

WRC

An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

Workplace Relations Commission

Annual Report 2023





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Workplace Relations Commission

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2023 Annual Report

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

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Audrey Cahill
Director General

Director General's Report

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

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

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

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

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

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

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

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

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

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

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

Audrey Cahill
Director General

Key Indicators



61,823

Infoline
Calls (+3%)



4,600,000

Website
Views (+12%)



1,660

Employment
Agency/ Child
Licences Issued



€1,950,600

Unpaid Wages
Recovered (+39%)



6,519

Inspection
Visits



Inspection Campaigns:

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



14,158

Specific Complaints
Received (+11%)



4,765

Adjudication
Hearings (+12%)



2,951

Adjudication
Decisions Issued (+50%)



85%

Conciliation
Success Rate



44

Outreach
Events



4

New Information
Videos Published



Followers:

X: +12%
LinkedIn: +75%



Robotic Process
Automation
introduced for
processing complaints



3



Workplace Relations Commission (WRC)

Functions of the WRC

The main functions of the WRC are to:

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

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

Board of the Commission

The WRC has an advisory board responsible for the setting of the WRC's Strategy and annual Work Programmes.

The Work Programme is submitted to the Minister for approval by 1 December every year and the most recent Strategy Statement was submitted to the Minister in 2021.

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

The Board has two statutory functions, which are:

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

The Board met on four occasions in 2023.



Dr David Begg
Chairperson



Ms. Ethel Buckley



Mr. Stephen Driver



Ms. Judith Fitzgerald



Ms. Sinead Gogan



Mr. George Maybury



Mr. Brendan McGinty



Mr. Barry O'Brien



Ms. Virginija Petrauskaite



Fees/Ethics in Public Office

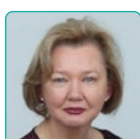
All Board members, Adjudicators, Rights Commissioners, and relevant Officers of the Commission were advised of their obligations and/or completed the appropriate returns under the Ethics in Public Office Acts, as required. The Chairperson and members of the Board are not in receipt of any fee in connection with the performance of their duties as Board members.

Management Committee

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



Ms. Audrey Cahill –
from 13 February 2024
Director General



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



Mr. Liam Kelly
Director General
to 31 March 2023



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



Mr. David Small
Director of Adjudication



Mr. John Kelly
Director of Information, Inspection and Enforcement



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



Ms. Gwendolen Morgan
Registrar and Director of Legal Services

Budget and Staffing

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

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

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

At the end of 2023, the staff allocation stood at 215 permanent employees who are full-time civil servants and part of the overall staffing of the Department of Enterprise, Trade and Employment. The staffing is supplemented by a further 42 sanctioned Adjudication Officers who are contracted to assist the Adjudication Service on a case-by-case basis.

Figure 1 - WRC Staffing: End December 2023

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

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

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Service Reports

4.1 | Information, Inspection and Enforcement

Information and Customer Service

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

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

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

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

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

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

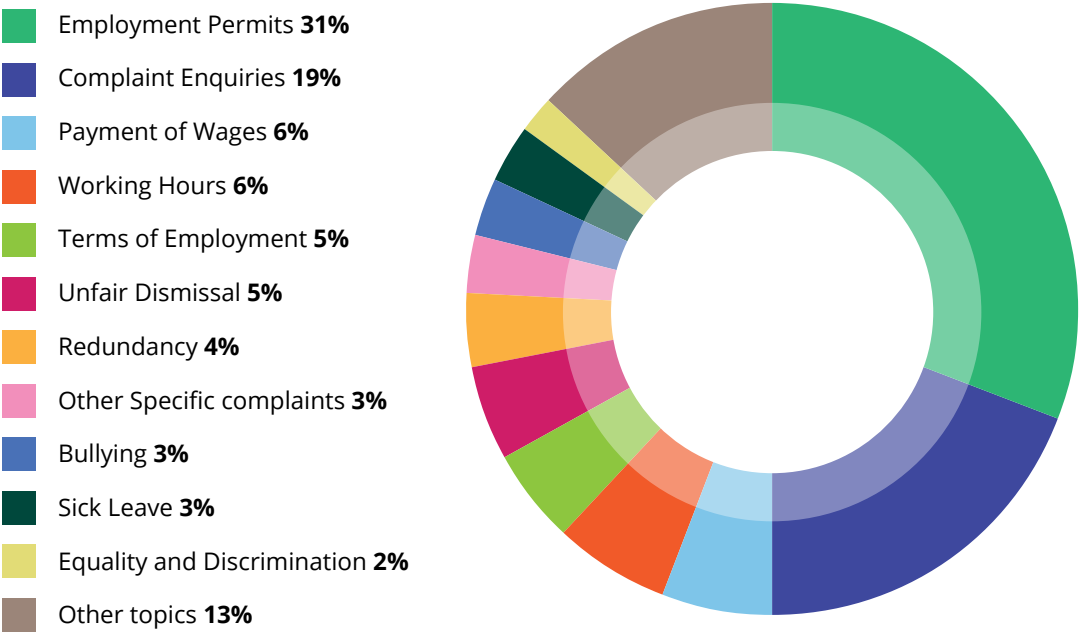
Figure 2: Information and Customer Service Unit Activity: 2023

