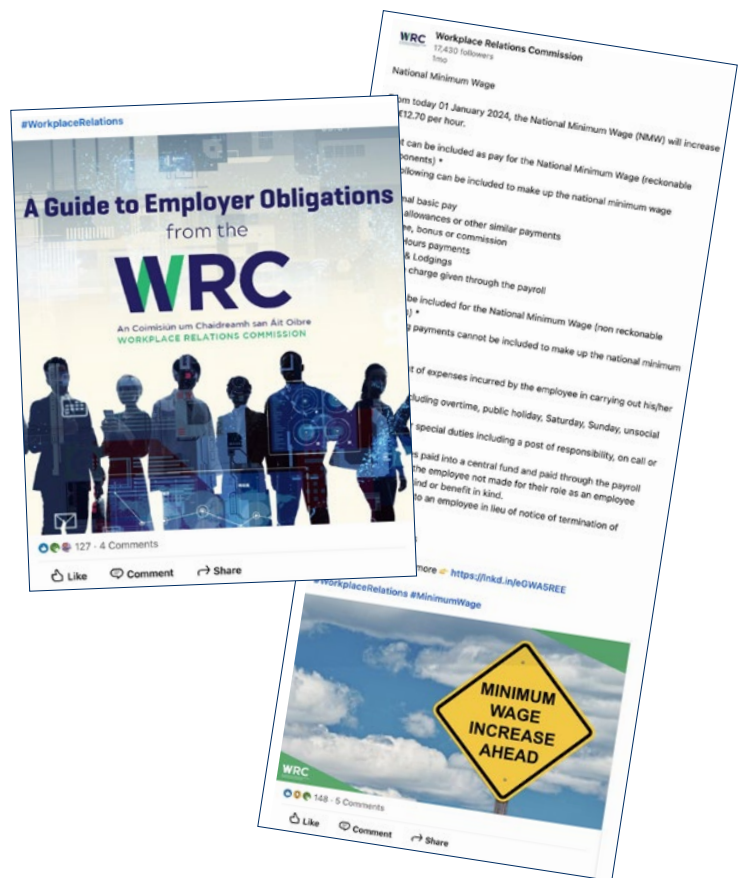


In 2023 the Information and Customer Service team also provided support to various campaigns carried out by Inspection Services with a view to providing information to employers and employees regarding their obligations and entitlements during the course of inspections.

Outreach activities also included partnering with the Inspectorate in supporting campaigns led by the European Labour Authority (ELA). These include the Road to Fair Transport campaign, originally launched by ELA in 2022, and the EU 4 FAIR CONSTRUCTION campaign launched in October 2023.

In response to a growing number of queries and requests for information on employment rights, targeted activities were conducted in the educational sector to create awareness amongst younger persons. As part of this approach, in conjunction with OIDE, a support service for teachers and school leaders named after an old Irish name for teacher, a classroom learning resource in the form of a poster was developed for secondary school students. In addition, presentations and educational sessions were held in a number of secondary schools and third level institutions.

Separately, social media plays an increasingly significant role in WRC outreach activities and helps to drive queries to the WRC website. During 2023, the WRC ran several social media campaigns which drove some 8,840 referrals to the website from LinkedIn - an increase of 155% from 2022 (3,474 referrals) and 3,091 referrals to the WRC website from X (formally Twitter) - a decrease of 44% from 2022 (5,544 referrals).



Licensing

Figure 5: Licensing Key Activities

Key Activities	2023	2022
Employment Agency Licences issued	1,028	936
Child Employment Licences issued	632	722
No. of children employed under licence	1,496	1,655

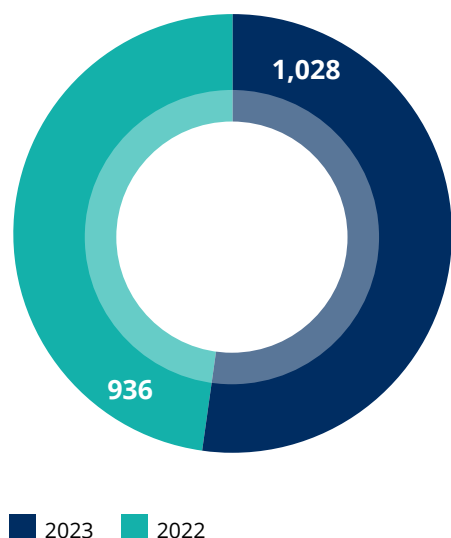
Licensing of Employment Agencies and employment of children

The WRC, on behalf of the Department of Enterprise, Trade and Employment, processes applications for employment agency licences and licences for the employment of children in the arts and entertainment sector.

Employment Agency Licensing 2023

All Employment Agencies operating in the State must hold a licence to carry on its business. The WRC accepts and processes applications for Employment Agency licences on behalf of the Department of Enterprise, Trade and Employment and also carries out inspections to ensure that all Agencies are in compliance with the Employment Agency Act, 1971. Employment Agency licences are renewable on an annual basis. In 2023 1,028 Employment Agency licences were issued under the Employment Agency Act, 1971, an increase of 10% on 2022.

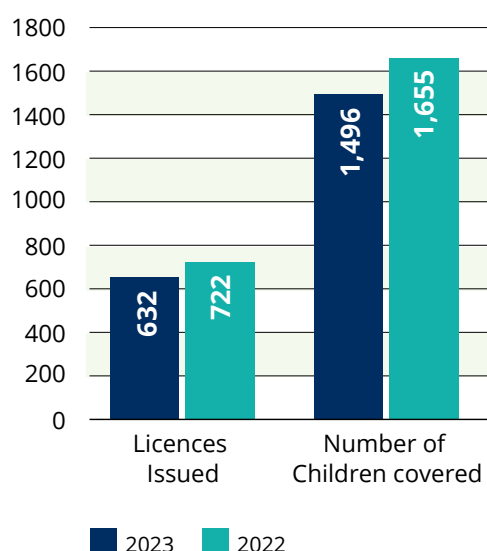
Figure 6: Agency Licences issued 2022 and 2023



Licences issued for the employment of children in 2023

In addition, the WRC, on behalf of the Department of Enterprise, Trade and Employment, issues licences authorising the employment of children by employers engaged in cultural, artistic, sports or advertising work. Licences for the employment of children set out conditions under which the children 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. In 2023, 632 licences were issued authorising the employment of 1,496 such children.

Figure 7: Licences issued to Children to work in specific areas



Inspection and Enforcement Services

Figure 8: Inspection and Enforcement Service 2023 Activity

Key Activities	2023	2022
Employers Inspected	4,727	3,943
Employers in breach of employment law obligations	2,221	1,763
Unpaid Wages Recovered (€)	€1,950,601	€1,405,126
Number of Specific Complaints Received	957	708
Total Number of Workplace Inspection visits	6,519	5,820

The Inspectorate of the WRC conducts workplace inspections to ensure employers' compliance with employment law in the State. Part of the inspection process involves the examination of employment records and interviewing employers and employees. These visits may be either announced or unannounced. Inspectors are legally entitled to enter any workplace to carry out their work and obstruction or providing misleading information to an inspector is a criminal offence.

The inspection process initially involves the following steps:

- ▶ Examination of an employer's employment-related books, files and records.
- ▶ Interviewing the employer or employer representative.
- ▶ Interviewing employees.

Inspectors will continue to engage with the employer throughout the inspection process and their 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 contraventions of legislation found during the inspection process.

Inspections may also take place in tandem with An Garda Síochána and other regulatory bodies such as officers of the Department of Social Protection and the Revenue Commissioners.

Inspections in 2023

Inspection activity is generally focused on sectors where a risk of non-compliance has been identified or where previous non-compliance has been detected, through intelligence or information provided by other bodies or persons (including other State bodies) or in response to specific complaints made directly to the WRC regarding alleged non-compliance by specific employers.

A total of 4,727 inspection cases were closed in 2023, with some 2,221 employers found to have contraventions of employment law. These cases involved 6,519 individual workplace inspection visits which uncovered over 7,862 specific contraventions of legislation.

While many employers inspected become compliant, a number of employers do not become compliant and are subject enforcement action. Of the one hundred and twenty-five prosecutions that were undertaken in 2023, one hundred and eleven cases resulted in successful outcomes.²

Other enforcement options available to WRC inspectors are Fixed Penalty Notices (ten issued in 2023) and Compliance Notices (thirty-four issued in 2023).

2 Successful outcomes include successful Prosecution, Probation and Charitable Donations

Figure 9: Enforcement Outcomes 2023

Outcomes	Number
Convicted	69
Probation Act	35
Charitable Donations	7
Withdrawn	5
Dismissed	1
Struck Out	4
Bench Warrant Issued	1
Unable to prosecute	3

Joint Inspections

The WRC Inspectorate has wide ranging powers to exchange information with other State bodies and carries out inspections with other State enforcement bodies where such joint operations would enhance the effectiveness of the participating bodies.

Included within the 4,727 inspections carried out in 2023 are 95 inspections carried out in conjunction with An Garda Síochána (including Garda National Immigration Bureau and Garda National Protective Service).

Also included in the inspections carried out in 2023 are 262 joint inspections with officers of the Department of Social Protection and 157 joint inspections with officers of the Revenue Commissioners.

2023 Inspection Activity and Outcomes by Employment Sector

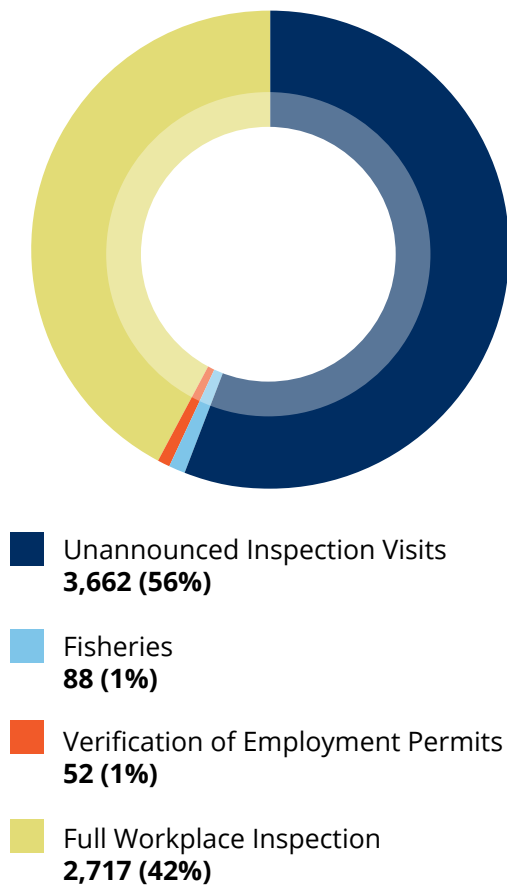
The details of inspection activity in 2023 are set out in Figure 10. It should be noted that the incidence of breaches of employment law reflects non-compliance detected in respect of the employers inspected and may not be representative of the relevant sector.



Figure 10: Inspection Activity and Outcomes by Employment Sector: 2023

Sector	Employers Inspected	No. in Breach	Incidence of Breach %	Employees	Unpaid Wages Recovered
Accounting & Financial Services	18	5	28%	324	€0
Activities of Households as Employers	5	1	20%	9	€0
Administration & Support	20	4	20%	2,420	€397
Advertising & Marketing	6	1	17%	36	€0
Agriculture	39	22	56%	3,237	€35,584
Arts, Entertainment & Recreation	59	23	39%	2,058	€46,423
Beverage Service Activities	222	119	54%	2,769	€159,077
Construction	223	55	25%	5,560	€109,893
Contract Cleaning	19	6	32%	11,497	€57,050
Education	21	12	57%	334	€20,231
Electrical Contracting	7	3	43%	439	€4,213
Employment Placement Agencies	20	8	40%	1,997	€61,822
Equine Activities	11	8	73%	30	€2,474
Fishing	76	25	33%	159	€25,394
Food Service Activities	1,558	910	58%	18,269	€565,409
Hair & Beauty	376	218	58%	1,567	€69,995
Hotels	123	70	57%	8,246	€105,343
Human Health & Social Work	111	25	23%	4,467	€2,984
Information & Communications	33	10	30%	3,812	€5,301
Legal Services	3	2	67%	9	€840
Manufacturing	42	18	43%	5,195	€12,111
Meat Processing	6	5	83%	495	€0
Mechanical Eng. Building Services	9	7	78%	177	€0
Mining & Quarrying	1	1	100%	12	€0
Other Accommodation	10	5	50%	137	€7,415
Other Service Activities	182	73	40%	21,894	€82,952
Postal & Courier Services	4	3	75%	115	€2,776
Professional Services	45	18	40%	5,463	€172,495
Public Administration	8	1	13%	632	€0
Real Estate Activities	2	0	0%	3	€0
Security	16	3	19%	203	€802
Transport	48	20	42%	1,570	€9,603
Travel & Tour Operators	2	1	50%	14	€1,200
Veterinary & Animal Health Services	9	5	56%	206	€3,619
Warehousing & Support Activities	1	1	100%	21	€0
Water Supply, Sewerage & Waste Remediation	4	4	100%	1,235	€0
Wholesale & Retail Trade	1,388	529	38%	28,508	€385,200
TOTAL	4,727	2,221	47%	133,119	€1,950,601

Figure 11: Inspection Visit Profile



The nature of inspection visits carried out in 2023 is illustrated in Figure 11. Unannounced visits generally involve a profiling exercise to ascertain the likelihood of compliance of the employer. Where non-compliance is detected or suspected a full inspection case may then be opened. Inspection visits as part of full inspection cases numbered 6,519 in 2023, including some 88 inspection visits in respect of inspections of the fishing sector. The WRC also carried out visits during the year to verify the information supplied in applications for employment permits.

Sources of Inspection Cases

Figure 12: Main sources for WRC Inspection Cases

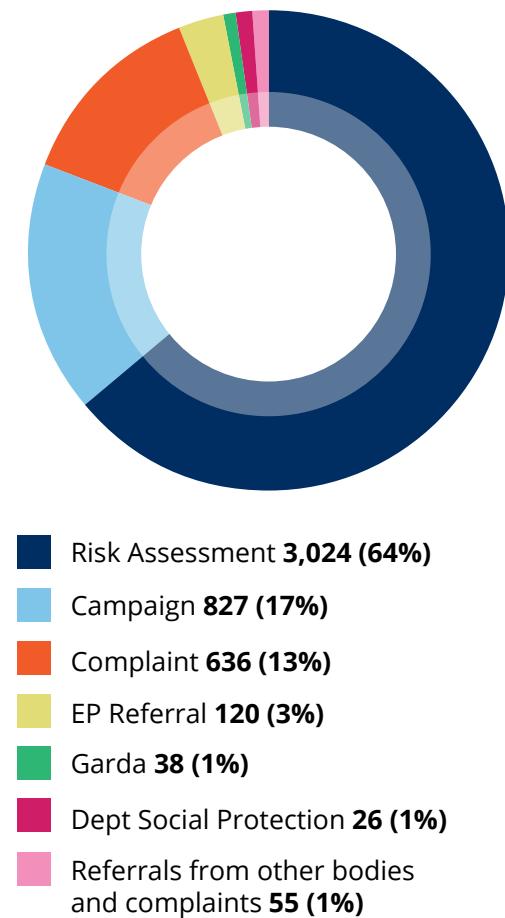


Figure 12 above illustrates the main sources for WRC inspections carried out in 2023. The majority of cases (3,024) were based on risk assessments carried out by the WRC. Various sectoral campaigns involved 638 cases and 518 resulted from complaints to the inspectorate. Other sources include referrals from partners such as An Garda Síochána, the Revenue Commissioners, Department of Social Protection and other public bodies.



Civil Enforcement of Adjudication Awards

Under Section 43 of the Workplace Relations Act 2015, an employee, or the Commission, on behalf of an employee, may apply to the District Court seeking an order directing an employer to comply with a decision of an Adjudication Officer. In 2023, some 97 civil enforcement cases were dealt with by the Civil Enforcement Section of the WRC. In 22 cases, the employer, following intervention by WRC enforcement staff, paid the adjudication award before the application for a court order had to be taken. This resulted in recovery of awards amounting to €128,229 for employees.

An employer who fails to comply with an order of the District Court in relation to a decision of an Adjudication Officer may face prosecution under Section 51 of the Act. In 2023, two such employers were convicted and fined, as well as having costs awarded against one employer.

Some 38 applications submitted for civil enforcement were not successful due to a number of factors. These included applications received where the employer was no longer trading, inability to contact the employer or where the employer demonstrated inability to pay. A number of applications submitted were not legally enforceable (i.e., investigations carried out under S.13 of the 1969 Industrial Relations Act).

Inspection Campaigns

National Minimum Wage

To coincide with the increase in the National Minimum Wage (NMW) in 2023, the WRC conducted a national information and inspection campaign throughout Q1 of 2023. The purpose of the campaign was to create awareness of the NMW increase while also conducting inspections to ensure compliance with the new rates. The focus of the campaign was principally small and medium sized enterprises that employ staff on the national minimum wage.

Of a total number of 672 employers inspected, 135 were found to be compliant and another 443 became compliant as part of the inspection process. 3 employers have been prosecuted and in another 72 cases the inspection process are ongoing.

There are some 19 cases that cannot be progressed for various reasons, these include a number who have ceased trading. A total of €250,230 in unpaid wages was collected under this campaign in 2023.

Commercial Sea Fishing

The WRC continued to contribute to multi-agency efforts to enforce the Atypical Permission Scheme for Non-EEA Workers engaged on certain Irish registered fishing vessels, which operated from February 2016 to end 2022, with some residual carryover to 2023. WRC Inspectors carried out further inspections during the year to check that non-EEA fishers and employees generally on commercial fishing vessels were receiving their entitlements under employment legislation.

In the period from February 2016 to the end of 2023, the WRC

- ▶ carried out 625 fisheries inspections of some 190 vessels in the Scheme (see Figure 13 below),
- ▶ completed 326 fisheries investigations,
- ▶ detected 412 contraventions of employment legislation in the fishing sector, and
- ▶ brought 28 prosecutions against fishing vessel owners.

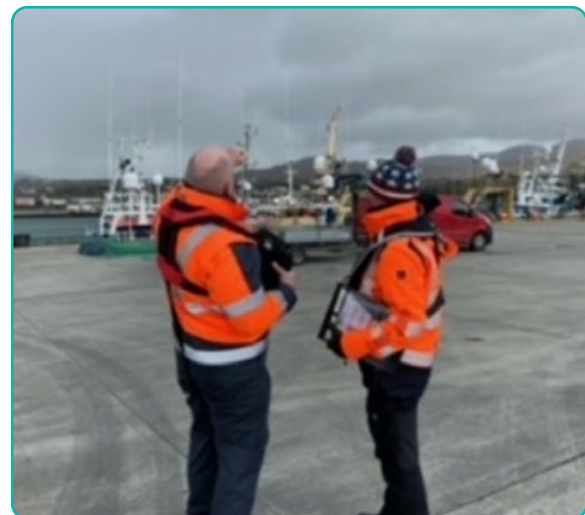


Figure 13: WRC Fishing Vessel Inspection Visits 2016 to end 2023

2016	2017	2018	2019	2020	2021	2022	2023	Total to Date
142	100	87	84	34	55	35	88	625

Most fisheries inspection visits were unannounced and undertaken in-port. A small number of announced inspections were also required as a follow up to unannounced inspections and to review additional records.



EMPACT

EMPACT (European Multidisciplinary Platform Against Criminal Threats) is a security initiative driven by EU Member States to identify, prioritise and address threats posed by organised and serious international crime. The WRC participates in EMPACT joint days of action focused on labour exploitation and human trafficking, which involves labour inspectorates and police forces across Europe.

The WRC participated in the **EMPACT Global Chain week of Action on Labour Exploitation** from 8-12 May 2023. This campaign focused on amongst other things, identification of possible victims of human trafficking, disruption of possible supply chains in trafficking for the purposes of sexual exploitation, forced begging and labour exploitation. During this campaign joint inspections were conducted involving WRC inspectors and officers from Garda National Protective Services Unit, Garda National Immigration Bureau and Revenue Commissioners. Overall, a total of 22 unannounced inspections were undertaken and 17 of the employers' inspected were found to be in breach, or possible breach, of employment rights legislation and 6 employers were found to be in breach of the Employment Permits Act 2003.

The **2023 EMPACT Labour Exploitation campaign** consisted of 7 Joint Days of Action on during the week of 10-17 June 2023. The campaign involved WRC Inspectors, the Department of Social Protection, the Revenue Commissioners and Gardaí from the Garda National Protective Services Unit and Garda National Immigration Bureau. In total 285 inspections were carried out during the campaign and 184 of the employers' inspected had employment law breaches (with a total of 399 contraventions of employment legislation detected). Other issues detected outside of the remit of the WRC were referred to the relevant State agencies.

As part of the **EMPACT 2023 Joint Action Days against Labour Exploitation** in the Agriculture Sector during the week of 13-20 September 2023, WRC inspectors carried out inspections throughout Ireland on employers operating within the agricultural sector including forestry, fruit and vegetable farms, livestock farms (animals and poultry). Overall, a total of 14 unannounced inspections were undertaken and 9 of the employers' inspected had employment law breaches (with a total of 13 contraventions of employment legislation detected).

Construction Campaign 2023

WRC Inspection, Information and Enforcement Services participated in two EU-wide weeks of action within the Construction Sector during April and October 2023.

These weeks of action were part of the European Labour Authority's (ELA) information and enforcement activities within the Construction Sector for 2023. The purpose of the weeks was to conduct inspections of employers operating within the Construction Sector to monitor compliance with employment legislation and provide information to employers and employees in relation to their rights and entitlements. Overall, a total of 206 announced and unannounced inspections were undertaken across all regions. The campaign was supported by our various Social Media channels.



Aran Island Information Campaign 2023

During 2023, a WRC Information campaign was undertaken by WRC Inspectors and Information Officers from the Ennis and Sligo Offices on the Aran Islands situated off the west coast of Co. Galway. Two Islands were visited as part of this campaign, Inisbofin in May 2023 and the largest of the three Aran Islands, Inis Mór in September 2023. The purpose of this campaign was to provide employers with information on employment legislation in addition to addressing any queries in respect of recent legislative changes including the Payment of Wages (Amendment) (Tips and Gratuities) Act, 2022 and Sick Leave Act, 2022. As employment levels peak on the Aran Islands during the busy tourism months of May-September each year, this initiative was broadly welcomed by the many employers that were visited in the course of this campaign.



