



**THE LABOUR COURT**  
*An Chúirt Oibreachais*



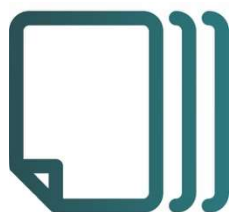
**ANNUAL REPORT 2019**

Presented to the Minister for Business, Enterprise and Innovation  
under section 23(1) of the Industrial Relations Act 1946

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## The Labour Court in Numbers (2019)



*1,182 appeals/  
referrals*



*1,139 hearings  
scheduled*



*887 cases completed  
and 342 cases  
resolved before  
hearing*



*13 members*



*17 wte staff*



*11 court locations*



*€2.8m spend*

## Chairman's Foreword

### Overview

The Labour Court holds key statutory functions in relation to the resolution of industrial relations disputes and separate functions in relation to disputes arising between employers and employees under employment law. This statutory framework means that the Court is an almost unique institution globally in the context of State funded arrangements for the resolution of disputes between employers and employees.

The Court is committed to delivering these functions in a competent and expert manner. That ambition requires the Court to demonstrate familiarity with and understanding of the nature and functioning of employment relationships and the economic context within which such relationships operate. In particular, the Court must understand the industrial relations life of the country including the functioning of collective relationships in Irish employments. In addition, the Court must exhibit and deliver a high level of competence and expertise in the area of employment law.

The Court's key asset in these respects is the industrial relations background and experience of its members as well as the expertise in employment law of those members. The members of the Court are committed to learning and ongoing professional development including in terms of the law as it evolves and the conduct of industrial and employment relations as they develop. Individual members of the Court draw on their background experience of law and industrial relations and build on that through learning and development. The Court is committed to supporting this pathway to quality service delivery through internal learning programmes and support for members' participation in externally delivered programmes of study and learning.

It is a mark of the value and success of the Court that the vast majority of its industrial relations Recommendations are accepted voluntarily by the parties notwithstanding that the path to the Court has been an experience of disagreement. Similarly, the work of the Court in employment rights disputes has produced a very low level of appeal to the High Court on points of law or judicial review arising from its decisions. Against those measures it can fairly be recorded that the Court delivers a high quality impartial service which is relevant to the real needs of workers and employers and their representatives including Trade Unions and employer organisations.

The institutional industrial relations dispute resolution framework of conciliation by the WRC and onward referral to the Court as the "Court of last resort" where necessary, remains a bulwark of our industrial relations system. The relevance of that framework has always been dependent on the expertise and commitment of the staff of the Conciliation Service of the WRC and the members of the Labour Court. In dispute situations it is the trust and confidence of the parties in those individuals which generates the credibility upon which the institutions depend. The low level of dispute activity in the economy generally in 2019 testifies to the continuing effectiveness of that dispute resolution framework.

Timeframes for users to achieve finality in their employment rights based disputes are reasonable and, when taken together with other metrics, serve as a strong indicator that the ambition of providing a 'world class' service to employers and workers in addressing disputes based on the law is being achieved. Low rates of appeal from the Court to the High

Court give further support to the contention that the work of the Court in this area is effective and meeting the needs of employers and workers.

The Labour Court experienced an increase in appeals to it of decisions made by Adjudication Officers made under employment law in recent years. Such appeals increased from 399 in 2015 to 702 in 2019. This increase in appeal numbers reflects the bringing together of all appeal avenues to the single appeal route to the Labour Court in 2015 rather than any emerging trend of increased disputation between employers and workers deriving from employment rights under the law.

The Court is resourced through the Department of Business, Enterprise and Innovation (DBEI). The Court, through its constructive and engaged relationship with DBEI, has consistently been provided with the level of such resources required to deliver its services. The obligation of the Court in that context is to deploy those resources in the most cost-effective manner possible in order to ensure good value for public money. The Court has, in that context, continued to focus on the effectiveness of its internal operations with a particular concentration of the use of ICT and effective business processes to deliver both good value and good public service. That strategic focus is intended to enhance the digital capability of the Court and consequently to enhance its accessibility to users.

### *Key highlights*

In support of its statutory functions, the Labour Court advanced a number of initiatives during 2019.

#### *Labour Court Rules*

The Labour Court Rules clarify the procedures for service users. The Court continues to modernise, improve and simplify its rules. On the 21 January 2019 the Court revoked the Labour Court (Employment Rights Enactment) Rules 2016 and replaced them with the Labour Court Rules 2019.

#### *Strategic Plan 2019-2021*

The Labour Court placed a greater focus on strategic planning in order to ensure it is positioned to deliver on its mission *“To provide high quality, fair and impartial arrangements for the resolution of industrial disputes and the determination of appeals in disputes based on employment law.”* The Strategic Plan has set goals and objectives for the Labour Court over a three year period which will enable it to focus on its key objectives and to allocate resources in a planned manner to contribute to its mission.

#### *Business Process Review*

Efficient and effective administrative systems are central to the Court’s delivery of its statutory functions in a manner which enhances the delivery of good service to the public. In 2019 the Court conducted a review of its administrative processes to ensure the procedures employed are appropriate and effective and represent a good use of resources. That review will be a critical support to the Court’s proposed introduction of a new ICT based case management system as part of the planned digitisation of its activities. These initiatives represent the practical steps being taken by the Court to ensure that its services are delivered in the most effective and efficient manner possible in order to support the achievement of our objective to deliver accessible public services.

## *Customer Service*

During 2019 the Court set out in its Customer Charter and Action Plan 2019-2021 the level of service that users can expect to receive if they have occasion to avail of its services.

The Court also published its Complaints Procedures for those who wish to complain about the quality of customer service provided by the Court. These procedures make clear that they do not provide a means for complaint as regards the content of a Recommendation/Decision/Determination/Order made by the Court. Employment rights determinations are appealable on a point of law only to the High Court and the work of the Court in this area is subject to judicial review at the initiative of any party.

During 2019 the Labour Court continued to enhance its case management and management information systems to ensure these systems provide metrics that appropriately measure the Court's performance and allow effective planning and objective setting. This work is continuing into 2020.

## *Website*

The Labour Court is conscious of the need to emphasise to users and potential users that the Labour Court and WRC are separate statutory bodies with separate roles to play along the pathways of resolution of employment disputes. The Labour Court is the "Court of last resort" for voluntary industrial relations dispute resolution when efforts at the WRC have not achieved a resolution. Similarly, the Court is the body where appeals of decisions of Adjudication Officers of the WRC can be appealed in employment law based disputes. These roles necessarily require a distance and separation institutionally and operationally between the Court and the WRC. An understanding of that separation among users and potential users is fundamental to the efficacy of the entire institutional dispute resolution pathway.

Work continued throughout 2019 to develop the Court's identity through its literature and web presence. That work resulted in the launch in May 2019 of [www.labourcourt.ie](http://www.labourcourt.ie) which is separate and distinct from its traditional home on [www.workplacerelations.ie](http://www.workplacerelations.ie). From its launch date to end 2019 there were 26,000 users of the new website with 38,000 sessions.

## *European Association of Labour Court Judges (EALCJ)*

The Labour Court had the distinction of hosting the EALCJ 2019 conference in Dublin on 6 - 8 June. The EALCJ was established in 1995 as an independent association of Judges from Labour Courts and similar bodies across Europe. The EALCJ is focused on the promotion of learning and information sharing in the field of employment law and judicial practice. The theme of the Dublin Conference, which was addressed by Ms. Regina Doherty, Minister for Employment and Social Affairs, and Ms. Justice Mary Faherty, was "Crossing Borders: Applying Labour Law in Trans-National Settings". The attendees reflected upon the law affecting international and migrant workers, the modernisation of European Union legal regulations designed to address the problem of "posted workers", and some of the potential labour law implications of a post-Brexit European labour market.

## *Number of referrals*

In 2019, the Court received 1,182 referrals under the various statutes within its jurisdiction. This compares to 1,169 received in 2018 and represents a 1.1% increase. The level of referrals in industrial relations cases increased from 399 in 2018 to 479 in 2019,

representing a 20.1% increase. The level of referrals in employment rights cases decreased by 8.7% from 770 in 2018 to 703 in 2019.

In 2019, the proportion of referrals to the Court which were employment rights based was 60% - a change to the picture in 2015 when referrals of industrial relations and employment rights disputes were almost exactly 50:50. It is estimated that this trend of a majority of appeals to the Court arising in the area of employment rights will continue to grow into the future.

It is however to be borne in mind that employment rights referrals are, in the main, disputes affecting single individuals while collective disputes in the area of industrial relations can involve very significant numbers of workers in a single referral. In essence, the work of the Court in the area of industrial relations has the most widespread impact across the economy in terms of coverage of its recommendations notwithstanding the pattern of referral to the Court in terms of employment rights versus industrial relations.

### *Industrial relations overview*

This report elsewhere records a continuing relatively low level of industrial dispute activity in the economy. This, in the view of the Labour Court, is a reflection of the continuing capacity of workers and their representative Trade Unions and employers and their representatives to jointly engage effectively and constructively to resolve disputes and where necessary to rely on the institutions of the State, including the Labour Court, to find resolution where direct engagement is not successful.

During the year the Court dealt with a number of disputes involving claims by Trade Unions for increases in pay. These claims were made against the background of the relative improvement in the economy generally and in the economic and commercial circumstances of many employments. The approach of the Court was to recommend increases in pay where this was justified and sustainable, having regard to the circumstances of the employments concerned and the strength of the case advanced on behalf of the workers on whose behalf the claims were made.

