



THE LABOUR COURT

An Chúirt Oibreachais

ANNUAL REPORT

2018

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under section 23(1) of the Industrial Relations Act 1946

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The Labour Court in Numbers (2018)



1,169 appeals



*945 hearings
scheduled*



679 cases completed



13 members



17 wte staff



11 court locations



€2.9m spend

Chairman's Foreword

Overview

The Labour Court is an organisation with two 'faces' in that it holds key statutory functions in industrial relations and separate functions in 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 workers. On the one hand the Court has, since 1946, provided an industrial relations service whereby disputes which parties have been unable to resolve themselves or with the assistance of the Workplace Relations Commission (WRC) can be voluntarily referred to the Court for an 'opinion' in the form of a Recommendation of the Court which is not binding on the parties. Separately, since October 2015, the Court is the single appellate body for all complaints made under the body of employment law. That role gives the Court binding decision making functions in law. Such decisions of the Court can be appealed on a point of law to the High Court but otherwise are final and enforceable.

The Court endeavours to meet the challenge of 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.

These twin challenges mean that the Court must rely on the industrial relations background and experience of its members as well as an expertise in employment law on the part of those members. For their part, the members of the Court demonstrate a commitment to learning and ongoing professional development including in terms of the law as it evolves and the conduct of industrial and employment relations as it develops. Individual members of the Court draw on their background of expertise in the law and industrial relations and add to that deep experience through learning. 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 their 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 continues to deliver a high quality impartial service which meets the real needs of workers and employers and their representatives including Trade Unions and employer organisations. It is a core commitment of the Labour Court that it will, through commitment to excellence in decision making and the delivery of impartial service, continue to remain relevant and appropriate to the needs of employers, workers and the economy generally.

The institutional industrial relations dispute resolution framework of conciliation by the WRC and onward referral to the Court where necessary remains a bulwark of our industrial relations system. The functionality and 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 2018 testifies to the continuing commitment to excellence in service delivery of the institutions.

It is in the area of disputes arising under the body of employment law that the State's dispute resolution infrastructure saw the most change arising from the Workplace Relations Act, 2015. The fact that timeframes for users to achieve finality in their employment rights based disputes is now a fraction of that required previously is a strong indicator that the ambition of providing a 'world class' service to employers and workers is being achieved. Low rates of appeal to the Court and onward appeal to the High Court give further support to the contention that the reformed infrastructure has achieved a step change in the quality of service delivered to the public.

The Labour Court experienced an increase in appeals to it of decisions made by Adjudication Officers made under employment law after the passing of the 2015 Act. Such appeals increased from 399 in 2015 to 770 in 2018. This increase in appeal numbers reflects the bringing together of all appeal avenues to the single appeal route to the Labour Court rather than any emerging trend of increased disputation between employers and workers deriving from employment rights under the law.

The Labour Court is conscious of the need to assist users and potential users to comprehend that the Labour Court and WRC are separate statutory bodies with separate roles to play along the pathways of resolution of employment disputes. That understanding enhances the efficacy of the entire institutional dispute resolution pathway. Work continued throughout 2018 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 which is separate and distinct from its traditional home on www.workplacerelations.ie. The Court believes that a continuing focus on establishing the separateness of the Labour Court from any other institution in the State's dispute resolution infrastructure will enhance the concept of the Court as a 'court of last resort' in industrial relations matters and the single appellate body in employment law matters. Such a distinct identity will serve to strengthen the dynamics of effective service delivery by the Court of its statutory functions.

Innovations

In support of its statutory functions, the Labour Court advanced a number of initiatives during 2018.

From September 2018 the Labour Court commenced publishing in advance on its website a weekly schedule of employment rights cases for hearing. It is hoped that this increased availability of information on the work programme of the Court will create the opportunity for the public and potential users to develop their understanding of the operations of the Court and consequently to enhance their capacity to access the Court with confidence.

Currently appeals, applications and referrals to the Labour Court are supported by paper-based submissions. In alignment with the Government's objective to be a leader in the provision of digital government services, the Labour Court has commenced a project to digitise its activities. This project is intended to achieve an appeal procedure which allows the making of appeals, referrals and applications to the Court on an electronic basis. Such an electronic application process has the potential to lead to significant customer service improvement gains. The Court has worked throughout 2018 on the technical and operational challenges associated with moving towards an increased reliance on electronically held data as a feature of its working arrangements. The Court's work in this area is currently focused on making real progress towards achieving roll-out during 2019.

The Court delivers its statutory functions through the delivery of efficient and effective administrative systems leading to effective hearings and comprehensive and high quality decisions. The Court in 2018 has developed a focus on its administrative processes which in 2019 will lead to a review and development of its management information systems and a greater focus on strategic and business planning. These initiatives will facilitate the Court in ensuring that its administrative activities are aligned with clear strategic objectives and that the Court has clear information available as regards its workload and progress in dealing with appeals, referrals and applications which are received. The Court intends to carry out a business process review in 2019 which will provide further assurance that the administrative procedures employed by the Court are appropriate and effective.

Number of referrals

In 2018, the Court received 1,169 referrals under the various statutes within its jurisdiction. This compares to 1,093 received in 2017 and represents a 7% increase. The level of referrals in industrial relations cases increased from 382 in 2017 to 399 in 2018, representing a 4% increase. The level of referrals in employment rights cases increased by 8% from 711 in 2017 to 770 in 2018.

The changes brought about by the Workplace Relations Act 2015 has impacted significantly on the profile of cases coming before the Court. In 2018, the proportion of referrals to the Court which were employment rights based was 66% - 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 commonly 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 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 low level of industrial dispute activity in the economy. This, in the view of the Labour Court, is a reflection of the 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 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 most appropriate resolution for the dispute in the particular employment which has come before the Court.

Changes in Court membership

During 2018 Mr Brendan Hayes, who had served as a member of the Court for close to nine years retired from that position. Brendan had a distinguished career in the Trade Union movement before joining the Court in February 2010 where he brought all of his experience to bear in making his significant contribution to the work of the Court.

During 2018 Mr Tom Geraghty was appointed Deputy Chairman of the Labour Court and Ms Jacqui Kelly was appointed as Registrar.

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, 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, for her 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
June 2019

Chapter 1 Functions of the Labour Court

1.1 General introduction

The Labour Court was established by the Industrial Relations Act of 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 and 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.

At this time, 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. When a dispute is referred to the Court, it will hold a hearing, following which it will issue a 'Recommendation' setting out the Court's views 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 appeal body in relation to the employment rights enactments and issuing determinations in regard to certain complaints of the non-implementation of Adjudication Officer decisions¹.

The Court also approves working time agreements 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 From 1 October 2015, if an employer fails to carry out a decision of an Adjudication Officer of the WRC or a decision of the Labour Court arising from an appeal of an Adjudication Officer, within the prescribed time, an application may be made to the District Court for an order directing the employer/respondent to carry out the decision.

