

The Labour Court Annual Report 2021

75 years of Employment Dispute Resolution 1946 ~ 2021



Presented to the Minister for Enterprise, Trade and Employment
under Section 23(1) of the Industrial Relations Act 1946

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The Labour Court in Numbers (2021)



578 Appeals/Referrals



1266 Hearings Scheduled



979 Cases Completed



13 Members



22 (20.4wte) Admin Staff



€2.9m spend



*501 Hearings in the Virtual
Courtroom*

Chairman's Foreword



Overview

The year 2021 saw the Labour Court continuing to deliver on its mandate in the context of an ongoing public health emergency. Periods of restriction, as well as the pandemic's impact on the availability of parties, affected the scheduling and holding of physical hearings. The Virtual Courtroom introduced during 2020 continued to operate, allowing many cases to proceed despite the circumstances. The Court employed a combination of physical and virtual hearings during 2021 as public health guidelines and protocols allowed.

Throughout the year the Court continued to adapt its service delivery model having particular regard to the operation of the Virtual Courtroom. A cornerstone of the Court's approach has been to learn from our own experience and from the feedback provided by parties arising from their experiences in hearings of the Court. The Labour Court's capacity to convene hearings in a Virtual Courtroom is at all times limited to circumstances where the Court is satisfied that a hearing in such a venue is consistent with the delivery of fair procedures.

Strategic Plan 2022-2024

The Labour Court's operation throughout the period of 2019 to 2021 was guided by its Strategic Plan. I am satisfied that the primary objectives of that plan were in large part met despite the disruption occasioned by the global health crisis which commenced in 2020.

The Court has now developed and is implementing a Strategic Plan for 2022-2024. The detail of that plan can be viewed at www.labourcourt.ie.

The plan has been developed to give direction to the organisation in the period to 2024 when the Court will continue to deliver on its mission which is

"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 goals and objectives set out in this three-year plan build on and support the Court's strengths, which are the credibility and respect that it draws from the expertise, knowledge and experience of its Members together with the commitment, skill and dedication of its staff. These core strengths are combined with a capacity for operational adaptability and change which has been demonstrated and heavily drawn upon during the public health crisis of 2020 and 2021.

It is these strengths which create and sustain the positive reputation which the Court holds among employers and workers and in the economy and Irish society generally.

The Court's strategy to 2024 can be summarised as being focussed on operational efficiency and effectiveness alongside excellence in the delivery of the Court's statutory functions.

The Court's administrative operation is focussed on securely and efficiently receiving appeals and referrals, bringing those matters to a hearing of the Court and thereafter publishing the decisions and recommendations of the Court. That administrative challenge is met in an environment where legal propriety must be assured with due regard to cost effectiveness and, most importantly, delivery of good public service to individuals and organisations who use the Court's service.

A significant focus therefore in the coming years will be on optimising operational performance, including through the adaptation of administrative processes and the employment of ICT in order to enhance the quality of the service delivered to the public. The Court's Strategic Plan envisages, for example, the development of an end-to-end digitised case management system and an enhanced courtroom infrastructure to allow virtual attendance at physical hearings where necessary and appropriate.

At the centre of the Court's mission is the objective of executing the statutory functions laid out in an extensive range of legislation. That challenge requires the Court to demonstrate an understanding of the nature of employment relations in the economy and most particularly of the dynamics of dispute resolution in the industrial relations context. Side by side with that the Court is required to ensure that it administers justice in a robust and effective manner having regard to the entitlement of the user to the standards laid down in statute and clarified by the Courts over the years.

The Court's statutory functions are delivered by the Members of the Court who are holders of public office. The Court's strategy is focussed on sustaining a culture of learning through the evolution of internal structures and supports as well as on resourcing engagement by Members in learning programmes delivered externally. It is the demonstrated commitment of the Members of the Court to continuous professional development through learning and education which underpins the capacity of the Court to hold the necessary credibility to offer effective service in the resolution of industrial relations disputes while at the same time holding the capacity to administer justice to the highest standard.

Virtual Courtroom

Cases continued to be heard in the Virtual Courtroom throughout the year and, while many more cases are expected to be heard in the Labour Court's physical courtrooms from 2022, the Virtual Courtroom will continue to play a part in the Court's activities. In addition, the Court is working on plans to develop a blended courtroom which will allow some remote participation in physical hearings where this is necessary and appropriate.

Changes in Court Membership during 2021

Ms Caroline Jenkinson, Deputy Chairman of the Labour Court, retired on 26th March 2021. Ms Jenkinson joined the Labour Court in September 1998. Ms Jenkinson's period as Deputy Chairman was a period of significant legislative change and she contributed at leadership level to the evolution of the Court's jurisdiction, including as a result of the changes brought about by the Workplace Relations Act 2015.

Ms Katie Connolly was appointed as Deputy Chairman of the Labour Court on 31st August, 2021 following an open competition conducted by the Public Appointments Service.

75th Anniversary of the Labour Court

The Labour Court was established on 23rd September 1946, and in the 75 years since, has played a significant role in the evolution of the economy through its work in the resolution of disputes between employers and workers.

The anniversary was marked by a social media campaign devised and delivered by staff of the Court, which highlighted notable decisions over the years as well as marking the many changes to life in Ireland since 1946. The campaign was conducted primarily on the Twitter platform using the hashtag **#IrelandThenAndNow**.

Acknowledgement

I would like to acknowledge the commitment and efforts of the Members and staff of the Labour Court throughout a year where the operation of the Court was repeatedly disrupted by public health restrictions. The dedication to public service of the administrative team and the membership of the Court ensured that repeated operational and system change was achieved quickly and effectively in a manner which ensured the continued delivery of service to users throughout.

The Court's ongoing commitment to adaptation and operational responsiveness was guided by a Covid operations group made up of Members and administrative staff of the Court under the Chairmanship of Ms Louise O'Donnell, Deputy Chairman of the Court and I wish to acknowledge the vital work carried out by that group in 2021.