In that regard it must be stressed that the Court considers each pay dispute before it on its own merits. The Court ensures that it is aware of trends in pay determination in the economy generally but is not a setter of those trends. Each Recommendation of the Court seeks to impartially reflect a view as to the merits of the dispute in the particular employment which has come before the Court.

### *Acknowledgement*

I wish to place on record my appreciation of the work and dedication of the members and staff of the Labour Court. Their commitment to public service and their dedication to quality outcomes continues to ensure that the Labour Court successfully discharges its statutory mandate. I wish to thank, in particular, the Head of Administration of the Labour Court, Ms. Fiona O'Dea, who provided me with invaluable and expert support in managing the administrative affairs of the Court.

I wish to thank the Minister for Business, Enterprise and Innovation, Ms. Heather Humphreys, and the Minister of State for Trade, Employment, Business, EU Digital Single Market and Data Protection, Mr. Pat Breen, for their continuing support for the work of the

Court. In particular also, I would like to thank Dr. Orlaigh Quinn, the Secretary General of the Department and Ms. Clare Dunne, Assistant Secretary General responsible for the Workplace Regulation and Economic Migration Division of the Department, and the entire team in that Division for their continued invaluable support and assistance during the year.

**Kevin Foley**  
**Chairman**  
**April 2020**



## Chapter 1 Functions of the Labour Court

### 1.1 General introduction

The Labour Court was established by the Industrial Relations Act 1946 with functions designed to assist in the resolution of industrial relations issues. The responsibilities and role of the Court have been considerably enhanced over the years both as a result of the increase in national and European employment legislation including the enactment of the Workplace Relations Act 2015 which provides that the Labour Court now has sole appellate jurisdiction in all disputes arising under employment rights' enactments.

The role of the Court can be broadly divided between its industrial relations work (those issues coming to the Court under the provisions of the Industrial Relations Acts), and its employment rights work (those cases referred to it under any of the employment rights acts).

#### *Mission Statement of the Labour Court*

To provide high quality, fair and impartial arrangements for the resolution of industrial relations disputes and the determination of appeals in disputes based on employment law.

### 1.2 Industrial relations

The involvement of the Labour Court in the industrial relations area is provided for in the Industrial Relations Acts, 1946 to 2015 and it can take various forms, the main ones being as follows:

#### *Investigation of industrial relations disputes*

A large proportion of the industrial relations disputes coming to the Court for investigation will already have been the subject of efforts by the Workplace Relations Commission (WRC) (by way of conciliation between the parties) to seek an agreed resolution. A dispute is 'referred' to the Court when both parties request the Court to investigate the dispute. When that request is made the Court will hold a hearing, following which it may, and usually does, issue a 'Recommendation' setting out the Court's views, based on the merits of the dispute, as to what should represent a reasonable resolution of the issue(s) in dispute. The Recommendation is not binding on the parties but parties are expected to give serious and proper consideration to the Recommendation of the 'Court of last resort' which they had earlier sought.

As an alternative to proceeding through conciliation with the WRC, disputes may be referred directly to the Court by one or both parties with advance agreement to be bound by the Court's Recommendation.

There are special provisions relating to disputes where negotiating arrangements are not in place within the employment. In such a case, the Court will issue a Recommendation following its investigation and if the terms of the Recommendation are not complied with within a given period, the Court may on request issue an enforceable 'Determination'.

#### *Appeals of Adjudication Officer's recommendations*

An industrial relations dispute involving one worker may be referred first to an Adjudicator for a Recommendation. The Adjudicator's Recommendation may be appealed by either party to

the Labour Court and, having heard the parties, the Court will issue a 'Decision' that is binding on the parties.

### *Registration of Employment Agreements*

The work of the Court in this area is described later in this Annual Report. Generally, it will involve the registration by the Court of an agreement on pay and conditions of employment of workers of any class, type or group, made between a trade union or trade unions of workers and one or more than one employer or trade union of employers, that is binding only on the parties to the agreement in respect of the workers of that class, type or group.

### *Sectoral Employment Orders*

Upon receipt of a request, the Labour Court can initiate a review of the pay and pension and sick pay entitlements of workers in a particular sector and, if it deems it appropriate, make a recommendation to the Minister on the matter. Such a request may be made by:

- A trade union of workers;
- A trade union or an organisation of employers; or
- A trade union of workers jointly with a trade union or an organisation of employers (the trade union of workers and the organisation of employers must be substantially representative of the workers and employers in the sector to which the application relates).

If the Minister is satisfied that the process provided for in the Industrial Relations (Amendment) Act, 2015 has been complied with by the Labour Court, he/she shall make the Order. Where such an order is made it will be binding across the sector to which it relates and will be enforceable by the WRC.

### *Joint Labour Committees / Employment Regulation Orders*

This area of the Labour Court's activities is also described in this Report.

A Joint Labour Committee (JLC) is comprised of representatives of employers and workers in the relevant sector under an independent chairman. When it reaches agreement on terms and conditions, the JLC publishes details and invites submissions. Following consideration of any submissions, the Committee may make proposals for making an Employment Regulation Order (ERO).

An ERO is a statutory instrument setting out wages and conditions of employment applying to specified grades or categories of workers in a particular sector. On foot of proposals received from the JLC for that sector and which have been adopted by the Labour Court, the Minister for Business, Enterprise and Innovation makes an order confirming the terms of the ERO if she is satisfied that the statutory conditions have been complied with. Every order made by the Minister must be laid before both Houses of the Oireachtas and can be annulled by resolution of either House.

### *Codes of Practice*

The Industrial Relations Act, 1990 makes provision for the preparation by the WRC of 'codes of practice' concerning industrial relations. Where such a code is in place, application may be made to the Labour Court for an interpretation of its terms. Also, a complaint of a breach of a code may be made to the Court.

### *1.3 Employment rights*

The main work for the Court in the area of employment rights involves acting as the single appellate body for appeal of decisions of Adjudication Officers of the WRC made under employment rights enactments.

The Court also approves collective agreements made under the Organisation of Working Time Act, 1997 and collective agreements regarding casual part-time employees under the Protection of Employees (Part-Time Work) Act, 2001.

## 1.4 Structure of the Labour Court

### The Labour Court

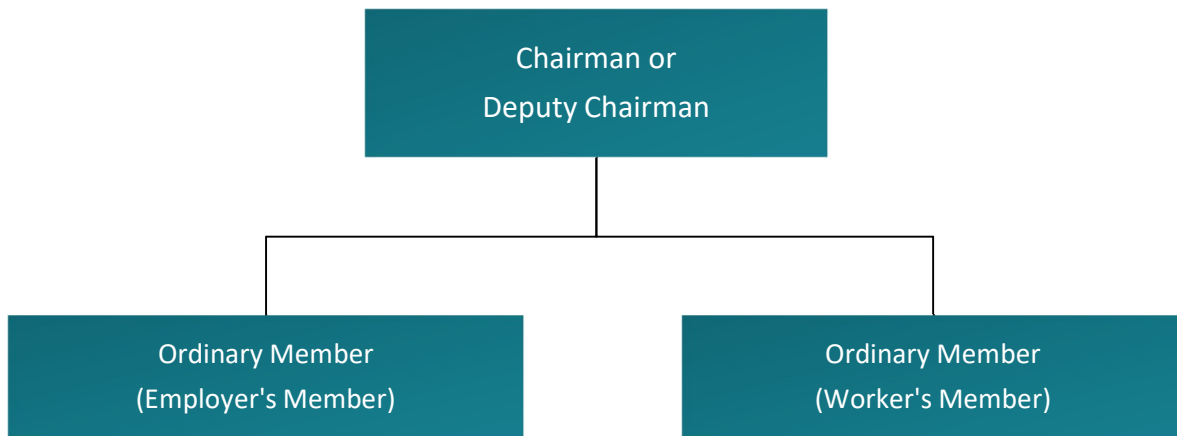
The Labour Court consists of 13 full-time members: A Chairman, four Deputy Chairmen, and eight Ordinary Members, four of whom are Employer's Members and four of whom are Worker's Members.



**Note:** Appointment of the Chairman, Deputy Chairman and Registrar follows a public competition coordinated by the Public Appointments Service. Ordinary Members are appointed by the Minister for Business, Enterprise and Innovation following nomination by IBEC of Employer's Members and ICTU of Worker's Members.

## Hearing

Each hearing of the Court is taken by a Division of the Court consisting of the Chairman or a Deputy Chairman of the Court, a Worker Member and an Employer Member.