1.4 Structure of the Labour Court

The Labour Court

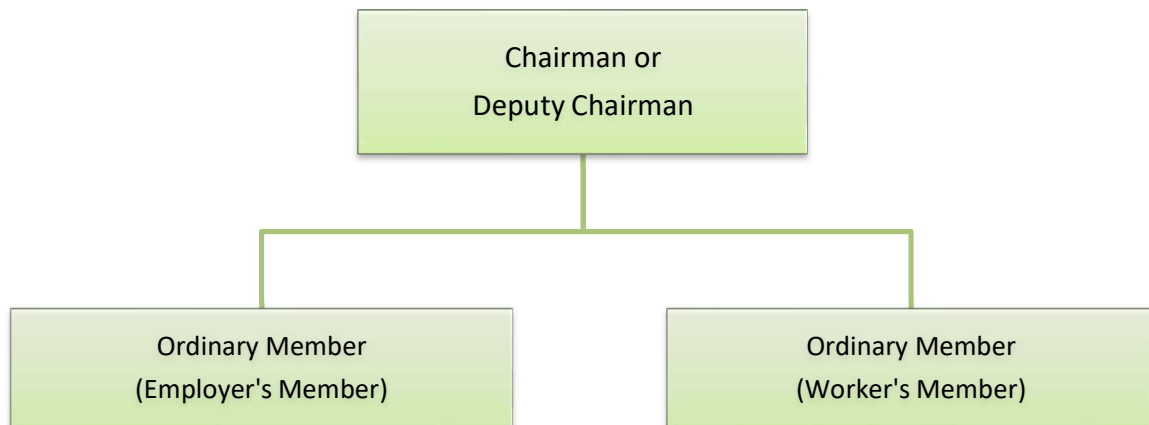
The Labour Court consists of 13 full-time members: A Chairman, four Deputy Chairmen, and eight Ordinary Members, four of whom are Employer's Members and four of whom are Worker's Members.



Note: Appointment of the Chairman, Deputy Chairman and Registrar since 2015 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.

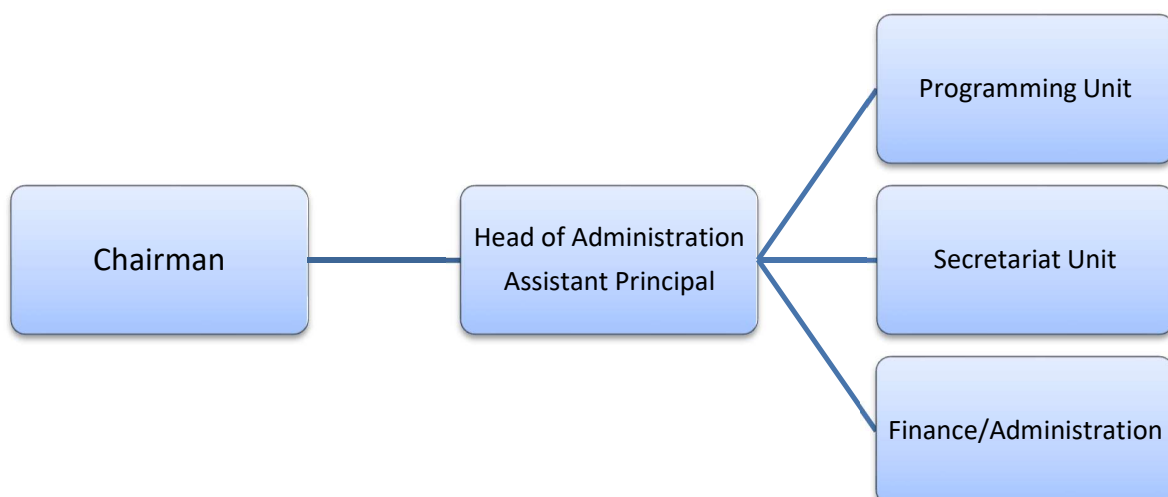


Registrar

The Registrar to the Labour Court sources and provides timely 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

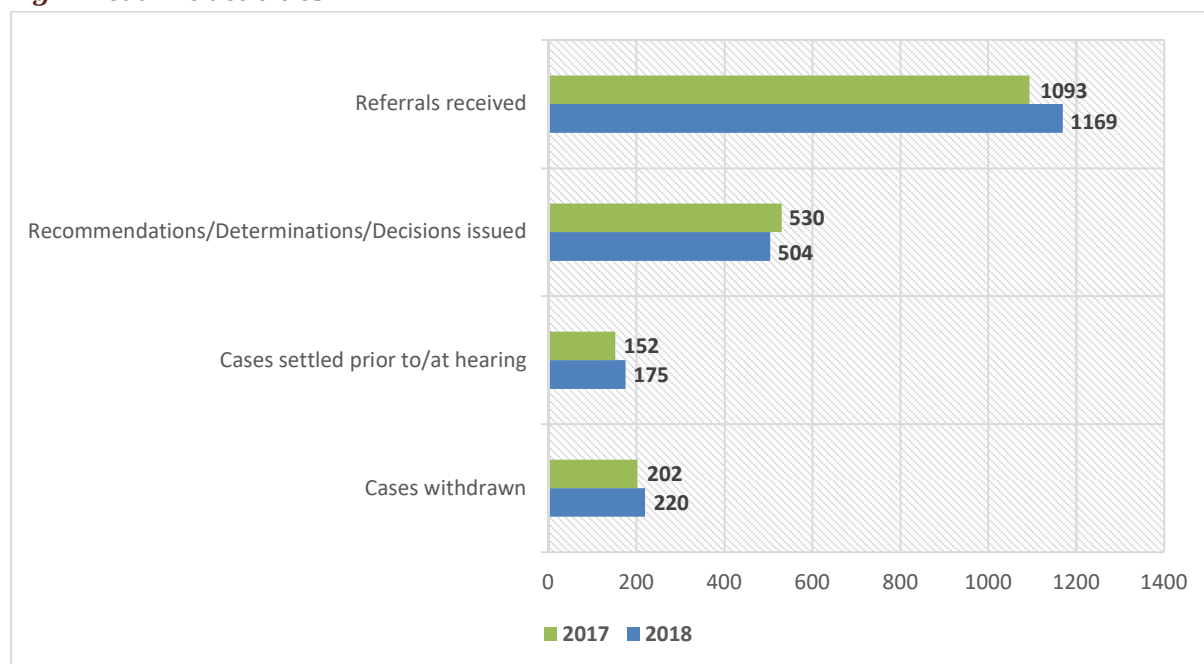
During 2018, the Labour Court:

- received 1,169 referrals;
- scheduled 945 hearings;
- issued 504 Recommendations / Determinations / Decisions;
- investigated 175 cases that were settled prior to or at a hearing.