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

Calls to Information and Customer Service

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

Figure 3: Infoline Topic Trends: 2023

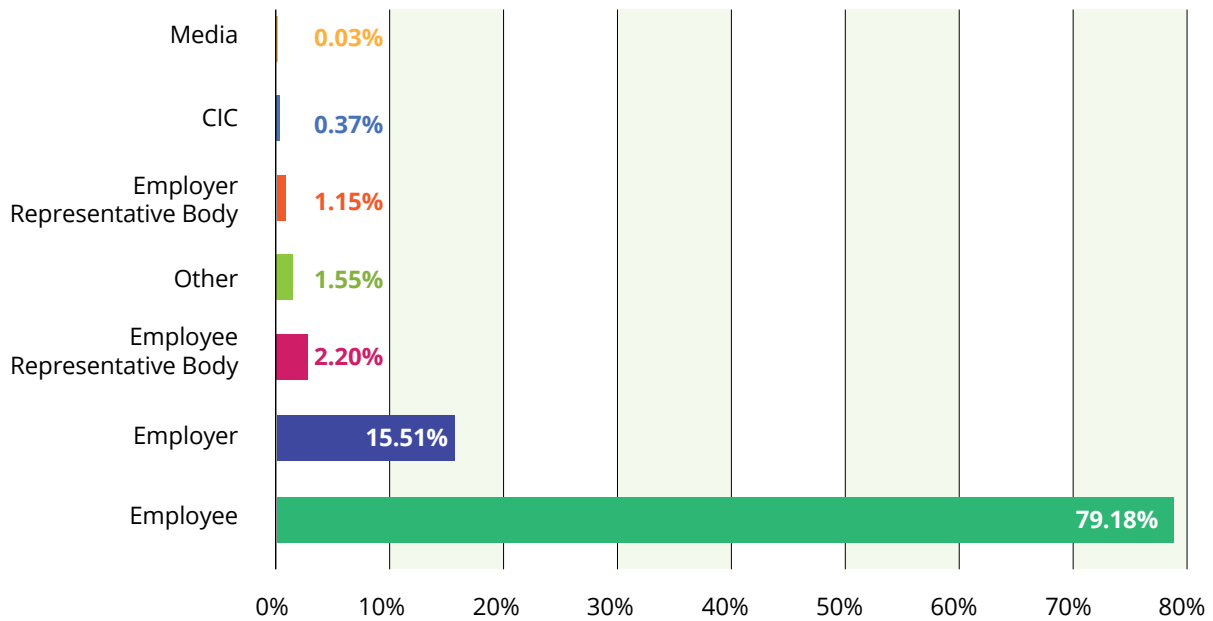


1 Including activities such as presentations, briefings, conferences, and events.

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

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

Figure 4: Infoline Caller Type



Outreach and Campaigns

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

A number of campaigns took place throughout the year including:

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

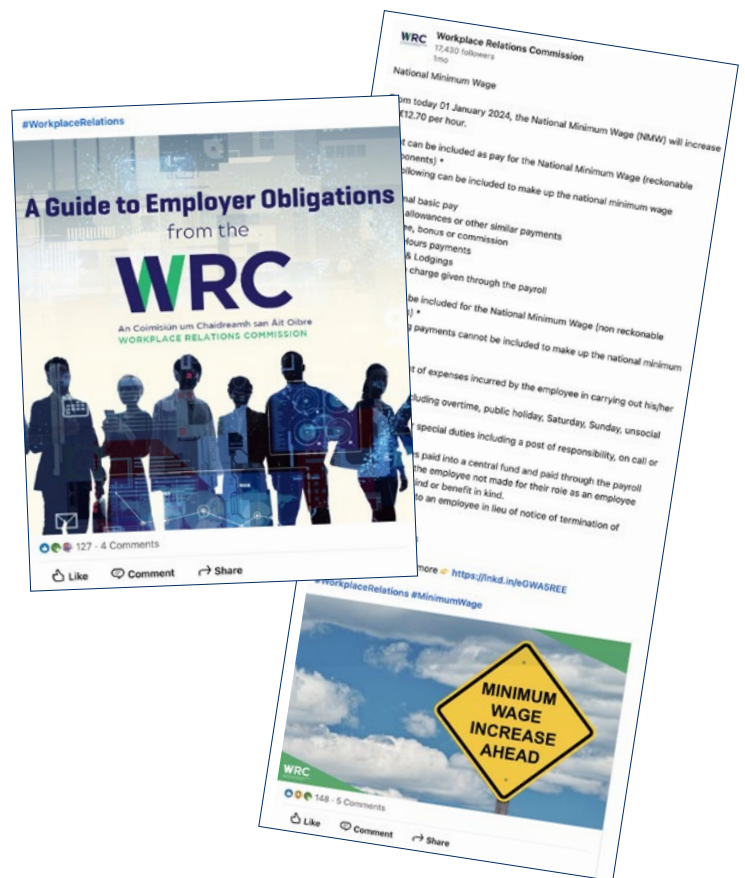


In 2023 the Information and Customer Service team also provided support to various campaigns carried out by Inspection Services with a view to providing information to employers and employees regarding their obligations and entitlements during the course of inspections.

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

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

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



Licensing

Figure 5: Licensing Key Activities

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

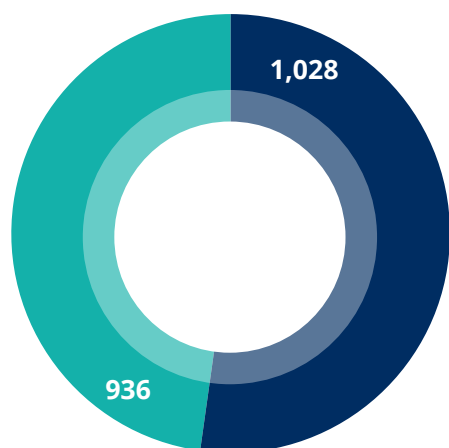
Licensing of Employment Agencies and employment of children

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

Employment Agency Licensing 2023

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

Figure 6: Agency Licences issued 2022 and 2023

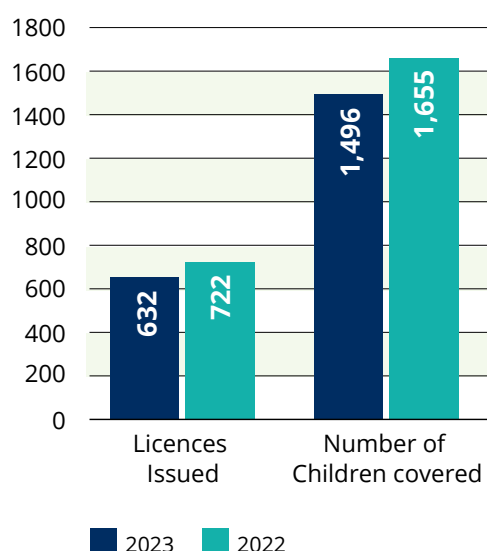


2023 2022

Licences issued for the employment of children in 2023

In addition, the WRC, on behalf of the Department of Enterprise, Trade and Employment, issues licences authorising the employment of children by employers engaged in cultural, artistic, sports or advertising work. Licences for the employment of children set out conditions under which the children may be employed, governing general conditions of employment, parental consent, child supervision, education arrangements, and the maximum working times and minimum breaks appropriate to each child or group of children employed. In 2023, 632 licences were issued authorising the employment of 1,496 such children.

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



Inspection and Enforcement Services

Figure 8: Inspection and Enforcement Service 2023 Activity

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

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

The inspection process initially involves the following steps:

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

Inspectors will continue to engage with the employer throughout the inspection process and their objective is to verify employer compliance with the relevant employment law and if necessary, to enforce compliance with the law. Compliance may include redress for the employees concerned in the form of payment of any unpaid wages arising from contraventions of legislation found during the inspection process.