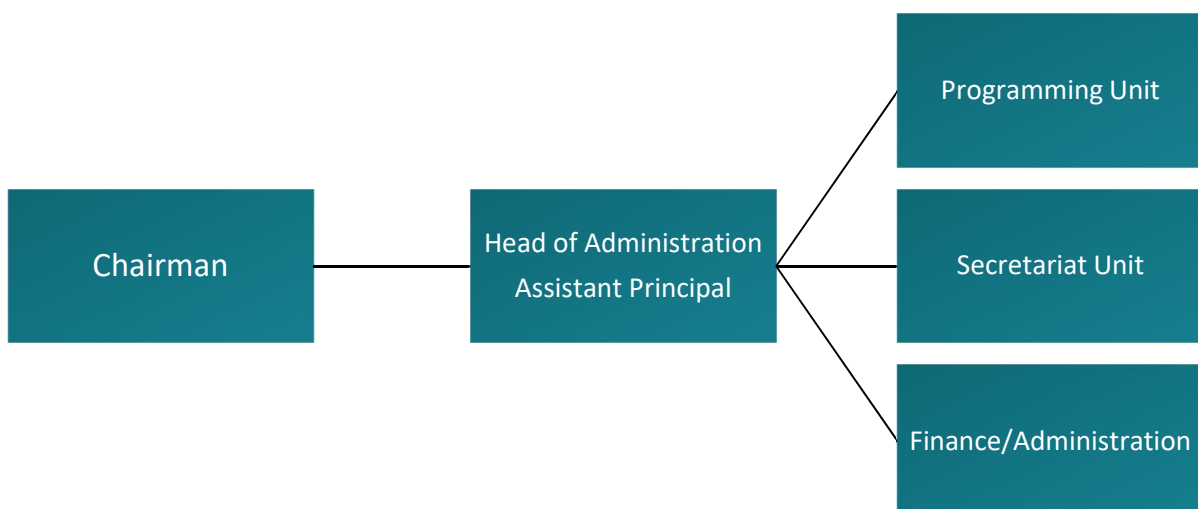


## Registrar

The Registrar to the Labour Court sources and provides legal services and advice to the Labour Court in carrying out its statutory functions.

## Labour Court Administration

The Labour Court is supported in its function by an administration service which is staffed by permanent employees who are civil servants and part of the staffing establishment of the Department of Business, Enterprise and Innovation, assigned for the time being to the Labour Court.



## Chapter 2 The Year in Review

### 2.1 Headlines

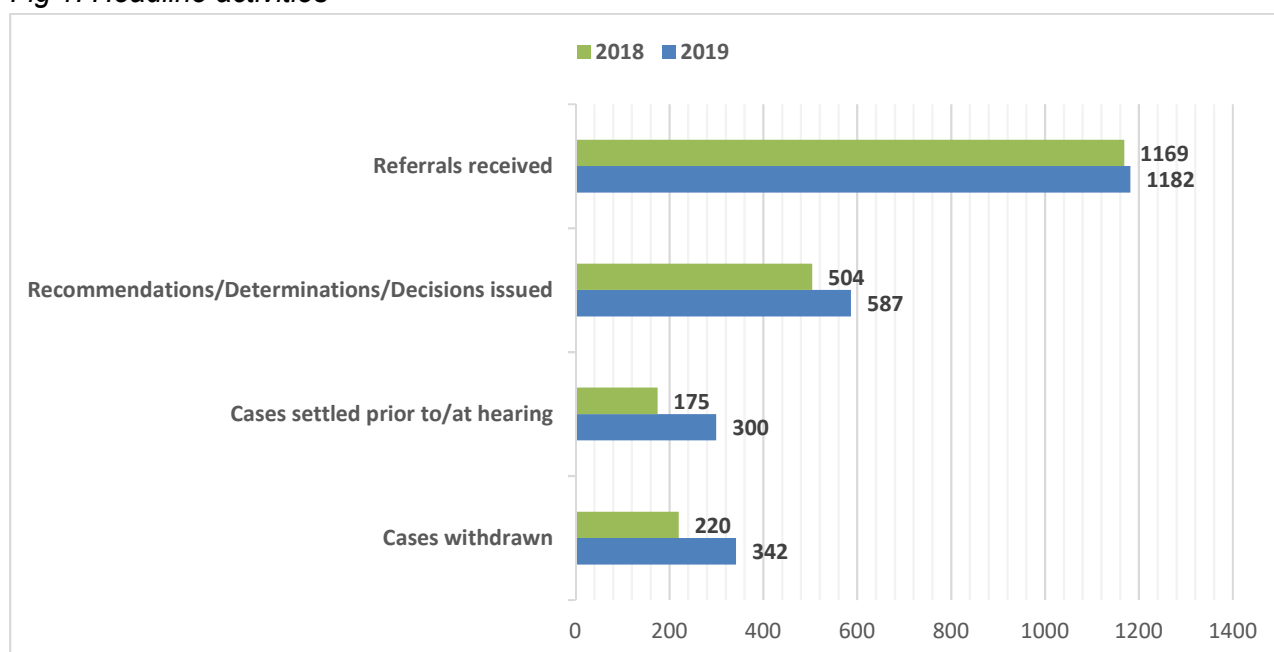
During 2019, the Labour Court:

- received 1,182 appeals/referrals<sup>1</sup>;
- scheduled 1,139 hearings;
- issued 587 Recommendations / Determinations / Decisions;
- investigated 300 cases that were settled prior to or at a hearing.

In addition, during the year

- 342 appeals/referrals were withdrawn by parties prior to hearing;
- 39 cases were put on hold, of which 16 remained on hold at end year;
- 36 cases were found upon referral to be outside the statutory time-limits for receipt of cases.

Fig 1: Headline activities



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<sup>1</sup> Labour Court statistics explanatory note: Each decision of an Adjudication Officer carries a specific WRC allocated CA reference number. An appeal to the Court of an Adjudication Officer decision must identify the decision under appeal by specification of the CA number. A CA number is the WRC's Complaint Reference Number and is a subset of the WRC's associated Adjudication Reference Number (Adj number). An adjudication carrying a WRC allocated Adj number may encompass a range of decisions made under specified employment enactments. Each such decision will carry a unique CA number. Where the appellant appeals a number of decisions the unique CA number of each decision must be quoted on the appeal documentation. Each appeal specifying the decision's unique CA number is a single appeal.

It is important to note that the difference between appeals received and cases completed<sup>2</sup> arises because in any given year a number of appeals will be withdrawn, postponed, adjourned, put on hold or have been received too late in the year for hearing in that year. Cases referred to as completed may also include cases commenced in years other than 2019.

During 2019 an application for an SEO for the Mechanical Engineering Building Services Contracting Sector was received and the following Sectoral Employment Orders (SEOs) came into effect:

- Sectoral Employment Order (Electrical Contracting Sector) 2019 (S.I. No. 251 of 2019) came into operation on 1 September 2019 and applies to the Electrical Contracting Sector as defined in the order;
- Sectoral Employment Order (Construction) Sector (S.I. No. 234 of 2019) came into operation on 1 October 2019 and applies to all building firms and civil engineering firms as defined in the order.

## *2.2 Appeals to the Court*

Overall there was a 1.1% increase in appeals to the Labour Court in 2019 compared to the previous year (from 1,169 to 1,182).

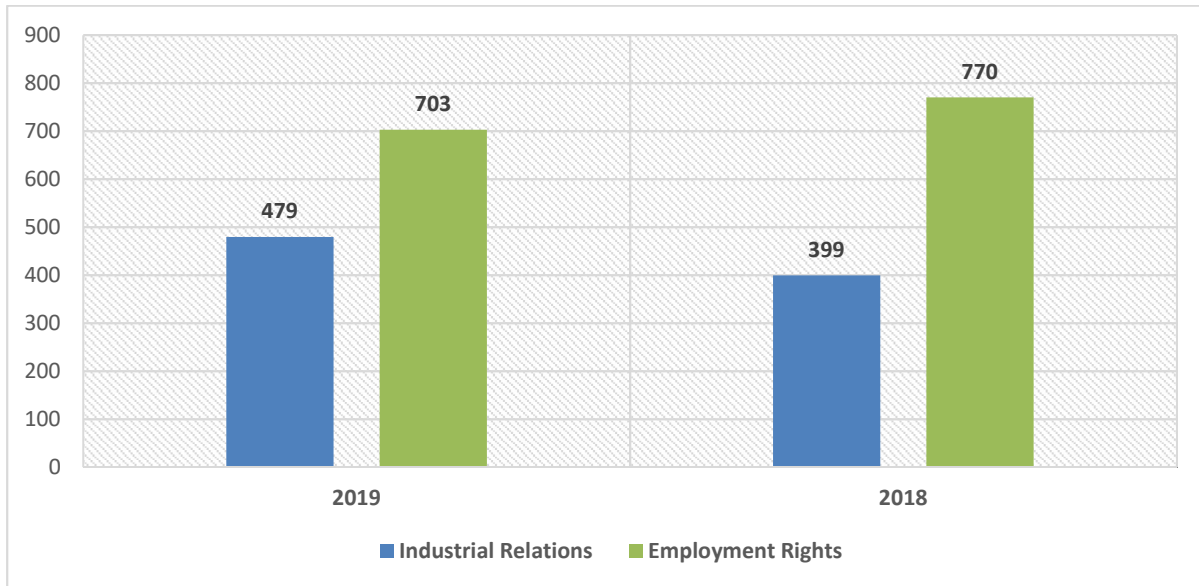
Appeals under the Industrial Relations Acts, 1946 to 2015 accounted for 40% of total appeals. This class of appeal showed an overall increase of 20.1% over the numbers of such appeals received in 2018 (from 399 to 479).

Appeals under employment rights legislation accounted for 60% of cases coming to the Court, an 8.7% decrease (from 770 in 2018 to 703 in 2019).

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<sup>2</sup> “Cases completed” incorporate those appeals that were (a) settled at or prior to a hearing and (b) in respect of which a recommendation, determination, or decision was issued.