In addition, during the year

- 220 appeals were withdrawn by parties prior to hearing;
- 103 cases were put on hold;
- 51 cases were found upon referral to be outside the statutory time-limits for receipt of cases.

Fig 1: Headline activities



It is important to note that the difference between appeals received and cases completed² 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 2018.

² “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.

Additionally, the Labour Court conducted a review of each Joint Labour Committee (JLC) under section 41A of the Industrial Relations Act, 1946 which requires the Court to carry out such a review at least once every five years. In accordance with section 41(A)(2) of the Act, the Court published a notice in national newspapers on 16 March 2018, advising that the Court was carrying out a review and inviting written submissions in respect of the review which would, taking account of the legislation at section 41(A), address considerations to be taken into account by the Court in carrying out the Review.

The review was concluded on 20 April 2018 and the Court found that the *“experience of the sectors involved since the completion of the last review has been one of harmonious industrial relations. That experience has been against the background of the existence throughout that period of the JLCs under review. The Court consequently has been unable to conclude that the existence of such JLCs has posed or does pose a threat to the harmonious conduct of industrial relations in any sector.”*

On 6 March 2018, a new Sectoral Employment Order (SEO) came into being in the Mechanical Engineering Building Services Contracting Sector.³ The SEO makes it compulsory for relevant contracting firms to pay workers the rates of pay provided in the Order and to provide a pension and sick pay scheme. The SEO also contains a dispute resolution procedure to be utilised in the event of a dispute arising over a term in the Order for the categories of workers as defined in the Order.

2.2 Appeals to the Court

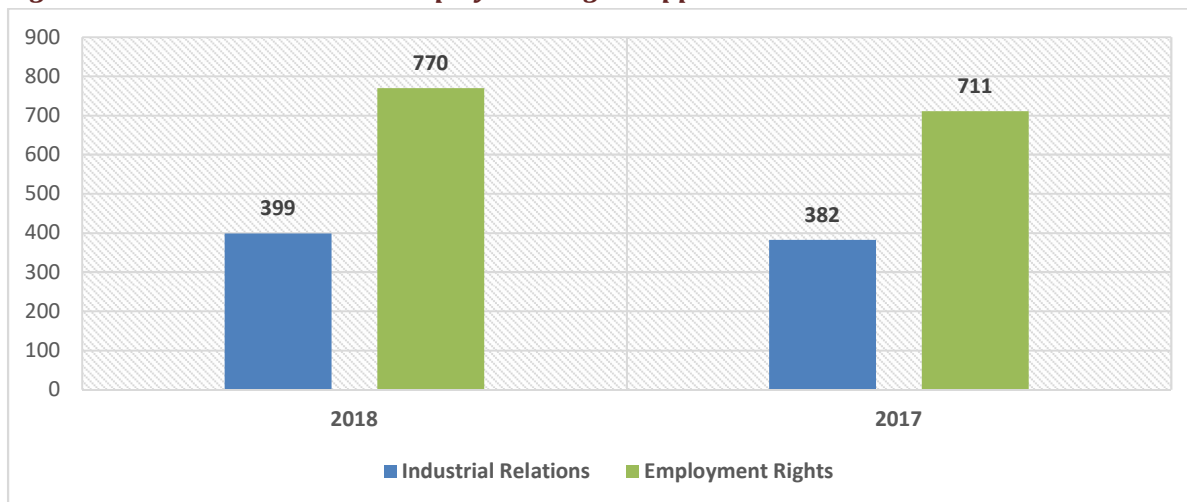
Overall there was a 7% increase in appeals to the Labour Court in 2018 compared to the previous year (from 1,093 to 1,169).

Appeals under the Industrial Relations Acts, 1946 to 2015 accounted for 34% of total appeals. This class of appeal showed an overall increase of 4% on that of 2017 (from 382 to 399).

Appeals under employment rights legislation accounted for 66% of cases coming to the Court, an 8% increase from 711 in 2017 to 770 in 2018.

³ Sectoral Employment Order (Mechanical Engineering Building Services Contracting Sector) 2018 (S.I. No. 59 of 2018)

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



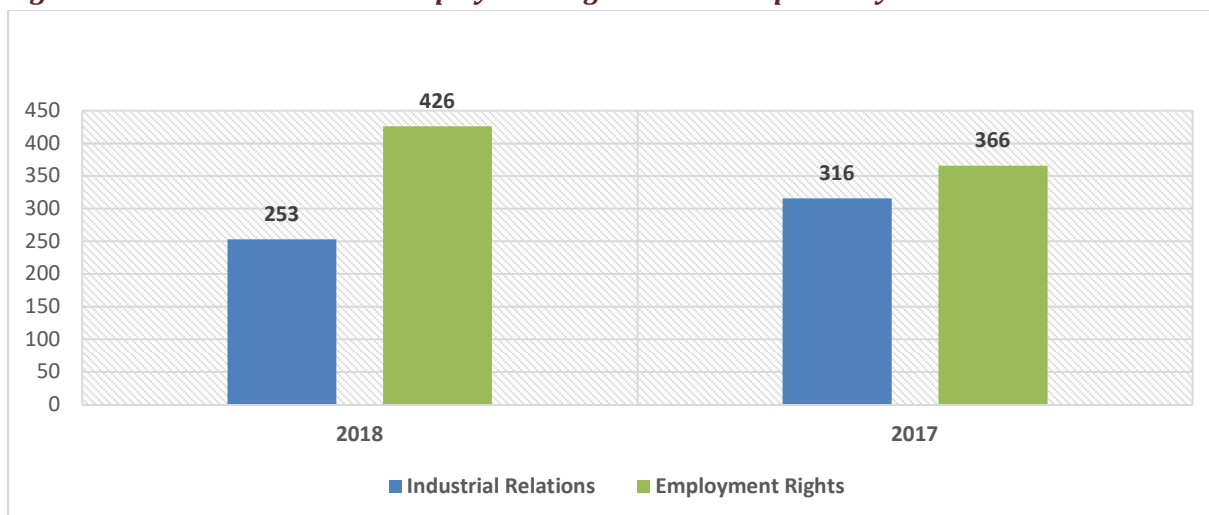
See Appendices [1](#) and [2](#) for a detailed breakdown of these headline appeal figures.

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 2018 was 679, down marginally from 682 in 2017 (-0.4%).