That cross-cutting approach to managing our affairs is a key feature of the operational infrastructure of the Court, and teams comprised of administrative staff and Court Members working together under the Chairmanship of Deputy Chairmen continued to work throughout the year on the digitisation of Court services, development of a Case Management System and the development and enhancement of frameworks for learning and development.

I wish to acknowledge the support and guidance provided to me and to the Court in general by the Court's Head of Administration Ms Bernie Byrne throughout a challenging year. Her leadership of the Court's excellent administrative team has been a fundamental feature of the Court's operations in 2021.

The support provided to the Court by the Department of Enterprise, Trade and Employment (DETE) is critical to the delivery of the statutory functions of the Court. The support provided to the Court by the Department is unfailingly constructive and I would like in that respect to thank Dr Orlaigh Quinn, Secretary General and Ms Clare Dunne, Assistant Secretary General who retired at the end of the year following a career marked by distinguished public service. I would like particularly to acknowledge the vital and expert support throughout 2021 of Ms Tara Coogan and her team, including particularly Ms Gemma Barnes, in the DETE which has been invaluable.

Kevin Foley
Chairman

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 'industrial relations Court of last resort' which they had earlier sought.

As an alternative to proceeding through conciliation with the WRC, disputes may, in accordance with section 20 of the industrial Relations Act 1969, be referred directly to the Court by one or both parties with an undertaking given to the Court in advance by the referring party to accept the Court's recommendation in the matter.

There are special provisions relating to disputes where negotiating arrangements are not in place within the employment under the Industrial Relations (Amendment) Act 2001. 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 or a small number of workers may be referred first to an Adjudication Officer of the Workplace Relations Commission for a Recommendation in accordance with section 13 of the Industrial Relations Act 1969. The Adjudication Officer'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.

Registration of Collective Agreements

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.

Sectoral Employment Orders

Upon receipt of a request, the Labour Court can initiate an investigation 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 later in this Report.

A Joint Labour Committee (JLC) is comprised of representatives of employers and workers in the relevant sector under an independent chairperson. When it reaches agreement on terms and conditions that should be enshrined in an Employment Regulation Order, the JLC publishes details and invites submissions from the public. Following consideration of any submissions, the Committee may make proposals to the Court for the 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 which have been adopted by the Labour Court, the Minister for Enterprise, Trade and Employment may make an order confirming the terms of the ERO, where 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.

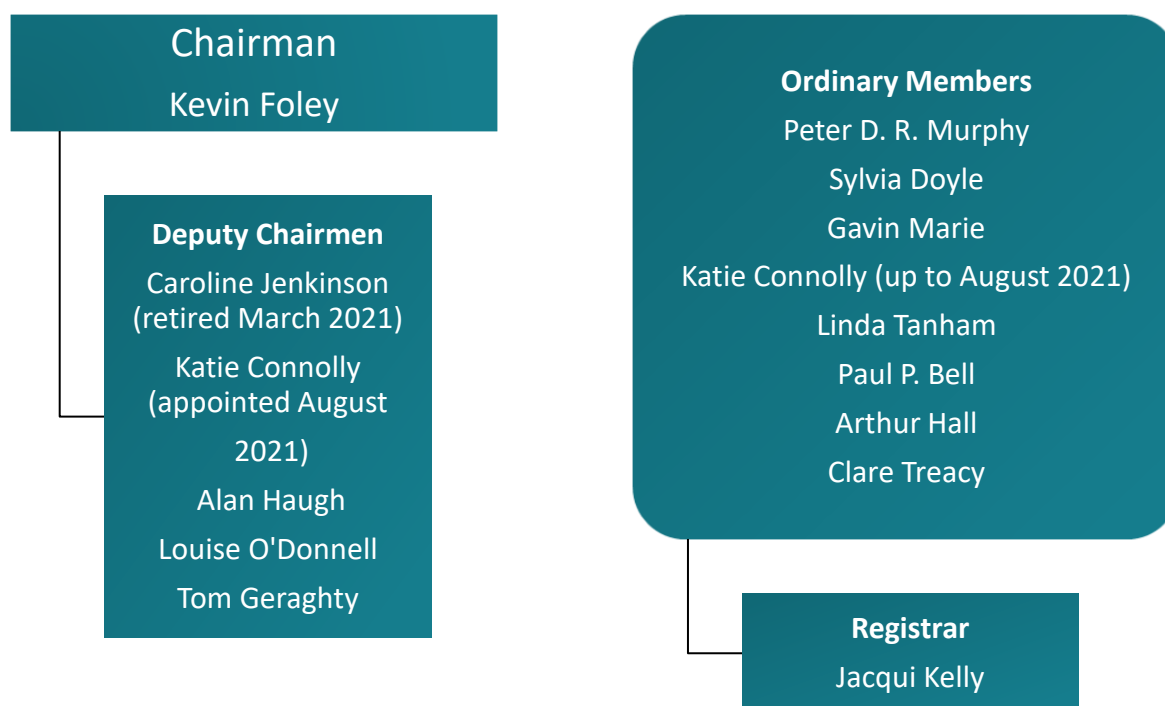
1.3 Employment rights

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.

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 Members and four of whom are Worker' Members.