*Fig 2: Industrial relations and employment rights appeals to the Court*



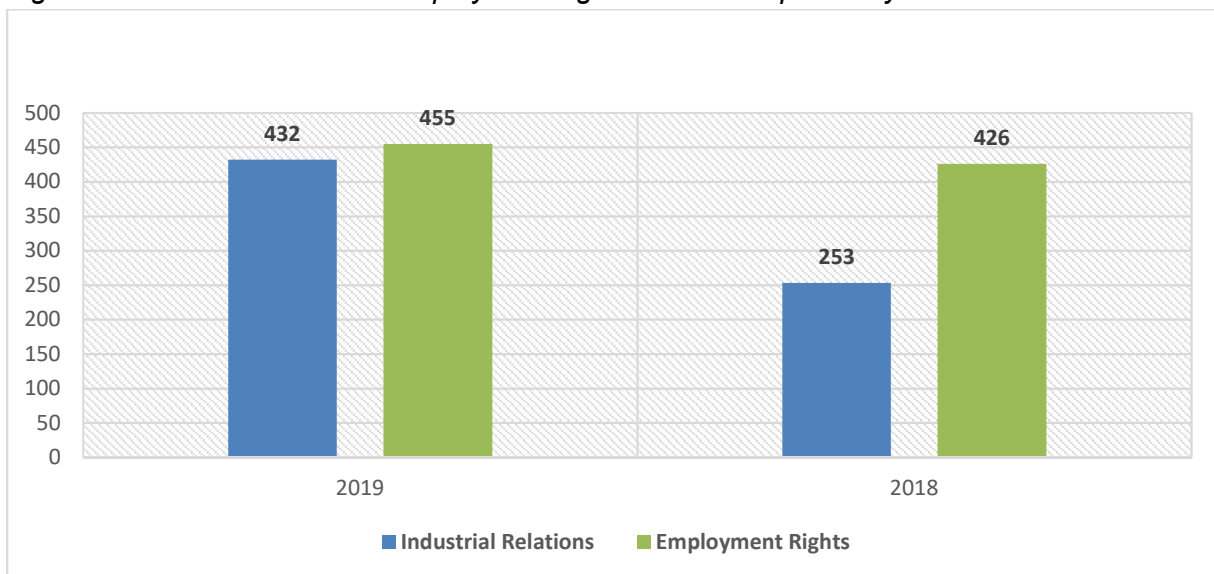
See Appendices [1](#) and [2](#) for a detailed breakdown of these headline appeal figures.

### 2.3 Cases completed

“Cases completed” incorporate those appeals that were (a) settled at or prior to a hearing and (b) in respect of which a recommendation, determination or decision was issued.

The number of cases completed in 2019 was 887, up from 679 in 2018 (30.6%).

*Fig 3: Industrial relations and employment rights cases completed by the Court*



See Appendices [1](#) and [2](#) for a detailed breakdown of these headline statistics.

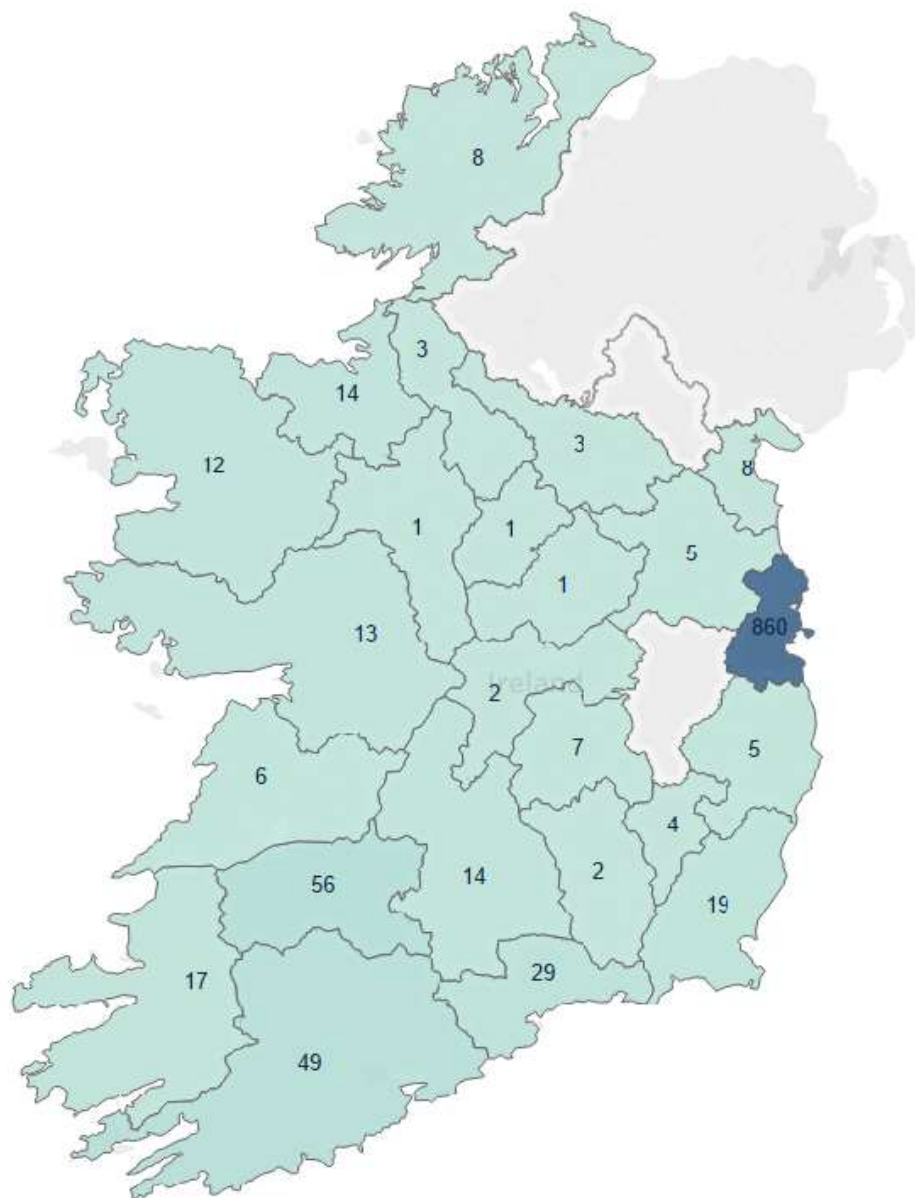
Additionally, 342 cases (116 industrial relations and 226 employment rights) were withdrawn by parties during 2019 compared with 220 in 2018. A further balance of cases was on hold or in the process of scheduling at year end.



## 2.4 Hearings scheduled

The Court scheduled a total of 1,139 hearings in 2019 at 11 locations.<sup>3</sup>

The map below shows the number of cases scheduled for hearing by location of employer.



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<sup>3</sup> This figure includes hearings that were rescheduled following postponement/adjournment of the first hearing and cases that were settled or withdrawn before the scheduled hearing.

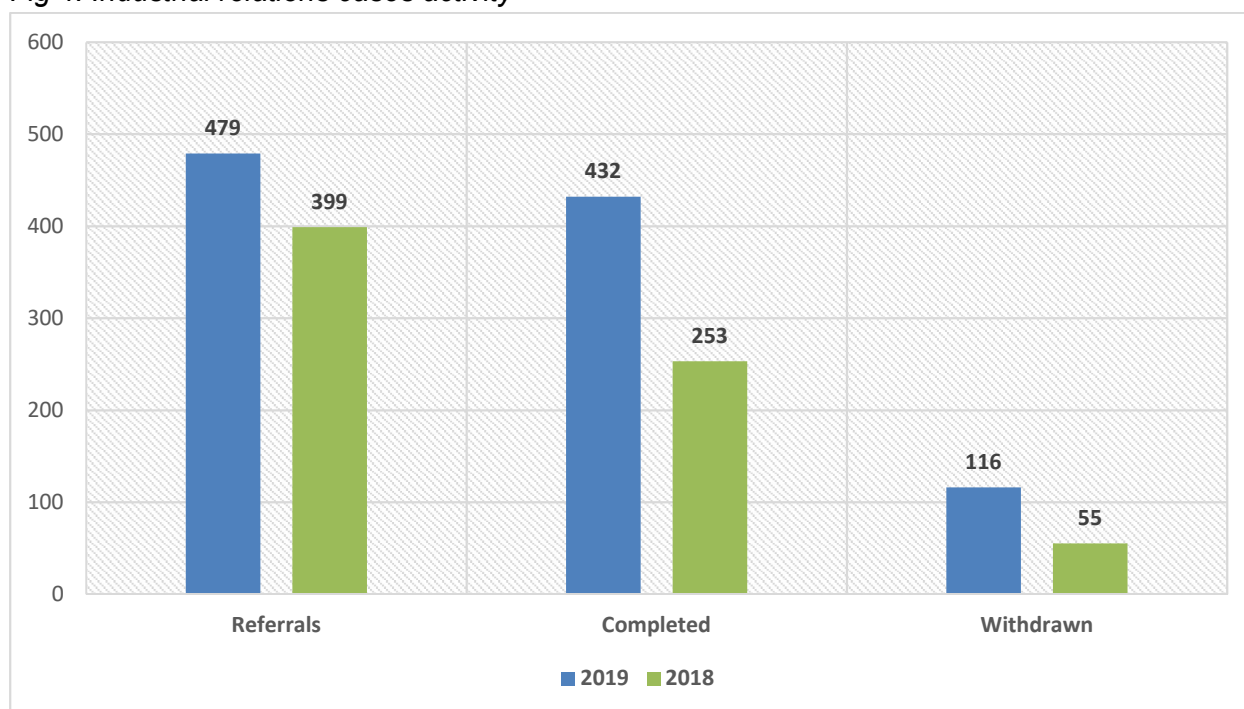
## 2.5 Industrial relations cases

The number of cases received under the Industrial Relations Acts, 1946-2015 increased by 20.1% in 2019 as compared with 2018 (from 399 to 479). The number of cases completed in 2019 (ie settled or in respect of which a recommendation was issued) was up 70.1% on the preceding year (from 253 to 432). Additionally, 116 cases were withdrawn by parties during 2019, up 110.9% from 55 in 2018.