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



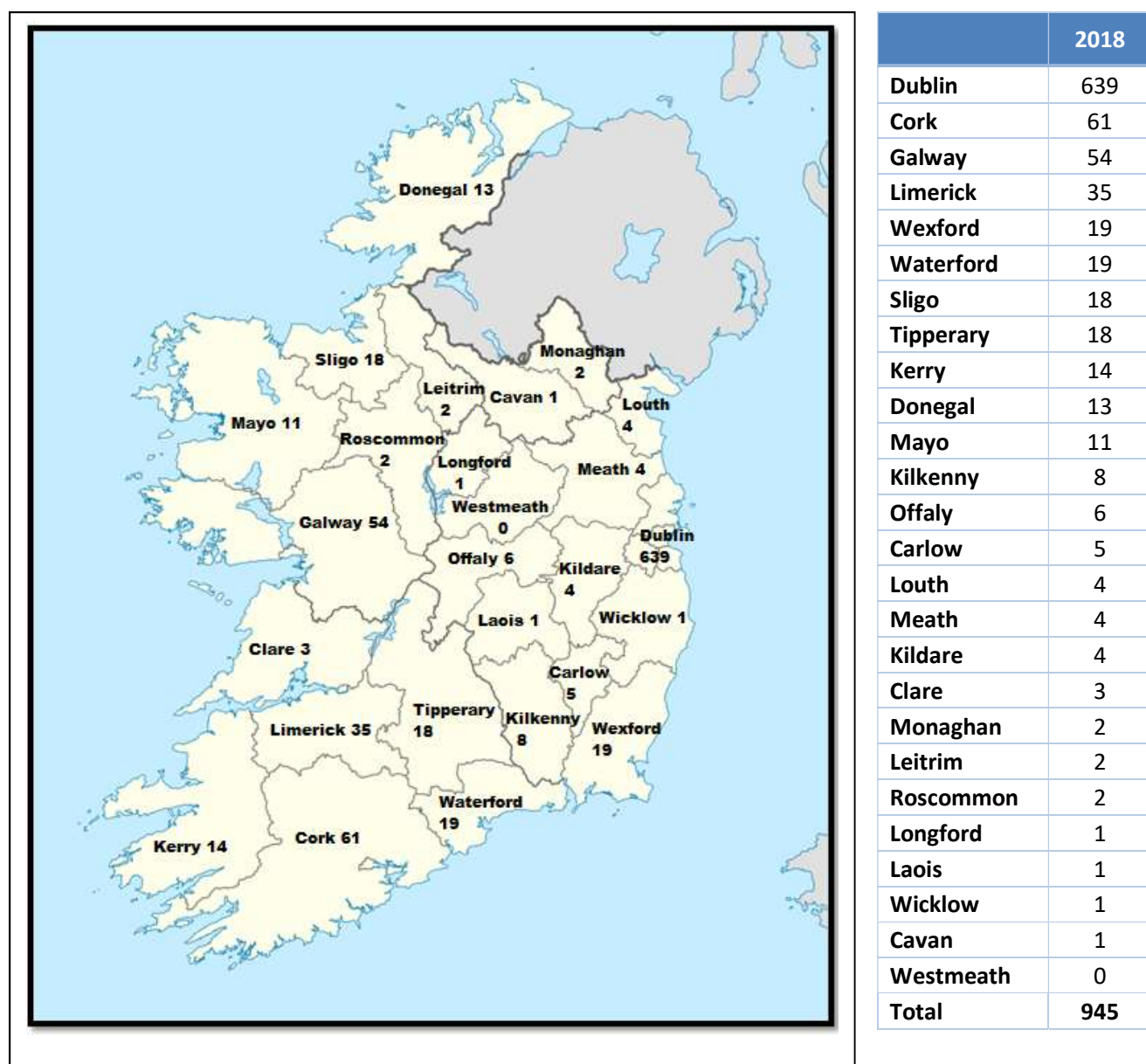
See [Appendix 1](#) and [Appendix 2](#) for a detailed breakdown of these headline statistics.

Additionally, 220 cases (55 industrial relations and 165 employment rights) were withdrawn by parties during 2018 compared with 202 in 2017. 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 945 hearings in 2018. For the purposes of these hearings, the Court arranged sittings at a total of 11 locations.

The map shows the origins of cases scheduled for hearing by the Court in 2018, based on the address of the employer.



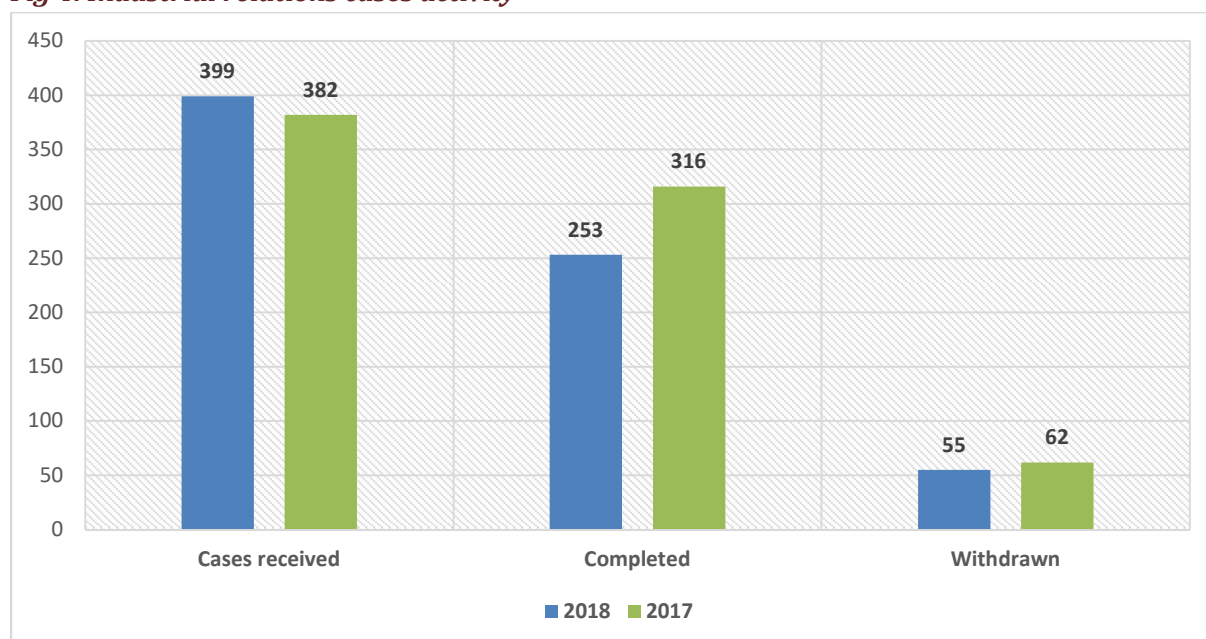
2.5 Industrial relations cases

The number of cases received under the Industrial Relations Acts 1946-2015 increased by 4% in 2018 as compared with 2017 (from 382 to 399). The number of cases completed in 2018 (ie settled or in respect of which a recommendation was issued) was down 20% on the preceding year (from 316 to 253). Additionally, 55 cases were withdrawn by parties during 2018, down from 62 in 2017.