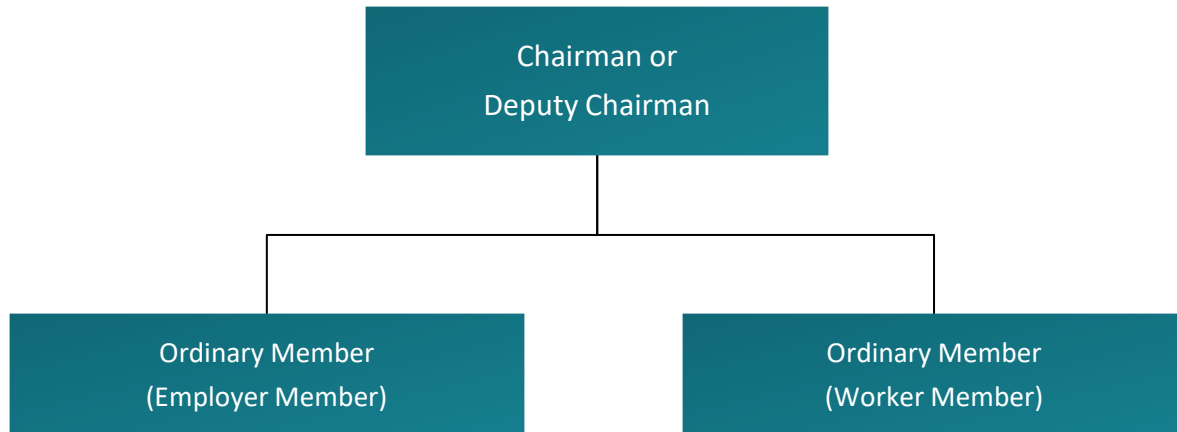


Caroline Jenkinson retired on 26th March, 2021 and, following a public competition administered by the Public Appointments Service, Katie Connolly was appointed to fill the vacancy at Deputy Chairman on 31st August 2021. The Court carried a vacancy at Deputy Chairman level from March until August 2021 and a vacancy at Court Member level from the end of August until the end of the year following Ms Connolly's appointment as Deputy Chairman.

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 Enterprise, Trade and Employment following nomination by IBEC of Employer Members and the ICTU of Worker Members.

Hearing

Each hearing of the Court is convened by a Division of the Court appointed by the Chairman for that purpose. A Division of the Court consists of the Chairman (or a Deputy Chairman) of the Court, a Worker Member and an Employer Member.

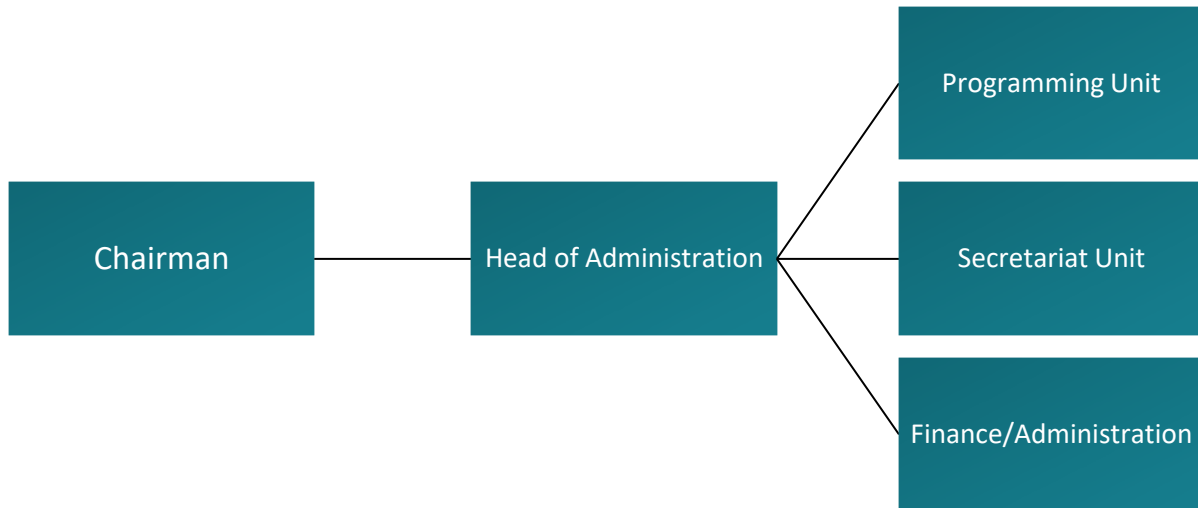


Registrar

The Registrar to the Labour Court, who is a Statutory Office Holder, is the Court's legal adviser 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 Enterprise, Trade and Employment, assigned for the time being to the Labour Court.



The Administration Team continued to support the Court throughout the pandemic. Health & Safety of staff was maintained by ensuring adherence to strict protocols when attendance was required to provide essential support to the Court whose functions were deemed an essential service during the global pandemic.



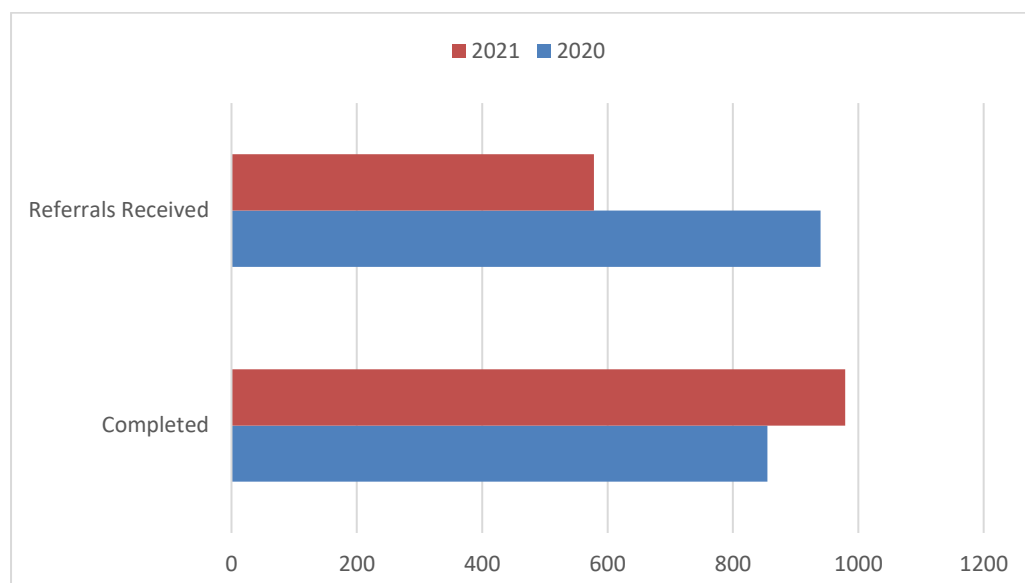
Chapter 2 The Year in Review

2.1 Headlines

During 2021, the Labour Court:

- Received 578 appeals/referrals;
- 1266 hearings were scheduled;
- 339 postponements, arising from requests by the parties or as a result of COVID-19 restrictions, were granted;
- 979 Cases were completed (cases decided, settled or withdrawn); and
- 174 appeals / referrals were ready to be programmed at the end of 2021.