WRC Inspectors and Spanish colleagues

Overseas Activities

During 2023, the WRC participated in seminars, meetings and workshops organised by the European Labour Authority (ELA). The ELA continues to support Labour Inspectorates in Member States with capacity building in the field of inspection for compliance in the areas where labour mobility is prevalent and detecting and tackling undeclared work generally.

WRC Inspectors visited the Spanish Labour Authority from 26-28 September 2023 as part of the European Undeclared Work Programme for 2022-2023.

The WRC Inspectorate hosted a delegation from the Hungarian Labour Authority on 10-11 October 2023. The purpose of the event was to exchange information, experience and best practice between the WRC and colleagues from Hungary in relation to Ireland's labour inspection and social security frameworks.



A delegation of Senior Hungarian officials visiting Lansdowne House, October 2023

4.2 | Conciliation, Advisory and Mediation Services

The Conciliation, Advisory and Mediation Services (CAMS) Division's aim is to deliver an impartial, timely and effective suite of services following a breakdown in local level discussions or in circumstances where the Commission believes it can assist both public and private sector organisations and their employees in finding mutually agreed solutions, processes and/or structures to develop and maintain positive working and industrial relations.

Conciliation assistance is provided, on a wide geographic basis, across a broad spectrum of complex industrial relations issues. The primary role of the services is to assist parties resolve their issues in dispute. The Commission will not intervene in disputes where unofficial action is taking place.

Conciliation

In 2023, CAMS through its Conciliation Service continued to play an active role in assisting parties in the resolution of challenging industrial relations conflicts in both the public and private sectors. There were a total of 654 referrals for conciliation in 2023 which represents a 17% increase on the previous year.

A total of 606 conciliation conferences were convened with 27 of these meetings held on a virtual platform.

The Commission brokered agreements across multiple sectors of the economy, many of which are already in the public domain including Ireland West Airport, semi-state Dublin Port Company, multinational pharmaceutical firm Teva, National Car Test (NCT) operator Applus, the Corman Miloko dairy products producer, and Tara Mines. The Service also provided significant assistance to healthcare and community workers across various Section 39 and other agencies that provide health services on behalf of the state.

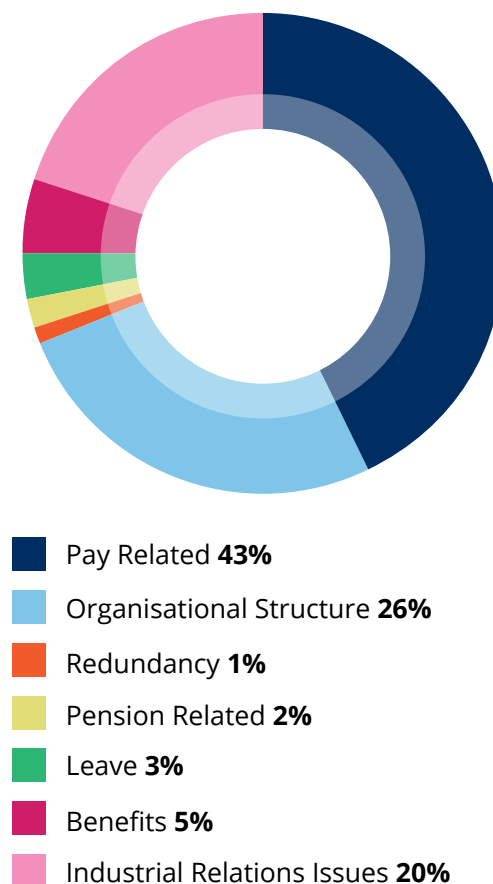
In late 2023, the Commission was asked to facilitate discussions between the Government and the Public Sector Trade Unions/Associations on a successor agreement to Building Momentum. That engagement continued into 2024.

Issues at conciliation

More broadly, requests for conciliation continued to reflect a similar pattern and range of issues to those referred in the two preceding years, with issues referred encompassing:

- ▶ Pay related issues (43%)
- ▶ Organisation structure such as rosters, restructuring, staffing, shift work etc. (26%)
- ▶ Industrial relations issues such as change to terms and conditions of employment, grading, productivity, outsourcing etc. (20%)
- ▶ Types of Leave (3%)
- ▶ Benefits such as bonuses, service pay, sick pay, staff incentives, expenses etc. (5%)
- ▶ Pension related (2%)
- ▶ Redundancy (1%)

Figure 14: Types of Disputes at Conciliation in 2023



The success rate of the Conciliation Services continues at 85% plus. In many cases referred on to the Labour Court for a recommendation, the conciliation process played a significant part in reducing the differences between the parties, thereby refining the issues requiring a definitive Labour Court recommendation.

Advisory

The Advisory Service works with employers, employees and their representatives, principally in non-dispute situations to promote, develop and implement effective industrial relations practices, procedures and structures that best meet the parties' needs. The Advisory Service is independent, impartial and experienced in industrial relations practice and theory. The WRC, in discussion with the parties, will tailor assistance to individual workplace requirements. This assistance is confidential and free of charge. The Service assists employers and employees build and maintain positive working relationships and works with them to develop and implement on-going effective problem solving and mechanisms.

In the first instance in-depth assessments of workplaces are performed to identify areas of industrial relations and workplace relations concerns. On foot of this body of work, recommendations are made with an emphasis on improving practices and procedures and relationship building. Normally, the Service works post-review with all concerned to implement the recommendations.

During 2023, the Advisory Service continued to work with organisations, where reviews had previously been carried out, in the rollout of improved processes, procedures and communication structures.

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 the Minister of State for Business, Employment and Retail in June 2023, the WRC advertised its intention to draw up a Code of Practice on the Right to Request Flexible Working and the Right to Request Remote Working as provided for under the Work Life Balance and Miscellaneous Provisions Act, 2023 which would set out for employees and employers the requirements around making and considering requests for flexible and remote working. Over 50 submissions were received by the WRC on foot of a public consultation on the proposed Code. It is anticipated that the Code will be published in early 2024.

Knowledge Development and Outreach

As part of its outreach services, CAMS Division provides training on a variety of aspects of the employment relationship, including workplace procedures, communications, dignity in the workplace and on the Services of the WRC such as the mediation, adjudication and conciliation processes. The aim of the service is to help organisations create positive working relationships within the workplace and develop a good understanding of workplace conflict prevention and dispute resolution mechanisms. The training initiatives can be tailored to the individual needs of each workplace. Demand for this service continued to grow with 22 workshops delivered in 2023, an increase of 10% on 2022.

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 mediation³. 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 have an opportunity to mutually agree on a resolution that suits their needs and with a creativity that may not be available 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 in person, by email and over the phone, or virtually, depending on the complexity and circumstances of the issue and the willingness of all parties to engage.

Data and Insights

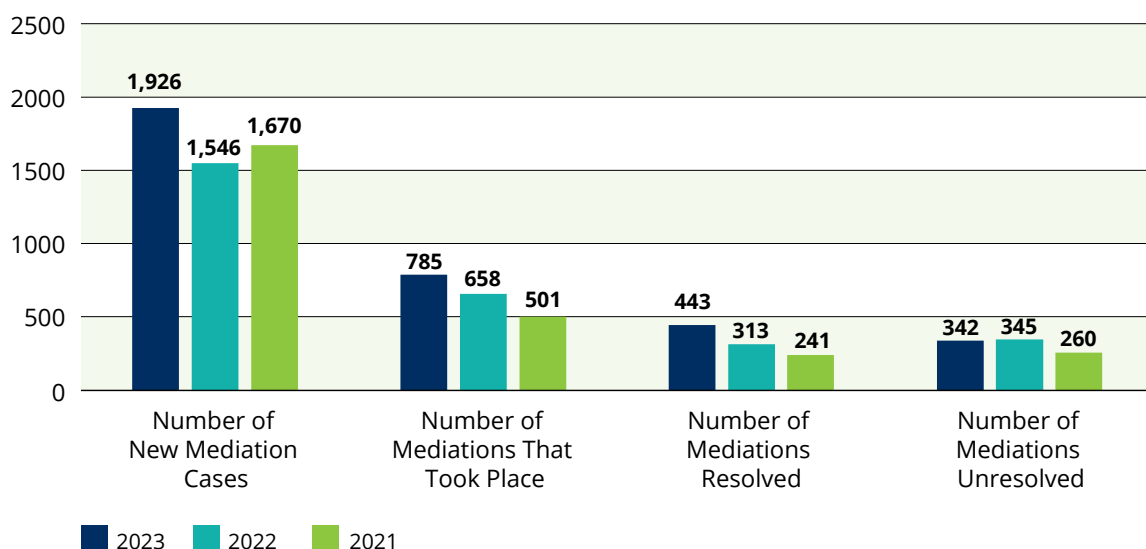
Pre-adjudication mediation continued to grow during 2023. A total of 785 mediations took place in 2023, which is a 19% increase compared to 2022, and a 57% increase compared to 2021.

Analysis would indicate that the significant increase in the volume of mediations delivered by the WRC in the last 18 months is largely attributed to providing in-person mediation by default where there is a specific complaint under unfair dismissal legislation. A secondary factor for the increase is the fact that adjudication hearings are now held in public where mediation offers a confidential alternative to resolving matters in private. However, an uptick in requests for mediation was not observed in the months following the legislative changes post-Zalewski.

443 mediations ended in resolution in 2023 compared to 313 in 2022, a 42% increase in the number of cases resolved by mediation year on year. The overall resolution rate of mediation increased to 56% in 2023 (up from 48% in both 2022 and 2021).

An additional 127 mediations took place in 2023 year on year representing a 19% increase in mediations compared to 2022 and a 57% increase compared to 2021.

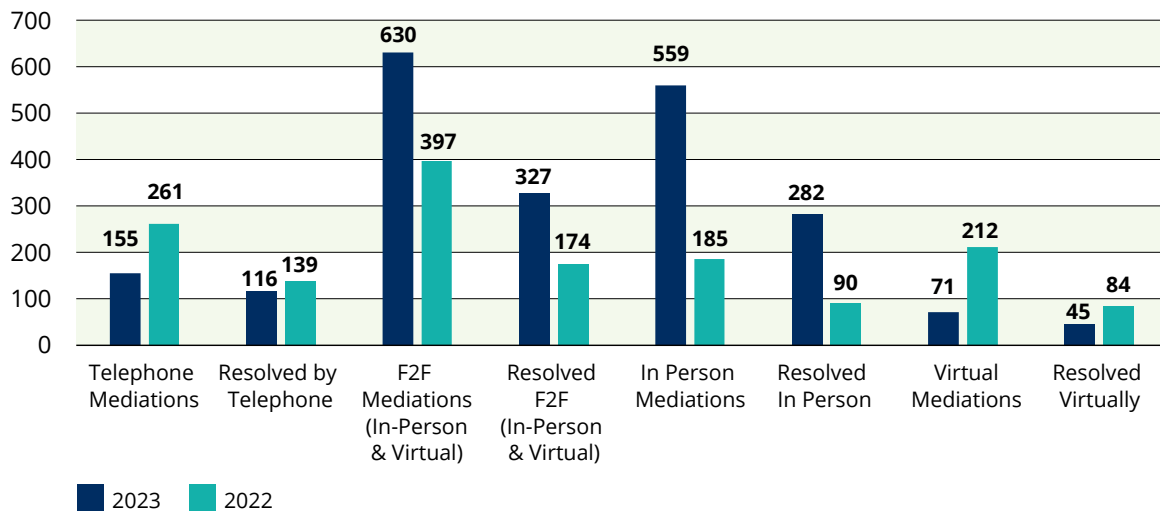
Figure 15: Mediations in 2023 compared to 2022 and 2021



³ With the exception of single complaints under Section 13 of the Industrial Relations Act 1969 or the Redundancy Payments Act 1967



Figure 16: Mediation by Method of Delivery and Resolution Rates (2023 v 2022)



The resolution rate for telephone mediation was 75% in 2023, up from 53% in 2022. 2023 saw the first full year where telephone mediators dealt solely with employment rights cases excluding complaints under unfair dismissals. The resolution rate for face-to-face mediation (in-person and virtual combined) was 52%, up from 44% last year. In-person mediation is provided for in all equality cases and any complaints taken under unfair dismissals legislation, as well as any other cases that appear complex in nature.

559 mediations took place in person in 2023, which is a 302% increase on 2022.

In total, 1,026 specific complaints originally referred for adjudication were resolved by mediation without recourse for a hearing.

Virtual mediation is now offered to parties in exceptional circumstances, where one or more party requires reasonable accommodation, or where one or more party is outside of the jurisdiction. The number of virtual mediations provided in 2023 dropped to 71 from 212 the previous year.

Late Request Mediation

The Commission has offered a “late request” mediation service on a pilot basis since September 2022. The purpose of the service is to provide parties who have an upcoming adjudication hearing a facility to access mediation without postponing the scheduled hearing date. This means that should mediation be unsuccessful; the adjudication hearing will go ahead as scheduled. This minimises the time and resource impact on the Commission in terms of postponing and rescheduling a new hearing date; as well as providing a timely service to both parties rather than further delaying the process. Limitations to the service include how close the request for mediation is to the hearing date, the availability of the parties, the availability of a mediator if there is significant demand, and whether the parties have already been unsuccessful in resolving the matter through a WRC facilitated mediation. Mediation is provided either in-person or virtually through our video conferencing platform.

The year, 2023 was the first full calendar year where late request mediation was available to the parties. In total, 65 requests were received with 42 mediations taking place in advance of the scheduled hearing date, with a 52% resolution rate. A total of 15 of the mediations took place in-person, 18 took place virtually and 9 were facilitated by telephone or email.

In 77% of the cases, mediation was requested by the Respondent side. The Commission will continue to provide this service throughout 2024 and continues to review its effectiveness and value in the context of the wider mediation service and any measurable benefits to meeting the objectives of the WRC.

Workplace Mediation

Workplace mediation provides a prompt, confidential and effective remedy to workplace conflicts, disputes and disagreements on an ad-hoc basis. Typically, it caters for disputes involving individuals or small groups of workers. Examples of situations where workplace mediation can be beneficial include interpersonal differences, conflicts and difficulties between colleagues working together, the breakdown of a working relationship, and issues arising from a grievance and disciplinary procedure, particularly before a matter becomes a disciplinary issue. The demand for workplace mediation continued to grow in 2023 with a total of 110 requests for mediation. It is important to note that all referrals are assessed, and many are deemed not suitable for mediation and in some cases redirected to other services of the WRC. During the year a total of 34 referrals proceeded to workplace mediation.

Facilitation

An integral part of CAMS work is offering assistance by means of facilitated discussion. This work encompasses facilitating the Public Sector talks, chairing Oversight Groups within the Public Service Agreement Framework, together with the provision of Chairpersons to a range of other negotiation fora, for example the Health Service National Joint Council, the Teachers' Conciliation Council, and a range of Joint Industrial Councils such as Construction, and Electrical and Joint Labour Committees such as Early Years Service. In this regard, Conciliation Officers chaired 184 such meetings in 2023.



4.3 | Adjudication

Function

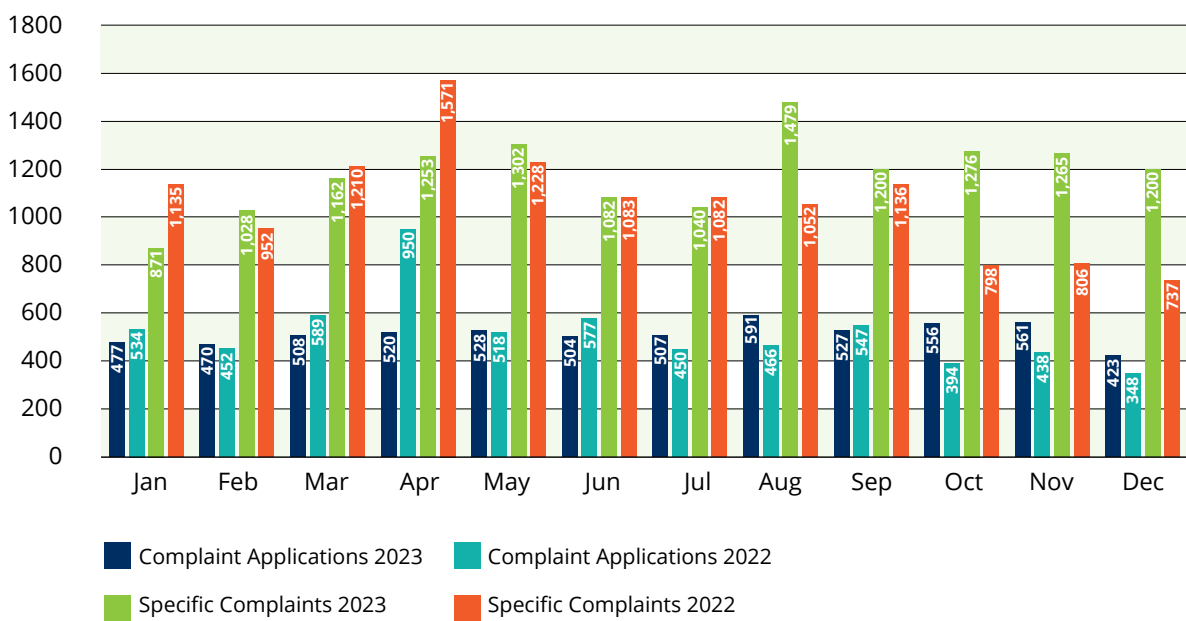
The Adjudication Service investigates disputes, grievances and claims made by individuals and groups under employment, equality and equal status legislation. The legislation under which complaints may be made is set out in Appendix 5.

All Decisions and Recommendations are published on the WRC website. In most instances, the parties are named with the exception of Industrial Relations disputes which are anonymised, or, if the Adjudication Officer decides that “special circumstances” exist which provide a valid reason for anonymity.

Complaints Received 2023

Over the course of 2023, some 6,172 Complaint Applications were received representing 14,158 individual complaints which is an average of 2 individual/specific complaints per complaint application, all require to be processed, managed, heard and decided on if they proceed to a full hearing. Whilst the Complaint Applications have decreased slightly by 1% compared to 2022 (6,263), the individual/specific complaints have increased by 11% (12,790) as a Complainant can make more than one complaint on a Complaint Application.

Figure 17: Total Complaint Applications and Specific Complaints received by Month 2023 v 2022



Multiples

The Adjudication Division continued to receive groups of complaints from individuals where the same respondent has been cited.

Of the 6,172 complaint applications received 1st January to 31st December 2023, 4% (271) related to multiples, a notable decline in multiples compared to 2022. These have been received in the Retail, Health, Transport and Manufacturing sectors amongst others. Of the live adjudication cases on hand, 50% relate to multiples. In order to progress these complaints, the Adjudication Division work with the parties and representatives to identify the potential for “test” cases.

A significant number of “test” cases - 60% of the live multiples, are appealed to higher courts on a point of law and as such, cannot be progressed further by the WRC at this stage.

The lodgment of manual multiple complaint forms creates a significant amount of administrative work for the WRC. The use of the electronic online complaint form, particularly for multiples is strongly encouraged. Over the year, 80% of users submitted complaints via online complaint form.

Complaint Breakdown

Specific complaints in relation to Complaint Type

Of the 14,158 individual complaints received, 26% (3,662) relate to Pay, the most prevalent, followed by Unfair Dismissals, 13% (1,875) a notable increase of 21% compared to 2022. Discrimination, Equality and Equal Status cases remain stable at 13% (1,817) of which 71% relate to Employment Equality, 27% Equal Status and 2% Pensions Act, whilst 11% relate to Working Time (1,554) showing a 6% increase and Terms of Employment representing 10% showing a considerable increase of 13%. Trade Disputes represent 8% (1,104) a decline of 6% compared to last year.

The WRC noted a considerable increase in relation to complaints under Schedule 2 of the Protected Disclosure Act, 2014 of 201% compared to 2022.