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.

It is important to note that in respect of the data below the difference between cases received and cases completed⁴ 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 2018 are at [Appendix 1](#).

⁴ "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.

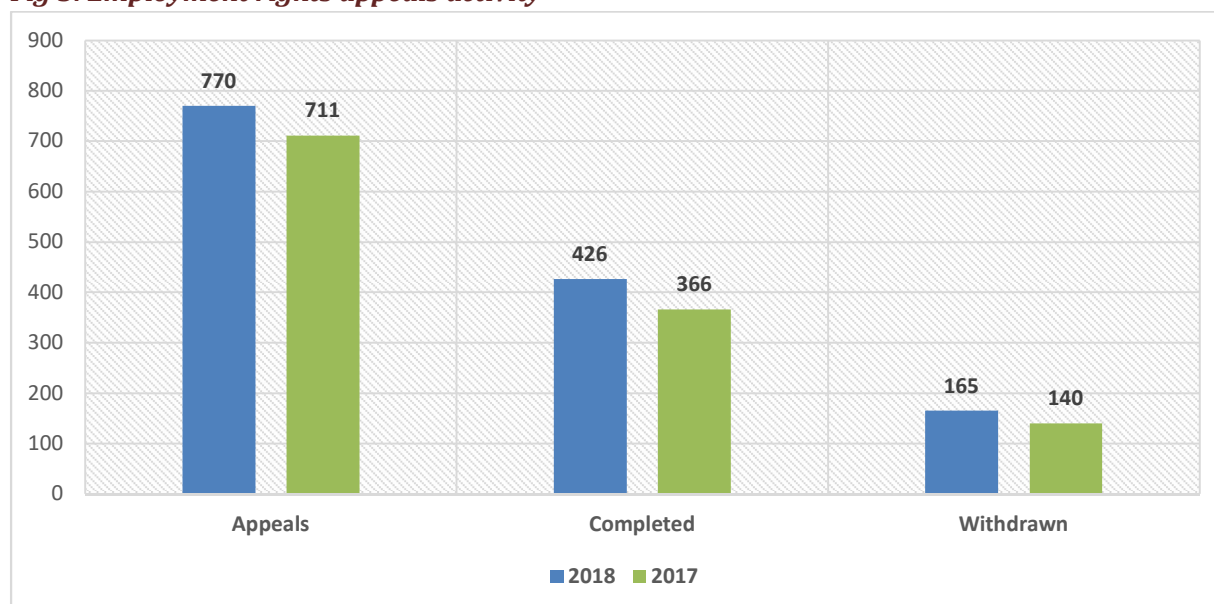
2.6 Employment rights cases

The number of employment rights appeals increased by 8% in 2018 compared with 2017 (from 711 to 770). The number of cases completed in 2018 (ie settled or in respect of which a decision or determination was issued) was up 16% on the preceding year (from 366 to 426). Additionally, 165 cases were withdrawn by parties during 2018, up from 140 in 2017.

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.

It is important to note that in respect of the data below the difference between appeals received and cases completed⁵ 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 2018 are at [Appendix 2](#).

⁵ "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.

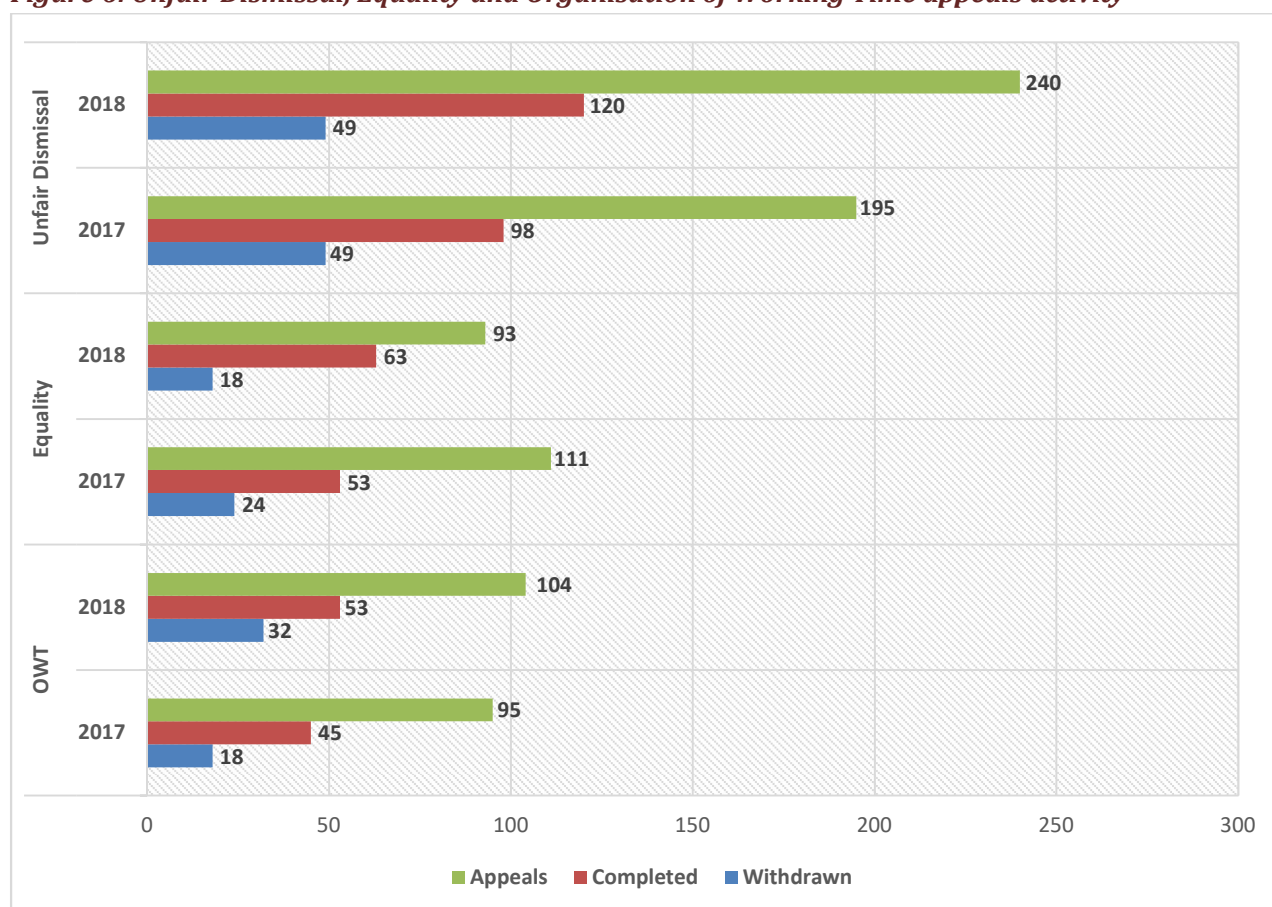
Of the 770 employment rights appeals received by the Court during 2018, 57% (437) were in respect of appeals under the Unfair Dismissals Acts, 1997 - 2017, Employment Equality Acts, 1998 - 2012 and the Organisation of Working Time Act, 1997.