The text of each of the cases in which the Court issued a recommendation can be viewed on the Court's website [www.labourcourt.ie](http://www.labourcourt.ie).

It is important to note that in respect of the data below the difference between cases received and cases completed<sup>4</sup> arises because in any given year a number of cases will be withdrawn, postponed, adjourned, put on hold or have been received too late in the year for hearing in that year.

Fig 4: Industrial relations cases activity



Information on the profile of industrial relations cases received and completed in 2019 are at [Appendix 1](#).

## 2.6 Employment rights cases

The number of employment rights appeals received by the Court decreased by 8.7% in 2019 compared with 2018 (from 770 to 703). The number of cases completed in 2019 (ie settled or in respect of which a decision or determination was issued) was up 6.8% on the

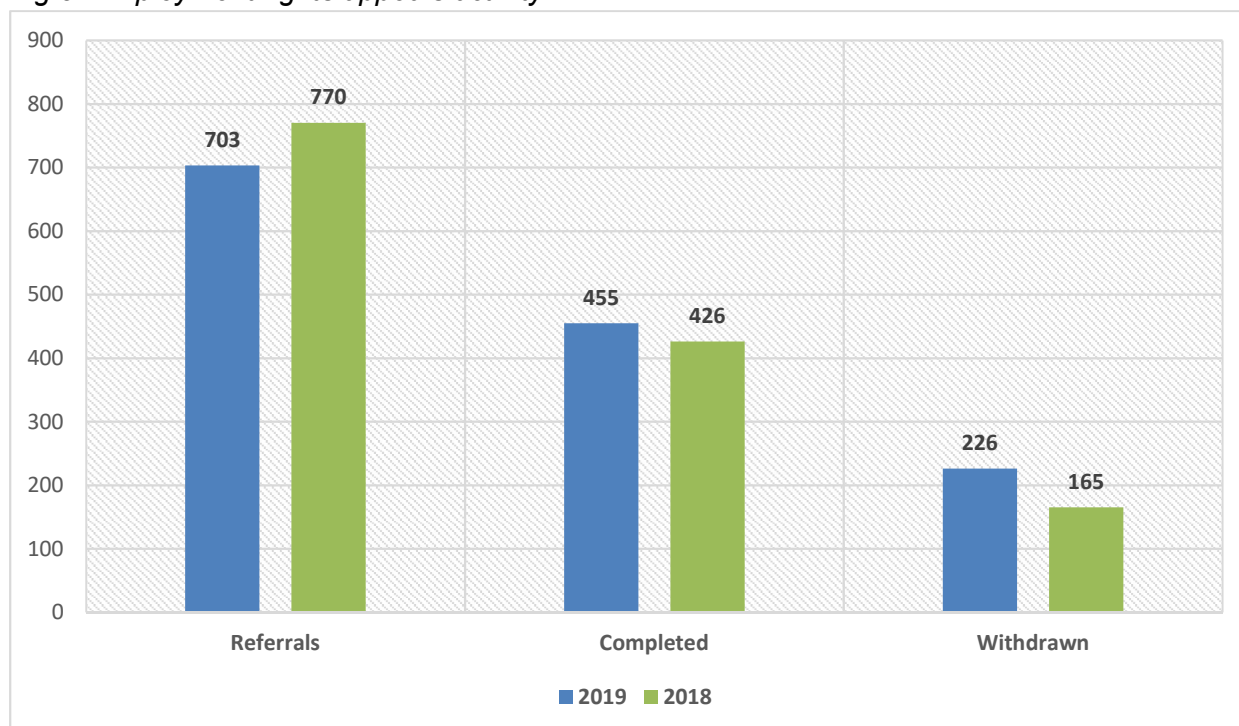
<sup>4</sup> "Cases completed" incorporate those cases that were (a) settled at or prior to a hearing and (b) in respect of which a recommendation, determination, or decision was issued.

preceding year (from 426 to 455). Additionally, 226 cases were withdrawn by parties during 2019, up from 165 in 2018 (36.9%).

The text of each of the cases in which the Court issued a determination can be viewed on the Court's website [www.labourcourt.ie](http://www.labourcourt.ie).

It is important to note that in respect of the data below the difference between appeals received and cases completed<sup>5</sup> arises because in any given year a number of appeals will be withdrawn, postponed, adjourned, put on hold or have been received too late in the year for hearing in that year.

Fig 5: Employment rights appeals activity



Information on the profile of employment rights appeals received, completed and withdrawn in 2019 are at [Appendix 2](#).

Of the 703 employment rights appeals received by the Court during 2019, 55.2% (388) were in respect of appeals under the Unfair Dismissals Acts, 1997 - 2017, Employment Equality Acts, 1998 - 2012 and the Organisation of Working Time Act, 1997.

The functions of the Court under:

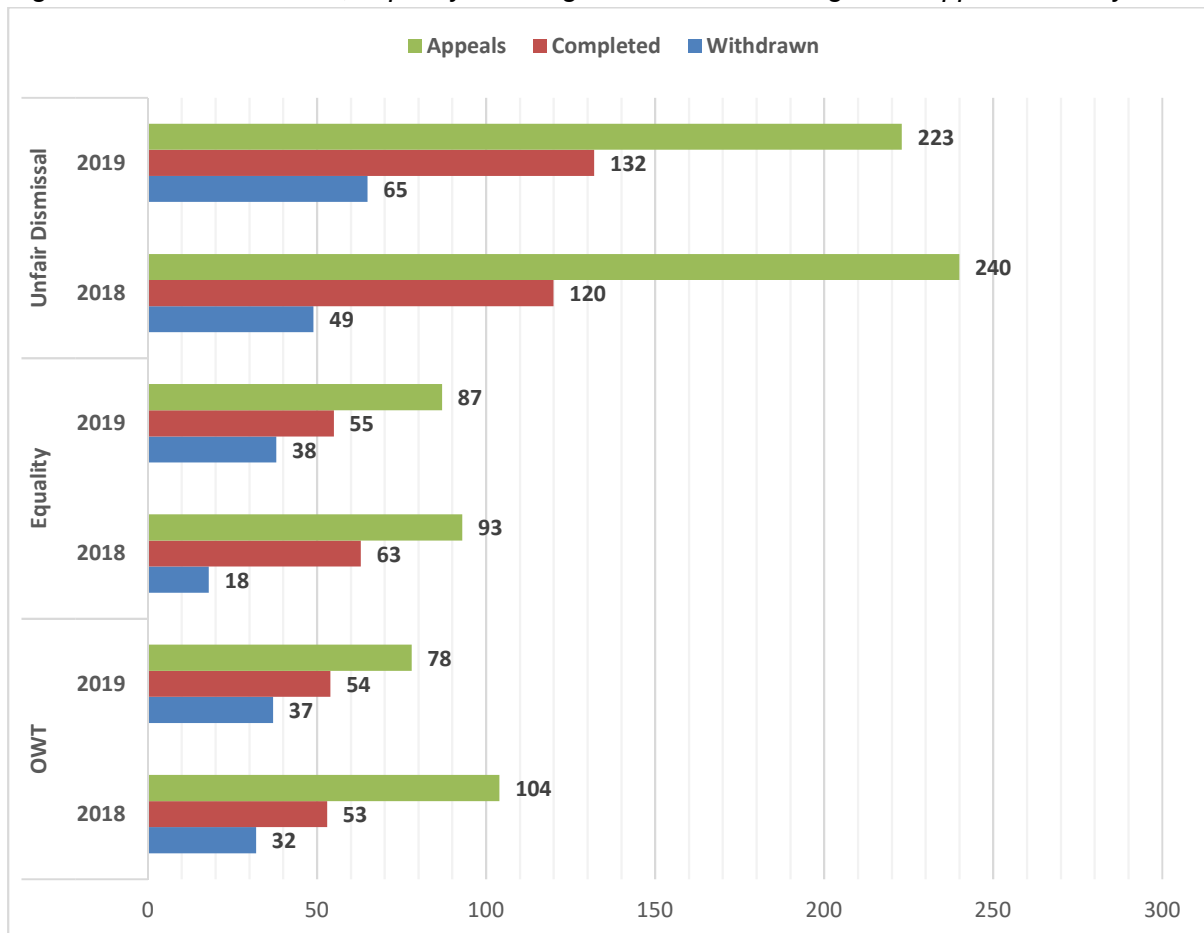
- the Unfair Dismissals Act, 1997 - 2017 are to determine appeals of Adjudication Officer decisions under the Acts;

<sup>5</sup> "Cases completed" incorporate those appeals that were (a) settled at or prior to a hearing and (b) in respect of which a recommendation, determination, or decision was issued.

- the Employment Equality Acts, 1998 - 2012 are to determine appeals of Adjudication Officer decisions under the Acts;
- the Organisation of Working Time Act, 1997 are to:
  - approve and register collective agreements under the Act
  - determine appeals of Adjudication Officer decisions under the Act

During 2019 the Labour Court received three applications to approve collective agreements under the Organisation of Working Time Act, 1997.