Figure 18: Specific Complaints by Complaint Type

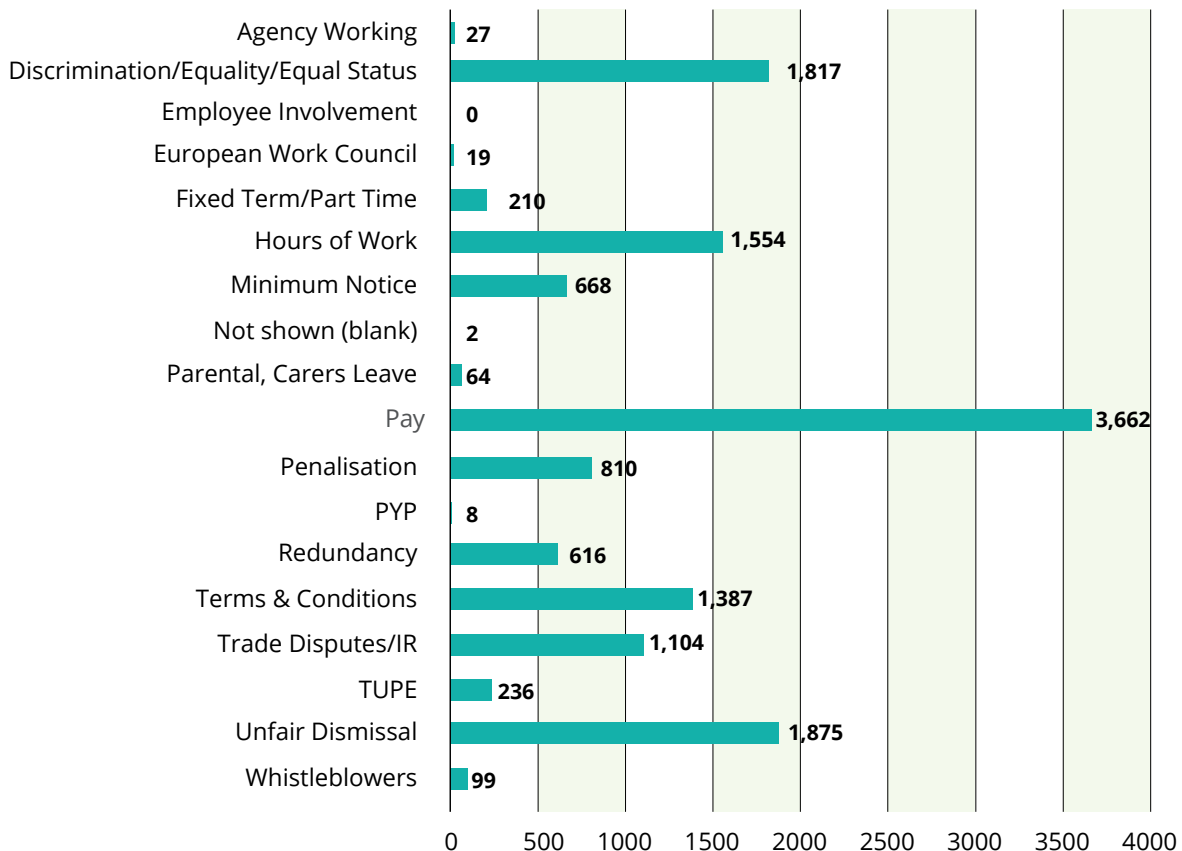
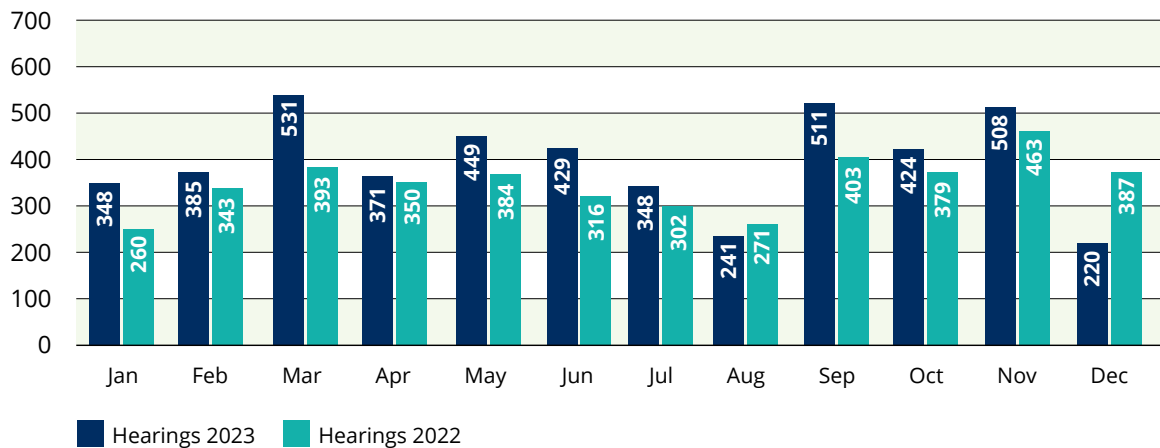


Figure 19: Hearings Held by Month 2023



Hearings

Hearings Scheduled

The WRC continue to conduct hearings in person and remotely via WebEx, an average of 70% in person and 30% remotely.

The WRC offered 13% more hearings in 2023 than in 2022. In this regard, 8,550 Adjudication files that contain single or multiple complaints were offered a hearing in 2023, an average of 170 per week. Of this, 18% (1,539) were postponed at the request of the parties and 8% (699) were withdrawn prior to the hearing date. The WRC cancelled others due to a number of factors including settlements on the day of hearing.

The WRC notes a pattern that hearings are now taking longer or require additional days as a result of complex cases and the affirmation of oath, examination/cross examination under oath required and adjournments.

Other than multiples or complaints which cannot be progressed further pending clarification of a particular point of law in a higher Court, all Adjudication files that have progressed to Adjudication Division prior to 2023 (where not delayed by external factors or pending appellate judgments/decisions) have been offered a hearing in 2023.

Hearings Held

A total 4,765 Adjudication hearings concluded in the period 1st January to 31st December 2023 - an increase of 12% (4,253) on hearings concluded in 2022. As mentioned earlier, Adjudication hearings can require multiple days.

Interpreters

In some instances, Interpreters are essential for an Adjudication Officer to hear the complaint to ensure there is appropriate communication between the Witness and Adjudication Officer. During 2023, the WRC responded to 529 requests for interpreters which was a considerable increase of 48% (358) compared to 2022.

Postponement Requests

In particular circumstances, it may become necessary for either party to request that the scheduled date to hear a complaint be postponed. Such postponements have the potential to have impact on the other party and on the efficient and effective use of the resources of the WRC. As such, the WRC considers all applications for postponements carefully with due regard to the rights of the parties to fair procedures and reasonable expedition in having a scheduled complaint heard.

A postponement/adjournment application is subject to the “exceptional circumstances and substantial reasons” test. Requests which meet the criteria of Postponement Process 1 are straightforward and where accompanied by the written consent of the other party, are generally granted as a matter of course. Requests under Postponement Process 2 are considered in the context of a test of “exceptional circumstances and substantial reasons” and will not generally be granted unless proper evidence is provided with the completed postponement application form together with an explanation of how the test is met. The WRC retains discretion over all postponement applications.

An increase of 9% showing a total of 2,835 applications for postponements and objection to remote hearings were received in 2023 compared to 2022 (2,595). The primary reason advanced related to Representative’s unavailability accounting for 15% (434) a considerable increase of 28% from the previous year, followed by Witnesses unavailability at 12% (337) an increase of 108%, the remainder related to illness or pre-booked holidays. The WRC noted a considerable increase of 37% under Process 1 of the postponement policy compared to 2022. Of the postponements requested, 63% (1,801) were granted.

Postponement Process 1

The WRC have revised the Postponement Policy with effect from 01 January 2024, meaning applications under Postponement Process 1 can be made no later than 10 working days from the date the hearing notification issues, hence, an additional five days compared to 2023.

Applications under Postponement Process 1 must be submitted with the accompanied written consent of the other party to the complaint, which will then be automatically granted.

While postponement requests arise due to a variety of circumstances, they create additional work for the WRC and delay the conclusion of the hearing.

Postponement Process 2

Postponement Process 2 requires the parties to submit additional information and supporting documentation, whilst also requiring additional resources from the WRC in decision making which can often result in the loss of hearing dates due to late requests that cannot be backfilled with another case.

Decisions

Almost 3,000 (2,951) Decisions and Recommendations issued in 2023 relating to 6,385 individual complaints. This represents a continued increase amounting to 50% (1,968) that issued in 2022.

Some notable WRC decisions are set out in Appendix 3.

Closed Complaints

The WRC closed almost 15,000 individual complaints in 2023 (14,985) which can relate to complaints received in previous years. A considerable amount of processing, managing and closing these complaints is required by the administrative team.

The most sizable outcome is complaints withdrawn before, during and post Adjudication or Mediation of 51% (7,623).

Referrals Under the Equal Status Acts, 2000 to 2018

In 2023, some 428 referrals were received under the Equal Status Acts, 2000 to 2018, citing 733 specific grounds, as more than one ground of discrimination can be made on the individual complaint. Whilst this represented a decline of 15% (506) of the referrals received in 2022, there was only a slight decline of the specific grounds cited (2%) compared to 2022.

Within the overall referrals, there were increases in eight of the ten grounds provided for in the legislation. Referrals under the ground of Disability remain to be the highest received over the past three years amounting to 23% (170) of the referrals received in 2023. The most sizable increases were under the grounds of Gender (33%) and Family Status (28%).



Figure 20: Equal Status Grounds

Ground under which a complaint can be referred	2022	2023	% Difference
Age	35	37	+6%
Civil Status	37	38	+3%
Disability	157	170	+8%
Family Status	53	68	+28%
Gender	49	65	+33%
Membership of the Traveller Community	150	132	-12%
Race	133	105	-21%
Religion	25	30	+20%
Sexual Orientation	12	15	+25%
Accommodation	97	73	+25%
Total	748	733	-2%

Referrals under the Employment Equality Acts, 1998 to 2021

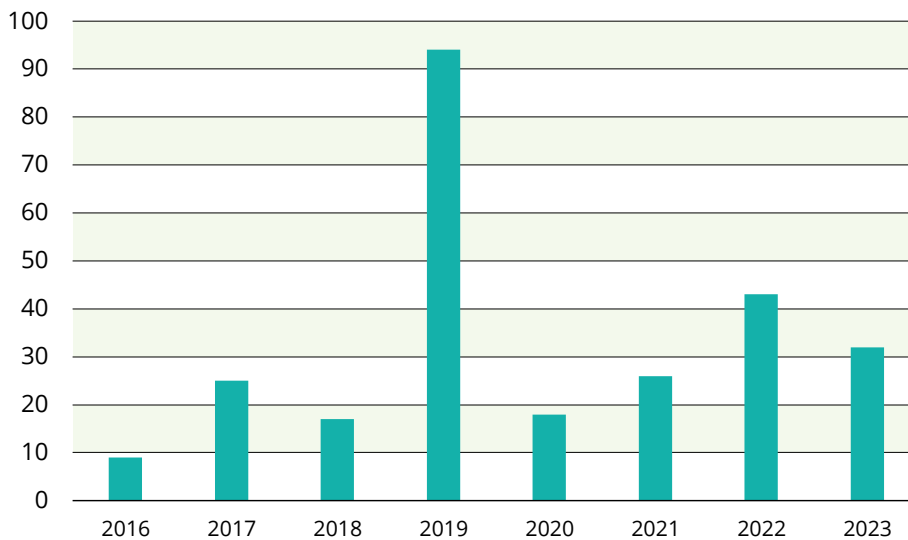
In 2023, 1,045 complaints were referred under the Employment Equality legislation citing 1,458 specific grounds of discrimination. This is a decrease of 15% of referrals under the legislation compared to 2022 (1,235) when 1,677 specific grounds were cited. While 1,045 referrals were received under the Employment Equality Acts, 1,458 specific grounds were cited as complainants can choose more than one ground of discrimination.

The majority of referrals were under the ground of Disability (331) followed by Gender (322), however, a considerable increase of 135% was noted under the ground of Sexual Orientation and Race increasing by 64% since 2022. Gender, Disability and Race are the top three grounds cited within the referrals to the WRC.

There was a notable reduction of 66% in referrals under the ground of Age and a reduction of 31% citing the ground of Membership of the Traveller Community.

Figure 21: Breakdown of Specific Complaints by Ground

Breakdown by Ground	2022	2023	% Difference
Age	514	176	-66%
Civil Status	65	55	-15%
Disability	349	331	-5%
Family Status	183	183	0%
Gender	286	322	13%
Membership of the Traveller Community	26	18	-31%
Race	166	272	64%
Religion	65	47	-28%
Sexual Orientation	23	54	135%
Total	1677	1458	-13%

Figure 22: Referrals Received under the Pensions Act, 1990

Referrals Received under the Pensions Act, 1990

In 2023, some 32 referrals were received under the Pensions Act, 1990 which represented a reduction of 26% of referrals received in 2022 (43).

Stakeholder Engagement

Throughout 2023, the Adjudication team were involved in a number of bilateral meetings with key stakeholder groups and provided bespoke training as part of its commitment to ongoing service improvement.

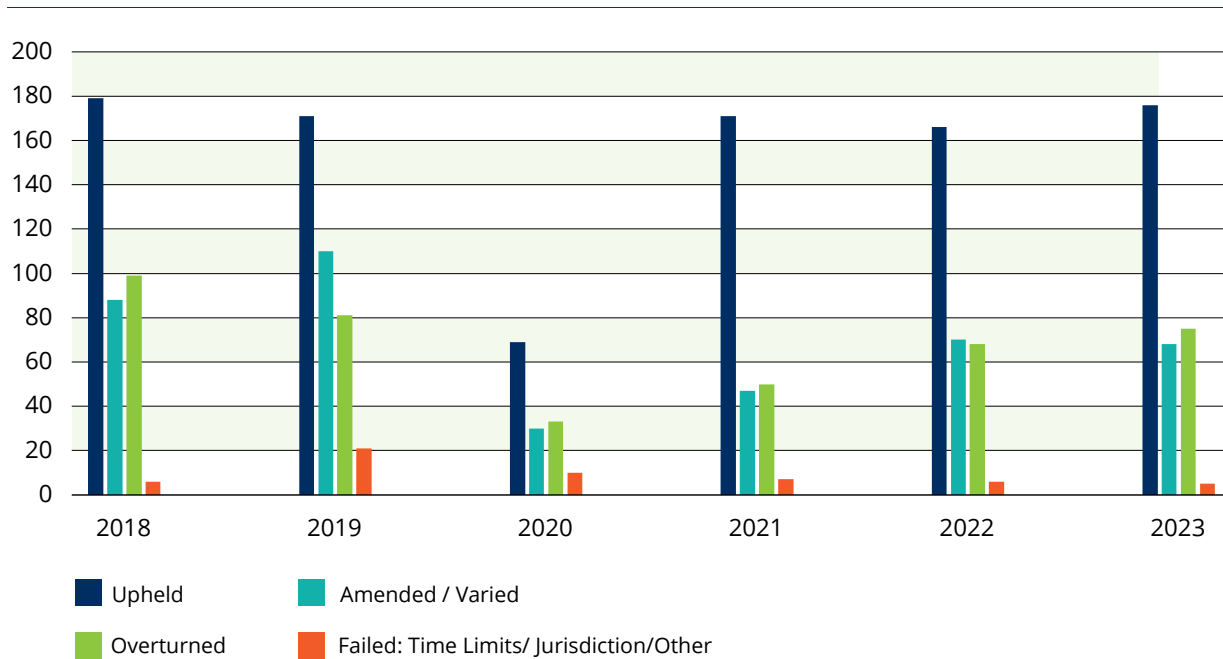
Labour Court Decisions on WRC Appeals

Over the course of 2023, some 6,172 Complaint Applications representing 14,158 Specific Complaints were received by the WRC. The WRC was notified of 324 determinations issued by the Labour Court in 2023 that related to appeals of the WRC Adjudication Officers' Decisions and/or Recommendations. In the context of the overall volume of complaints submitted to the WRC, the volume of appeals to the Labour Court are low.

Of the 2,951 WRC Decision/Recommendations that issued in 2023, approximately 11% were appealed to the Labour Court. Of this, 54% (176) were upheld, 22% (68) were varied 23% (75) were overturned while the remainder were out of time.



Figure 23: Labour Court Outcomes



Labour Court Outcomes	2018	%	2019	%	2020	%	2021	%	2022	%	2023	%
Determinations issued	372		383		142		275		310		324	
Upheld	179	48%	171	45%	69	49%	171	62%	166	53%	176	54%
Amended / Varied	88	24%	110	29%	30	21%	47	17%	70	23%	68	22%
Overturned	99	26%	81	21%	33	23%	50	18%	68	22%	75	23%
Failed: Time Limits/Jurisdiction/Other	6	2%	21	5%	10	7%	7	3%	6	2%	5	1%

4.4 | Corporate, Strategy and Digital Services 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, communications, liaising with the Department's HR unit on WRC staffing, supporting the work of the Divisions, providing financial management and facilities management across all WRC locations and providing secretariat support to the Board, and to the Director General.

Human Resourcing

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

The WRC witnessed a significant staff churn during the year in terms of retirements, transfers and promotional opportunities; in all, 41 new staff joined the WRC during the year and 43 staff left the WRC.

A formalised blended working arrangement was rolled-out across the WRC in conjunction with the Department of Enterprise, Trade and Employment in 2022. The WRC, in ensuring that staff can avail of these opportunities, continually monitors its output in terms of quantity and quality to identify the work patterns that suits best its service delivery obligations. Other than field staff who work away from the office much of the time, WRC staff attend the office a minimum of three days a week and in many instances four and five days.

The attendance pattern is required to support the strategic and operational needs of the WRC and to ensure that new staff are quickly provided with the skills required and connect on a personal level with their colleagues.

Staff capacity was also advanced in 2023. WRC staff participated in a range of lunch and learn sessions, in addition to in-house and formal training courses arranged by the Department's Learning and Career Development Unit. A number of staff completed 3rd level academic courses funded by the Department in disciplines aligned to the WRC's strategic priorities such as Applied Employment Law, Human Resource Management, Data Analytics, Executive Management and Barrister at Law.

Information and Communication Technologies

Throughout 2023, the WRC continued to build upon the progress previously made in developing and deploying web-based, user-friendly ICT solutions. The WRC ICT Strategy developed in 2022 was central to this work, and progress continued on this Strategy in 2023.

The WRC began using Robotic Process Automation in 2023 which assisted the work carried out on the initial handling of complaint applications. Using analytics to identify areas for improvement, the Robot software was updated during the year which improved the efficiency of its output.

In line with the WRC ICT Strategy, and in keeping the "cloud first" initiative of the Department's ICT Strategy, the WRC began scoping a cloud migration project in 2023. This project will be undertaken in two phases, the first to upgrade the Customer Relationship Management system (CRM) during 2024 and phase 2 will commence during 2025, to migrate the on-premise CRM to the cloud.



This migration will bring long term digital advancements to the WRC and will modernize the existing CRM and provide the foundations for future digital growth in a cloud marketplace.

e-Complaint Form

In line with the “Digital First” pillar of the Public Service ICT Strategy, the WRC began developing a new e-Complaint Form in 2023. When the Form goes live in 2024, it will enable the public to submit complaints in a more efficient manner.

The new e-Complaint Form will be accessible across all digital platforms, from mobile and tablet to desktop. It will bring an intuitive streamlined experience to speed up the process of submitting complaints, as well as a document upload facility to submit any important documents relevant to the complaint.

Communications and Outreach

Website

The WRC website is 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 legislative changes.

In 2023, the WRC website had 4,647,870 pageviews, a 12% increase on the previous year, mainly through interest generated by targeted campaigns on seasonal workers, and sectors including fishers and construction. Information was also highlighted on the website in relation to the increase in the National Minimum Wage, Public Holiday entitlements, absences during extreme weather events, and legislation such as the Sick Leave Act, 2022, and the Payment of Wages (Amendment) (Tips and Gratuities) Act, 2022.

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.

The WRC webmaster conducted a full content review during the year and applied further enhancements to ensure continued compliance with accessibility best practice guidelines.

Outreach

During 2023, the WRC Information and Customer Services (ICS) Team attended 44 external events to inform stakeholders, employers, employees, members of the public and target groups particularly young persons, and migrant workers, of the supports and services available from the WRC. This outreach informs and assists WRC service users, the public, employers and employees of the rights and obligations provided under employment law. The Corporate Services Division supported the ICS Team in this work through promotion on the WRC social media channels.

Social Media

Throughout 2023, the WRC social media channels were used to share employment and equality related information and legislative updates with the public. The reach of these platforms increased during the year, currently the WRC IE X (formally Twitter) account has more than 3,000 followers and the WRC LinkedIn account has more than 16,000: an increase over the year of 12% and 75% respectively.

During 2023, the WRC ran several social media campaigns which drove some 8,840 referrals to the website from LinkedIn - an increase of 155% from 2022 (3,474 referrals) and 3,091 referrals to the WRC website from X - a decrease of 44% from 2022 (5,544 referrals).

Information Videos

In early 2023, the WRC published the first group in what will be a series of short animations to assist users of WRC services and to promote more harmonious workplace relations generally.

The animations available in Irish, English, Polish, Romanian, Russian, Spanish and Ukrainian, cover a range of WRC services including:

- ▶ How to make a complaint to the WRC and What happens during an Adjudication Hearing,
- ▶ Promoting Dignity in the Workplace
- ▶ Pre-adjudication Mediation Explained, and
- ▶ WRC Advisory Service Explained

The animations are the first part of a suite of animations which form part of the WRC outreach programme to raise awareness of WRC services. These new animations/videos complement the animations rolled-out in 2022:

- ▶ Employment Equality Acts – Employers
- ▶ Employment Equality Acts and Equal Status Acts – Employees and General Public
- ▶ Equal Status Acts – Service Providers

WRC Office Premises

The WRC has five regional offices in Dublin, Carlow, Cork, Ennis and Sligo and its mission is to deliver a quality customer service throughout Ireland, which is speedy, user-friendly, independent, effective, impartial and cost-effective. The WRC provides various means of dispute resolution, redress and effective enforcement, and improves workplace relations, all of which are delivered fee free.

During 2023, the WRC upgraded the technology in the Cork and Dublin offices in relation to the digital display boards showing the hearings scheduled, and the hybrid hearing meeting room kits that facilitate hybrid and remote hearings.

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 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. 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 equality of opportunity, and dignity and respect in the workplace.

All internal policies are kept under review to ensure compliance with best practice in those areas.

The Information and Customer Service Unit also plays an integral role in the overall Outreach Programme of the WRC to reach the widest audience possible. During the year, the WRC engaged with a range of groups and organisations including students participating in hospitality/tourism courses, a number of Childcare Committees and secondary schools. They also attended the Irish Skipper Expo, the Department of Social Protection Jobs Fairs, and led an information campaign on Inis Mór in the Aran Islands.

The WRC provide a range of publications in various languages on the WRC website. During the year, the WRC published a suite of informational animations to assist users of WRC services on the WRC website. These animations, available in Irish, English, Polish, Romanian, Russian, Spanish and Ukrainian covered the following topics “Dignity in the Workplace”, “How to Make a Complaint to the WRC”, “What Happens at an Adjudication Hearing”, and “Pre-Adjudication Mediation”. These animations are helpful to parties engaging with the WRC for the first time.

Interpreters are often required for users of WRC services. Where a person requests the provision of an interpreter for an adjudication mediation or for the hearing or engagement with an Inspector, the WRC responds to the request with no cost to the parties. During 2023 there was an increase of 48% in the numbers of Interpreters required for hearings compared to 2022. Special regard is had to the obligations under the Irish Sign Language Act, 2017 in relation to hearing impaired service users.

The WRC, with the assistance of the HSE’s National Office For Suicide Prevention, provided SafeTALK training to front facing staff to prepare and develop their general awareness and alertness skills in line with the National Strategy for Suicide Prevention. This enables staff to recognise and engage with distressed callers and/or emailers who may be having thoughts of suicide and to connect them to first aid resources.

In-house training through the Department’s Lunch and Learn sessions covered topics including Cultural Awareness: Inclusive Language and Disability Awareness Training.



A specific training course on the IHREC Public Sector Duty is also available to staff. The WRC was also represented on the Department's Equality, Diversity and Inclusion Working Group to develop an Equality, Diversity and Inclusion Strategy.

Protected Disclosures Acts 2014 to 2022

As a public body, the WRC is required under Section 22 of the Protected Disclosures Acts, 2014 to 2022 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.

Further to this requirement, the WRC confirms that 22 external reports were received as alleged Protected Disclosures during 2023. All 22 reports were acknowledged within the timeframe specified in the legislation. In each case, the outcome was communicated to the individual.