The functions of the Court under:

- the Unfair Dismissals Act, 1997 - 2017 are to determine appeals of Adjudication Officer decisions under the Acts;
- 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
 - to determine appeals of Adjudication Officer decisions under the Act
 - to determine complaints that Adjudication Officer decisions under the Act have not been implemented.

During 2018 the Labour Court did not receive any applications to approve working time 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:
 - Terms of Employment Acts, 1994 - 2012
 - Payment of Wages Act, 1991
 - Redundancy Payments Act, 1964 - 2014
 - Minimum Notice & Terms of Employment Acts, 1973 - 2005
 - Protection of Employees (Fixed-Term Work) Act, 2003
 - Protection of Employees (Part-Time Work) Act, 2001
 - National Minimum Wage Act, 2000
- determine complaints that Adjudication Officer decisions under the following Acts have not been implemented:
 - Protection of Employees (Fixed-Term Work) Act, 2003
 - Safety, Health and Welfare at Work Act, 2005
 - Protection of Employees (Part-Time Work) Act, 2001
- determine complaints that Adjudication Officer decisions under the National Minimum Wage Act, 2000 have not been complied/fully complied with and decide on applications for (temporary) exemption from the obligation to pay employees their entitlements under the Act.

Of the employment rights appeals received in 2018, 37% (289) were in respect of appeals under the above listed employment rights enactments.

During 2018 the Labour Court did not receive any applications to approve collective agreements regarding casual part-time employees under the Protection of Employees (Part-Time Work) Act, 2001.

The remaining 6% percent (44) of employment rights appeals received were in respect of appeals of Adjudication Officer decisions under other various employment rights enactments such as EC (Protection of Employees on Transfer of Undertakings) Regulations, 2003, and Protected Disclosures Act, 2014.

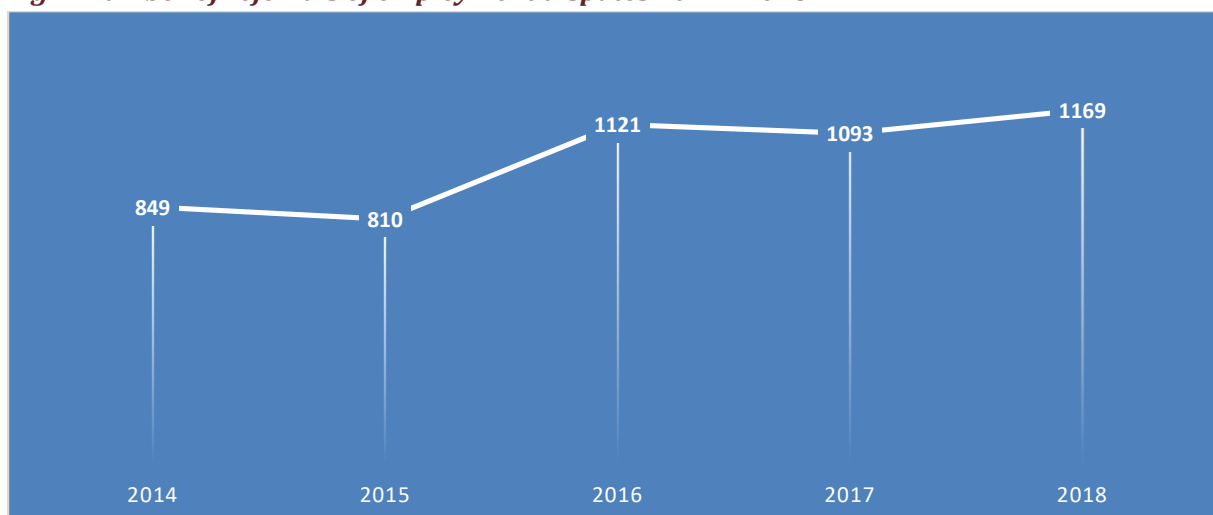
See [Appendix 2](#) for detailed case activity statistics.

Chapter 3 Dispute referrals

3.1 Five-year trend 2014 – 2018

2018 witnessed a continuing low level of industrial dispute activity in the economy.

Fig 7: Number of referrals of employment disputes 2014 - 2018



3.2 Industrial relations climate in 2018

The number of days lost due to industrial disputes in 2018 was 4,050 compared to 50,191 in 2017.

One industrial dispute in the financial, insurance and real estate sector accounted for 35.7% of the days lost in 2018 with 1,446 of the 4,050 total days lost. There was a total of ten industrial disputes in progress in 2018 involving 1,814 workers.

Table 1: Industrial disputes 2014 -2018

Category	2018	2017	2016	2015	2014
No. of Disputes	10	10	10	9	11
No. of Firms	10	* n/a	10	9	11
No. of Workers	1,814	9,456	29,372	37,760	31,665
No. of Days Lost	4,050	50,191	71,647	32,964	44,015

* 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.

Source: Central Statistics Office

Chapter 4 Other activities during 2018

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

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.

Activities in this area in 2018

One JLC meeting for the Contract Cleaning Sector was held in 2018. There were no JLC meetings for other sectors during 2018. The number of applications for the registration of apprentices in the hairdressing trade was 154 in 2018.

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 2018, 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](#).

Activities of registered JICs in 2018

The JIC for the Construction Industry held two meetings in 2018.

‘Unregistered’ JICs

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 five meetings of the State Industrial Employees JIC and two meetings of the Electrical Contracting Industry JIC during 2018.

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.

Registrations in 2018

No new employment agreements were registered in 2018.

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.

SEOs in 2018

Two applications for SEOs were received in 2018. One application was received in October in respect of the Electrical Sector and the other application was received in November for the Construction Sector.

4.6 Mock Labour Court hearings

During 2018 the Labour Court conducted nine 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, six mock hearings were conducted for ICTU, two for IBEC and one for the Law Society.

4.7 Internal services

Financial Management

The Labour Court is funded by the Exchequer, through the Department of Business, Enterprise and Innovation. Expenditure totalling €2.859m was incurred by the Court during 2018. This comprised €2.504m in respect of pay and €0.355m 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 training, office supplies and equipment. Expenditure is monitored constantly and is reviewed on a monthly basis.

For details see [Appendix 5: Financial Report for 2018](#).

Customer Service

The Customer Service Charter of the Department of Business, Enterprise and Innovation outlines its commitment to providing a quality customer service, based on the guiding principles of quality customer service for the Public Service. The Court considers that it met the commitments undertaken in the Customer Service Charter.