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

Inspections in 2023

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

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

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

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

2 Successful outcomes include successful Prosecution, Probation and Charitable Donations

Figure 9: Enforcement Outcomes 2023

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

Joint Inspections

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

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

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

2023 Inspection Activity and Outcomes by Employment Sector

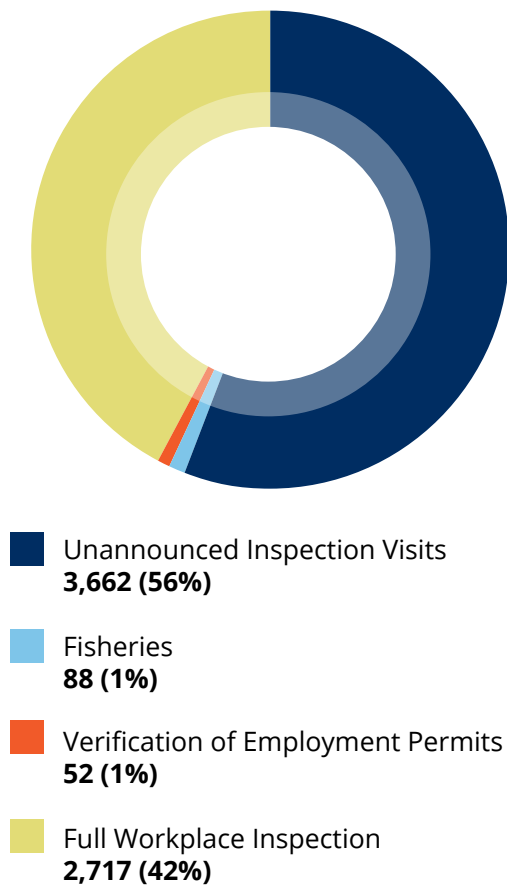
The details of inspection activity in 2023 are set out in Figure 10. It should be noted that the incidence of breaches of employment law reflects non-compliance detected in respect of the employers inspected and may not be representative of the relevant sector.



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

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

Figure 11: Inspection Visit Profile



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

Sources of Inspection Cases

Figure 12: Main sources for WRC Inspection Cases

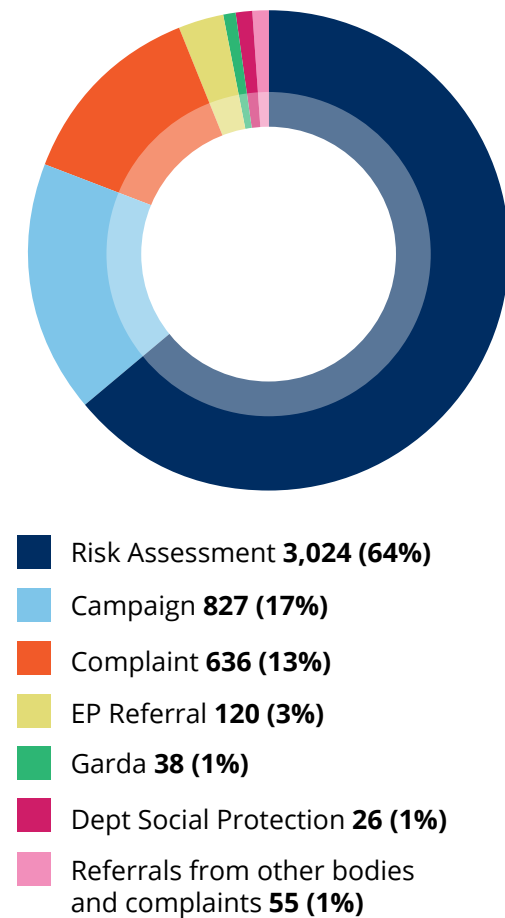


Figure 12 above illustrates the main sources for WRC inspections carried out in 2023. The majority of cases (3,024) were based on risk assessments carried out by the WRC. Various sectoral campaigns involved 638 cases and 518 resulted from complaints to the inspectorate. Other sources include referrals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