Figure 6: Unfair Dismissal, Equality and Organisation of Working Time appeals activity



It is also the function of the Labour Court to determine appeals of Adjudication Officer decisions under the full range of employment protection legislation currently in being.

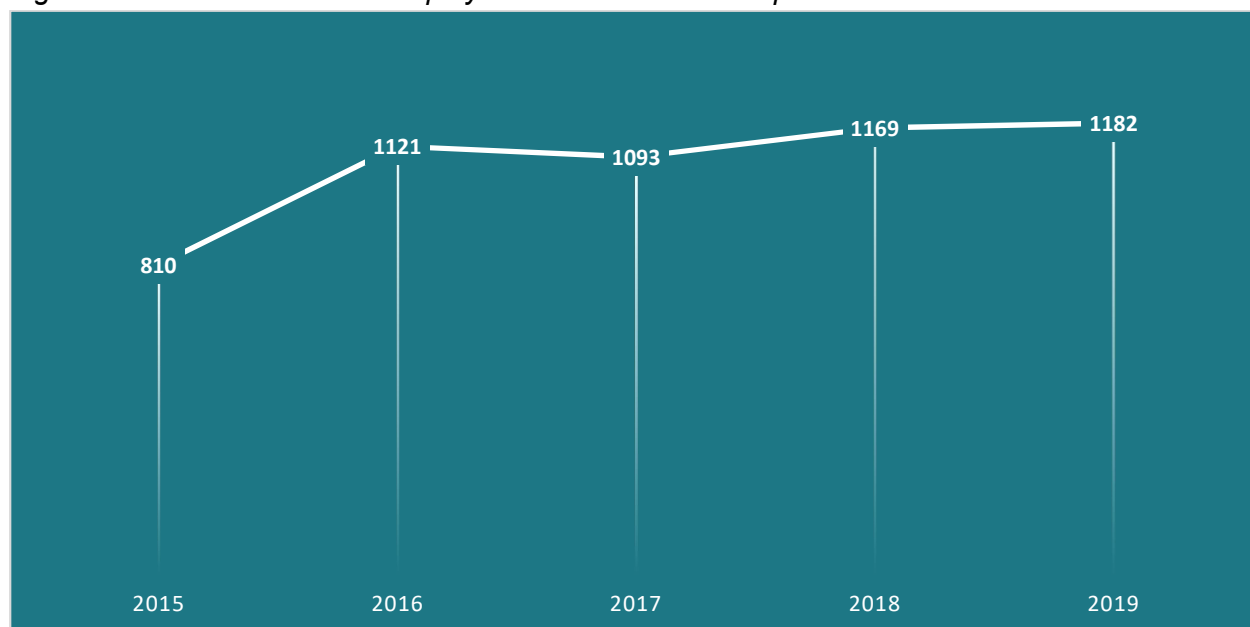
See [Appendix 2](#) for detailed case activity statistics.

## Chapter 3 Dispute referrals

### 3.1 Five-year trend 2015 – 2019

2019 witnessed a continuing relatively low level of industrial dispute activity in the economy.

Fig 7: Number of referrals of employment and industrial disputes 2015 - 2019



### 3.2 Industrial relations climate in 2019

There was a total of nine industrial disputes in progress in 2019 involving 42,656 workers, whereas 1,814 workers were involved in ten industrial disputes in 2018.

Table 1: Industrial disputes 2015 -2019

Category	2019	2018	2017	2016	2015
<b>No. of Disputes</b>	9	10	10	10	9
<b>No. of Firms</b>	9	10	* n/a	10	9
<b>No. of Workers</b>	42,656	1,814	9,456	29,372	37,760
<b>No. of Days Lost</b>	**n/a	4,050	50,191	71,647	32,964

\* The total number of firms involved in industrial disputes in 2017 is not available as the CSO was unable to establish the number of firms involved in one industrial dispute in the construction sector in Q2 and Q3 2017.

\*\*At the time of publication, the total days lost for 2019 was not available.

Source: Central Statistics Office

## Chapter 4 Other activities during 2019

### 4.1 Joint Labour Committees

The Industrial Relations Acts, 1946 - 2015 make provision for a system of Joint Labour Committees (JLCs), a mechanism designed to allow for the setting of statutory minimum rates of pay and conditions of employment in particular sectors.

A JLC is comprised of representatives of employers and workers in the relevant sector under an independent chairman. When it reaches agreement on terms and conditions, the JLC publishes details and invites submissions. Following consideration of any submissions, the Committee may make proposals for making an Employment Regulation Order (see 4.2 below).

The Labour Court supports the work of the JLCs by providing a Secretariat, accommodation and other facilities for their meetings.

Section 41A of the Industrial Relations Act, 1946 ('the Act') requires the Labour Court to carry out a review of each Joint Labour Committee (JLC) at least once every five years. The last such review was completed on 20 April 2018. Following the completion of that Review and the making of orders by the Minister following its completion the following JLCs are in existence:

1. Agricultural Workers
2. Catering
3. Contract Cleaning
4. Hairdressing
5. Hotels
6. Retail, Grocery and Allied Trades
7. Security Industry

### *Activities in this area in 2019*

During 2019, 11 JLC meetings were held: four for Contract Cleaning, one for Hairdressing and six for the Security Industry.

An application was made by the Minister of State for Trade, Employment, Business, EU Digital Single Market and Data Protection to establish a JLC for the English Language Schools Sector. The Employment Regulation Order (English Language Schools Joint Labour Committee Establishment order) 2019 (S.I. 593 of 2019) fixed from 2 December 2019 set the statutory minimum rates of remuneration and other conditions of employment for academic, administrative, maintenance, cleaning and security staff in English Language Schools. The Minister appointed a Chair to the JLC in February 2020.

In August 2019, the Labour Court agreed that it cease, with immediate effect, to maintain and administer a register of apprentice hairdressers. A notice was subsequently published on [www.labourcourt.ie](http://www.labourcourt.ie) advising apprentice hairdressers that registration is now a matter for

their employer and the Hairdressing JLC and that any issues regarding registration be raised with the employer in the first instance.

## 4.2 Employment Regulation Orders

An Employment Regulation Order (ERO) is a statutory instrument setting out wages and conditions of employment applying to specified grades or categories of workers in a particular sector. On foot of proposals received from the JLC for that sector and which have been adopted by the Labour Court, the Minister for Business, Enterprise and Innovation makes a statutory instrument confirming the terms of the ERO if she is satisfied that the statutory conditions provided for in the Industrial Relations (Amendment) Act 2012 have been complied with.

## 4.3 Joint Industrial Councils

A “qualified Joint Industrial Council” (JIC) is a voluntary negotiating body for an industry or part of an industry and is representative of employers and workers. If it fulfils conditions set out in the industrial relations legislation, it may apply to the Labour Court for registration and the Court, if satisfied, will place it on the Register of Joint Industrial Councils.

The Labour Court facilitates the JICs by making available an officer of the Court to act as secretary at their meetings. At the end of 2019, there were five active JICs on the Register and, as required by section 23(3) Industrial Relations Act 1946, details of these are included in [Appendix 3](#).

Apart from the five bodies on the Register of JICs, there are a number of other bodies which are engaged in similar activities, but which have not applied for registration – the Electrical Contracting Industry JIC and the State Industrial Employees JIC. The Labour Court makes available an officer of the Court to act as secretary at meetings of such bodies and officers of the Court attended four meetings of the State Industrial Employees JIC.

There was no activity of registered or unregistered JICs in 2019.

## 4.4 Registered Employment Agreements

The Industrial Relations (Amendment) Act, 2015 provided for the reintroduction of a mechanism for the registration of employment agreements between an employer or employers and trade unions governing terms and conditions in individual enterprises.

The Industrial Relations (Amendment) Act, 2015 defines an employment agreement as:

*“an agreement relating to the remuneration or the conditions of employment of workers of any class, type or group made between a trade union or trade unions of workers and one or more than one employer or a trade union of employers, that is binding only on the parties to the agreement in respect of the workers of that class, type or group.”*

Where the Labour Court is satisfied that an agreement presented satisfies the relevant statutory requirements it will register the agreement. The effect of this is to make the provisions of the agreement legally enforceable in respect of every worker of the class type or group to which it is expressed to apply.

Registered Employment Agreement (Veterinary Ireland) Order 2019 (S.I. No. 662 of 2019) sets out the agreed terms and conditions from 23 April 2019 to apply to all Temporary

Veterinary Inspectors engaged by the Department of Agriculture, Food and the Marine to provide meat inspection services.

#### *4.5 Sectoral Employment Orders*

A Sectoral Employment Order (SEO) is made by the Minister and sets out the terms and conditions relating to the remuneration and any sick pay scheme or pension scheme, of the workers of a particular class, type, or group in the economic sector in respect of which it applies.

Upon receipt of a request to the Labour Court, it can initiate a review of the pay and pension and sick pay entitlements of workers in a particular sector and, if it deems it appropriate, make a recommendation to the Minister on the matter. Such a request may be made by:

- A trade union of workers;
- A trade union or an organisation of employers; or
- A trade union of workers jointly with a trade union or an organisation of employers (the trade union of workers and the organisation of employers must be substantially representative of the workers and employers in the sector to which the application relates).

If the Minister is satisfied that the Court has complied with the provisions of the Industrial Relations (Amendment) Act, 2015, he/she shall make the Order. Where such an order is made it will be binding across the sector to which it relates and will be enforceable by the WRC.

One application for an SEO was received in 2019 and was in respect of the Mechanical Engineering Building Services Contracting Sector.