Fig 1: Headline activities



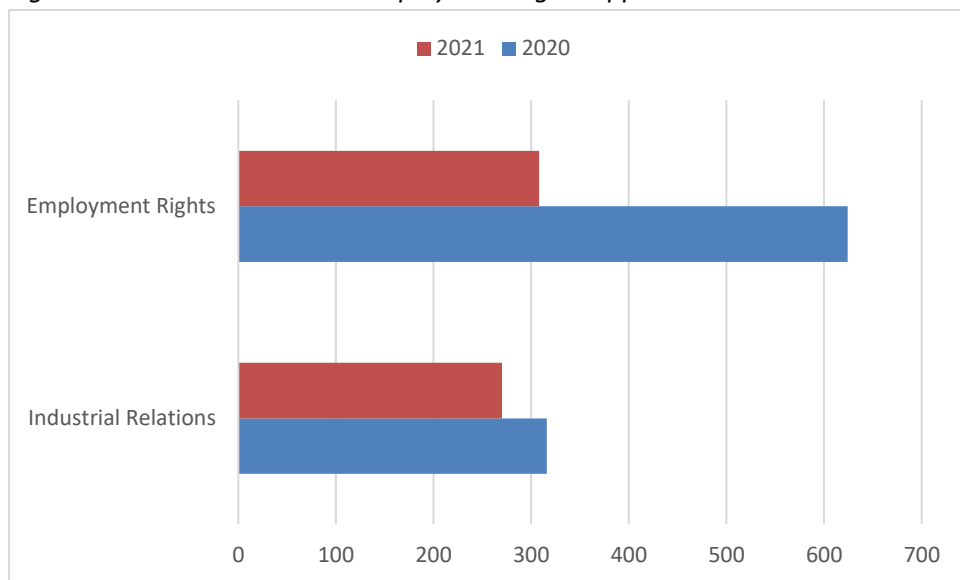
2.2 Appeals to the Court

Overall, there was a 38.5% decrease in appeals to the Labour Court in 2021 compared to the previous year (from 940 to 578).

Referrals and Appeals under the Industrial Relations Acts 1946 to 2015 accounted for 46.7% of total referrals / appeals. This class of referral / appeal showed an overall decrease of 14.6% compared to the numbers of such appeals received in 2020 (from 316 to 270).

Appeals under employment rights legislation accounted for 53.3% of cases coming to the Court, a 50.7% decrease (from 624 to 308).

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 Hearings scheduled



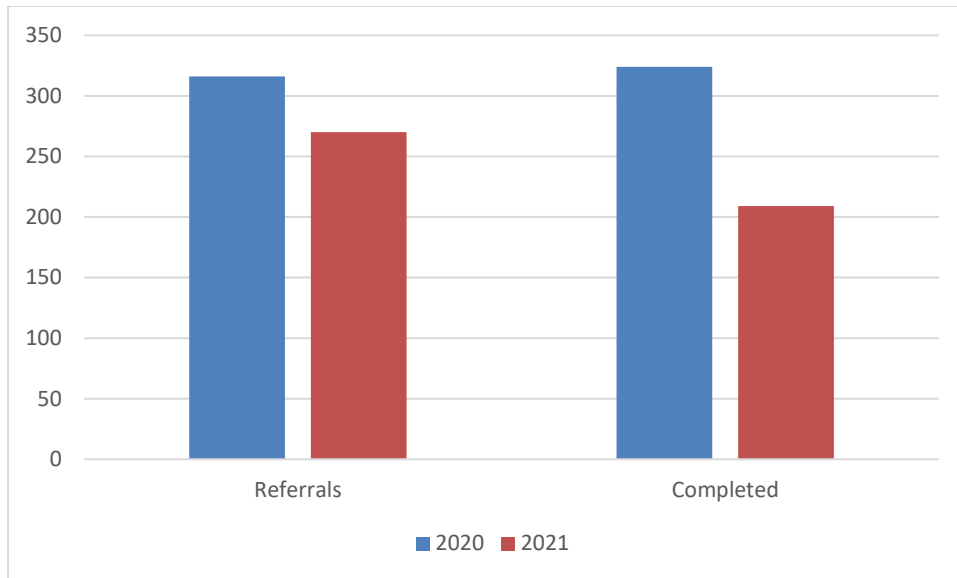
The Court scheduled a total of 1,266 hearings in 2021 of which 60% were scheduled in a Virtual Courtroom. 339 postponements, arising from requests by the parties, or as a result of COVID-19 restrictions, were granted during 2021. 493 cases were withdrawn before scheduling or at or prior to hearing. COVID-19 continued to impact the number of hearings held by the Court in 2021 with the capacity to hold physical hearings reduced significantly. During periods of 'lockdown' only virtual hearings were held. The number and type of hearings held in the Virtual Courtroom increased during 2021, as the Court and its users became more familiar with the system and as protocols were further developed.

2.4 Industrial Relations Cases

The number of cases received under the Industrial Relations Acts 1946-2015 received was 270. The number of cases completed (i.e. in respect of which a recommendation, determination, or decision issued, or the matter was settled by the referral party,) in 2021 was 209, or 355 when withdrawn cases are included.

The text of each of the industrial relations cases in which the Court issued a recommendation can be viewed on the Court's website www.labourcourt.ie.