Civil Enforcement of Adjudication Awards

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

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

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

Inspection Campaigns

National Minimum Wage

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

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

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

Commercial Sea Fishing

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

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

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



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

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

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



EMPACT

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

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

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

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

Construction Campaign 2023

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

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



Aran Island Information Campaign 2023

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



WRC Inspectors and Spanish colleagues

Overseas Activities

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

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

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



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

4.2 | Conciliation, Advisory and Mediation Services

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

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

Conciliation

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

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

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

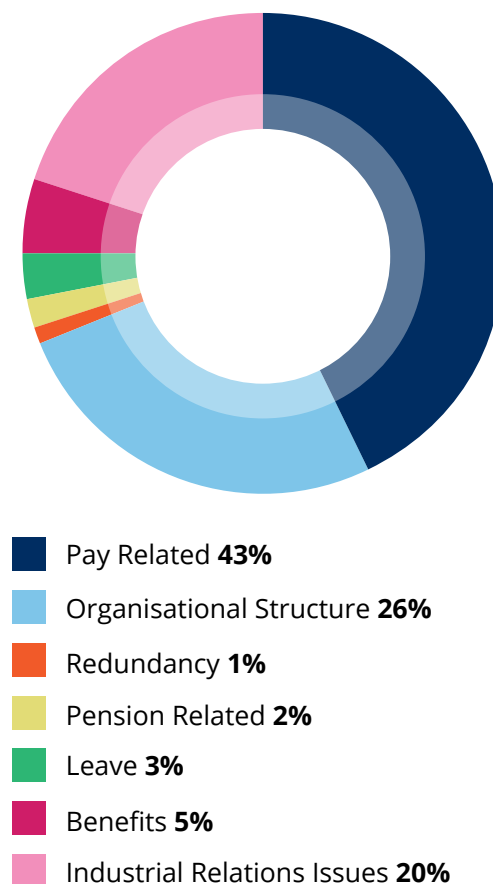
In late 2023, the Commission was asked to facilitate discussions between the Government and the Public Sector Trade Unions/Associations on a successor agreement to Building Momentum. That engagement continued into 2024.

Issues at conciliation

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

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

Figure 14: Types of Disputes at Conciliation in 2023



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

Advisory

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

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

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

Codes of Practice

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

Knowledge Development and Outreach

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

Mediation

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

Pre-adjudication Mediation

Pre-adjudication mediation is available for any complaint referred to the Adjudication Service once both parties have agreed to participate, and the Director General is of the view that the matter is capable of being resolved through mediation³. The benefit of such an approach is that it allows the parties to engage and reach a solution to the complaint or dispute in a confidential and informal manner while having full control over the outcome. It also minimises the time and expense involved in preparing and proceeding to a full adjudication hearing. The parties have an opportunity to mutually agree on a resolution that suits their needs and with a creativity that may not be available at adjudication. A mediated agreement under Section 39 of the Workplace Relations Act 2015 is confidential and legally binding on the parties.

Mediation may take place in person, by email and over the phone, or virtually, depending on the complexity and circumstances of the issue and the willingness of all parties to engage.

Data and Insights

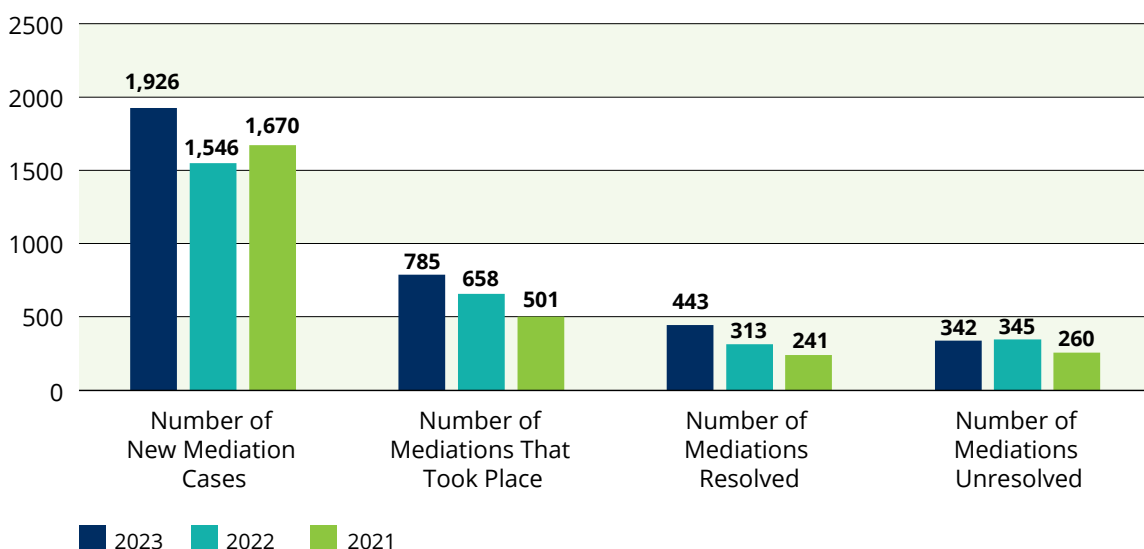
Pre-adjudication mediation continued to grow during 2023. A total of 785 mediations took place in 2023, which is a 19% increase compared to 2022, and a 57% increase compared to 2021.