During 2019 the following Sectoral Employment Orders (SEOs) came into effect:

- Sectoral Employment Order (Electrical Contracting Sector) 2019 (S.I. No. 251 of 2019) came into operation on 1 September 2019 and applies to the Electrical Contracting Sector as defined in the order;
- Sectoral Employment Order (Construction) Sector (S.I. No. 234 of 2019) came into operation on 1 October 2019 and applies to all building firms and civil engineering firms as defined in the order.

#### *4.6 Mock Labour Court hearings*

During 2019 the Labour Court conducted six mock Labour Court hearings to provide the legal profession, employer groups and trade unions with an opportunity to gain insight into the workings of the quasi-legal system.

At their requests, one mock hearing was conducted for ICTU, two for IBEC, two for the Law Society and one for Forsa.

#### *4.7 Internal services*

##### *Financial Management*

The Labour Court is funded by the Exchequer, through the Department of Business, Enterprise and Innovation (DBEI). Expenditure totalling €2.848m was incurred by the Court



during 2019. This comprised €2.46m in respect of pay and €0.388m in respect of non-pay. All Labour Court finances are administered through the Department's budget and form part of the Department's accounts. As well as arranging its own tenders the Court also availed of drawdown from the Department in such areas as learning and development. Expenditure is monitored constantly and is reviewed on a monthly basis.

For details see [Appendix 5: Financial Report for 2019](#).

### *Customer Service*

In the context of the Quality Customer Service (QCS) Initiative under Our Public Services 2020, the Labour Court published its Customer Service Charter and Action Plan 2019-2021. The Charter sets out the level of service users can expect to receive if they have occasion to avail of the Court's services. The Customer Action Plan describes how the commitments and standards set out in the Customer Charter will be delivered in accordance with the guiding principles of QCS that have been adopted across the public service.

The Court also established a robust system of dealing with complaints about the quality of service provided and published its Compliant Procedures. The complaints procedures do not cover a Recommendation/Decision/Determination/Order made by the Labour Court. Employment rights determinations are appealable on a point of law only to the High Court. The complaints procedures also do not cover the conduct of a hearing of the Court

The Labour Court did not receive any formal complaints during 2019.

### *Memorandum of Understanding*

In 2019 the Labour Court prepared a Memorandum of Understanding (MoU) with its parent Department (Department of Business, Enterprise & Innovation) in fulfilment of the requirement under the Government decision of 15 November 2011 and under the Public Service Reform Programme published on 17 November 2011 for each Department to, *inter alia*, put in place robust Service Level Agreements with its State Bodies by June 2012.

The Court undertook to provide an agreed level of service in accordance with the deliverables and performance criteria specified in its submitted annual work programme as set out in [Appendix 6](#) and in accordance with all relevant legislation.



**THE LABOUR COURT**  
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Appendices

## Appendix 1: Industrial relations statistics

Table 1.1 Profile of industrial relations cases received

		2019	2018
<b>Appeal of Adjudication Officer Decision</b>	Section 13(9), Industrial Relations Act, 1969	127	194
	Section 10(1), Industrial Relations (Misc Prov) Act, 2004	1	0
	Section 45(a), Industrial Relations Act, 1946	3	1
	Construction Sector SEO	1	0
<b>Direct Referral</b>	Section 20(1), Industrial Relations Act, 1969	207	70
	Section 20(2), Industrial Relations Act, 1969	1	0
	Section 2(1), Industrial Relations (Amendment) Act, 2001	3	2
	Section 26(5), Industrial Relations Act, 1990	4	0
	Section 12(1), Industrial Relations (Amendment) Act 2015	1	0
<b>Conciliation Service</b>	Section 26(1), Industrial Relations Act, 1990	131	132
<b>Total</b>		<b>479</b>	<b>399</b>

Table 1.2: Industrial relations cases activity 2019 by category

	Cases Received		Withdrawn & Completed			Decisions				
	Worker	Company	Withdrawn	Settled	Decisions	Upheld	Overturmed	Varied	Outside Time Limit	Direct Referral
<b>Section 13(9), IR Act 1969</b>	92	35	68	19	127	35	19	72	1	0
<b>Section 10(1), IR (Misc Prov) Act, 2004</b>	1	0	0	1	0	0	0	0	0	0
<b>Section 45(a) IR Act 1946</b>	3	0	0	0	2	2	0	0	0	0
<b>Construction Sector SEO</b>	0	1	0	0	1	1	0	0	0	0
<b>Section 20(1), IR Act, 1969</b>	207	0	40	22	53	0	0	0	0	53
<b>Section 20(2), IR Act, 1969</b>	1	0	0	0	0	0	0	0	0	0
<b>Section 2(1), IR (Amendt) Act, 2001</b>	3	0	1	0	1	0	0	0	0	1
<b>Section 26(5), IR Act, 1990</b>	4	0	0	0	4	0	0	0	0	4
<b>Section 12(1), IR (Amendt) Act, 2015</b>	1	0	0	0	1	1	0	0	0	0
<b>Section 26(1), IR Act, 1990</b>	124	7	7	81	120	0	0	0	0	120
<b>Total</b>	<b>436</b>	<b>43</b>	<b>116</b>	<b>123</b>	<b>309</b>	<b>39</b>	<b>19</b>	<b>72</b>	<b>1</b>	<b>178</b>

## Appendix 2: Employment rights statistics

Table 2.1: Employment rights appeals 2019 activity by category

	Appeals Received		Withdrawn & Completed			Decisions				
	Worker	Company	Withdrawn	Settled	Decisions	Upheld	Overtuned	Varied	Outside Time Limit	Direct Referral
<b>Unfair Dismissal</b>	138	85	65	59	73	34	15	17	4	3
<b>Equality</b>	70	17	38	19	36	23	4	9	0	0
<b>Org of Working Time</b>	49	29	37	23	31	11	4	13	2	1
<b>Terms of Employment</b>	30	30	23	17	29	12	8	9	0	0
<b>Payment of Wages</b>	53	35	29	17	34	20	8	5	1	0
<b>Fixed-Term Work</b>	6	3	4	1	6	5	0	1	0	0
<b>Part-Time Work</b>	2	6	1	3	2	1	1	0	0	0
<b>Safety, Health and Welfare</b>	14	3	4	6	7	6	0	1	0	0
<b>National Minimum Wage</b>	6	3	2	5	4	2	0	2	0	0
<b>Redundancy Payments</b>	7	22	7	7	20	13	5	2	0	0
<b>Min Notice &amp; Term of Employment</b>	20	22	10	13	16	5	6	4	1	0
<b>Transfer of Undertaking</b>	12	2	2	0	1	1	0	0	0	0
<b>Mobile Road Transport</b>	2	1	1	4	4	2	1	0	1	0
<b>Protected Disclosures</b>	13	1	1	1	8	7	1	0	0	0
<b>Appeal of Compliance Notice</b>	0	1	0	0	4	1	2	1	0	0
<b>Temporary Agency Work</b>	2	2	1	0	1	1	0	0	0	0
<b>Protection of Employment</b>	1	0	0	0	0	0	0	0	0	0

	Appeals Received		Completed & Withdrawn			Decisions				
	Worker	Company	Withdrawn	Settled	Decisions	Upheld	Overtuned	Varied	Outside Time Limit	Direct Referral
<b>Maternity Protection</b>	1	3	0	0	0	0	0	0	0	0
<b>Parental Leave</b>	1	1	1	1	1	0	0	1	0	0
<b>Pensions</b>	5	0	0	0	0	0	0	0	0	0
<b>Prevention of Corruption</b>	1	0	0	0	0	0	0	0	0	0
<b>Health Act</b>	0	1	0	0	0	0	0	0	0	0
<b>Consumer Protection</b>	2	0	0	1	1	1	0	0	0	0
<b>Provision of Information</b>	1	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>436</b>	<b>267</b>	<b>226</b>	<b>177</b>	<b>278</b>	<b>145</b>	<b>55</b>	<b>65</b>	<b>9</b>	<b>4</b>

Table 2.2: Profile of employment rights appeals received

Section /Act /Application	2019	2018	%
<b>Equality</b>	<b>87</b>	<b>93</b>	<b>-6.5%</b>
Section 83, Employment Equality Act, 1998 (Appeal against decision of Adjudication Officer)	76	85	
Section 77(12), Employment Equality Act, 1998 (Appeal against Adjudication Officer's decision - time limit)	11	8	
<b>Unfair Dismissals Acts</b>	<b>223</b>	<b>240</b>	<b>-7.1%</b>
Section 8A Unfair Dismissals Acts, 1977 - 2015	223	240	
<b>Organisation of Working Time</b>	<b>78</b>	<b>104</b>	<b>-25%</b>
Section 28(1), Organisation of Working Time Act, 1997 (Appeal against Adjudication Officer's decision)	69	102	
Section 28(8), Organisation of Working Time Act, 1997 (Complaint that Adjudication Officer's decision was not implemented)	9	2	
<b>Payment of Wages Act</b>	<b>88</b>	<b>84</b>	<b>4.8%</b>
Section 7(1) Payment of Wages Act, 1991	88	84	
<b>Terms of Employment (Information) Acts</b>	<b>60</b>	<b>74</b>	<b>-18.9%</b>
Section 8(1) Terms of Employment (Information) Act, 1994-2018	60	74	
<b>Protection of Employees on Transfer of Undertakings</b>	<b>14</b>	<b>8</b>	<b>75%</b>
Section 11(1) EC (Protection of Employees on Transfer of Undertakings) Regulations, 2003	14	8	
<b>Redundancy Payments Acts</b>	<b>29</b>	<b>41</b>	<b>-29.3%</b>
Redundancy Payments Acts, 1967 - 2014	29	41	
<b>Minimum Notice &amp; Terms of Employment Acts</b>	<b>42</b>	<b>40</b>	<b>5%</b>
Minimum Notice & Terms of Employment Acts, 1973 - 2005	42	40	
<b>Protected Disclosures Criminal Justice Act</b>	<b>14</b>	<b>14</b>	<b>0%</b>
Section 12(2), Protected Disclosures Act, 2014	14	14	
<b>National Minimum Wage</b>	<b>9</b>	<b>7</b>	<b>28.6%</b>
Section 27(1), National Minimum Wage Act, 2000 (Appeal against decision of an Adjudication Officer)	8	6	
Section 31(1), National Minimum Wage Act, 2000 (Complaint that Adjudication Officer's decision was not implemented)	1	1	
<b>Protection of Employees (Part-Time Work)</b>	<b>8</b>	<b>4</b>	<b>100%</b>