Fig 3: Industrial relations cases activity



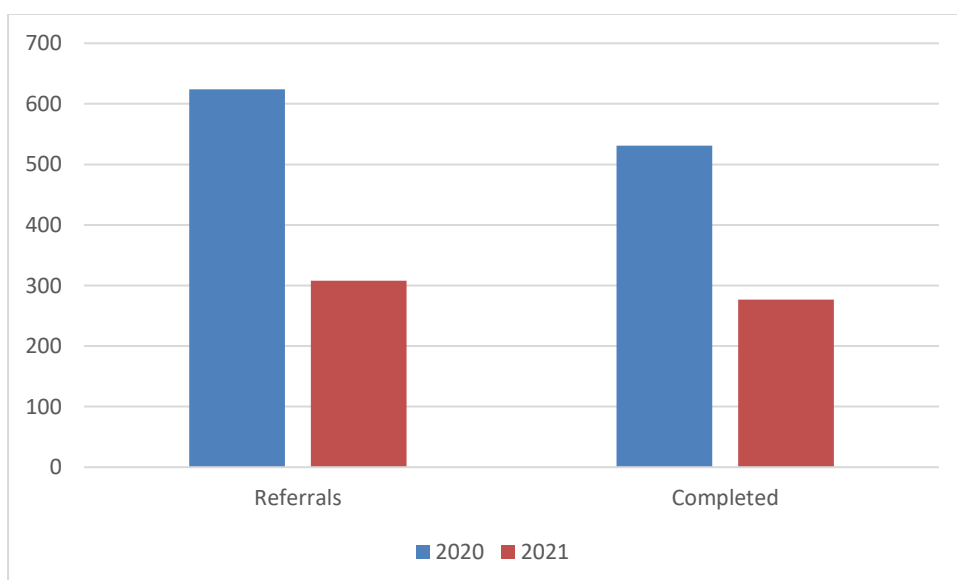
Information on the profile of industrial relations cases received and completed in 2021 are at [Appendix 1](#).

2.5 Employment Rights Cases

The number of employment rights appeals received by the Court in 2021 was 308. The number of cases completed (i.e. in respect of which a recommendation, determination, or decision issued or the matter was settled before or at a hearing) in 2021 was 277, or 624 when cases withdrawn at or prior to hearing or scheduling are included.

The text of each of the appeals in which the Court issued a Decision can be viewed on the Court's website www.labourcourt.ie.

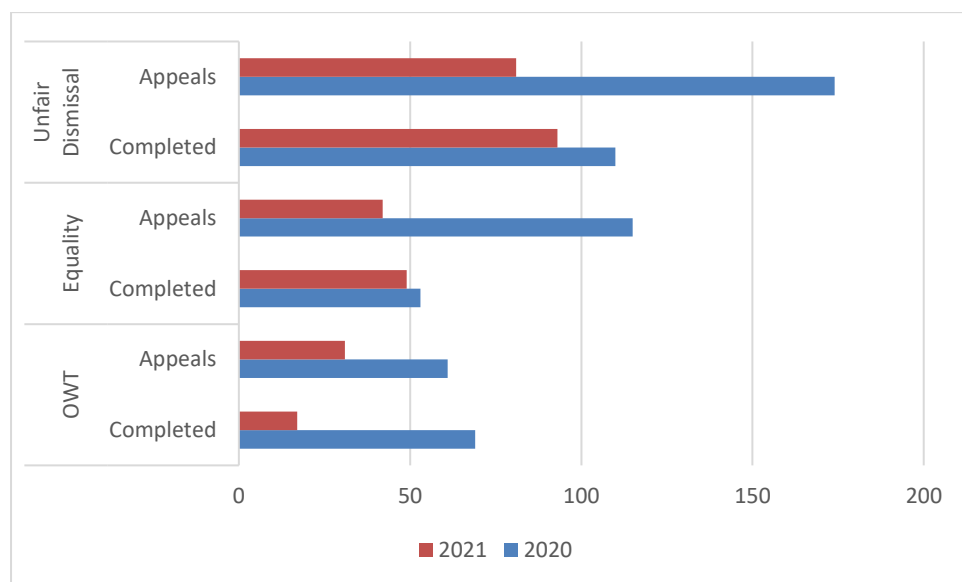
Fig 4: Employment rights appeals activity



Information on the profile of employment rights appeals received, completed and withdrawn in 2021 is at [Appendix 2](#).

Of the 308 employment rights appeals received by the Court during 2021, 50.6% were in respect of appeals under the Unfair Dismissals Acts, 1977 - 2015, Employment Equality Acts, 1998 - 2021 and the Organisation of Working Time Act, 1997.

Figure 5: 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.

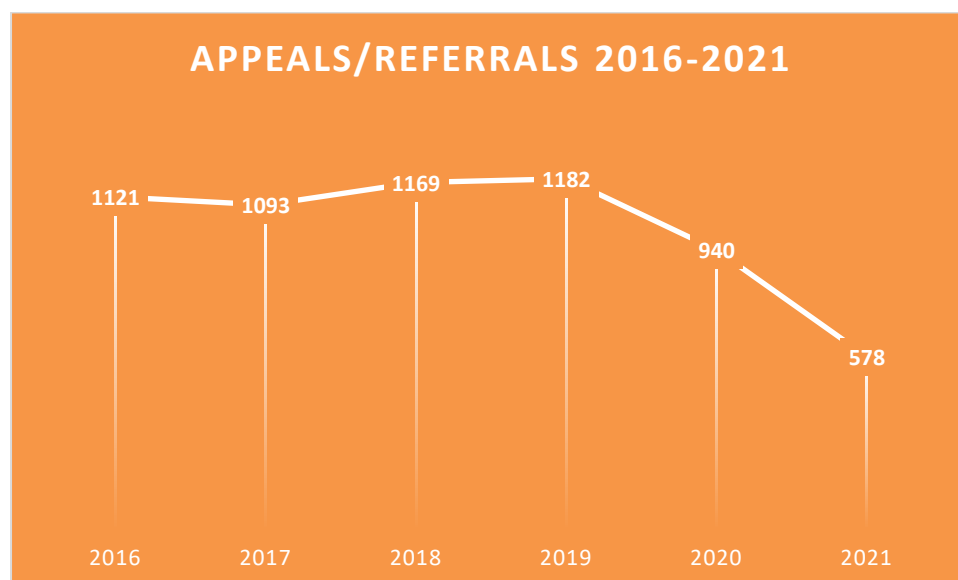
See [Appendix 2](#) for detailed case activity statistics.