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

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

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

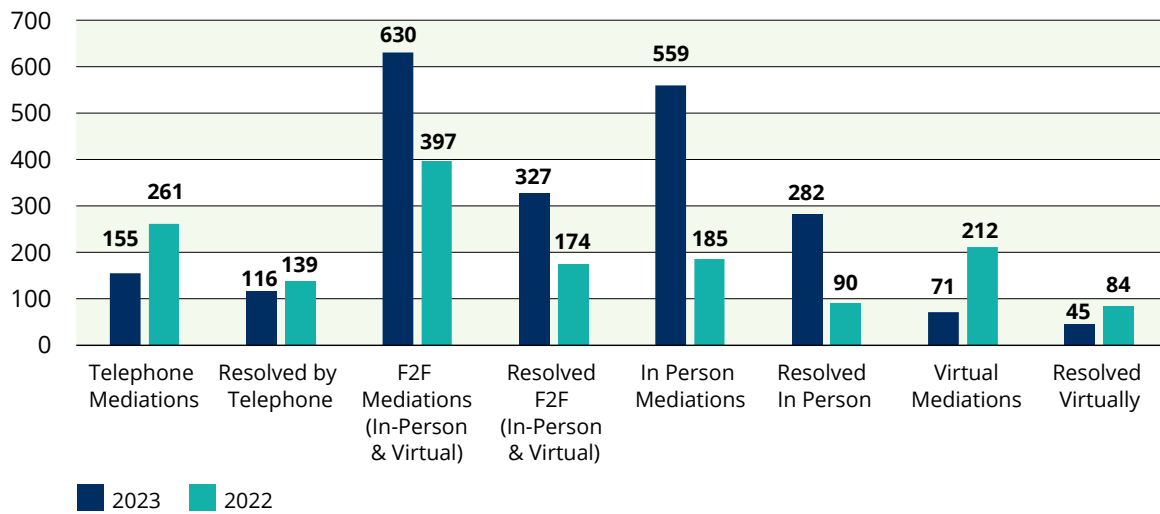
Figure 15: Mediations in 2023 compared to 2022 and 2021



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



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



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

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

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

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

Late Request Mediation

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

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

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

Workplace Mediation

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

Facilitation

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



4.3 | Adjudication

Function

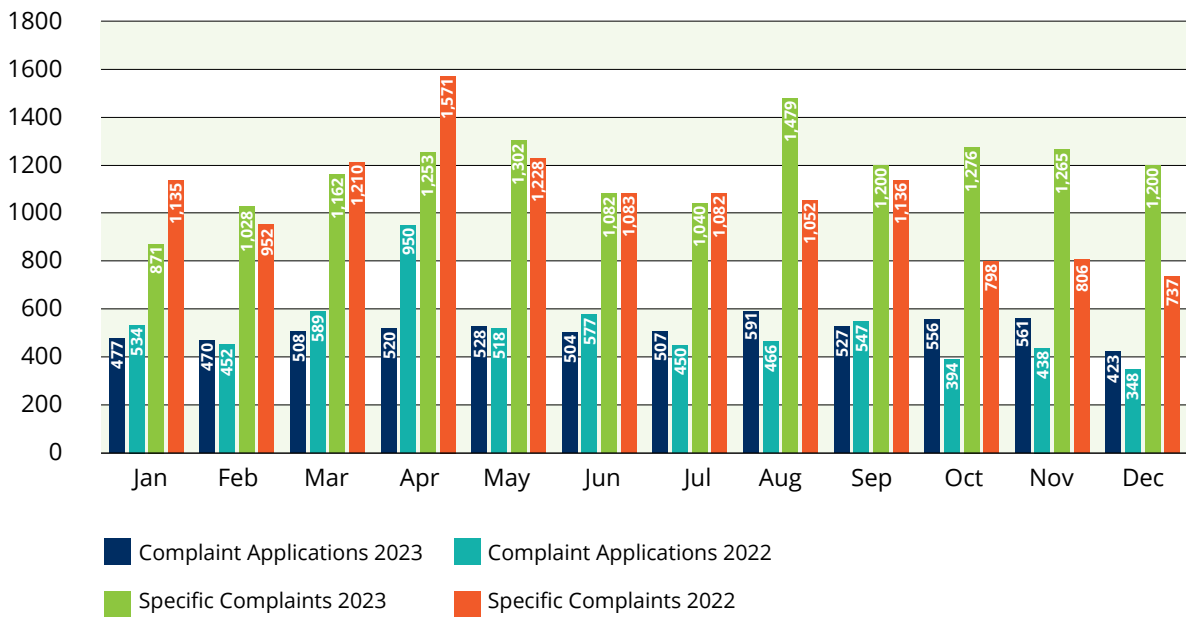
The Adjudication Service investigates disputes, grievances and claims made by individuals and groups under employment, equality and equal status legislation. The legislation under which complaints may be made is set out in Appendix 5.