Memorandum of Understanding

In 2018 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.

Appendix 1: Industrial relations statistics

Figure 1.1: Industrial relations cases received by source 2015 - 2018

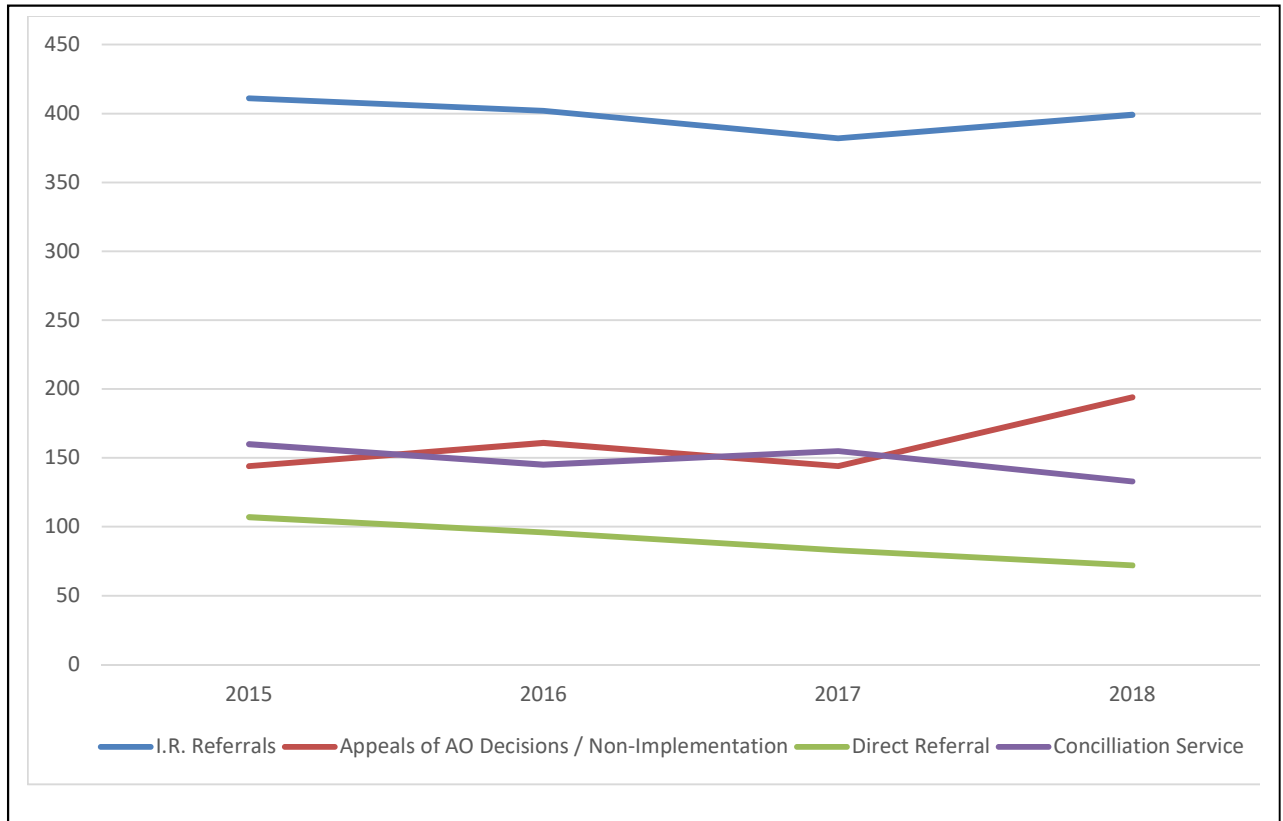


Table 1.1 Profile of industrial relations cases received

		2018	2017
Appeals of AO Decisions Non-Implementation	Section 13(9), Industrial Relations Act, 1969	194	143
	Section 10 (1), Industrial Relations (Misc Prov) Act, 2004	0	1
	Section 45(a) Industrial Relations Act, 1946	1	0
Direct Referral	Section 20(1), Industrial Relations Act, 1969	70	82
	Section 2 (1), Industrial Relations (Amendment) Act, 2001	2	1
Conciliation Service	Section 26(1), Industrial Relations Act, 1990	132	154
	Section 20(2), Industrial Relations Act, 1969	0	1
Total		399	382

Table 1.2: Industrial relations cases activity 2018 by category

	Cases Received		Withdrawn & Completed			Decisions				
	Worker	Company	Withdrawn	Settled	Decisions	Direct Referral	Upheld	Varied	Overtured	Outside Time Limit
Industrial Relations	335	64	55	35	218	131	29	31	25	2
Section 13(9), IR Act 1969	132	62	26	18	87	0	29	31	25	2
Section 45(a) IR Act 1946	1	0	0	0	0	0	0	0	0	0
Section 20(1), IR Act 1969	70	0	12	9	34	34	0	0	0	0
Section 2(1), IR (Amendt) Act 2001	2	0	1	0	3	3	0	0	0	0
Section 26(1), IR Act 1990	130	2	16	8	94	94	0	0	0	0

Appendix 2: Employment rights statistics

Table 2.1: Employment rights appeals 2018 activity by category

	Appeals Received		Withdrawn & Completed			Decisions			
	Worker	Company	Withdrawn	Settled	Decisions	Upheld	Overturned	Varied	Outside Time Limit
Employment Rights	532	238	165	140	286	150	74	58	4
Unfair Dismissal	156	84	49	46	74	34	22	16	2
Equality	71	22	18	13	50	28	13	9	0
Organisation of Working Time	63	41	32	23	30	9	8	12	1
Terms of Employment	53	21	14	17	19	10	4	4	1
Payment of Wages	60	24	15	15	37	26	5	6	0
Fixed-Term Work	13	3	6	1	7	4	2	1	0
Part-Time Work	2	2	1	1	0	0	0	0	0
Safety, Health and Welfare	23	0	1	8	3	3	0	0	0
National Minimum Wage	6	1	1	0	5	2	0	3	0
Redundancy Payments	31	10	13	4	14	5	8	1	0
Min Notice & Term of Employment	21	19	8	5	9	3	6	0	0
Transfer of Undertakings	7	1	3	2	19	12	5	2	0
Mobile Road Transport	4	2	1	1	5	2	1	2	0
Protected Disclosures	13	1	1	1	5	4	0	1	0

	Appeals Received		Completed & Withdrawn			Decisions			
	Worker	Company	Withdrawn	Settled	Decisions	Upheld	Overtured	Varied	Outside Time Limit
Appeal of Compliance Notice	0	5	1	0	1	0	0	1	0
Temporary Agency Work	2	1	0	0	6	6	0	0	0
Protection of Employment	1	0	0	1	0	0	0	0	0
Maternity Protection	2	1	1	1	0	0	0	0	0
Parental Leave	1	0	0	0	0	0	0	0	0
Pensions	1	0	0	1	0	0	0	0	0
Dismissal of claim by AO	2	0	0	0	2	2	0	0	0