Following initial assessment, 9 submissions were deemed not to be a protected disclosure and the correspondent was informed of this in each case and the case was closed.

A total of 7 submissions were forwarded to the relevant Division of the WRC for further action following initial investigation, and the Protected Disclosure case was closed. Three cases were referred to the Office of the Protected Disclosures Commissioner or other more appropriate bodies.

One case was closed due to insufficient data provided initially and no further input received when requested from the discloser. Two cases remain "open" under initial assessment pending further input from discloser. No internal reports were received by the WRC during 2023.

Under SI 367/2020 Protected Disclosures Act 2014 (Disclosure to Prescribed Persons) Order 2020 the Director General is designated as a 'prescribed person' pursuant to Section 7 of the Act.

Official Languages Acts 2003 and 2021

During 2023, the Workplace Relations Commission ensured that commitments made in relation to the provision of services in the Irish language under the Official Languages Acts were delivered. A range of documents were published on the website in the Irish Language including the WRC Work Programme 2023, the WRC Annual Report 2022, and a number of Codes of Practice. Content published on the WRC social media channels, X (formerly Twitter), and LinkedIn were also provided in Irish.



4.5 | 4.5 Legal Division

Overview

The Legal Division's core objective is to advise the WRC in relation to its wide range of functions from adjudication to inspections and enforcement, conciliations, mediation and information provision so that legally robust systems are in place throughout all activities of the WRC. It also provides relevant EU, administrative, company, employment and equality law updates and support to Adjudication Officers and staff.

New Legislation

During 2023 the introduction of new employment and equality rights with a focus on equity, equality, diversity and inclusivity continued, some EU and some domestic in origin. The Division was involved in supporting colleagues across the WRC functions to prepare for the new legal rights coming into effect including those under the Work Life Balance Miscellaneous Provisions Act 2023, Protected Disclosures (Amendment) Act 2022, the Sick Leave Act 2022, and secondary legislative changes to the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 and expansion of the remit of the Gender Pay Gap Information Regulations 2022 to smaller employers.

Recently commenced rights under the European Union (Transparent and Predictable Working Conditions) Regulations 2022, the Sick Leave Act 2022 and the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 generated interesting new cases for analysis.

The WRC note that further changes in legislation are due in relation to employment permits, employment status, collective redundancies and company law, and the protection of employees in insolvency circumstances, along with the ongoing review of equality law. The WRC will continue to engage with the relevant Departments in this regard.

The Division also advised on emerging EU legislation including the proposed Platform Workers Directive, the EU Pay Transparency Directive 2023/970, the EU Gender Balance on Boards Directive 2022/2381 and the EU Adequacy of Statutory Minimum Wages Directive 2022/2041.

The Courts and Civil Law (Miscellaneous Provisions) Act 2023 commenced in July 2023, which prohibits recording and obstruction of remote hearings and removes the default position in favour of remote hearings. The WRC policy on objections to remote hearings is being adjusted to reflect the new law and the changed socio-legal circumstances post-pandemic where remote and hybrid hearings remain an option when the interests of justice and fairness point in their favour. However, it should be noted that in 2023 the vast majority of WRC hearings were held in person.

Training and guidance on the new law was provided to Adjudication Officers and staff. The Division also supported colleagues with a range of reforms to the WRC Complaint Form, policy and related processes to ensure readiness for the new legislation.

Protected Disclosures Acts 2014 to 2022

In relation to the Protected Disclosures Acts 2014 to 2022 the amended legislation came into force on 1 January 2023 and a number of further changes were brought in over the year. The Division assisted with new policies and procedures internally to ensure compliance with the heightened obligations on public bodies and prescribed persons in particular. The WRC engaged with stakeholders and liaised with relevant Departments and the newly established Office of Protected Disclosures Commissioner to ensure a consistent approach. The Division assisted with the Department's 2023 statutory review of the new legislation.



Litigation

2023 was another busy year for the Legal Division in terms of litigation. Separate to the litigation work of Enforcements and Prosecutions, the Division represented the WRC in thirteen High Court civil matters and was successful in all six judicial reviews in which the WRC was correctly named as a Respondent. The WRC was involved in three Circuit Court challenges, and a number of statutory appeal matters throughout the year which remain ongoing.

Having dismissed an initial recusal challenge in her May 2023 judgment on bias⁴, in June Bolger J handed down judgment dismissing the judicial review in the matter of *Ammi Burke v. An Adjudication Officer, Workplace Relations Commission and Ors.* [2023] IEHC 360⁵ based on the conduct of the applicant. Costs were awarded to the WRC on a legal practitioner-client basis in an October judgment, again informed by the conduct of the applicant⁶. A summary of the judgments is appended to this report.

In July 2023, Phelan J dismissed an application in the matter of *Gogova v RTB, WRC, Attorney General & Ors.* [2023] IEHC 449. The judge reminded the applicant of the need to exhaust alternative statutory remedies, and to bring proceedings in a timely manner.

Enhancing Accessibility

As part of the WRC's mandate to provide information to the public and facilitate effective access to justice in relevant employment and equality matters, using AI the Division analysed over 10,000 WRC cases to establish the 150 most commonly cited authorities in its cases.⁷ An accessible list of the most commonly cited decisions from other courts and tribunals was published in July 2023. The WRC's own jurisprudence is available on the WRC's fully searchable website database.

In order to reduce the environmental impact of printing and sending large files to the WRC, Parties no longer need to send the WRC copies of cases upon which they rely if they appear in the list which will be reviewed periodically. However, parties must still explain why a case is relevant to their arguments and cite the relevant sections of the case authorities upon which they rely.

Mindful of the abundance of new legislation above, the Division also published a comprehensive redress table to assist parties and practitioners appreciate the full range of remedies the WRC can grant and to present the 52 different statutory frameworks under which cases may be heard by adjudication in an accessible manner.

Data Protection

The Division's Data Protection Liaison Officer continues to support the WRC on information law and provides regular training and support to staff across the Divisions. WRC policies are kept under review in light of new jurisprudence and the WRC liaises with the Department Data Protection Officer to ensure compliance.

External Engagements

Externally, the Registrar spoke to the Bar Equality and Resilience Committee on Multicultural Intelligence and the WRC initiatives to promote equality and diversity and avoid unconscious bias, to the Employment Lawyers Association of Ireland ('ELAI') on recent legal developments, presented at the Law Society's Judicial Skills' Diploma equality module, and engaged with EU colleagues as well as a number of domestic stakeholders in the area of human rights, equality and employment law.

4 [Recusal refusal judgment](#), *Ammi Burke v. An Adjudication Officer, Workplace Relations Commission and Ors.* [2023] IEHC 225

5 *Ammi Burke v. An Adjudication Officer, Workplace Relations Commission and Ors.* [2023] IEHC 360

6 *Ammi Burke v. An Adjudication Officer, Workplace Relations Commission and Ors.* [Costs judgment](#) [2023] IEHC 560

7 [Frequently Cited Authorities - Workplace Relations Commission](#)

Appendices



Appendix

1



Work Programme 2023: Outcomes

Information and Customer Services

Work Programme Objectives	Action/Tasks	Delivery Time frame	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 2023	90% of queries dealt with at initial query	61,800 calls dealt with promptly and efficiently
	Co-ordinate the targeted participation of the WRC at employment law seminars, presentations, exhibitions, roadshows, webinars, etc.	Throughout 2023	Key events identified, targeted message deliver effectively and efficiently Increased awareness of the WRC and its remit/services using social media accounts	44 events attended (30% increase on 2022)
	Utilise social media platforms to raise awareness of employment legislation, relevant decisions, WRC activities/remit and promote WRC redress mechanisms to the public	Throughout 2023	Key events, days, campaigns. research and data identified and effectively publicised on social media	Social media channels utilised to drive referrals to WRC website

Work Programme Objectives	Action/Tasks	Delivery Time frame	Key Performance Indicators	Outcomes
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 2023	All complaints received during 2023 processed efficiently with 90% of files created within 10 working days and respondent put on notice	14,158 (+10.7%) specific complaints processed and RPA assists to shorten processing times
Deliver Outreach and Communications Strategy	Work with Comms Unit to identify WRC activities (including web-based and remote outreach) which can be used to enhance efficiency and effectiveness of WRC generally	Throughout 2023	Increased awareness and understanding of the WRC, its identity, role and functions, across industrial relations, employment rights, equality and equal status matters	New animations on WRC services published on website 44 Outreach events attended
	Initiate and deliver campaigns focused on identified groups and issues (e.g., equal status and other relevant areas)	Throughout 2023	Increased awareness of WRC role in this area and rise in relevant referrals to WRC	Information animations to assist users of WRC services published
	Prepare bespoke targeted guides and templates for employees and employers	Throughout 2023	Guides and templates launched and being used and accessed	WRC carried out campaigns in changes to NMW, Sick Leave and Seasonal Workers and supported ELA led campaigns in Road Transport and Construction sectors A number of Information booklets updated and templates for Terms of Employment published



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 2023	4500 workplace inspection cases completed	4,727 Inspection cases completed €1.9M wages covered
	Prosecute, as appropriate, offences under employment legislation	Throughout 2023	All cases where compliance is not achieved will be considered for legal action	90% of prosecutions successful ⁸
Focused targeting of non-compliant employers, sectors, regions	Issuing and processing of Compliance (as applicable) and Fixed Payment notices and defend appeals to Compliance Notices	Throughout 2023	Notices issued appropriately and having effect. Appeals defended	Ten Fixed Penalty Notices and Thirty-Four Compliance Notices issued in 2023
	Risk selection arrangements for inspection to be used for case selection	Throughout 2023	50% of inspection cases will be focused on high-risk employers and sectors of interest	64% of inspections based on risk assessment
Enforce awards arising from decisions of Adjudication and Labour Court proceedings	Pursue civil enforcement of decisions and awards arising from decisions of Adjudication Officers and Labour Court in relation to adjudication and inspection activity and escalate to prosecution where appropriate	Throughout 2023	Decisions and awards pursued in manner that maximises efficiency and effectiveness	97 civil enforcement cases closed
Issue licences and enforce legislation in relation to Employment Agencies and the employment of Young Persons	Licences processed and issued in an efficient and lawful manner	Throughout 2023	Applications processed within 21 days of receipt	1,028 Employment Agency Licences and 632 Child Licences Processed

⁸ Successful outcomes include successful Prosecution, Probation and Charitable Donations

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Co-operate with other enforcement agencies	Facilitate training, staff exchanges, joint inspections and sharing of appropriate data, review MoUs to ensure they are current, valid and in compliance with GDPR requirements	Throughout 2023	Successful activities underpinned by legislation and appropriate MoUs Review and renew, if appropriate, all existing MoUs	95 inspections were carried out with An Garda Síochána (including Garda National Immigration Bureau and Garda National Protective Service) 262 joint inspections with officers of the Department of Social Protection 157 joint inspections with officers of the Revenue Commissioners
Carry out targeted campaigns in the identified sectors	Campaigns involving both inspection and ICS carried out effectively and efficiently	Throughout 2023	Positively impact compliance and create/enhance awareness of relevant rights and duties	Targeted campaigns included NMW, Sea Fishing, EMPACT and Construction
Support information and education activities to improve compliance generally	Work with Information and ICS, Communications Unit, and other WRC Divisions	Throughout 2023	Provide staff, briefing/guidance material, and relevant expertise	Co-operation, guidance and skills-sets provided
Cooperate with International agencies on areas of mutual interest	Work with agencies, platforms and authorities with similar objectives such as the International Labour Organisation, the European Labour Authority, the European Platform for Undeclared work, EUROPOL	Throughout 2023	Attend all plenary sessions where designated as Irish member/delegate/expert, provide appropriate assistance to programmes	Positive input to European Labour Authority (ELA) management board. Attendance at ELA workshops and working groups (incl. Inspection and Information)



Conciliation, Advisory and Mediation Services

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 provide assistance in the maintenance of positive industrial and working relations	As and when required by clients throughout 2023	Maintenance of high success rate in the resolution of industrial relations disputes	85% of disputes referred resolved
Work to expand client usage of relevant mediation services of WRC	Maintain and increase – where possible – pre-adjudication mediation where required. Unfair Dismissal cases to default to face-to-face mediation	Throughout 2023	Increase in cases successfully mediated to bring about a reduction in numbers advancing to adjudication process in rights-based claims	19% increase in pre-adjudication mediations with and increase of 42% in the number of cases resolved
	Introduction of Late Request Mediation (LRM) Service in conjunction with the Adjudication Service	Q1 2023	-Reduction in postponement of adjudication hearings. -Increase in volume of mediations. -Increase in settlements at mediation	65 Late Requests for Mediation received. 52% of LRM cases that proceeded to mediation were resolved
Chair and facilitate various 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 in agreed terms of reference	Throughout 2023	Effective delivery, operation and conclusion of all issues raised in accordance with protocols and procedures with the agreement of all parties	All requests for assistance fully delivered
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	Throughout 2023	Effective, tailored programme delivery, high service user satisfaction, improved workplace relations	Assistance supplied as needed: 6 interventions concluded and 10 ongoing

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Initiate a review of codes of some of the established Codes of Practice	Work with stakeholders to commence and review practical and structural content of some existing Codes of Practice	Q2 2023 and throughout 2023	Codes completed and updated	Drafting of a Code of Practice on Flexible and Remote Working advanced for finalisation in early 2024. A number of established Codes of Practice were reviewed in terms of updating terminology
Provide educational and workplace knowledge sharing programmes	Develop and deliver appropriate information on positive industrial relations principles and working relationships through facilitative workshops	Throughout 2023	Broader and better understanding of issues and improved workplace relations	An increase of 10% in workshops delivered
Implement Conciliation Case Management System (IRIS) and enhance Mediation Case Management System (Mitsy)	Smooth transition to new process	Q1 2023	System fully operational	New Conciliation Case Management System (IRIS) fully operational since January
	Work with the relevant provider to enable Share Point on the Mitsy system	Q1 2023	Process fully operational	Fully Operational



Adjudication Service

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Continue to process complaints as quickly as possible	Provide Adjudication Officers with full administrative support and oversight to achieve the goal	Throughout 2023 and onwards	Oversee efficient processing of complaints from registration, through scheduling to issuing of decisions	Adjudication: hearings +13% increase in the number of hearings scheduled Decisions issued +50% increase in the number of decisions issued
	Fully utilise developments in relation to e-complaint platform and ICT portal	End Q4 2023	Incremental rollout of ICT improvements to complaint processing	New e-Complaint Form to be deployed 2024
	Maintain appropriate administrative resourcing and monitor and review quantity and availability of adjudicators to ensure delivery capacity	Throughout 2023 and onwards	Fully resourced and utilised	Significant increase in hearings scheduled during 2023. All complaints received prior to 2023 (where not delayed by external factors or pending appellate decisions/ judgments), offered a hearing in 2023. 29% of complaints received in 2023 closed by year end
	Carry out an analysis of volume and timing of postponement requests prior to a hearing	End Q2 2023	Report completed/ action identified	Postponement requests increased by +9%. Updated postponement policy issued in December 2024

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Dispose of “Multiple” referrals	Work with parties and representatives to identify how best to deal with “multiple” referrals in an efficient manner	Throughout 2023	“Multiple” cases disposed of	Body of multiples closed, and significant progress made with the assistance of parties. 12% of complaints disposed of related to multiples. Some multiples are paused pending the outcome of judgments/decisions from appellate bodies
Monitor the “delivery mix” for adjudication hearings	Monitor and assess most cost- efficient and efficacious manner of disposing of cases	Throughout 2023	Cost efficient and efficacious case mix in operation	Hearing Mix: 70% in-person 30% virtual
Timely receipt of concise submissions	Review by end Q2 2023 submission patterns and timing of lodgment of same with Adjudication Officers	Assess review and develop action plan if required	Submissions received in a timely manner in accordance with new WRC Adjudication Procedures	Not all submissions received in as timely a manner as set out in WRC Guidance - Policy issue raised with Department of Enterprise, Trade & Employment – matter under review
Produce high quality decisions	Internal Quality Control Review Group will review post issue 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 2023	High quality decisions issue in a timely manner, subject to available resources Internally and externally recognized and delivered WRC adjudication standard	Of the Decisions / Recommendations issued 2023 some 90% were accepted Of the decisions appealed to the Labour Court, 54% were upheld, 22% varied and 21% overturned



Corporate, Strategy and Digital Services

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 2023	Corporate governance in WRC in line with best practice	Robust corporate governance in place throughout 2023
Ensure WRC carries out statutory functions within budget	Oversee efficient and effective expenditure, monitor service demand and activity levels and liaise regularly with DETE in this regard	Throughout 2023	Work Programme achieved consistent with proper utilisation of budget allocation	Work Programme achieved within overall budget allocation
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 2023	WRC able to respond quickly to Divisional demand spikes and shifting resource patterns	WRC responded agilely to fluctuation demands across 2023
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 2023	WRC operating within coherent strategic and business plan framework	Risk and Business Process frameworks fully operational
Enhance and inform the policy debate on workplace relations developments	In consultation with other Divisions identify areas of policy concern and input to policy formulation	Throughout 2023	Input provided and understood	Input provided as required
Maintain the WRC offices	Ensure that all WRC offices are maintained and can provide the full range of WRC services	Throughout 2023	Offices fully operational providing the full range of WRC services	All offices fully operational
Stakeholder Conference	Commission research and hold stakeholder conference	Q3 2023	Research completed and conference held	Postponed until 2024

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Human Resources Resourcing	Work with DE TE HR on staff capacity, succession planning, staff training, staff flexibility and the impact of blended working to ensure appropriate WRC staffing levels with the relevant skillset	Throughout 2023	WRC staffing properly resourced. Business needs and career development needs supported	WRC worked with DE TE in addressing staffing requirements
Employee Development	Work with DE TE HR and other bodies to develop bespoke training for WRC staff	Ongoing	New training needs identified and commencement of tendering process for a provider	Staff availed of a range of in-house and formal training including 3rd level courses funded by the Department
ICT Maximise the use of ICT	Roll-out WRC ICT Strategy 2022-2024	Throughout 2023	Strategy utilised	Strategy utilised with the delivery of further efficiencies in delivery of services
Monitor ICT systems to ensure they facilitate the delivery of efficient and effective WRC services	Monitor, maintain, innovate and upgrade systems and software subject to resources as required	Throughout 2023	Easy to use ICT systems working efficiently and effectively	Systems monitored and improved as required
Cyber Security	Collaborate with DE TE to provide robust ICT security policy and procedures	Throughout 2023	Robust Policies and Procedures in place	Regular engagement with DE TE ICT Unit to ensure all risks are mitigated
e-Complaint Form	Build a new complaint form that provides greater accessibility and functionality for users. Work on the e-Complaint form will begin in Q4 2022, with an aim to complete in Q2 2023	Q4 2022 to Q2 2023	e-Complaint form rolled out, with document upload functionality	Project progressed with delivery in 2024 of fully functional complaint form, available on all devices
Roll -out of Portal	Design and build of the portal will run in tandem with e-Complaint form	Q4 2022 to Q2 2023	Fully functional portal operational with facility to check status of case. Subsequent full completion of portal project	Project linked to e-Complaint Form. Phase 1 due for delivery in early 2024



Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Maximise technology to improve efficiencies and use of resources	Finalise roll-out of phase 1 of automation process in early-stage complaint receipt processing and explore potential further uses of automation	Q1 2023	Phase 1 complete with the Robot performing early-stage complaint receipt processing	Phase 1 implemented in early 2023 and further efficiencies made during the year
Data Analytics: Use of data analytics solutions to better inform management decision making	Develop further dashboards for Adjudication Service. Create more useable information for Management Information Reports. Use more sophisticated analytics to better drive business decisions Throughout 2023	Throughout 2023	Analytics fully utilised in decision making	Improved data analytics available and utilised
Communications	Utilise Communications Strategy to support the business objectives of the WRC	Throughout 2023	Strategy utilised to support the business objectives of Divisions	Strategy utilised
	In consultation with the relevant Divisions continue to proactively plan, deliver and measure WRC Communications content and campaigns	Throughout 2023	WRC content is preplanned, published and measured	Appropriate content published throughout the year
	Collaborate with DETE and other Government Comms Units	Throughout 2023	Participate in GIS Communications Network	Ongoing as required
Digital Media	Utilise Social Media Channels <ul style="list-style-type: none"> • X • LinkedIn • WRC.ie 	Throughout 2023	X, LinkedIn and WRC website all regularly and used to support business plans.	Followers/Views: X +12% LinkedIn +75% Website +12%
	Work with stakeholders to evaluate effectiveness of the website and amend as necessary	Q2 2023	Website current, relevant and used	Website content reviewed on a regular basis throughout the year
Customer Service	Roll-out Customer Service Survey in early 2023		Customer Service Survey carried out in early 2023	Customer Service Survey deferred for consideration in 2024

Legal Affairs

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Provide timely, effective and robust legal advice on all aspects of legal matters before, and involving, the WRC	Provide advice to DG and all Divisions of the WRC so that they are supported	Throughout 2023	Robust legal services provided to WRC	Advice provided
WRC legal service operating cost effectively and efficiently	Legal service to be provided with all internal structures, procedures, and business processes operating efficiently Information flows to and from Legal Division	Throughout 2023	Legal service fully functional	Legal services effectively and efficiently delivered
Provide appropriate legal training to staff and Adjudication Officers	Identify training needs and deliver to AOs and staff Legal Division staff keep abreast of all new legal developments and comply with professional CPD obligations	Throughout 2023	Training delivered and AOs up to date on legal framework and jurisprudence underpinning complaints and support staff have solid understanding of legal basis on which services to be delivered	Training delivered throughout 2023 and AOs and staff kept abreast of legal and jurisprudential developments across 2023
Ensure AOs and staff in Adjudication Division appropriately supported	Assist with information provision and skill impartment to AOs and staff	Throughout 2023	Information and skill sets imparted as required	Information and assistance to AOs and staff in Adjudication Division
Assist Adjudication Division ensure quality and consistency of output	Facilitate regular quality assurance reviewing issues arising, making recommendations and providing guidance	Throughout 2023	Quality and delivery in line with Workplace Relations (Miscellaneous Provisions) Act 2021	Information and guidance provided throughout 2023