Chapter 3 Dispute referrals

3.1 Five-year trend 2016 – 2021

The Court witnessed a continuing relatively low level of industrial dispute activity in the economy during 2021.

Fig 7: Number of referrals of employment and industrial disputes 2016 – 2021



3.2 Industrial Relations Climate in 2021

There were, according to the CSO, two industrial disputes in progress in 2021 involving 543 workers, whereas 21,704 workers were involved in eight industrial disputes in 2020. The level of dispute activity is, in the view of the Court, reflective of the effects of the global pandemic on the economy generally rather than an indicator of a structural change in the nature of employment relations.

Table 1: Industrial disputes 2017 -2021

Category	2021	2020	2019	2018	2017
No. of Disputes	2	8	9	10	10
No. of Firms	2	8	9	10	* n/a
No. of Workers	543	22,076	42,656	1,814	9,456
No. of Days Lost	1,515	21,704	**n/a	4,050	50,191

* 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.

**The CSO were unable to establish the no. of days lost in Q4 2019 and therefore were unable to provide a total no. of days lost in 2019.

Source: Central Statistics Office

Chapter 4 Other Activities during 2021

4.1 Virtual Courtroom

The COVID-19 pandemic continued to have a significant impact on the capacity of the Labour Court to deliver its services during 2021. In response to this challenge, a Virtual Courtroom was developed in 2020 to allow the Labour Court to continue to fulfil its mandate to support the resolution of industrial disputes and to determine appeals in disputes based on employment rights, and the Court continued to deploy and to develop this resource in 2021. The Virtual Courtroom has been in operation at the Labour Court since June 2020, in addition to in-person hearings, to safely deliver Court services. A survey of the Court's stakeholders indicated that the development of the Virtual Courtroom has been well received by users. The use of technology to support the delivery of our mandate is now firmly embedded in the Court's practices, and plans to develop a blended delivery model, where remote access to support physical hearings will be available, are in train.

4.2 Social Media Campaign during the Court's 75th year

The Labour Court set up a twitter account in June 2021 and has 242 followers to date. This account is used to advise of Court updates, including the publication of its most recent decisions and recommendations as well as detail of the Court's schedule of hearings. It has proved particularly useful to provide information on changes around COVID restrictions and moves from holding hearings in physical court rooms to remote hearings and vice versa.

The 75th Anniversary of the Court, which fell in 2021, was marked by a social media campaign highlighting notable decisions and details of Members of the Court since 1946, as well as marking changes to life in Ireland in the intervening years using the hashtag **#IrelandThenAndNow**.

The campaign featured the first meeting of the Labour Court (pictured below) which was held on 26th September 1946 at 45 Merrion Square, Dublin, the first all-female division of the Court (also pictured below), short biographies of some past Members, and also included images to remind us of the many changes that took place in the economic, employment and more general aspects of life over the past 75 years.



The first all-female division of the Court: Caroline Jenkinson (Dep Chair), Sylvia Doyle and Pdraigín Ní Mhurchú (Members) sat on 3 April 2009. In 2021 there was 50:50 gender balance among Deputy Chairs & Members of the Court... a much different picture to 1946.



The campaign also reminded us of the Fifty Years celebration which took place in 1996, which was attended by the then President of Ireland Mary Robinson. The picture below shows left to right, Evelyn Owens, President Mary Robinson and Ian Finlay, former Secretary General of the Department of Labour and author of the publication, "The Labour Court – Not an ordinary Court of law"

published to mark the first fifty years of the Court's existence.



The occasion of the 75th Anniversary of the Court allowed us an opportunity to consider the outstanding work of people like Evelyn Owens, who included among her firsts the fact that she was first woman appointed as deputy Chairman and first (and only to date) female Chairman of the Court on her appointment in 1994 (Ms Owens was also the first woman president of an Irish trade union for both sexes, and the first woman to sign a legislative bill into law).

The 21st Countess Markievicz Lecture – a series which commemorates the first female Cabinet Minister in Europe - was given by Evelyn Owens on 18th November 1996. The lecture was entitled *'The Labour Court – Past, Present and Future'* (available online) and marked the Court's 50th Anniversary. The event to mark that Anniversary was attended by the first woman President of

Ireland, Ms Mary Robinson.



To mark the 75th anniversary of the Labour Court's operation, the former RTE Employment Affairs Correspondent Ingrid Miley reported on events related to the Court's history from outside the location of its first hearing in Merrion Square, Dublin 2. These reports included a report on the Court's inaugural meeting held on 23rd September 1946, presided over by the Court's first Chairman, Ronald Mortished. Ms Miley also reported on a 1947 recommendation of the Labour Court signed by Ronald Mortished, which supported a demand by laundry workers for a second week of paid holiday.

4.3 The Administration of Justice

In the decision of the Supreme Court in **Tomasz Zalewski v An Adjudication Officer, WRC, Ireland and the AG 2021 IESC 24** which involved a challenge to the constitutionality of the adjudicative process established under the Workplace Relations Act 2015 ("the 2015 Act") the Supreme Court found that the Labour Court when exercising its employment rights function was engaged in the administration of justice within the meaning of Article 34 and 37 of the Constitution. The Supreme Court went on to say that the consequences of this is that the function being performed, and the power being exercised

"must comply with the fundamental components of independence, impartiality, dispassionate application of the law, openness, and, above all, fairness, which are understood to be the essence of the administration of justice..... The standard of justice administered under Article 37 cannot be lower or less demanding than the justice administered in courts under Article 34."