Section /Act /Application	2019	2018	%
Section 17(1) Protection of Employees (Part-time Work) Act, 2001 (Appeal against decision of an Adjudication Officer)	8	4	
<b>Protection of Employees (Fixed-Term Work)</b>	<b>9</b>	<b>16</b>	<b>-43.8%</b>
Section 15(1) Protection of Employees (Fixed-Term Work) Act, 2003 (Appeal against decision of an Adjudication Officer)	9	16	
<b>Safety, Health and Welfare at Work</b>	<b>17</b>	<b>23</b>	<b>-26.1%</b>
Section 29(1) Safety, Health and Welfare at Work Act, 2005 (Appeal against decision of an Adjudication Officer)	17	23	
<b>Road Transport</b>	<b>3</b>	<b>6</b>	<b>-50%</b>
Section 19, European Communities (Road Transport) (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations, 2012	3	6	
<b>All other appeals received by the Court</b>	<b>22</b>	<b>16</b>	<b>37.5%</b>
Section 28, Workplace Relations Act, 2015 (Appeal of Compliance Notice)	1	5	
Protection of Employees (Temporary Agency Work) Act, 2012	4	3	
Section 33(1), Maternity Protection Act, 1994	4	3	
European Communities (Protection of Employment) Regulations, 2000	1	1	
Section 19(1), Parental Leave Acts, 1998 and 2006	2	1	
Section 81(1) Pensions Act, 1990	5	1	
Section 42, Workplace Relations Act, 2015 (Dismissal of Claim by Adjudication Officer)	0	2	
Consumer Protection Acts 2007 and 2014	2	0	
Section 55(M)(11) Health Act 20004 and 2007	1	0	
Section 15(1), Employees (Provision of Information and Consultation) Act 2006	1	0	
Section 8A(5), Prevention of Corruption (Amendment) Act 2001	1	0	
<b>Total</b>	<b>703</b>	<b>770</b>	<b>-8.7%</b>



### Appendix 3: Registered Joint Industrial Councils

The following particulars of associations on the Register of Joint Industrial Councils during the period covered by this Report are given in accordance with the requirements of section 23(3) Industrial Relations Act, 1946.

1. Joint Board of Conciliation and Arbitration for the Boot and Shoe Industry of Ireland  
Date of Registration: 10 July 1948  
Secretary: Ms. C. Cronin/Ms. C. O'Reilly, The Labour Court
2. Joint Industrial Council for the Dublin Wholesale Fruit and Vegetable Trade  
Date of Registration: 27 January 1964  
Secretary: Ms. C. Cronin/Ms. C. O'Reilly, The Labour Court
3. Joint Industrial Council for the Construction Industry  
Date of Registration: 26 July 1965  
Secretary: Ms. C. Cronin/Ms. C. O'Reilly, The Labour Court
4. Joint Industrial Council for the Security Industry  
Date of Registration: 12 December 2011  
Secretary: Ms. C. Cronin/Ms. C. O'Reilly, The Labour Court
5. Joint Industrial Council for the Contract Cleaning Industry  
Date of Registration: 19 December 2011  
Secretary: Ms. C. Cronin/Ms. C. O'Reilly, The Labour Court

## Appendix 4: Further information

Further information about anything contained in this Annual Report is available from:

The Labour Court  
Lansdowne House  
Lansdowne Road  
Dublin 4  
D04 A3A8

Phone: (01) 613 6666

Lo-call number (if calling outside (01) area): 1890 22 02 28

Email: [info@labourcourt.ie](mailto:info@labourcourt.ie)

Website: [www.labourcourt.ie](http://www.labourcourt.ie)

<b>Query</b>	<b>Relevant section of the Labour Court</b>	<b>Contact</b>
About a particular case <u>before</u> the hearing	Programming Section	(01) 6136608, 6136650, 6136610 Email <a href="mailto:info@labourcourt.ie">info@labourcourt.ie</a>
About a particular case <u>after</u> the hearing	Relevant Court Secretary	As indicated at the hearing
Joint Labour Committees Registered Employment Agreements/Sectoral Employment Orders Employment Regulation Orders	Relevant Court Secretary	As indicated at the hearing
General information about industrial relations and employment rights matters.	Workplace Relations Customer Services	1890 80 80 90

## Appendix 5: Financial report for 2019

*Table 5.1 Labour Court outturn 2019*

<b>Outturn</b>	<b>€</b>
Pay	2,460,058
Non-pay	388,234
<b>Total</b>	<b>2,848,292</b>

*Table 5.2 Main areas of non-pay expenditure*

	<b>€</b>
Regional hearings	127,612
Post/Telephones	87,580
Office Equipment & Supplies	48,158
Office Premises	58,392

### *Prompt payments*

During 2019 the Court continued to comply with the Prompt Payment of Accounts Act, 1997 as amended by the European Communities (Late Payment in Commercial Transactions) Regulations, 2002.

## Appendix 6: Labour Court Work Programme for 2019

### Key Actions and Performance Indicators

Strategic Objective	Objective	Performance
<b>Strategic Priority 1: Provide an efficient and high quality service to court users</b>	Deliver improved processing, listing and management of cases.	<ul style="list-style-type: none"> <li>• Business Process Review of administrative processes conducted in preparation for migration to new case management system and online filing.</li> <li>• Continued development of management information systems to measure and underpin improved service delivery.</li> </ul>
	Ensure that all scheduled Court sittings are supported to meet the needs of all users.	<ul style="list-style-type: none"> <li>• Participated in DBEI's Disability Consultative Committee.</li> <li>• Reviewed scheduling of cases as part of Business Process Review.</li> </ul>
	Underpin the concept of the Labour Court as the court of last resort in the case of industrial relations disputes and as the single appellate body for all complaints made under the body of employment law with a strong brand identity and enhance communications with the public	<ul style="list-style-type: none"> <li>• Engaged with graphic designer to work on brand identity for roll out in 2020.</li> <li>• Reviewed Appeals Form and all standard communications.</li> </ul>
	Develop appropriate customer service standards	<ul style="list-style-type: none"> <li>• Continued development of management information systems to measure and underpin improved service delivery.</li> <li>• Published Customer Service Charter, Action Plan and Complaints Procedures published.</li> </ul>
<b>Strategic Priority 2: Develop and support Court members and administrative staff</b>	Support administrative staff development by identifying and addressing current and future training needs and ensuring that all staff are provided with the skills, knowledge and experience to perform and develop within their roles	<ul style="list-style-type: none"> <li>• Focus placed on mentoring and coaching.</li> <li>• Staff participation in wider networks and working groups encouraged.</li> <li>• Staff mobility identified and implemented.</li> </ul>
	Provide for knowledge transfer to ensure continuity of service when administrative staff	<ul style="list-style-type: none"> <li>• Prepared procedures manuals.</li> <li>• Engaged with DBEI HR Unit to ensure staff changes are managed.</li> </ul>

Strategic Objective	Objective	Performance
	move due to promotion, mobility, or retirement.	
	Enhance internal communications	<ul style="list-style-type: none"> <li>Enhanced internal communications.</li> </ul>
	Continue the professional development programme for Court members	<ul style="list-style-type: none"> <li>Organised professional development inputs to members.</li> <li>Supported relevant academic studies by members.</li> <li>Low rates of appeal to the High Court and low rates of application for Judicial Review.</li> </ul>
<b>Strategic Priority 3: Optimise technology and improve case management process</b>	Generate efficiencies from greater use of online service delivery	<ul style="list-style-type: none"> <li>Business Process Review to support proposed new case management system and the digitisation of activities.</li> </ul>
	Identify and implement more efficient processes and workflows	<ul style="list-style-type: none"> <li>Conducted Business Process Review.</li> <li>Continued development of management information systems to measure and underpin improved service delivery.</li> </ul>
	Enhance www.labourcourt.ie to provide improved and user-friendly access to information and online services for court users.	<ul style="list-style-type: none"> <li>Used analytics tool to monitor web traffic and identify areas for improvement.</li> </ul>
<b>Strategic Priority 4: Ensure effective governance</b>	Continue to adhere to DBEI requirements in respect of business planning, risk management, records management, public procurement, financial procedures, GDPR, FOI.	<ul style="list-style-type: none"> <li>Ensured processes and procedures support full corporate governance adherence.</li> <li>Submitted timely reports to DBEI.</li> </ul>



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