Continue to work with DE TE to identify legal issues impacting on delivery of WRC's statutory remit	Identify key legislative priorities and assist progression where possible and liaise with DE TE in context of consequences of Supreme Court constitutional challenge and other legislative reforms anticipated in 2023 e.g., around procedural reform, the right to request remote working, paid sick leave, tips, whistleblowing, gender pay gap reporting framework and transparent working conditions amongst others	Throughout 2023	Issues identified with Department and progressed as appropriate	Key issues identified and discussed with regard to relevant areas of the Government's legislative programme
Assist DG and Divisions with the implementation of the Protected Disclosures Act 2022	Provide advice and training to all staff and management	Throughout 2023	All aware of their obligations under the PDA and familiar with reporting channels and the DG's Role as a Prescribed Person under the PDA	Information, Advice and Guidance to staff provided
Assist with reforms of website and complaint form	Contribute to improvement of WRC complaint form system and website structure	Throughout 2023	Revised WRC complaint form in place and website rationalised and content updated	Assistance provided with website and complaint form review and consequent updates
Maintain a specialised database and library facility for Adjudication Officers and WRC staff generally	Ensure appropriate access to relevant external databases and virtual and physical library kept up to date	Throughout 2023	Databases and library fully utilised and AO manual updated in line with new legislation and procedures	Achieved
Contribute to keeping stakeholders informed of trends in complaints and decisions	Contribute to external analyses and review WRC decisions with particular regard to equality and equal status cases and emerging trends	Throughout 2023	Review Completed and Paper published	Achieved

<p>Deepen stakeholder networks domestically, at EU and international level to share best practice</p>	<p>Stakeholder engagement</p>	<p>Throughout 2023</p>	<p>Strong domestic and international networks established to share best practice and stay abreast of emerging legal trends in employment and equality law, and fair procedure for quasi-judicial decision-makers administering justice</p>	<p>Strengthened and managed appropriately</p>
<p>Adjudication Division supported in relation to new service models</p>	<p>Advise WRC in relation to new procedures and policies around new service delivery models.</p>	<p>Throughout 2023</p>	<p>Robust, efficient systems in place to ensure WRC can provide quality continuity of service.</p> <p>Due regard had to public sector duty per s.42 IHREC Act 2014</p>	<p>Quality advice provided and new models of service delivery working well</p>



Appendix

2



Convictions 2023

Employer	Trading As	Sector	Address	Legislation of which Conviction Relates
Lee & Ryan Cuisine Ltd	Hi 5	Food Service Activities	5 Turkey Road, Tramore Waterford	Workplace Relations Act 2015
Jin Xin Limited	Mi Asian Street Food	Food Service Activities	Unit 1C The Palms Centre Gorey Wexford	Employment Permits Acts 2003 and 2006
DQ Chinese Takeaway Limited	Dragon Palace	Food Service Activities	8A Hazelwood Centre Glanmire Cork	Organisation of Working Time Act 1997
CLG Food Limited	New China Garden	Food Service Activities	Dominick Street Mullingar Westmeath	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Bod Food Ltd	Tenda Oriental Food	Food Service Activities	7 Patrick Street Mullingar Westmeath	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Pin Hui Chen	KK Pizza & Lin Garden - New Ross	Food Service Activities	70 Irishtown New Ross Wexford	Employment Permits Acts 2003 and 2006

Employer	Trading As	Sector	Address	Legislation of which Conviction Relates
Vino Beauty Limited	Nguyen Dinh Nails	Hair & Beauty	53 Laurence St Drogheda Louth	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Win Soon Limited	The Tasty Chinese Take Away	Food Service Activities	Unit 1 Dodsborough Shopping Centre Dodsborough Road Dublin	Employment Permits Acts 2003 and 2006
One Sunny Beauty & Spa Limited	Eden Beauty	Hair & Beauty	North King St Dublin 7	Employment Permits Acts 2003 and 2006
Sree Sai Prabha Ltd	Spice India	Food Service Activities	Castle Street Mullingar Westmeath	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Sunit Lama		Hair & Beauty	11 Derrynane Square Dublin 1	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Ardee Beauty And Massage Centre Limited	Ardee Massage Centre	Hair & Beauty	Unit 2A John Street, Ardee Louth	Employment Permits Acts 2003 and 2006
Jasmount Fastfood & Takeaway Limited	Roma Takeaway	Food Service Activities	Liberty Square Thurles Tipperary	Employment Permits Acts 2003 and 2006
Dundalk Massage Centre Limited	Dundalk Massage Centre	Hair & Beauty	35 Castletown Rd Dundalk Louth	Employment Permits Acts 2003 and 2006
OM Jai Maa Foods Limited	Apache Pizza	Food Service Activities	Unit 2 Sallins Road Naas Kildare	Employment Permits Acts 2003 and 2006



Employer	Trading As	Sector	Address	Legislation of which Conviction Relates
				Organisation of Working Time Act 1997
Umar Tariq	Tasty Spice	Food Service Activities	Main Street Abbeyleix Laois	Employment Permits Acts 2003 and 2006
Brilliant Castle Limited	Jade Palace	Food Service Activities	Main Street Abbeyleix Laois	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Trong Hieu Nguyen	Eva Nail & Beauty	Hair & Beauty	2A Parkview Brews Hill Navan Meath	Employment Permits Acts 2003 and 2006
Kevin Yuk Shing Lee	China Garden	Food Service Activities	Unit 3 Supervalu Centre Drogheda Street Balbriggan Dublin	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Kealan O'Connor	Esquires Coffee Shop	Food Service Activities	13 West Street Drogheda Louth	Employment Permits Acts 2003 and 2006
Patrick Keane	The Discount Centre	Wholesale & Retail Trade	The Square Ferns Wexford	Organisation of Working Time Act 1997
				Workplace Relations Act 2015
Lin Shao	M&J	Food Service Activities	28 Dublin Road Bray Wicklow	Employment Permits Acts 2003 and 2006
Ming Gao	LAM'S ASIAN CUISINE AND ESKIMO PIZZA	Food Service Activities	Main Street Ballyjamesduff Cavan	Employment Permits Acts 2003 and 2006

Employer	Trading As	Sector	Address	Legislation of which Conviction Relates
Young Feng Limited	Lily House	Food Service Activities	26 Main Street Kenmare Kerry	Employment Permits Acts 2003 and 2006
Flexy Discounts Limited	Big Discount	Wholesale & Retail Trade	12 Clanbrassil Street Dundalk Louth	Organisation of Working Time Act 1997
Wincassat Limited	Plaza Chinese Restaurant	Food Service Activities	Unit 20 1st Floor The Plaza Swords Dublin	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
				Organisation of Working Time Act 1997
W & S Foods Limited	Stoneyford Kebabish	Food Service Activities	Main Street Stoneyford Kilkenny	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Mohammad Rehan Nasser	Tik Tok	Food Service Activities	81 Meaghers Quay Waterford	Workplace Relations Act 2015
Key Guard Security Ltd	Key Guard Security	Security	Unit 2 enterprise & technology & innovation centre Mullingar Business Park Mullingar Westmeath	Employment Permits Acts 2003 and 2006
Evergreen Fields Ltd	Evergreen Fields	Transport	Flaskagh More Dunmore Galway	Employment Permits Acts 2003 and 2006
Mamo Cafe Limited	Moonwok	Food Service Activities	2 Ardlo Manor Rantavan Mullagh Cavan	Organisation of Working Time Act 1997
Feng Shi	Sun Garden	Food Service Activities	20 Farney Street Carrickmacross Monaghan	Employment Permits Acts 2003 and 2006



Employer	Trading As	Sector	Address	Legislation of which Conviction Relates
Mizzoni Pizza & Kebab Cashel Limited	Mizzoni Pizza	Food Service Activities	101 Main Street Cashel Tipperary	Organisation of Working Time Act 1997
Yong Juan Zhuang	Shang Garden	Food Service Activities	Main Street Ballyconnell Cavan	Employment Permits Acts 2003 and 2006
				National Minimum Wage Act 2000 (as amended)
				Organisation of Working Time Act 1997
XCY Retail Ltd	Soy Bar Asian Street Food	Food Service Activities	Austin Friar Street Mullingar Westmeath	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Pizza Dog Limited	Pizza Dog	Food Service Activities	Main Street Maynooth Kildare	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Aston Catering Limited	East Garden	Food Service Activities	Hillcrest Kilcullen Kildare	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Jehlum Catering Limited	Black Pepper / Khan's Balti House	Food Service Activities	Unit 5B Newlands Retail Centre Dublin 22	Employment Permits Acts 2003 and 2006
Bo Zhou	Oriental Wok	Food Service Activities	No 5 Irishtown Kilkenny	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997

Employer	Trading As	Sector	Address	Legislation of which Conviction Relates
Oriental Cook-In Takeaway Limited	Oriental Cook-In Takeaway	Food Service Activities	Unit 12 Hazel Court Bay Estate Dundalk Louth	Employment Permits Acts 2003 and 2006
Wesley Correa DaSilva	Friends Garage	Other Service Activities	Deerpark Industrial Estate Oranmore Galway	Employment Permits Acts 2003 and 2006
Link Entertainment Limited	Il Padrino Restaurant	Food Service Activities	Il Padrino 19/21 Cook Street Cork	Organisation of Working Time Act 1997
Salena Asian Massage & Spa Limited	Salena Asian Massage & Spa	Hair & Beauty	Unit 1 Metges Lane Navan Meath	Employment Permits Acts 2003 and 2006
Four Counties Essential Oil Company Limited	E-cig	Wholesale & Retail Trade	35A West Street Drogheda Louth	Employment Permits Acts 2003 and 2006
Siam to go Limited	Siam Thai	Food Service Activities	1 Townyard Lane Malahide Dublin	Employment Permits Acts 2003 and 2006
Kai Yun Food Services Limited	New Great Wall Chinese	Food Service Activities	93 Great William O'Brien Street Blackpool Cork	Employment Permits Acts 2003 and 2006
D&F Express Catering Enterprises Limited	Apache Pizza	Food Service Activities	92 Strand Street Skerries Dublin	Employment Permits Acts 2003 and 2006
Zaina Pizza Limited	Apache Pizza	Food Service Activities	Market Square Cavan	Employment Permits Acts 2003 and 2006
				National Minimum Wage Act 2000 (as amended)
				Organisation of Working Time Act 1997
Hoxha Foods Limited		Food Service Activities	6A Main Street Malahide Dublin	Workplace Relations Act 2015



Employer	Trading As	Sector	Address	Legislation of which Conviction Relates
Poweroy Inn Limited	Peony Inn	Food Service Activities	6 Stanhope Street Athy Kildare	Employment Permits Acts 2003 and 2006
Lobster Doyle Limited	The Lobster	Food Service Activities	Main Street Waterville Kerry	Employment Permits Acts 2003 and 2006
NLY & Co. Limited	Great Wall	Food Service Activities	Westend Shopping Centre Ballincollig Cork	Employment Permits Acts 2003 and 2006
				Workplace Relations Act 2015
Cork Oriental Supermarket Limited	Oriental Supermarket Express	Wholesale & Retail Trade	26 Paul Street Cork	Employment Permits Acts 2003 and 2006
Rayya Express Limited	Eco Express Hand Car Wash	Other Service Activities	Ballyhooly Road Ballyvolane Cork	Employment Permits Acts 2003 and 2006
YY Restaurant Ltd	Mr Wong Restaurant	Food Service Activities	Mullingar Park Hotel Mullingar Westmeath	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Dillian Foods Limited	Rama Take Away	Food Service Activities	Dublin Street Cornahilt Ballyjamesduff Cavan	Employment Permits Acts 2003 and 2006
ZAMZAM FOODS DUNDALK LIMITED	Zam Zam Kebabs	Food Service Activities	River Lane Dundalk Louth	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Teriyaki Soba Limited	Mekong	Food Service Activities	29 Oliver Plunkett Street Mullingar Westmeath	Employment Permits Acts 2003 and 2006

Employer	Trading As	Sector	Address	Legislation of which Conviction Relates
				Organisation of Working Time Act 1997
GHRN Ltd	Golden Palace Chinese Restaurant	Food Service Activities	Newtown Inn Restaurant Beaufield Road Maynooth Kildare	Organisation of Working Time Act 1997
XL Golden Ltd	Golden Asian Street Food	Food Service Activities	Main Street Glin Limerick	Employment Permits Acts 2003 and 2006
Esselle Limited	Flannerys Bar	Beverage Service Activities	17 Upper Denmark St Limerick	Organisation of Working Time Act 1997
Asian Food Store and Catering Equipment Limited	Asian Foodstore	Wholesale & Retail Trade	Ballyraine Industrial Estate Ramelton Road Letterkenny Donegal	Employment Permits Acts 2003 and 2006
				National Minimum Wage Act 2000 (as amended)
				Organisation of Working Time Act 1997
Jian Shen Limited	Willows Chinese	Food Service Activities	Dublin Road Boynehill Navan Meath	Employment Permits Acts 2003 and 2006
				Organisation of Working Time Act 1997
Chao Wen Wu & Quin Juin Gao	Tikka	Food Service Activities	Tikka Main Street Blessington Wicklow	Employment Permits Acts 2003 and 2006



Appendix 3



Notable WRC Adjudication Decisions 2023

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Overview

The following case summary Appendix provides an overview of some of the key legal issues arising in the decisions issued by Adjudication Officers (referred to as "AO" in the summaries) at the Workplace Relations Commission ("WRC") during 2023. It is published as part of the WRC's overall policy of transparency and accessibility. It seeks to give a convenient and informative overview of the wide range of legal issues considered in 2023. Decisions referred to here may have been subsequently overturned on appeal. No warranty, undertaking or guarantee is given as to their legal status.

As regards the 2023 WRC decisions, the criterion for inclusion has been whether the issue is likely to be relevant and of interest to parties involved in cases before the WRC. However, it should be noted that they merely represent a snapshot of the decisions published in 2023.

This Appendix is published for the purposes of general information and accessibility only. It is not a statement of the law by or on behalf of the WRC: all readers are referred to the texts of the original decisions, which contain the only statements of the law made by the WRC or its staff. The case summaries are not, and should not be treated as, legal advice. In accordance with its statutory obligation to publish its decisions, the WRC has also made the full texts of its decisions and recommendations available on its website at www.workplacereactions.ie. The website is updated regularly and includes advanced search filters. It is hoped that it is a useful and practical resource for all users.

Employment Status

***Amy Farrell v. An Garda Síochána,
ADJ-00036366***

Keywords

Protection of Employees (Fixed-Term Work) Act 2003, objective condition, standing, locus standi

Background

The Complainant started work as a cleaner with the Respondent in August 2016. Her role was classified as a relief cleaner and she was on a fixed rate of pay, aligned to the first point of the salary scale for the grade of cleaner. She did not receive incremental credit, paid sick leave or other entitlements to which permanent employees in the grade of cleaner were entitled.

Over 2016/2017, she worked at different stations providing relief cover but since 2017, she has worked continuously at the same station doing the same work and hours per week. The Complainant's union raised the issue of a contract of indefinite duration in January 2021. The Respondent agreed that there was an entitlement to such a contract but the matter was not progressed. After the complaint was made to the WRC, the Respondent twice issued a contract of indefinite duration to then withdraw it. Finally, in April 2023, before the case was heard, the Respondent issued a contract of indefinite duration to the Complainant which was backdated to take effect from 1 April 2019.

The Complainant complained that the Respondent had failed to provide her with a contract of indefinite duration and complained that the lack of engagement and delay on the part of the Respondent had negatively impacted her and caused considerable upset and frustration.

The Respondent accepted that there were delays because this was a complex matter which required input from various units and agreement from the senior leadership as to the terms and conditions of employment. However, it submitted that there was a satisfactory outcome to the matter and any further penalty would be disproportionate.



Findings

The AO noted that the sole complaint before her concerned Section 9 of the Protection of Employees (Fixed-Term Work) Act 2003 (“FTW”) and that she had no jurisdiction unless the Complainant was a fixed-term employee at the material time. Section 2 FTW defines a fixed-term employee as:

“a person having a contract of employment entered into directly with an employer where the end of the contract of employment concerned is determined by an objective condition such as arriving at a specific date, completing a specific task or the occurrence of a specific event.”

The AO noted the lack of documentation and lack of information provided to the Complainant in respect of her employment. No contract of employment was provided by the Respondent. While the Complainant was initially hired as a relief cleaner operating from a relief panel, the Respondent could not clarify how this panel operated and did not submit any information relating to the establishment and operation of this panel. The AO held that it was possible that the Complainant was employed on a series of separate fixed-term contracts but it was also possible that she was employed on a single contract and that any periods where she did not work between assignments were periods of lay-off. The AO held that there was no evidence that the Complainant was employed on a contract of employment that was determinable by an objective condition such as reaching a specific date, completing a specific task or the occurrence of a specific event. Accordingly, the Complainant was not a fixed-term employee and did not have standing to bring a complaint under the FTW. The complaint was not well founded.

[Samantha McDermott v. An Garda Síochána, ADJ-00036383 had similar facts and was decided on the same basis]

Employment Equality Acts 1998 to 2021 – sexual harassment

Catherine Kelly v. An Post, ADJ-00040021

Keywords

Sexual harassment, Employment Equality Acts 1998 to 2021, inadequate investigation and appeal, Dignity at Work policy

Background

The Complainant, a postal operative with the Respondent, made a complaint of sexual harassment. She claimed that she was inappropriately touched by a colleague on 22 February 2022. She claimed that while she was talking to another colleague, he came up behind her and put his hand on the inside of her thigh. She pushed him away stating that she had warned him before not to do that.

A few days later, the Complainant reported the incident to the floor manager and made a written statement. CCTV of the incident was obtained and a statement was made by the colleague with whom the Complainant had been speaking at the time of the incident. The allegations were put to the alleged perpetrator who merely stated that he had no knowledge about the incident. The incident was investigated by a person in ‘floor operations’. The Complainant was not interviewed. In May, she was told that there was insufficient evidence to uphold the complaint as the CCTV did not show any inappropriate contact and the statement from the colleague did not provide any supporting evidence, merely that she observed the Complainant’s shocked reaction.

The Complainant appealed to the HR Manager. An appeal meeting was held in June 2022 and the person who conducted the initial investigation was in attendance as a note taker. CCTV was not reviewed and the Complainant was not asked about events that led to her making the complaint. The original outcome was upheld.

The Complainant complained that the investigation was unsatisfactory and that the Respondent did not follow their own procedures set out in their employee handbook.

The Respondent submitted that the incident was fully investigated under the Dignity at Work Policy.

Findings

Section 14A Employment Equality Act 1998 (“EEA”) provides that if sexual harassment by someone other than the employer can be regarded as discrimination by the employer, the employer may rely on the defence that they took such steps as were reasonably practicable to deal with the allegation of sexual harassment. The AO considered the Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012 which provides that the investigation of any complaint is “handled with fairness, sensitivity and with due respect for the rights of both the complainant and the alleged perpetrator”. The investigation should adhere to the rules of procedural fairness including informing the complainant and the alleged perpetrator of the procedure, their right to be represented, and giving them full details in writing of the complaint and witness statements.

The AO held that it was clear that the investigation fell “very short” of what was set out in the Code of Practice and what was necessary to avail of the defence under s.14A.

In respect of the appeal, the AO noted that the Complainant and the alleged perpetrator were interviewed but the notes of both did not indicate that there was a rigorous discussion of the incident. The separateness of the appeal from the initial investigation was compromised by the presence of the investigator at the interviews. The AO further noted that the CCTV, because of the position of the camera, did not show if physical contact took place, but it did show the perpetrator coming in close proximity to the Complainant and pushing her.

The AO held that given the Complainant’s statement and the CCTV, the complaint should have been taken seriously and investigated in accordance with the Dignity at Work, Anti-Bullying and Harassment policy. There were many deficiencies in both the initial investigation and the appeal. Accordingly, the Respondent could not rely on the s.14A EEA defence. The AO noted that it was unclear why local managers considered it appropriate to deal with such a complaint locally, with no reference to HR.

The Complainant succeeded in her complaint of sexual harassment. The AO awarded the maximum award of two years’ remuneration having regard to how poorly the policy was followed and the effects of the discrimination on the Complainant, further noting that awards should be effective, proportionate and dissuasive. This amounted to €53,560. The AO further directed that all supervisory and management staff receive full training in their Dignity at Work policy.

Employment Equality Acts 1998 to 2021 – mandatory retirement age

Thomas Doolin v. Eir Business Eircom Limited, ADJ-00045261

Keywords

Mandatory retirement age, objective justification, succession planning, individual assessment, re-instatement.

Background

The Complainant commenced employment with the Respondent in September 2019. He worked as a Desk Support Agent on a salary of €35,000 a year.

At the time that the Complainant entered employment, the Respondent was carrying out a review of its pension schemes and proposals to align the retirement age to the age of 65. This change was notified to all staff in April 2020 and came into effect in July 2020.

The Complainant was due to turn 65 in July 2023. In January 2023, he was notified of his upcoming retirement after which he made a formal request to work past the age of 65. The Complainant met with his line manager and a member of HR to review this request, which was subsequently denied. After an appeal meeting, a final decision was issued to the Complainant in April 2023 upholding the original decision not to extend the retirement age.

The Complainant complained that he had been discriminated against by the Respondent contrary to the Employment Equality Act 1998 (“EEA”) when he was mandatorily retired.



Findings

Section 85A EEA provides that the Complainant must establish facts which raise an inference of discrimination, after which the Respondent must prove that there was no discrimination. A mandatory retirement age raises an inference of discrimination.

The AO considered whether the Respondent had put forward an objective justification for the mandatory retirement age of 65. The Respondent submitted that the following were legitimate and objective justifications for its mandatory retirement age: the need to promote intergenerational fairness, the necessity for effective succession planning, and the importance of maintaining age balance in the workforce to uphold the individual dignity of an employee.

The AO noted that when examining the matter of intergenerational fairness and the associated need to safeguard career pathways while preserving skills and knowledge, the context of this complaint was that the Complainant held a junior role and it was unlikely that retaining him in employment would have impeded the career progression of any other employee.

Further, the AO held that succession plans would not have been affected and a potential cliff-edge scenario (where a substantial number of employees might retire simultaneously) would not have arisen if the Complainant was retained in his employment, having regard to the small and non-strategic IT department in which the Complainant worked, coupled with the non-critical nature of the role he was fulfilling in the Respondent. The AO acknowledged the legitimacy of the Respondent's health and safety concerns for 85% of the workforce engaged in field-based activities. However, he highlighted that such concerns did not apply to the Complainant, as his role was entirely desk-based.