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

Complaints Received 2023

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

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



Multiples

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

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

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

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

Complaint Breakdown

Specific complaints in relation to Complaint Type

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

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

Figure 18: Specific Complaints by Complaint Type

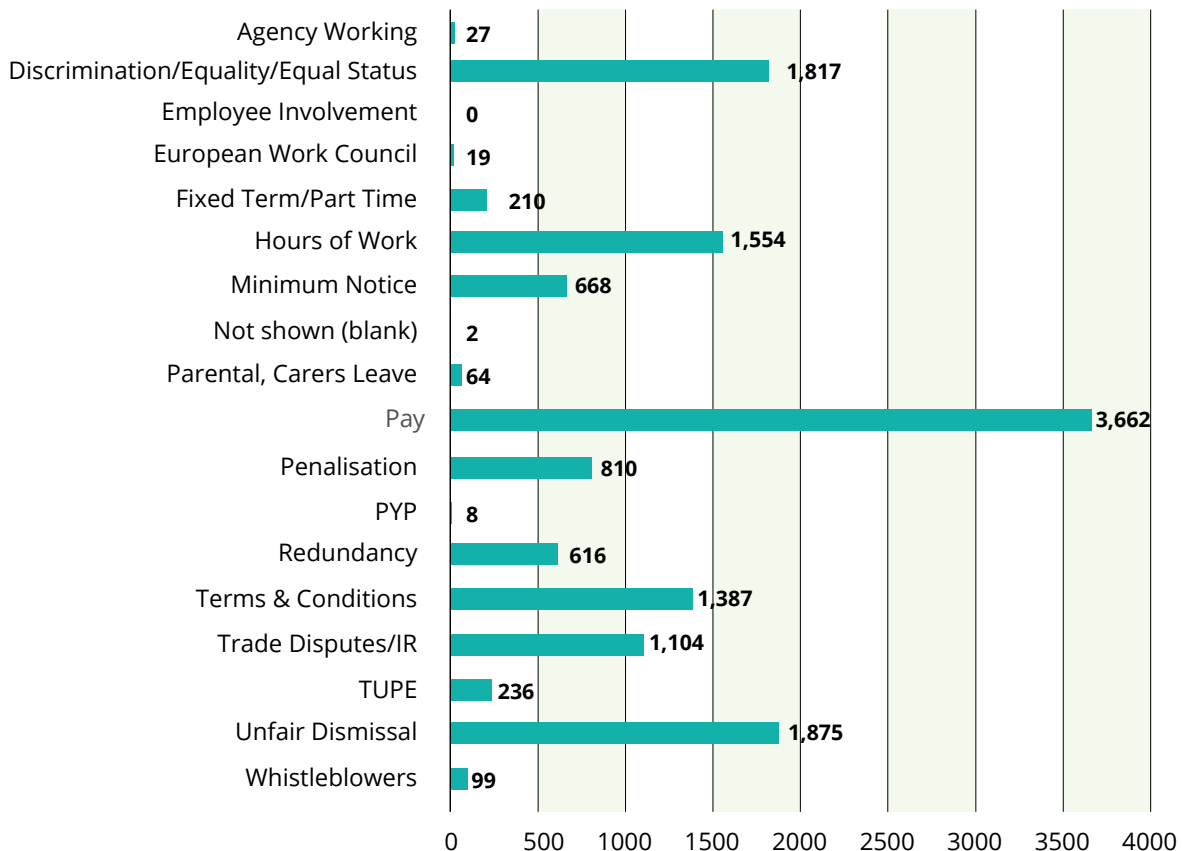
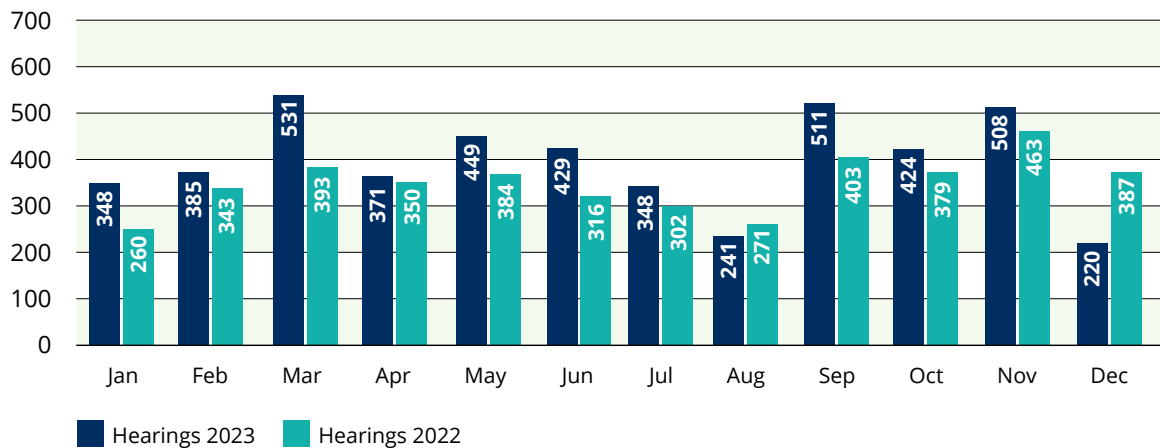