4.4 Joint Labour Committees

The Industrial Relations Acts 1946 - 2015 make provision for a system of Joint Labour Committees (JLCs), which is a mechanism to allow for the setting of statutory minimum rates of pay and conditions of employment in particular sectors through Employment Regulation Orders (ERO's).

A JLC is comprised of representatives of employers and workers in the relevant sector under an independent chairman. When it formulates proposals for an ERO, the JLC publishes details and invites submissions from the public. Following consideration of any submissions, the Committee may make proposals to the Court for the making of 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.

The following JLCs were in existence in 2021.

1. Agricultural Workers
2. Catering
3. Contract Cleaning
4. Hairdressing
5. Hotels
6. Retail, Grocery and Allied Trades
7. Security Industry
8. English Language Schools Sector
9. Early Years' Service

Activities in this Area in 2021

The Minister of State for Business, Employment and Retail, Damien English T.D., gave legal effect to a recommendation from the Labour Court for the establishment of the **Early Years' Service Joint Labour Committee Establishment Order** [S.I. No. 292/2021] effective from the 1 July 2021 and members to the Committee were appointed in November 2021.

4.5 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 Enterprise, Trade and Employment makes a statutory instrument confirming the terms of the ERO if he is satisfied that the statutory conditions provided for in the Industrial Relations (Amendment) Act 2012 have been complied with.

Activities in this area in 2021

In December 2020 the Court received proposals to amend the 2017 Security Industry Employment Regulation Order. The proposals as amended were adopted by the Court and sent to the Minister in

February 2021. By way of a High Court Order perfected in December 2021 the proposals were remitted back to the Labour Court for a new decision on their adoption.

In November 2021 the Court received proposals to amend the 2020 Contract Cleaning Employment Regulation (Amendment) Order. The proposals were adopted by the Court in February 2022 and forwarded to the Minister.

4.6 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. Details of those JICs registered with the Court as of 31 December 2021 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 e.g. 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 during the year.

4.7 Registered Employment Agreements

The Industrial Relations (Amendment) Act 2015 provided 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.

Activities in this Area in 2021

A company-level agreement between the operator of the Luas, Transdev, and Connect trade union was received by the Labour Court during 2021 and is currently being considered for registration as a Registered Employment Agreement (REA).

4.8 Sectoral Employment Orders

Sectoral Employment Orders (SEO’s) made under the Workplace Relations Act 2015 provide a legislative framework which allows the making of Statutory Orders providing for minimum rates of

pay, sick leave and pension to apply to workers of a class, type or group (including apprentices) in a specified economic sector. An SEO must also contain a dispute resolution procedure and so acts to promote industrial harmony and minimise industrial unrest.

Upon receipt of a request, the Labour Court can initiate an examination of the pay, 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 / or 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.

Activities in this Area in 2021

There are currently three SEOs in being, viz one for the Construction Sector, (S.I. 234/2019 as amended by S.I. 598/2021), one for the Electrical Contracting Sector (S.I. 703/2021) and one for the Mechanical Engineering and Building Services Sector (S.I. 59 of 2018).

Since the Supreme Court ruling in **Náisiunta Leictreach (NECI) - v – Labour Court & Ors 2021 IESC 36** where the constitutionality of the legislation underpinning SEOs was upheld, Minister English has signed two new SEOs into law. The first of these was an amendment to the existing SEO for the Construction Sector as referred to above and this was signed by the Minister in November 2021. Its terms took effect from the 1st February 2022.

The second, also referred to above, was for the Electrical Contracting Sector which was signed by the Minister in December 2021 and its terms took effect from the 1st February 2022.

An application for a new/amended SEO for the Mechanical Engineering and Building Services Sector was withdrawn.

5.0 Internal Services

Financial Management

The Labour Court is funded by the Exchequer, through the Department of Enterprise, Trade and Employment. Expenditure totalling €2,891,873 was incurred by the Court during 2021. This comprised €2,656,701 in respect of pay and €235,172 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 for the provision of goods and services, the Court also avails of drawdown of services from the Department in areas such as learning and development. Expenditure is monitored constantly and is reviewed on a monthly basis.

For details see [Appendix 5: Financial Report for 2021](#).

Customer Service

The Labour Court operates under a Customer Service Charter and Action Plan 2022-2024. 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 Charter can be viewed at www.labourcourt.ie

Memorandum of Understanding

In 2011 the Labour Court prepared a Memorandum of Understanding (MoU) with its parent Department, the Department of Enterprise, Trade and Employment, 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
An Chúirt Oibreachais



Appendices

Appendix 1: Industrial relations statistics

Table 1.1 Profile of industrial relations cases received

		2021	2020
Appeal of Adjudication Officer Decision	Section 13(9), Industrial Relations Act, 1969	74	89
	Section 10, Industrial Relations (Misc Prov) Act, 2004	0	0
	Section 45(B), Industrial Relations Act, 1946	1	23
Direct Referral	Section 20(1), Industrial Relations Act, 1969	93	141
	Section 20(2), Industrial Relations Act, 1969	0	0
	Section 2(1), Industrial Relations (Amendment) Act, 2001	0	1
	Section 26(5), Industrial Relations Act, 1990	0	0
	Section 12(1), Industrial Relations (Amendment) Act 2015	0	0
	Section 23(3), Industrial Relations (Amendment) Act 2015	2	0
Conciliation Service	Section 26(1), Industrial Relations Act, 1990	100	62
Total		270	316