Accordingly, the AO held that the decision of the Respondent to refuse to allow the Complainant to work beyond the age of 65 was not objectively justified on any of the grounds set out in the retirement policy, given his specific role. He found that there was "a lack of demonstrated scrutiny regarding the compatibility of the stated legitimate aims of the Respondent in the instant case with the specific characteristics of the Complainant".

The AO also had regard to the Code of Practice on Longer Working and the suggestion that employers need to consider the "changing statutory and legal framework in regard to retirement and pension entitlements". The AO noted the Complainant's limited skillset, the fact that he was still seeking work, and that his only income was derived from social welfare payments, which amounted to less than 40% of his earnings in the Respondent. The AO held that there was no evidence that the Respondent had considered the Complainant's future job prospects and the anticipated reduction in his income when deciding to terminate his employment.

In deciding on redress, the AO accepted that the Complainant had been actively engaged in seeking employment but had been unable to find work. He also held that it was clear that there was an excellent relationship between the parties during the Complainant's employment and that he was a much-valued employee. Therefore, the AO ordered that the Complainant be re-instated in his previous role with effect from the date of his retirement.

Equal Status Acts 2000 to 2018

Sofiya Kalinova v. Bellerophon Ltd trading as Griffith College, ADJ-00031408

Keywords

Equal Status Act 2000 to 2018, reasonable accommodation, Irish Sign Language interpretation.

Background

In 2020, the Complainant wanted to apply for a preparatory course with the Respondent in advance of the King's Inns' entrance exams. The Complainant is profoundly deaf and sought accommodation to participate in the course such as ISL interpretation and a notetaker. The Complainant stated that she was expecting a discussion about her needs but simply received a negative response from the Respondent.

The Respondent had an 'Academic Learner Support Policy'. At 6.2 it addressed 'Hearing impaired, deaf, hard of hearing' as follows:

6.2.1 The extent of the challenges faced by a learner with a hearing impairment will vary depending on the degree of deafness diagnosed. Learners are met with individually to discuss their needs and adaptations that might need to be carried in advance of programme commencement.

6.2.2 In the case where a learner who is deaf has the requirement of Irish Sign Language (ISL) interpreter, the cost of this will be borne by the learner.

The Respondent was not an eligible institution under the Fund for Students with Disabilities. On receipt of the Complainant's application, which was roughly mid-way through the course, the head of the faculty of the professional law school consulted websites to price an interpreter and a notetaker. These would have amounted to nearly the cost of the tuition fee. The Respondent accepted that it had interpreted the request as going back to the start of the course. The Respondent submitted that it did not meet with the Complainant nor share its costings with her due to the timeframe involved. The Respondent considered the Complainant's request to be for an ISL interpreter and consequently, the Respondent did not consider alternative supports. The Respondent also noted that the Complainant had made an application in 2019 seeking ISL interpretation, which was later withdrawn, and was told then that the Respondent could not provide the accommodation.

Findings

The AO noted that s.4(1) Equal Status Acts 2000 to 2018 ("ESA") provides that "discrimination includes a refusal or failure by the provider of a service to do all that is reasonable to accommodate the needs of a person with a disability by providing special treatment of facilities, if without such special treatment of facilities it would be impossible for the person to avail himself or herself of the service". Section 4(2) states that such refusal or failure will not be deemed unreasonable "unless such provision would give rise to a cost, other than a nominal cost, to the provider of the service in question".

The AO held that the core of s.4 is the "requirement to evaluate a person's needs to see if those needs can be accommodated". There was a difficulty with a fixed policy, as set out in 6.2.2 of the Respondent's policy, as it deters the service provider from evaluating a person's needs. The AO noted that it is not mandatory to meet with a person seeking reasonable accommodation but the service provider "should have a clear understanding of the person's needs" in order to comply with s.4(1).

Here, the Respondent made assumptions as to the Complainant's needs: it assumed that she wanted ISL interpretation and a notetaker, it assumed that she wanted this accommodation for the entire course and it made inferences from the 2019 enquiry. Although the Respondent did consider the cost of interpretation, this was predicated on the Complainant doing the whole course and only one price was sought. The AO held that the Respondent ought to have made further enquiries and should have shared the costing with the Complainant and confirmed whether she was looking for interpretation for the missed weeks.

The AO concluded that there was a contravention of the ESA and awarded the Complainant €3,000 in compensation, taking account of the effects of the discrimination. The AO also ordered a course of action that the Respondent re-evaluate its policy to ensure that it complies with the ESA.

***A patient v. A hospital and a doctor,
ADJ-00035976***

Keywords

Equal Status Act, s.16(2), medical notes, clinical judgment.

Background

The Complainant claimed that she was discriminated against on grounds of gender, race and disability contrary to the Equal Status Acts 2000 to 2018 ("ESA").

The Complainant attended the doctor on 15 July 2020 for a consultation regarding traumatic stress following a serious sexual assault. The Complainant complained that there were inaccuracies in the doctor's medical notes which she sought to have corrected.



While a number of amendments were made, the Complainant challenged the reference to her being a binge drinker. She stated that this was victim blaming and part of a stereotype that the victim of sexual assault was blameworthy because of their alcohol use. This amounted to gender discrimination.

The doctor and the hospital argued that the reference to binge drinking was an exercise of clinical judgment.

Findings

The AO accepted that the misuse of a term like 'binge drinking' could amount to less favourable treatment on the gender ground, in the context of placing blame on the victim of sexual violence. The AO also accepted evidence from the Complainant that she was not a heavy drinker at the time of the consultation. However, the use of the term was the use of a clinical term and the exercise of clinical judgment. This fell within the description of non-discriminatory activities set out in s.16 ESA, and specifically s.16(2)(a): "Treating a person differently does not constitute discrimination where the person is so treated solely in the exercise of a clinical judgment in connection with the diagnosis of illness or his or her medical treatment". Accordingly, there was no discrimination against the Complainant.

Sarah Holmes v. National Women's Council of Ireland, ADJ-00040678

Keywords

Equal Status Acts 2000-2018, s.15(1), substantial risk of criminal or disorderly conduct or behaviour.

Background

The Respondent held a public event on 9 June 2022 at a hotel. The Complainant registered for two tickets to the event but was refused entry on the day. The Complainant was known to the Respondent as she had previously sent the Respondent correspondence objecting to certain of its policies and a named board member.

In advance of the event on 9 June 2022, the Respondent carried out a risk assessment. The Complainant had been highlighted as part of this risk assessment, but the Respondent had planned to allow persons who had strongly held views contrary to its own, including the Complainant, into the event. However, the night before the event, an organisation issued a press release, which was disseminated to thousands of people on social media, targeting a board member of the Respondent and outlining its plans to "stage an action" at the event. The Respondent became aware of the press release the following morning, just over an hour before the event was due to start. The Respondent submitted that it had a short period of time in which to deal with this development and ensure the safety of the named board member, attendees, other board members and speakers. As well as taking actions such as reallocating staff and reconfiguring the physical layout of the registration area, the Respondent decided to refuse entry to members of the organisation and persons who aligned themselves with the views of the organisation, including the Complainant. The Respondent submitted that this decision was risk-based.

The Complainant alleged that she was discriminated against on the basis of religion contrary to the Equal Status Act 2000 ("**ESA**").

The Respondent submitted that the Complainant had not established a prima facie case of discrimination.

Findings

Section 15(1) of the ESA provides that a service does not have to be provided "in circumstances which would lead a reasonable individual having the responsibility, knowledge and experience of the person to the belief, on grounds other than discriminatory grounds" that the provision of the service to the customer "would produce a substantial risk of criminal or disorderly conduct or behaviour or damage to property". Accordingly, the AO noted that section 15(1) allows a "service provider to refuse service in circumstances where they believe that there is substantial risk of criminal or disorderly conduct or behaviour". Having regard to case law, the AO noted that she must consider the totality of the evidence and that there must be evidence of substantial risk, which is more than a reasonable risk.

Having considered the evidence, the AO was satisfied that the Complainant would have been admitted to the event had the press release not been issued. The AO was satisfied that once the Respondent received the press release, it had to act quickly to deal with a perceived and substantial risk of criminal or disorderly conduct or behaviour. The AO noted that the Respondent had a duty to protect all of those at the event. Accordingly, the AO found that section 15(1) applied and that there was no discrimination.

Industrial Relations

A Medical Consultant v. A CMN2, IR-SC-00000752

Keywords

Industrial Relations, definition of 'trade dispute', worker versus worker dispute, jurisdiction.

Background

A worker brought a dispute to the WRC under the Industrial Relations Act 1969 ("IR Act"). The worker's dispute concerned comments made by another worker during a dignity at work investigation at his place of employment. The worker alleged that these comments contained misrepresentations and were defamatory and he wanted these comments to be withdrawn. The other worker no longer worked with the employer.

Findings

The AO first considered whether there was jurisdiction to hear the dispute. The AO noted that their jurisdiction was limited to investigating a 'trade dispute'. Section 3 of the Industrial Relations Act 1946 defines a 'trade dispute' as "any dispute or difference between employers and workers or between workers and workers connected with the employment or non-employment, or the terms of the employment, or with the conditions of employment, of any person and includes any such dispute or difference between employers and workers where the employment has ceased."

The AO considered there to be two essential components to this definition: (i) the parties to the dispute; and (ii) the subject matter.

In respect of the parties to the dispute, the AO noted that a trade dispute must involve workers and employers. The reference to 'workers and workers' was intended to cover inter-union and demarcation disputes only. This is clear from prior legislation and the history of the enactment of the 1946 Act. The definition must be "viewed as a product of the political, industrial, economic, and social environment prevailing in post-WWII/Emergency Ireland" where there had been an escalation in inter-union unrest and demarcation disputes in the previous decade. Accordingly, the definition of a 'trade dispute' does not cover 'worker versus worker' disputes.

As this dispute was a 'worker versus worker' dispute and the subject matter did not concern the worker's terms or conditions of employment with his employer, as he complained of alleged defamatory comments by a work colleague, the AO held that the dispute was not a trade dispute and the WRC did not have jurisdiction to hear the matter.

Collective redundancies

Jane Crowe v. Debenhams Retail (Ireland) Limited and Debenhams Retail (Ireland) Limited (in liquidation), ADJ-00038906 and ADJ-00041248; Breda Cox v. Debenhams Retail (Ireland) Limited (in liquidation), ADJ-00039722

Keywords

Collective redundancies, Protection of Employment Act 1977, consultation, in good time, relevant information, Council Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies.

Jane Crowe

Background

This case concerned the Irish branch of Debenhams ceasing trading, entering liquidation and the redundancy of all of its staff at the beginning of the Covid-19 pandemic, and specifically issues relating to the consultation carried out with the staff in accordance with sections 9 and 10 of the Protection of Employment Act 1977 to 2014 ("PEA").



While the complaint was brought by one Complainant, who worked as a shop assistant in Debenhams Ireland, this was the first of a body of complaints brought by Mandate on behalf of Debenhams Ireland employees.

Debenhams Retail (Ireland) Ltd was the Irish subsidiary of the UK parent company. On 8 April 2020, Debenhams UK informed Debenhams Ireland that it could no longer provide financial support to it as the UK parent company was insolvent and administrators would imminently be appointed.

On 9 April 2020, the Board of Directors of Debenhams Ireland held an emergency meeting and decided that the company could not continue trading. They recommended that Debenhams UK, as the parent company and sole shareholder of Debenhams Ireland, take immediate steps to petition the High Court to wind up the company and appoint a liquidator. On the same date, the Chief Executive of Debenhams Ireland wrote to staff informing them of the anticipated liquidation and confirming that the Irish stores were not expected to reopen.

On 14 April 2020, a written resolution was passed by Debenhams Ireland providing that the company be wound up and instructing the directors to make a petition to wind up the company. On the same date, the HR manager for Debenhams Ireland wrote to the Assistant General Secretary of Mandate Trade Union in accordance with the PEA stating that the reasons for the proposed redundancies related to trading difficulties and the application to appoint a liquidator. It stated that all employee roles within the company were proposed for redundancy.

Joint provisional liquidators were appointed on 16 April 2020. They were appointed as liquidators on 30 April 2020 on which date the winding up of the company was also ordered by the court.

On 17 April 2020, a zoom meeting was held between the joint provisional liquidators, company personnel and employee representatives. This meeting began the 30-day consultation period as set out in the PEA.

From that date until the end of the consultation period, the liquidators engaged with the union by way of correspondence and a number of further consultation meetings were held.

On a number of occasions, the union complained that the information provided by the liquidators was incomplete.

On 20 May 2020, following the completion of the consultation process, the liquidators wrote to the employees with notice of termination of employment on the grounds of redundancy.

Section 9 PEA requires an employer that is proposing to create collective redundancies to initiate consultations with employee representatives at the earliest opportunity and at least 30 days before the first notice of dismissal is given. During the consultation, the employer should engage on the possibility of avoiding the proposed redundancies, reducing the number of employees affected by them or mitigating the consequences of the redundancies.

Section 10 PEA obliges an employer to supply all relevant information to the employees' representatives for the purpose of the consultations.

The Complainant argued that Debenhams Ireland had failed to comply with sections 9 and 10. Debenhams Ireland should have commenced the consultation process at the latest on 9 April 2020, as it was clear that collective redundancies were being contemplated at this point. However, the consultation process did not begin until 17 April 2020, at which point provisional liquidators had already been appointed. Furthermore, the liquidators failed to engage in meaningful consultation and passively engaged in the process as a tick-box exercise. They failed to give relevant information about ownership of stock, the capacity to operate the online platform, the profitability of stores and leasehold interest.

Debenhams Ireland argued that the consultation began as early as possible after it was informed by the UK parent company that it could no longer fund the Irish operation. Debenhams Ireland had been loss making for years and was totally dependent on the UK parent company for support. The liquidators acted promptly despite significant logistical hurdles created by the pandemic and the imposed lockdowns. They fulfilled their legal obligations to consult meaningfully as all relevant information was provided. The company had limited control to act alone since the UK parent company entered into the lease agreements and controlled and owned the online platform.

Debenhams Ireland argued that the financial realities meant that it was not possible to limit the scale of job losses or to mitigate their impact. The liquidators also had obligations under the Companies Act 2014 to creditors.

Findings

The AO first considered what was the trigger point for the consultations. Having regard to Irish and EU case law (*Tangey v. Dell Products* [2013] IEHC 622), the AO held that he must consider what event “was in the nature of a strategic decision and exerted compelling force on the employer for the purposes of giving effect to the consultation obligation”.

Here, the AO held that a strategic/economic decision was made on 8 April 2020 by Debenhams UK to no longer fund Debenhams Ireland. That “decision exerted compelling force on the employer for the purposes of giving effect to the consultation obligation where collective redundancies would have to be contemplated”.

Since the trigger was 8 April 2020, the next question was whether the consultation process, which started on 17 April 2020, commenced at the earliest opportunity, in accordance with s.9. The AO relied on Council Directive 98/59/EC on the approximation of the laws of the Member States relating to collective redundancies, and specifically Article 2(1) which provides:

“Where an employer is contemplating collective redundancies, he shall begin consultations with the workers’ representatives in good time with a view to reaching an agreement.”

Debenhams Ireland argued that given the practical steps required as regards the Covid-19 lockdown, including time constraints as the decision was made during Easter and a public holiday period, the first consultation meeting on 17 April 2020 was commenced ‘in good time’.

The AO held that ‘in good time’ had to be read in conjunction with Article 2(2) which provides that the consultation must “cover ways and means of avoiding collective redundancies or reducing the number of workers affected, and of mitigating the consequences”.

The AO noted that in this case time was of the essence. The requirement to consult ‘in good time’ must be viewed in the context of the fragility of the company, “particularly relating to the financial impact on the entity caused by the Covid-19 public health orders and store closures that were deemed to be non-essential and the withdrawal of financial support by the Parent”. Unlike the UK parent company, Debenhams Ireland could not seek protection against creditors. In such circumstances, ‘in good time’ meant ‘as soon as possible’, “particularly where options to mitigate the impact of collective redundancies reduce and narrow when a company is placed into liquidation”. Accordingly, the AO held that it “would not have been unreasonable for the consultation to have commenced no later than the 9th April 2020”. The delay until 17 April was material in “narrowing potential options to reduce and mitigate the consequences of the intended collective redundancies”.

In respect of the obligation to supply all relevant information pursuant to s.10, the AO held that this must be interpreted having regard to the requirement that the consultation be about the “ways and means of avoiding collective redundancies or reducing the number of workers affected, and of mitigating the consequences”. The union requested information so that they could formulate constructive proposals. The AO held that in the context of a retail store, information on “the profitability of each store; the value of stock; who owned the stock; the capacity to trade online during the Pandemic; landlord lease arrangements” were all relevant factors to formulating constructive proposals. This information was relevant and necessary and was not provided. Not having that specific information frustrated the union’s capacity to make constructive proposals.

Accordingly, the AO held that the process was required to commence earlier than it did and, when it started, it was not conducted in a meaningful way. Debenhams Ireland therefore breached sections 9 and 10 PEA. Section 11A PEA provides for a maximum award of four weeks’ remuneration. Having regard to the fact that these were breaches of a Social Directive, the AO held that the award must be effective and proportionate. For that reason, the AO awarded four weeks’ pay for each breach, a total of €2,280.



Breda Cox v. Debenhams Retail (Ireland) Limited (in liquidation), ADJ-00039722

The same case was made on behalf of workers under SIPTU, with the Complainant acting as a test case. The Complainant started working with the Respondent in 1998 and worked as a catering assistant.

For the same reasons, the AO held that Debenhams Ireland breached Sections 9 and 10 PEA in respect of the consultation process. However, in this claim, the AO held that a case had not been made out for maximum compensation and awarded four weeks' remuneration totalling €1,800.

Sick Leave Act 2022

Karolina Leszczynska v. Musgrave Operating Partners Ireland, ADJ-00044889

Keywords

Sick Leave Act 2022, more favourable sick leave scheme, statutory sick leave, waiting days.

Background

The Complainant, a shop assistant, started working for the Respondent in 2007. In January 2023, she was absent from work for four days. The Respondent has a sick leave scheme that provides for eight weeks' paid sick leave in a twelve-month rolling period; however, the first three days are considered 'waiting days' and are not paid. In line with the scheme, only the fourth day of the Complainant's absence was paid. She argued that she should have been paid for her absence under the Sick Leave Act 2022 ("SLA").

The Respondent's sick leave scheme was negotiated and agreed with the unions. The scheme applies to employees with six months' service. From day four, employees are entitled to 100% of their wages, less any social welfare benefit. The Respondent argued that its sick leave scheme on the whole, is more favourable than statutory sick leave and therefore the obligations under the SLA do not apply.

Findings

The SLA commenced on 1 January 2023. Section 5 provides a statutory right to three sick leave days. However, s.8 allows for employers to provide more favourable terms for sick leave and that "any such provision shall be in substitution for, and not in addition to" the statutory entitlement. Section 9 states that the obligations under the SLA do not apply "to an employer who provides his or her employees a sick leave scheme where the terms of the scheme confer, over the course of a reference period set out in the scheme, benefits that are, as a whole, more favourable to the employee than statutory sick leave". In determining whether a sick leave scheme is more favourable, the following matters are taken into consideration:

- The period of service that an employee is required to have completed before sick leave is payable.
- The number of days that an employee is absent before sick leave is payable.
- The period for which sick leave is payable.
- The amount of sick leave that is payable.
- The reference period of the sick leave scheme.

The AO noted that the issue in this case was whether the three-day waiting period had the effect of making the Respondent's scheme less favourable than the statutory sick leave.

In considering the Respondent's scheme, the AO held that the application of a three-day waiting period is consistent with the same condition attached to payment of illness benefit by the Department of Social Protection. This condition had been followed by the majority of employer's schemes and its logical purpose appeared to be to discourage short, intermittent absences. The AO held that where an employee is paid while they are out sick for a reasonable length of time, it was not unreasonable for an employer to adopt this approach.

Employees under the SLA are eligible for statutory sick leave after thirteen weeks' service; employees of the Respondent must have 26 weeks' service. While this did not affect the Complainant, and 89% of the Respondent's staff, the AO held that this was a factor when deciding 'on the whole' whether the Respondent's scheme was more favourable.

The AO held that it was clear that eight weeks' paid sick leave was more beneficial than three days and 100% of pay is more beneficial than 70% of pay under the statutory scheme.

The AO also took into account the fact that the Respondent's sick leave scheme was the result of negotiations with unions and that since the enactment of the SLA, the parties had not initiated any discussions to change the policy.

The AO held that the policy of having three 'waiting days' and the requirement to have six months' continuous service was outweighed by the duration of paid sick leave and the amount of sick pay. The Respondent's scheme provided benefits that, on the whole, were more favourable to employees than the benefits under the SLA and the Complainant's case was held to not be well founded.

Maternity Protection

Mandy Hurley v. Eazy Connections Ltd. t/a Complete Outsource Solutions, ADJ-00033976

Keywords

Employment Equality Acts 1998 to 2021, gender ground, maternity leave, right to return to work, suitable alternative work, Maternity Protection Acts 1994 to 2022, Workplace Relations Act 2015, time limits, disapplication of national law, accrual of cause of action.

Background

This case involves allegations of pregnancy-based discrimination: The Complainant submitted two complaints: one under the Employment Equality Act 1998 ("EEA"), on the 'gender' ground, and one under the Maternity Protection Act 1994 ("MPA"). The Complainant also submitted a complaint under the EEA on the 'family status' ground, which was not made out.

The Complainant worked as an Office Manager for the Respondent company. She went on maternity leave in April 2020 and returned to work in December 2020. Upon her return, the company had landed a major marketing campaign for a large client, and it was an "all hands on deck" situation, with the result that the Complainant was carrying out all kinds of duties which did not normally form part of her role – she had no objection to this.

However, once she returned to work after Christmas, in January 2021, it became apparent to the Complainant that she had not been restored to her previous role, that she was being given lesser duties and a lower level of responsibility, that she was being excluded from attending meetings which she would have previously had organised and attended. It was her case that she had not been returned to her previous role, nor had she been provided with suitable alternative work, on her return to work following protective leave.

The Respondent denied the Complainant's claims and submitted that while the Complainant was on maternity leave, the business expanded significantly, and that she was provided with suitable alternative work on her return. It further submitted that her complaint under the MPA was statute-barred.