Table 2.2: Profile of employment rights appeals received

Section /Act /Application	2018	2017	%
Equality	93	111	-16%
Section 83, Employment Equality Act, 1998 (Appeal against decision of Adjudication Officer)	85	101	
Section 77(12), Employment Equality Act, 1998 (Appeal against Adjudication Officer's decision - time limit)	8	10	
Unfair Dismissals Acts	240	195	23%
Section 8A Unfair Dismissals Acts, 1977 - 2015	240	195	
Organisation of Working Time	104	95	9%
Section 28(1), Organisation of Working Time Act, 1997 (Appeal against Adjudication Officer's decision)	102	86	
Section 28(8), Organisation of Working Time Act, 1997 (Complaint that Adjudication Officer's decision was not implemented)	2	9	
Payment of Wages Act	84	80	5%
Section 7(1) Payment of Wages Act, 1991	84	80	
Terms of Employment (Information) Acts	74	59	25%
Section 8(1) Terms of Employment (Information) Act, 1994-2018	74	59	
Protection of Employees on Transfer of Undertakings	8	37	-78%
Section 11(1) EC (Protection of Employees on Transfer of Undertakings) Regulations, 2003	8	37	
Redundancy Payments Acts	41	34	21%
Redundancy Payments Acts, 1967 - 2014	41	34	
Minimum Notice & Terms of Employment Acts	40	28	43%
Minimum Notice & Terms of Employment Acts, 1973 - 2005	40	28	
Protected Disclosures Criminal Justice Act	14	11	27%
Section 12(2), Protected Disclosures Act, 2014	14	11	
National Minimum Wage	7	11	-36%
Section 27(1), National Minimum Wage Act, 2000 (Appeal against decision of an Adjudication Officer)	6	11	

Section /Act /Application	2018	2017	%
Section 31(1), National Minimum Wage Act, 2000 (Complaint that Adjudication Officer's decision was not implemented)	1	0	
Protection of Employees (Part-Time Work)	4	2	100%
Section 17(1) Protection of Employees (Part-time Work) Act, 2001 (Appeal against decision of an Adjudication Officer)	4	2	
Protection of Employees (Fixed-Term Work)	16	11	45%
Section 15(1) Protection of Employees (Fixed-Term Work) Act, 2003 (Appeal against decision of an Adjudication Officer)	16	11	
Safety, Health and Welfare at Work	23	12	92%
Section 29(1) Safety, Health and Welfare at Work Act, 2005 (Appeal against decision of an Adjudication Officer)	23	11	
Section 29(8) Safety, Health and Welfare at Work Act, 2005 (Complaint by employee that Adjudication Officer's Decision has not been implemented)	0	1	
Road Transport	6	12	-50%
Section 19, European Communities (Road Transport) (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations, 2012	6	12	
All other appeals received by the Court	16	13	23%
Section 28, Workplace Relations Act, 2015 (Appeal of Compliance Notice)	5	4	
Protection of Employees (Temporary Agency Work) Act, 2012	3	3	
Section 33(1), Maternity Protection Act, 1994	3	1	
European Communities (Protection of Employment) Regulations, 2000	1	2	
Section 19(1), Parental Leave Acts, 1998 and 2006	1	1	
Protection of Employees (Employers' Insolvency) Acts, 1984 - 2012	0	1	
Section 81(1) Pensions Act, 1990	1	1	
Section 42 Workplace Relations Act, 2015 - Dismissal of Claim by Adjudication Officer	2	0	
Total employment rights appeals received	770	711	8%

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 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 Labour Court

3. Joint Industrial Council for the Construction Industry

Date of Registration: 26 July 1965

Secretary: Ms C. Cronin/Ms C. O'Reilly Labour Court

4. Joint Industrial Council for the Security Industry

Date of Registration: 12 December 2011

Secretary: Ms. C. Cronin/Ms C. O'Reilly 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 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

Website: www.labourcourt.ie

Query	Relevant section of the Labour Court	Contact
About a particular case <u>before</u> the hearing	Programming Section	(01) 6136608, 6136650, 6136610 Email info@labourcourt.ie
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 2018

Table 4.1 Labour Court outturn 2018

Outturn	€
Pay	2,503,096
Non-pay	355,471
Total	2,858,567

Table 4.2 Main areas of non-pay expenditure

	€
Regional hearings	109,000
Post/Telephones	83,650
Office Equipment & Supplies	60,456
Office Premises	57,075

Prompt payments

During 2018 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. In accordance with Government decision S29296 of 2 March 2011, the Labour Court is committed to making every effort to pay suppliers within 15 days of receipt of a valid invoice. Where necessary, prompt payment interest will be paid in accordance with guidelines issued by the Department of Business, Enterprise and Innovation.

Appendix 6: Labour Court Work Programme for 2018

Key Actions and Performance Indicators

Action	Performance in 2018
The effective and efficient receipt and registration of complaints, appeals and dispute referrals.	Target met for registering of complaints/appeals within 5 working days of receipt. Target met for issuing of acknowledgements to complainants and notifications to respondents within 5 working days of receipt of appeals/referrals met.
Provide for the effective and efficient hearing of, and issue of determinations on, complaints, appeals and dispute referrals.	Labour Court maintained shorter timelines in relation to: • setting of hearing dates • holding of hearings • issuing of determinations • publishing of determinations on website
Continued professional development programme for Court Members.	Two conferences were attended by members and a Deputy Chairman attended the European Association of Labour Court Judges (EALCJ) meeting. Three in-house seminars were also held.
Review of JLCs.	Review of JLCs was concluded on 20 April 2018.
Provide secretariat to JLCs.	Secretariat provided as required in 2018.
The effective and efficient receipt of and deciding on proposals for, and applications to vary or cancel EROs.	Secretariat was provided for one JLC meeting for the Contract Cleaning Sector held in 2018.
Decide applications to register/cancel registration of JICs. Provide secretariat to JICs.	No new or cancellation of JICs in 2018. Secretariat was provided as required.
The effective and efficient receipt of and deciding on proposals to register, vary or review employment agreements.	No employment agreements were registered in 2018.
The effective and efficient processing of applications to examine terms and conditions of employment in a sector.	One SEO submitted to the Labour Court during 2017 was signed by the Minister on 6 March 2018 (Mechanical Engineering Building Services Contracting Sector - SI 59 of 2018). Two applications for SEOs were received in 2018.
Manage scheme of registration of hairdressing apprentices.	Target met for registration of apprenticeships.