Table 1.2: Industrial relations cases activity 2021 by category

	Cases Received		Withdrawn & Completed			Decisions					
	Worker	Company	Withdrawn	Settled	Decisions	Upheld	Overtuned	Varied	Time Limit	Outside Referral	Direct
S7, Industrial Relations Act, 1969	0	0	0	1	0	0	0	0	0	0	0
S10, IR (Misc Prov) Act 2004	0	0	0	0	0	0	0	0	0	0	0
Section 23(3), Industrial Relations (Amendment) Act, 2015	1	1	2	0	0	0	0	0	0	0	0
S32 Industrial Relations Act, 1946	0	0	0	0	0	0	0	0	0	0	0
S33(1) Industrial Relations Act, 1946	0	0	0	0	0	0	0	0	0	0	0
Section 2(1), Industrial Relations (Amendment) Act, 2001	0	0	1	0	0	0	0	0	0	0	0
Section 13(9), Industrial Relations Act, 1969	63	11	28	2	55	28	10	10	0	7	
Section 20(1), Industrial Relations Act, 1969	93	0	96	7	59	1	1	1	0	56	
Section 20(2), Industrial Relations Act, 1969	0	0	0	1	1	0	0	0	0	1	
Section 26(1), Industrial Relations Act, 1990	100	0	14	8	70	2	1	5	0	62	
Section 45(B) Industrial Relations Act, 1946	1	0	5	0	5	4	0	1	0	0	
Grand Total	258	12	146	19	190	35	12	17	0	126	
	Total received 270		Total completed 355			Total decisions 190					

Appendix 2: Employment rights statistics

Table 2.2: Profile of employment rights appeals received

Section /Act /Application	2021	2020	%
Unfair Dismissal Acts	81	174	47%
Section 8A Unfair Dismissals Acts, 1977	81	174	
Equality	42	115	37%
Section 83, Employment Equality Act, 1998	25	87	
Section 77(12), Employment Equality Act, 1998	17	28	
Payment of Wages	59	64	92%
Section 7, Payment of Wages Act, 1991	59	64	
Organisation of Working Time	31	61	51%
Section 28, Organisation of Working Time Act, 1997	31	61	
Terms of Employment	28	55	51%
Section 8, Terms of Employment (Information) Act, 1994-2018	28	55	
Minimum Notice & Terms of Employment	16	36	44%
Section 12A Minimum Notice & Terms of Employment Acts, 1973	16	36	
Redundancy Payments	25	31	81%
Section 39A Redundancy Payments Act 1967	25	31	
Protection of Employees on Transfer of Undertakings	3	25	12%
Section 11(1) EC (Protection of Employees on Transfer of Undertakings) Regulations, 2003	3	25	
Protected Disclosures	1	14	7%
Paragraph 2 of Schedule 2, Protected Disclosures Act, 2014	1	14	
Safety, Health & Welfare at Work	6	12	50%
Section 29, Safety, Health and Welfare at Work Act, 2005	6	12	
Protection of Employees (Fixed Term Work)	4	8	50%
Section 15, Protection of Employees (Fixed-Term Work) Act, 2003	4	8	
National Minimum Wage	1	8	12.5%
Section 29, National Minimum Wage Act, 2000	1	7	
Section 31(1), National Minimum Wage Act, 2000	0	1	
Protection of Employees (Part-Time Work)	1	4	25%

Section /Act /Application	2021	2020	%
Section 17-Protection of Employees (Part-time Work) Act, 2001	1	4	
Parental Leave	1	4	25%
Section 21(1), Parental Leave Acts, 1998 and 2006	1	4	
All other appeals received by the Court	9	13	69%
Section 9A Protection Employees (Employers' Insolvency) Act 1984	0	3	
Section 32(2), Maternity Protection Act, 1994	2	3	
Section 87(4) Schedule 6, of Consumer Protection Acts 2007	0	2	
Paragraph 2 Schedule 2, Criminal Justice Act 2011	0	1	
Paragraph 2 of schedule 2 Protection of Employees (Temporary Agency Work) Act, 2012	0	1	
Section 4(6), Protections for Persons Reporting Child Abuse Act 1998	0	1	
Regulation 19, European Communities (Road Transport) (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations, 2012	5	1	
Section 81(1) Pensions Act, 1990	0	1	
European Communities (Protection of Employment) Regulations, 2000	1	0	
Paragraph 2 of Schedule 3, Employees (Provision of Information and Consultation) Act 2006	0	0	
Section 28, Workplace Relations Act, 2015	0	0	
Section 44, Workplace Relations Act, 2015	0	0	
Section 55(M)(11) Health Act 2004 and 2007	0	0	
Section 8A(5), Prevention of Corruption (Amendment) Act 2001	1	0	
Totals	308	624	49%

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 -

Or 0818 613666

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	01 613 6666 or 0818 613666 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	01 6136700 or 0818 80 80 90

Appendix 5: Financial report for 2021

Table 5.1 Labour Court outturn 2021

Outturn	€
Pay	2,656,701
Non-pay	235,172
Total	2,891,873

Table 5.2 Main areas of non-pay expenditure

	€
Office Equipment & Supplies	€71,620.97
Office Premises	€68,811.61
Post/Telephones	€48,807.21
Regional Hearings	€23,084.24

Prompt Payments

During 2021 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 2021

Strategic Objective	Objective
Strategic Priority 1: Provide an efficient and high quality service to court users	Deliver improved processing, listing and management of cases.
	Ensure that all scheduled Court sittings are supported to meet the needs of all users.
	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
	Develop appropriate customer service standards
Strategic Priority 2: Develop and support Court Members and administrative staff	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
	Provide for knowledge transfer to ensure continuity of service when administrative staff move due to promotion, mobility or retirement.
	Enhance internal communications
	Continue the professional development programme for Court Members
Strategic Priority 3: Optimise technology and improve case management process	Generate efficiencies from greater use of online service delivery
	Identify and implement more efficient processes and workflows
	Enhance www.labourcourt.ie to provide improved and user-friendly access to information and online services for court users.
Strategic Priority 4: Ensure effective governance	Continue to adhere to DETE requirements in respect of business planning, risk management, records management, public procurement, financial procedures, GDPR and FOI.

THE LABOUR COURT

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