Findings

EEA

The AO found for the Complainant. She was satisfied that the Complainant successfully raised an inference of direct discrimination, on the gender ground (under s. 85A of the EEA). The burden of proof then shifted to the Respondent to 'prove the contrary', which the AO found it failed to do.

The AO found that the Complainant had been demoted and side-lined on her return from maternity leave; and that both the Complainant's job and prior reporting line disappeared; and that there was a clear thread of discrimination from the point of her return from protective leave to the point when she went on certified sick leave, in May 2021.

The AO found that the Respondent did not understand its legal duties and obligations to female employees re-entering the workplace on return from a period of protective leave. While the Complainant actively engaged with the Respondent, there was no proper mechanism to hear her grievance. The AO awarded €31,000, for "the effects of discrimination", which was the equivalent of approximately one year's salary.



MPA

Sections 26 & 27 of MPA set out the right to return to work to the role held immediately prior to going on maternity leave, or the right to be provided with suitable alternative work in certain circumstances.

The Respondent submitted that the Complainant's complaint under the MPA was statute barred. Section 41(7)(c)(i) of the Workplace Relations Act 2015 provides for a time limit for bringing claims under the MPA to the WRC of six months beginning on the date on which the employer is informed *"that the employee is pregnant, has recently given birth or is breastfeeding"*; and as the Complainant went on maternity leave in April 2020, and did not submit her complaint until June 2021, she was *"out of time."*

The AO noted that the MPA was enacted to transpose Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding. The Court of Justice has recognised that the result pursued by the Directive is substantive, not formal, equality. Article 12 of the Directive requires Member States to put in place measures to allow all workers who are wronged by the failure to comply with the obligations arising from the Directive to pursue their claims by judicial process or by recourse to other competent authorities, by the provision of an *"effective domestic remedy."*

In accordance with the Court of Justice decision in *Minister for Justice and Equality v. Commissioner of An Garda Síochána C-378/17*, the WRC has a duty to disapply national legislation that is contrary to EU law. The AO held that it was necessary to interpret the national legislation in conformity with the Directive so that the Complainant had access to an effective domestic legal remedy, as required under the terms of the Directive. Otherwise, no effective domestic remedy would be provided to vindicate the rights of new mothers where the relevant fact pattern involved a claim which accrued at or after the Complainant's attempt to exercise her right to return to her work following a period of maternity leave.

In this case, the earliest point when a cause of action could have accrued under the MPA was at the point of the Complainant's return to work in December 2020.

However, on the facts of the case, the AO found that the cause of action accrued in January 2021 when it became apparent to the Complainant that her duties had not been returned to her. The AO noted that generally in Irish law, limitation periods run from the time when a cause of action accrues. For these reasons, the AO disappplied s.41(7)(c) and held that as the complaint was submitted in June 2021, within the six months of the date of the accrual of the Complainant's cause of action, the complaint was *"in time"* and not statute barred.

The AO emphasised that there is no break in the employment relationship between an employer and an employee on maternity leave, and that any other approach renders the benefit of protective leave pertaining to maternity at nought. The AO held that the Complainant was obstructed in returning to work following a period of maternity leave and she was not provided with suitable, alternative work. Although there is no statutory requirement to elect between claims under the EEA and MPA, the AO did not award compensation under the MPA, in line with the common law rule against double recovery, and since the AO had made a monetary award under the EEA complaint in relation to discrimination on the same facts.

Subsequent to the hearing, the Respondent made a written application to have the names of the parties anonymised, an application to which the Complainant objected, and which the AO declined.

Pay (including tips)

Rhona Matthews v. Morbury Ltd. t/a Top Security, ADJ-00037983

Keywords

Organisation of Working Time Act 1977, public holidays, composite rate of pay.

Background

The Complainant worked as a static security guard for the Respondent between 2017 and 2021. She worked a shift pattern that rotated, which determined how many shifts per week she worked in a particular week.

The Complainant complained that she had never received any additional payment in respect of public holidays. The Complainant was paid if she worked a public holiday but if she did not, she did not have the option of it being added to her annual leave. The Complainant submitted that the Respondent was in breach of the Organisation of Working Time Act 1997 (“OWT”).

The Respondent submitted that a composite rate of pay was paid to employees in respect of public holidays, in line with their employment contracts. Public holidays were paid as part of the hourly wage paid, at a rate of 36 cents per hour.

Findings

Five public holidays, as defined in the OWT, fell in the relevant period for this claim. Under s.21, employers have the choice of four options to grant to an employee in respect of a public holiday. Employees may receive:

- A paid day off on the public holiday
- A paid day off within the month of the day of the public holiday
- An additional day of annual leave
- An additional day's pay

Having considered the legislation, the AO was satisfied that these are the only lawful options open to an employer in order to comply with the OWT. The AO noted that there was a distinction between the legislature's approach to Sunday premium which specifically allows for a composite rate to be paid, and the legislature's approach to public holidays, which is silent in respect of a composite rate of pay. Section 14(1) OWT provides that where an employee is required to work on a Sunday, and their having to work on that day is not otherwise taken into account in determining their pay, they shall be compensated by receiving an allowance, an increase in the rate of pay, paid time off in lieu, or a combination of these. However, there is no such option to the employer in respect of public holidays. Accordingly, the AO held that it was reasonable to take the view that the legislation did not allow for such an approach in respect of public holidays.

The AO therefore held that the approach taken by the Respondent to the payment of public holidays fell outside of what was allowed under the OWT and was unlawful.

The AO considered this to be a very serious breach of the legislation and directed the Respondent to review its contracts and payroll policy and to align them with the requirements of the OWT. The AO also directed the Respondent to pay compensation of €600 to the Complainant.

A sous-chef v. A hotel, IR-SC-00001262

Keywords

Payment of Wages Act, tips and gratuities, distribution of tips, electronic tips, notice to customers.

Background

The employee works as a junior sous-chef at a hotel with an hourly wage of €17.16. He submitted that since the enactment of the Payment of Wages (Amendment) (Tips and Gratuities) Act 2022, which amends the Payment of Wages Act 1991 (“PWA”) and the Terms of Employment (Information) Act 1994, he had been attempting to regularise the distribution of tips in the hotel. The current procedure is that all the chefs working a shift are treated as one person for the purpose of distribution, receiving the equivalent in tips as a person working in the bar or restaurant. He considered this to be unfair and wanted to be treated as an individual rather than as part of a group.

The employer submitted that the distribution of tips was a collective issue and therefore it was not appropriate for consideration under the Industrial Relations Act since any recommendation would affect around 35 staff members. The employer further submitted that it displays a tips and gratuities notice at the entrance to the restaurant and on menus which states that ‘100% of tips go directly to staff’. The hotel operates a ‘tronc’ system whereby tips are collected and managed by employees and management are not involved in the distribution. The policy on tips in the employer's handbook states that ‘tips are divided by the staff at the end of each shift’. This informal policy has been the custom and practice in the hotel for some time. Cash tips are collected and distributed among staff at the end of each shift. Tips added to credit/debit card payments are converted into cash and included with cash tips at the end of each shift.



Findings

The AO accepted that the way in which tips are distributed is a collective issue and that it was incumbent on an employee who experiences a grievance to use their employer's procedures to find a resolution. However, the AO considered that the employee had raised important questions on the application of the new legislation in the hotel.

The AO noted that s.4B PWA is concerned with the treatment of tips or gratuities received by the employer by an electronic mode of payment. This places the responsibility for the fair distribution of electronic tips on the employer and the AO considered that the cashing up of these tips and inclusion with cash tips did not meet the requirements of this section.

The AO disagreed with the employer that there was no obligation on them to consult with employees, in line with s.4B(7) PWA, on the distribution of tips because the policy has been in place through custom and practice and has not changed since the enactment of the legislation. Following the Act, an employer must establish a policy for the distribution of electronic tips. Furthermore, the AO considered that the PWA requires more detail in a tips and gratuities policy than currently provided in the employer's policy. A policy should include: the job title of the person responsible for managing electronic tips and communicating the amount received in tips to employees; the frequency of the calculation and distribution of electronic tips; the employees eligible for electronic tips; and the proportion of tips to be given to each category of employee.

The AO also considered that the employer's notice to customers fell short of what was required by s.4E(1) PWA and specifically in not stating the manner in which tips and gratuities are distributed and the amounts distributed. The AO considered that customers "must be informed how frequently tips are distributed to staff, if they are paid in cash or through wages and the proportion of the tips given to each category of employee".

In these circumstances, the AO recommended that the employer give some consideration to the shortcomings identified in their application of the PWA and recommended that if the employee's grievance remained unresolved after three months, that he use the employer's grievance procedure to seek a resolution at local level.

Protected Disclosures

A worker v. A massage therapy business, ADJ-00043225

Keywords

Unfair Dismissals Acts 1977 to 2015, Protected Disclosures Act 2014, protected disclosure, penalisation, unfair dismissal, just and equitable compensation, maximum award.

Background

The Complainant was employed by the Respondent as a massage therapist from 1 February 2020 to 17 May 2022. She was not provided with a written contract but typically worked 40 hours a week and was paid €70 a day in cash. The managers of the Respondent, a couple, assigned clients to the workers on a queue system. Shortly after she began her employment, the Complainant noticed that clients frequently asked for additional services of a sexual nature, stating that other workers provided such services. The Complainant raised this with her managers and was told that she could provide additional services, and the price she could charge for these. She was told that she could say 'no' but that she would no longer get clients. The Complainant submitted that following this conversation she began providing limited sexual services but that she was pressured to do more. On a number of occasions she notified her managers that she did not want to provide such services and raised concerns about her own health, safety and conditions of work.

One of her managers routinely required her to provide him with massages for free and pressured her to provide him with sexual services. After the Complainant refused to do this, her managers became rude, dismissive and derogatory towards her, and she was scheduled for work far less frequently. The managers also implemented a policy whereby the Complainant would not be paid unless she saw at least four clients a day, which often resulted in her not being paid for a day's work.

In May 2022, the Complainant was not rostered to work any hours. She queried this and was told by the Respondent that there was no more work for her and she could find another job. She was effectively dismissed on 17 May 2022.

The Complainant made a number of complaints under employment legislation in relation to her terms and conditions of employment and her treatment, chiefly that she had been unfairly dismissed and that she had been penalised as a result of making a protected disclosure.

The Respondent did not appear at the hearing.

Findings

Unfair Dismissal Act 1977 (“UDA”)

The Complainant argued that her dismissal was unfair as the Respondent failed to provide a procedure for dismissal and failed to afford her fair procedures and natural justice.

The AO noted that s.6 UDA provides that a dismissal is deemed to be unfair unless there are substantial grounds justifying it. The Respondent must prove that there were substantial grounds for the dismissal. As the Respondent did not appear at the hearing, the AO held that the Complainant was unfairly dismissed.

Having regard to the fact that the Complainant was out of work for a period of 20 weeks following her dismissal, and her attempts to find alternative employment during that period, the AO awarded her €7,000, equivalent to 20 weeks’ remuneration.

Protected Disclosures Act 2014 (“PDA”)

The Complainant submitted that she had made a protected disclosure regarding the conditions and circumstances of her employment. After her protected disclosure, she was penalised as she experienced derogatory behaviour from her managers and a reduction in working hours.

Under s.5 PDA, a protected disclosure is defined as a disclosure of ‘relevant information’ which comes to the attention of a worker in connection with their employment and which, in the reasonable belief of the worker, tends to show a relevant wrongdoing. ‘Relevant wrongdoing’ includes an offence having been committed and the endangerment of the health or safety of an individual. The disclosure can be made to the worker’s employer.

The AO noted that the Complainant disclosed concerns that a wrongdoing was being carried out and that her health and safety was being endangered. The ‘wrongdoing’ involved a potential breach of criminal law on the part of the Respondent.

The AO was satisfied that the Complainant’s disclosure to her employer was ‘relevant information’ in respect of ‘relevant wrongdoings’ and accordingly was presumed to be protected, in accordance with s.5(8). In the absence of any evidence to the contrary, the AO held that the Complainant had made a protected disclosure when she objected to the provision of sexual services to the Respondent’s clients.

Section 12(1) PDA prohibits penalisation of an employee for having made a protected disclosure. Penalisation is defined as “any act or omission that affects a worker to the worker’s detriment” and includes dismissal, reduction in wages or change in working hours, unfair treatment, and coercion, intimidation or harassment.

The AO held that the Complainant was penalised in the form of a change of attitude towards her and a reduction in remuneration when she was assigned fewer clients. There was a direct causal link between the protected disclosure and the penalisation as the Complainant was expressly told that she would get less work if she did not provide sexual services. Further, the AO held that the treatment of the Complainant by her male manager in demanding she provide him with sexual services amounted to further penalisation in the form of coercion, intimidation, harassment or unfair treatment.

In respect of compensation, the AO noted that Schedule 2 PDA provides for a maximum award of five years’ remuneration. The AO must consider that the compensation is “just and equitable having regard to all the circumstances”. Although acknowledging that the PDA (prior to the enactment of the Protected Disclosures (Amendment) Act 2022, which did not apply to the facts of this case) was not transposing EU law, the AO noted that the PDA is in the nature of protective legislation and the legislative intent was to afford a very high degree of protection to persons making protected disclosures. Rights arising from the making of protected disclosures have been recognised at an EU level since 2019. The AO referred to decisions of the Court of Justice which held that “where a fundamental social right has been breached, national law must provide an effective, proportionate or dissuasive remedy” and that there is an obligation to interpret national law in light of the wording and purpose of a Directive so as to achieve the result envisaged.



For these reasons, the AO held that compensation for penalisation is not limited solely to financial loss and consideration “may be given to other factors which may include an assessment of whether an award is effective, proportionate or dissuasive”.

The AO considered that the Complainant, as a non-EU national who came to Ireland to study and who worked with the Respondent to support herself and fund her education, was an exceptionally vulnerable worker. In addition to financial hardship arising out of the making of the protected disclosure, the Complainant suffered significant emotional distress and humiliation from the Respondent. Finding the case to be “most exceptional”, the AO held that the nature and extent of the penalisation were of such an egregious nature as to merit the maximum award of compensation. The Complainant was awarded €91,000, amounting to five years’ remuneration.

Terms of Employment (Information) Act 1994

The Complainant alleged that the Respondent failed to provide her with a document setting out the terms and conditions of her employment. With no evidence to the contrary, the AO accepted this claim and awarded the Complainant €1,400.

Minimum Notice and Terms of Employment Act 1974

The Complainant argued that the Respondent failed to provide her with notice or payment in lieu of notice prior to dismissing her. The AO accepted this claim without evidence to the contrary and awarded the Complainant two weeks’ remuneration, amounting to €700.

Organisation of Working Time Act 1997

The Complainant submitted that the Respondent had failed to pay her holiday pay. The AO accepted this claim and awarded the Complainant seven weeks’ remuneration amounting to €2,450.

The Complainant was awarded a total of €102,550 in compensation.

Appendix 4



Legal Challenges involving the WRC

Ammi Burke v. Adjudication Officer, Workplace Relations Commission, and Arthur Cox LLP (Notice Party) [2023] IEHC 225 (unreported, High Court, Bolger J., 3 May 2023)

Ammi Burke v. Adjudication Officer, Workplace Relations Commission, and Arthur Cox LLP (Notice Party) [2023] IEHC 360 (unreported, High Court, Bolger J., 26 June 2023)

Ammi Burke v. Adjudication Officer, Workplace Relations Commission, and Arthur Cox LLP (Notice Party) [2023] IEHC 560 (unreported, High Court, Bolger J., 16 October 2023)

Jana Gogova v. The Residential Tenancies Board, James Donoghue, the Workplace Relations Commission and Catherine Byrne [2023] IEHC 449 (unreported, High Court, Phelan J., 21 July 2023)

Ammi Burke v. Adjudication Officer and Workplace Relations Commission (Respondents) and Arthur Cox LLP (Notice Party) [2023] IEHC 225 (unreported, High Court, Bolger J., 3 May 2023)

Keywords

Judicial review, recusal application, objective bias.

Background

In July 2022, the Applicant was granted leave to bring judicial review proceedings (2022/535 JR) challenging the dismissal by the WRC of her unfair dismissal claim. The case was listed for hearing on 2 May 2023. When parties were informed that Bolger J. was assigned to hear the case, the Applicant claimed that the judge should recuse herself.

The Applicant applied for recusal on the basis of objective bias and put forward four grounds to justify her application:

- (i) An article written by Bolger J. in 2015, while a practising barrister, expressing concern about aspects of the Workplace Relations Commission Bill and its failure to allow for cross-examination on oath. The Applicant alleged that a statement about the adversarial versus inquisitorial nature of proceedings demonstrated Bolger J.'s pre-determination of one of the issues raised in the judicial review.
- (ii) A close relationship over many years between Bolger J. and Senior Counsel for the Notice Party (Arthur Cox LLP) arising from being founder members of the Employment Bar Association, having presented papers at the EBA's annual conference and having chaired a session of the 2022 conference.
- (iii) Views expressed by Bolger J. during the leave application that the case was not one of public interest.

- (iv) The Notice Party's inclusion of Bolger J's name as a proposed mediator in August 2020 (while still in practice) in relation to the underlying dispute between the Applicant and the Notice Party. The Applicant believed that a conversation must have taken place between the Notice Party's solicitor and Bolger J. prior to a mediator being proposed.

Findings

Bolger J. noted that the test for objective bias was well-established: "if a reasonable and fair-minded objective observer who is not unduly sensitive but who is in possession of all the relevant facts, reasonably apprehends that there is a risk that the decision maker will not be fair and impartial."

She also considered the Supreme Court's comments on the declaration made by a judge on their appointment in accordance with Article 34.6.1 of the Constitution and a judge's duty to hear a case assigned to them. Bolger J. also had regard to the Judicial Council's Guidelines for the Judiciary on Conduct and Ethics and the specific guidelines on recusal.

Citing *Kelly v. Minister for Agriculture* [2021] 2 IR 624, Bolger J. set out the facts in this case of which the reasonable and objective observer would be deemed to be aware and understand:

- The distinction between a barrister's comments in an academic journal and the judicial function to make a decision based on the law and on precedent.
- The likelihood of a judge having engaged in legal commentary in publications and papers during their time as a practitioner.
- The nature of a barrister's professional relationships with their colleagues within a specialised bar and in establishing and/or running a specialist bar association.
- The expectation that a judge would maintain contact with the world of legal education after their appointment as a judge.
- The difference between an application for leave and the substantive application in judicial review and the context of comments made during the former.
- The court's refusal at the leave application to allow the Applicant amend her pleadings.

- The Applicant's conduct during the application for leave in repeatedly challenging the court's decisions.
- The nature and practice of mediation.
- The lack of involvement of a practicing barrister nominated as a potential mediator with whom there was no discussion by either of the parties and who was not ultimately appointed as mediator.

2015 article

Bolger J. noted that the standards applying to judges writing extra judicially (as set out by the Court of Appeal of England and Wales in *Locabail (UK) Ltd v. Bayfield Properties Ltd* [2000] QB 451) do not apply to barristers writing academically. She held that judges "do not and should not live in ivory towers" and that they are appointed on the basis of their previous experience which may include academic commentary. The Applicant's concern demonstrated her "misunderstanding of the role of legal commentary by practitioners as versus the judicial function to listen to a case and make a decision in accordance with the law and binding precedent."

Relationship with counsel

The Judicial Council guidelines confirm that a judge may "write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters". Bolger J. also referred to the Supreme Court decision in *O'Driscoll v Hurley* [2016] IESC 32 which held that "the exchange of views and ideas made possible at such gatherings is of immense value". She concluded that the previous joint involvement with a specialist bar association by a judge when they were in practice and counsel before them is "a normal part of both practice and of being a judge."

Statements made during leave application

Bolger J. referred to para. 2.6.4 of the Judicial Council Guidelines which states that "Objective bias is not to be inferred merely from the fact that a judge has made interim or interlocutory orders in the proceedings" and held that "a refusal of an application by a judge and comments made in formulating that refusal does not, of itself, indicate objective bias."

On the specific comments made during the application for leave, Bolger J. noted that the Applicant was entitled to explore the interpretation of the legislation at the substantive hearing and, if she was unhappy with the decision at the leave stage, she had had an opportunity to appeal it.

Nomination as mediator

Bolger J. noted that the Applicant had been aware that she had been proposed as a mediator in August 2020 and had not raised this as an issue during the application for leave. During the hearing of the recusal application, the solicitor filed an affidavit confirming that no conversation had taken place between them and the proposed mediators. Bolger J. held that it was inappropriate for the Applicant to seek to assert objective bias without making any attempt to ascertain whether the conversation she alleged to have occurred had in fact occurred. She concluded that an objective bystander would be deemed to know that it is common practice to propose a number of mediators and therefore would not consider objective bias to arise in such a situation.

For the above reasons, Bolger J. held that a reasonable bystander informed of the relevant facts would not conclude that she could not hear the case objectively and impartially and therefore refused to recuse herself.

Ammi Burke v. Adjudication Officer and Workplace Relations Commission (Respondents) and Arthur Cox LLP (Notice Party) [2023] IEHC 360 (unreported, High Court, Bolger J., 26 June 2023)

Keywords

Judicial review, disruptive behaviour in court, court's jurisdiction to dismiss proceedings due to applicant's conduct, right to a fair hearing, mutual nature of right to litigate and right to fair procedures, abuse of process.

Background

In July 2022, the Applicant was granted leave to judicially review the decision of an Adjudication Officer to dismiss her claim for unfair dismissal due to her obstructive conduct during the hearing.

The judicial review commenced on 2 May 2023 before Bolger J. The Applicant's application for Bolger J. to recuse herself was heard on the first day and judgment delivered ([2023] IEHC 225) the following day with Bolger J. finding no grounds on which to recuse herself from the case. The hearing of the substantive judicial review commenced on 3 May 2023.

Findings

The Applicant's behaviour throughout the hearing.

Bolger J. noted that the Applicant repeatedly objected to "interruptions" from the court. These, Bolger J. noted, included queries from the court in relation to the case and efforts by the court to tease out the issues raised. Bolger J. further stated that during the course of her submissions the Applicant made "baseless claims" and noted that "a litigant's submissions to a court should not be used to make inappropriate allegations". Furthermore, any exceptional forbearance that may be given to a lay litigant is not available to a qualified solicitor.

Bolger J. also noted that the Applicant consistently challenged the court's decisions and sought to repeat points that had already been determined. In doing so, the Applicant repeatedly spoke loudly over the court and counsel. The court also had to rise on a number of occasions due to the Applicant's behaviour. This occurred both with the recusal decision and the decision to adjourn her application under the slip rule (Order 28 Rule 11(b)(i)) and Bolger J. noted that there "was a pattern of refusing to accept the court's decisions throughout the hearing".

On the afternoon of the second day of the hearing, 4 May, in the course of the Respondent's submissions, the court raised a query about the Supreme Court decision in *Walsh v. Minister for Justice, Equality and Law Reform* [2019] IESC 15, [2020] 1 IR 488. As this decision was not included in the book of authorities, the court arranged for copies to be given to all the parties, including the Applicant, since the Applicant had earlier had difficulty accessing sources as she did not have ready access to a printer. The Applicant challenged the court when the decision was handed out stating that it was unusual to furnish case law in the course of a hearing.



Despite the explanation given, the Applicant continued to object and insisted on speaking over the court and counsel for the Respondent. Although the court rose for a time, repeatedly asked the Applicant to stop speaking out of turn and finally asked counsel for the Respondent to speak over her, the Applicant continued to shout and pound the lectern. Bolger J. noted that the hearing descended into chaos and it was impossible to continue as the stenographer could not take an accurate note of what was being said.

Application to dismiss

Counsel for the Notice Party, supported by counsel for the Respondent, applied to have the Applicant's claim dismissed on the grounds of her conduct which was described as "a deliberate, conscious obstruction of the administration of justice". They noted a litigant's obligation to the court to accept and abide by decisions with which they may profoundly disagree. Both the Notice Party and the Respondent opposed the option of adjourning the hearing. Although the court invited the Applicant to respond to the submissions she declined to do so.

The court informed the Applicant that her behaviour was "appalling" and that the court was "horrified that anyone, in particular a qualified solicitor, would conduct themselves in that manner before the court". Bolger J. rose and indicated that on her return she would consider (i) having the Applicant removed from court; (ii) finding the Applicant guilty of contempt; and/or (iii) dismissing the proceedings.

When the court sat again, Bolger J. invited the Applicant to commit to sitting down and staying quiet and explained that continuation of her previous behaviour would lead to her proceedings being dismissed. Bolger J. offered the Applicant time to consider and discuss with her family members. However, the Applicant resumed shouting her objections.

Bolger J. noted that it was clear that the Applicant was determined to continue disrupting the hearing by shouting her scripted objections and her conduct was designed solely to collapse the hearing.

Bolger J. stated that she considered the alternative steps of removing the Applicant from court, adjourning the proceedings or finding the Applicant in contempt but determined that there was no basis on which to expect that any of those options would have allowed the hearing to continue with due regard to the rights of all court users.

Court's jurisdiction to dismiss

The court noted that the court's inherent jurisdiction stems from "the nature of the court's judicial function or the court's constitutional role in the administration of justice" (*Mavior v. Zerko Ltd* [2013] IESC 15, [2013] 3 IR 268) and that as part of its inherent jurisdiction it can dismiss judicial review proceedings on the following grounds:

- (i) Delay;
- (ii) Where an abuse of process has occurred;
- (iii) If an applicant fails in their duty to make full disclosure of the facts during their ex parte application for leave;
- (iv) If an applicant raises an issue that could have been addressed in other proceedings;
- (v) If the applicant's conduct has been such to disentitle them to relief;
- (vi) To prevent prosecution of vexatious claims and to prevent abuse of process.

Bolger J. was satisfied that she had the power to dismiss judicial review proceedings on grounds of an applicant's conduct.

The right to a fair hearing and consequent obligations

Bolger J. also stated that a litigant's constitutional right to litigate includes the entitlement to fair procedures and the right to be heard. The Respondent and the Notice Party, as corporate bodies, are equally entitled to a fair hearing which requires all court users to respect their rights and not to interfere with them. Accordingly, a litigant must "stay quiet during proceedings so that others can be heard, and they must accept decisions made during a hearing". A litigant cannot challenge the decision maker once the decision has been made or "harangue the decision maker to revisit their decision".

A litigant's obligation to respect a court and court processes "go hand in hand with their rights to litigate and their rights to fair procedures". Bolger J. referred to the Supreme Court decision in Walsh v. Minister for Justice, Equality and Law Reform which confirms the mutual nature of those rights and obligations. The conduct of the Applicant in Walsh, described as "utterly unacceptable", included his "obdurate refusal to accept the judge's rulings" and "continued interruptions and insistence on his own views to the point where it was difficult for the judge or anyone else even to speak, let alone carry on the business of the court". Bolger J. held that the Applicant's behaviour in this case "was undoubtedly comparable to the behaviour that was strongly condemned by the Supreme Court in Walsh".

Finally, Bolger J. held that a litigant may exercise their rights in a way that becomes an abuse of process. Where a litigant's conduct is found to be an abuse of process, the court has jurisdiction to dismiss their proceedings pursuant to its inherent jurisdiction. Whether conduct is an abuse of process will "depend on the severity of the conduct and may depend on the context in which it occurred, bearing in mind that tensions and emotions can run high during a hearing".

Bolger J. considered the Applicant's conduct in repeatedly shouting objections to a decision that had already been made and making it impossible for the court to continue the hearing was "the very definition of an abuse of the court's process". Due to the Applicant's blatant abuse of the court process, in spite of having been afforded time to reflect on her behaviour and the consequences of it, Bolger J. dismissed the Applicant's claim.

Ammi Burke v. Adjudication Officer and Workplace Relations Commission (Respondents) and Arthur Cox LLP (Notice Party) [2023] IEHC 560 (unreported, High Court, Bolger J., 16 October 2023)

Keywords

Judicial review, costs, s.169 Legal Services Regulation Act 2015, Order 99 Rule 10(3), costs on a legal practitioner and client basis, disapproval of conduct of a party.

Background

The Applicant's judicial review proceedings of the WRC's decision to dismiss her unfair dismissal claim was dismissed by Bolger J. due to the Applicant's conduct during the hearing, which was found to be an abuse of process ([2023] IEHC 360).

The Respondent and the Notice Party sought their costs of the proceedings on a legal practitioner and client basis.

The Applicant submitted that she rendered a public service in instituting proceedings and therefore she should not be subject to costs.

Findings

Section 169 of the Legal Services Regulation Act 2015 provides that the successful party in proceedings is entitled to an award of their costs unless the court orders otherwise. Order 99 rule 10(3) of the Rules of the Superior Court allows a court to direct that the costs shall be adjudicated on a legal practitioner and client basis. Bolger J. noted that costs on a legal practitioner and client basis is a highly unusual jurisdiction for the court to exercise and it is generally limited to circumstances where the court considers it necessary to mark its disapproval of the conduct of a party.

The court had previously found that the Applicant's conduct during the hearing was "a blatant abuse of process" and was "designed solely to collapse the hearing before opposing submissions could be heard in full". Bolger J. noted that the responsibility for the chaos rested with the Applicant and that she was not satisfied that the Applicant had rendered a public service in instituting proceedings, that the recusal application was *bona fide*, or that the court's actions or conduct of opposing counsel were grounds not to make an order for costs against her.



Furthermore, Bolger J. noted that during the costs hearing the Applicant and members of her family repeatedly and loudly accused opposing counsel of lying and misleading the court. Again, the court was forced to terminate the costs hearing due to the behaviour of the Applicant and finalise the decision on the basis of written submissions.

Bolger J. held that the court should mark its disapproval of how the Applicant chose to conduct herself during the proceedings and accordingly directed that the Applicant discharge the costs of both the Respondent and the Notice Party in respect of both the recusal application and the substantive proceedings on a legal practitioner and client basis (but excluded the costs of the transcript and the adjourned costs application). The court did not impose a stay on the execution of the costs order.

Jana Gogova v. The Residential Tenancies Board, James Donoghue, the Workplace Relations Commission and Catherine Byrne [2023] IEHC 449 (unreported, High Court, Phelan J., 21 July 2023)

Keywords

Judicial review, statutory appeal, alternative remedy.

Background

The Applicant sought leave to bring judicial review proceedings against the Residential Tenancies Board (“RTB”) and the WRC in various proceedings arising out of a determination order that had been made in respect of her tenancy. This application was heard on notice.

A Notice of Termination was served on the Applicant by her landlord on 31 October 2019. She challenged the validity of this Notice by bringing a claim to the Tenancy Tribunal. The Tribunal found that the Applicant’s case was misconceived. The Applicant sought to challenge this decision by way of appeal on a point of law under the relevant legislation but failed to do so within the time limit for such appeals. The High Court refused to extend time and the Applicant appealed this decision to the Court of Appeal. This was dismissed on the basis that an appeal to the High Court is final and conclusive.

The Applicant brought separate proceedings seeking an order extending time to appeal a decision of the Tenancy Tribunal but this was also refused by the High Court.

Separately, the Applicant lodged a complaint with the WRC under the Equal Status Act 2000 alleging discrimination on various grounds against the RTB. The Adjudication Officer held that the Applicant had failed to bring the claim within the time limit set out in the Act. The Applicant did not appeal this decision but sought to judicially review this decision along with the decision of the Tenancy Tribunal. In the same proceedings, the Applicant sought relief against her former landlord, against the RTB for unfair procedures, against the decision of the High Court, and against the RTB for taking enforcement proceedings against her in the District Court.

The Respondents argued against the granting of leave to seek judicial review.

Findings

Phelan J. noted that the test for leave requires an applicant to establish a prima facie, or arguable case. This required an applicant to show that:

- They have sufficient interest in the matter;
- That the facts would be sufficient, if proved, to support a stateable ground for the relief sought;
- That an arguable case can be made that the applicant is entitled to the relief sought;
- That the application has been made promptly and within the relevant time limits; and
- That the only effective remedy is judicial review and there is no alternative more appropriate procedure.

Phelan J. noted that the Applicant was out of time to bring judicial review proceedings of the decisions of the Tenancy Tribunal and the WRC as they were not brought within three months of the decisions. Accordingly, the Applicant must show a good and sufficient reason why the court should extend time. The court held that where no arguable case had been made for an extension, it would not be an appropriate exercise of the court’s discretion to grant leave.

Phelan J. further held that where a statutory appeal is provided, in respect of the decision of the Tenancy Tribunal and the WRC (to the Labour Court), “the appropriate remedy for a claimant who considers the decision to be legally flawed is that of a statutory appeal provided for that purpose”. She held that the fact that a statutory appeal exists but was not availed of in time was an important factor in determining whether leave to seek judicial review should be granted. Even where leave is sought within the three-month time limit, the fact that an effective statutory remedy has not been availed of, is a “further factor which weighs against the grant of leave”. Phelan J. was satisfied that the Applicant had effective, alternative remedies to challenge the decisions of both the Tenancy Tribunal and the WRC. Accordingly, she held that it would not be an appropriate exercise of discretion to grant leave.

The court held that other issues raised by the Applicant were not properly advanced by way of judicial review.

The court refused the application.



Appendix

5



Legislation by which complaints may be submitted to the Adjudication Service

(Employee Involvement) Regulations, 2007 (S.I. No. 259 of 2007)

(S.I. No. 157 of 2008)

A sectoral employment order within the meaning of Chapter 3 of Part 2 of the Industrial Relations (Amendment) Act, 2015

Adoptive Leave Act, 1995

An Employment Regulation Order under S.42C (inserted by S.12 of the Industrial Relations (Amendment) Act 2012) of the Industrial Relations Act, 1946

Carer's Leave Act, 2001

Central Bank (Supervision and Enforcement) Act, 2013

Charities Act, 2009

Competition Act, 2002

Consumer Protection Act, 2007

Criminal Justice Act, 2011 noting that the Criminal Justice (Corruption Offences) Act 2018 is part of Schedule 1 of the 2011 Act

Employees (Provision of Information and Consultation) Act, 2006

Employment Equality Acts, 1998

Employment Permits Act, 2006

Employment Regulation Orders 2022

Equal Status Act, 2000

European Communities (Organisation of Working Time) (Activities of Doctors in Training) Regulations, 2004 (S.I. No. 494 of 2004)

European Communities (Organisation of Working Time) (Mobile Staff in Civil Aviation)

European Communities (Protection of Employees on Transfer of Undertakings) Regulations, 2003 (S.I. No. 131 of 2003) (other than Regulation 4(4)(a))

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)

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 regulations 376/2014

European Union (Transparent and Predictable Working Conditions) Regulations 2022

Further Education and Training Act, 2013

Health Act, 2004

Industrial Relations Acts, 1990

Inland Fisheries Act, 2010

Maritime Area Planning Act, 2021

Maternity Protection Act, 1994

Minimum Notice and Terms of Employment Act, 1973

National Asset Management Agency Act, 2009 Chemicals Act, 2008

National Minimum Wage Act, 2000

Organisation of Working Time Act, 1997

Parental Leave Act, 1998

Payment of Wages (Tips and Gratuities) Act, 2022

Payment of Wages Act, 1991

Pensions Acts, 1990

Property Services (Regulation) Act, 2011

Protected Disclosures (Amendment) Act, 2022

Protected Disclosures Act, 2014

Protection of Employees (Employers' Insolvency) Act, 1984

Protection of Employees (Fixed-Term Work) Act, 2003

Protection of Employees (Part-Time Work) Act, 2001

Protection of Employees (Temporary Agency Work) Act, 2012

Protection of Employment Act, 1977

Protection of Young Persons (Employment) Act, 1996

Protections for Persons Reporting Child Abuse Act, 1998

Redundancy Payments Acts, 1967

Registered employment agreement within the meaning of Chapter 2 of Part 2 of the Industrial Relations (Amendment) Act, 2015

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)

Regulation 39(1) of the European Communities (Cross-Border Mergers) Regulations, 2008



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)

Regulation 6 of European Communities (Protection of Employment) Regulations, 2000 (S.I. No. 488 of 2000)

Regulations, 2006 (S.I. No. 507 of 2006)

Safety, Health and Welfare at Work Act, 2005

Terms of Employment (Information) Act, 1994

The Gender Pay Gap Information Regulations 2022

The Sick Leave Act, 2022

The Work Life Balance and Miscellaneous Provisions Act, 2023

Transnational Information and Consultation of Employees Act, 1996

Unfair Dismissal Acts, 1977

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 WRC.

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 44 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 (Employer's Insolvency) Act 1984 arises from Section 9 of that Act (the relevant provisions of Section 9 of the Protection of Employees (Employer's 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).



Appendix 6



Complaints submitted to the WRC by Legislation

Legislation cited as Redress Act for Adjudication	Total
Complaint seeking adjudication by the Workplace Relations Commission under section 6 of the Payment of Wages Act, 1991	1,856
Complaint seeking adjudication by the Workplace Relations Commission under section 27 of the Organisation of Working Time Act, 1997	1,790
Complaint seeking adjudication by the Workplace Relations Commission under Section 8 of the Unfair Dismissals Act, 1977	1,544
Complaint seeking adjudication by the Workplace Relations Commission under section 77 of the Employment Equality Act, 1998	1,308
Complaint seeking adjudication by the Workplace Relations Commission under section 7 of the Terms of Employment (Information) Act, 1994	1,182
Complaint seeking adjudication by the Workplace Relations Commission under section 13 of the Industrial Relations Act, 1969	1,104
Complaint seeking adjudication by the Workplace Relations Commission under Section 12 of the Minimum Notice & Terms of Employment Act, 1973	666
Complaint seeking adjudication by the Workplace Relations Commission under Section 39 of the Redundancy Payments Act, 1967	557
Complaint seeking adjudication by the Workplace Relations Commission under Section 21 Equal Status Act, 2000	490
Request for an investigation by a Workplace Relations Commission Inspector under the Payment of Wages Act, 1991.	443
Complaint seeking adjudication by the Workplace Relations Commission under Section 13 of the Industrial Relations Act	360
Request for an investigation by a Workplace Relations Commission Inspector under the Organisation of Working Time Act, 1997	323
Investigation by an Inspector under the Payment of Wages Act, 1991	306
Complaint seeking adjudication by the Workplace Relations Commission under Schedule 2 of the Protected Disclosures Act, 2014	301

Complaint seeking adjudication by the Workplace Relations Commission under Regulation 10 of the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003)	237
Complaint seeking adjudication by the Workplace Relations Commission under Section 14 of the Protection of Employees (Fixed-Term Work) Act, 2003	204
Complaint seeking adjudication by the Workplace Relations Commission under Section 28 of the Safety, Health & Welfare at Work Act, 2005	190
Complaint seeking adjudication by the Workplace Relations Commission under Section 45A of the Industrial Relations Act, 1946	145
Complaint seeking adjudication by the Workplace Relations Commission under 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	116
Request for an investigation by a Workplace Relations Commission under the Terms of Employment (Information) Act, 1994	79
Complaint seeking adjudication by the Workplace Relations Commission under section 24 of the National Minimum Wage Act, 2000	73
Request for an investigation by a Workplace Relations Commission Inspector under the National Minimum Wage Act, 2000.	73
Complaint seeking adjudication by the Workplace Relations Commission under Section 23 of the Industrial Relations (Amendment) Act, 2015	58
Complaint seeking adjudication by the Workplace Relations Commission under Sick Leave Act 2022	57
Complaint seeking adjudication by the Workplace Relations Commission under Regulation 15 of the European Communities (Organisation of Working Time) (Mobile Staff in Civil Aviation) Regulations 2006 - S.I. No. 507 of 2006	45
Complaint seeking adjudication by the Workplace Relations Commission under Section 16 of the Protection of Employees (Part-Time Work) Act, 2001	43
Complaint seeking adjudication by the Workplace Relations Commission under section 86 of the Employment Equality Act, 1998	35
Complaint seeking adjudication by the Workplace Relations Commission under Section 25 of the Protection of Employees (Temporary Agency Work) Act, 2012	32
Complaint seeking adjudication by the Workplace Relations Commission under section 81E of the Pensions Act, 1990 as amended by the Social Welfare (Miscellaneous Provisions) Act 2004	32
Complaint seeking adjudication by the Workplace Relations Commission under Section 18 of the Parental Leave Act 1998	31
Complaint seeking adjudication by the Workplace Relations Commission under Section 11A of the Protection of Employment Act 1977	29
Request for an investigation by a Workplace Relations Commission Inspector.	27
Complaint seeking adjudication by the Workplace Relations Commission under Section 30 and 31 of the Maternity Protection Act 1994	25
Complaint seeking adjudication by the Workplace Relations Commission under Part 14 Section 103(55M) of the Health Act, 2007	24
Complaint seeking adjudication by the Workplace Relations Commission under Section 20(1) of the Industrial Relations (Amendment) Act, 2015	19
Complaint seeking adjudication by the Workplace Relations Commission under Section 41 of the Workplace Relations Act	18



Complaint seeking adjudication by the Workplace Relations Commission under Section 18A of the Organisation of Working Time Act, 1997	16
Complaint seeking adjudication by the Workplace Relations Commission under Schedule 2 of the Employment Permits Act, 2006	14
Complaint for adjudication by the Workplace Relations Commission under section 85C of the Employment Equality Act	12
Complaint seeking adjudication by the Workplace Relations Commission under Section 9 of the Protection of Employees (Employers' Insolvency) Act, 1984.	10
Complaint seeking adjudication by the Workplace Relations Commission under Schedule 2 of the Criminal Justice Act 2011	9
Complaint seeking adjudication by the Workplace Relations Commission under Section 19 of the Carer's Leave Act 2001	9
Complaint seeking adjudication by the Workplace Relations Commission under Section 6(1) of the Prevention of Corruption (Amendment) Act 2010	9
Complaint seeking adjudication by the Workplace Relations Commission under Section 62(2) of the Charities Act 2009	8
Complaint seeking adjudication by the Workplace Relations Commission under Section 9 of the Industrial Relations (Miscellaneous Provisions) Act 2004	8
Request for an investigation by a Workplace Relations Commission Inspector under the Protection of Young Persons (Employment) Act, 1996	8
Complaint seeking adjudication by the Workplace Relations Commission under Part 3 Section 20 of (European Cooperate Society) (Employee Involvement) Regulations 2007	7
Complaint seeking adjudication by the Workplace Relations Commission under Section 24 of the National Minimum Wage Act, 2000	7
Request for an investigation by a Workplace Relations Commission Inspector under the European Communities (Protection of Employment) Regulations 2000	7
Complaint seeking adjudication by the Workplace Relations Commission 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 2009	5
Complaint seeking adjudication by the Workplace Relations Commission under Section 27 of the Paternity Leave and Benefit Act, 2016	5
Complaint seeking adjudication by the Workplace Relations Commission under Section 35 of the Further Education and Training Act 2013	5
Complaint seeking adjudication by the Workplace Relations Commission under Section 7 of the Terms of Employment (Information) Act, 1994.	5
Complaint seeking adjudication by the Workplace Relations Commission under Schedule 3 of the Employees (Provision of Information & Consultation) Act, 2006	4
Complaint seeking adjudication by the Workplace Relations Commission under Section 23 of the Parent's Leave and Benefit Act 2019	4
Complaint seeking adjudication by the Workplace Relations Commission under Schedule III of the Competition Act, 2002-2010	3
Request for an investigation by a Workplace Relations Commission under the Organisation of Working Time Act, 1997	3
Complaint seeking adjudication by the Workplace Relations Commission under Regulation 8 of the European Communities (Working Conditions of Mobile Workers engaged in Interoperable Cross-Border Services in the Railway Sector) Regulations, 2009-SI No. 377 of 2009	2

Complaint seeking adjudication by the Workplace Relations Commission under Schedule 2 of European Communities (European Public Limited-Liability Company) (Employee Involvement) Regulations 2006	2
Complaint seeking adjudication by the Workplace Relations Commission under Section 18 of the Protection of Young Persons (Employment) Act, 1996	2
Complaint seeking adjudication by the Workplace Relations Commission under Section 67(5) of the Property Services (Regulation) Act 2011	2
Complaint seeking adjudication by the Workplace Relations Commission under Schedule 6 of the Consumer Protection Act, 2007	1
Complaint seeking adjudication by the Workplace Relations Commission under Schedule 4 Section 1(2) of the Inland Fisheries Act, 2010	1
Complaint seeking adjudication by the Workplace Relations Commission under Schedule 5 of the Central Bank (Supervision and Enforcement) Act, 2013	1
Complaint seeking adjudication by the Workplace Relations Commission under Section 4 of the Protection of Persons Reporting Child Abuse Act, 1998	1
Other/Not Specified	166
Total	14,158



WRC

An Coimisiún um Chaidreamh san Áit Oibre
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