Figure 19: Hearings Held by Month 2023



Hearings

Hearings Scheduled

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

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

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

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

Hearings Held

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

Interpreters

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

Postponement Requests

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

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

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

Postponement Process 1

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

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

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

Postponement Process 2

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

Decisions

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

Some notable WRC decisions are set out in Appendix 3.

Closed Complaints

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

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

Referrals Under the Equal Status Acts, 2000 to 2018

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

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



Figure 20: Equal Status Grounds

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

Referrals under the Employment Equality Acts, 1998 to 2021

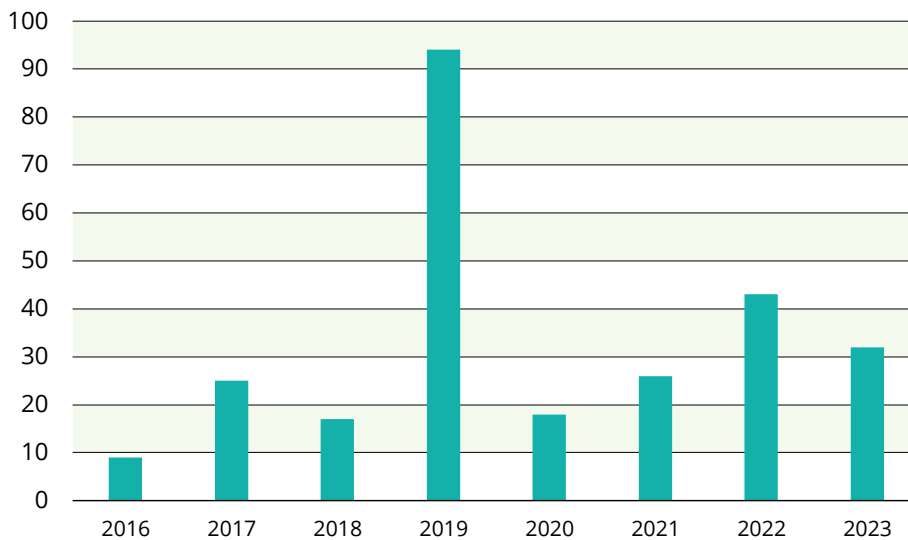
In 2023, 1,045 complaints were referred under the Employment Equality legislation citing 1,458 specific grounds of discrimination. This is a decrease of 15% of referrals under the legislation compared to 2022 (1,235) when 1,677 specific grounds were cited. While 1,045 referrals were received under the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

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

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

Figure 21: Breakdown of Specific Complaints by Ground

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

Figure 22: Referrals Received under the Pensions Act, 1990

Referrals Received under the Pensions Act, 1990

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

Stakeholder Engagement

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

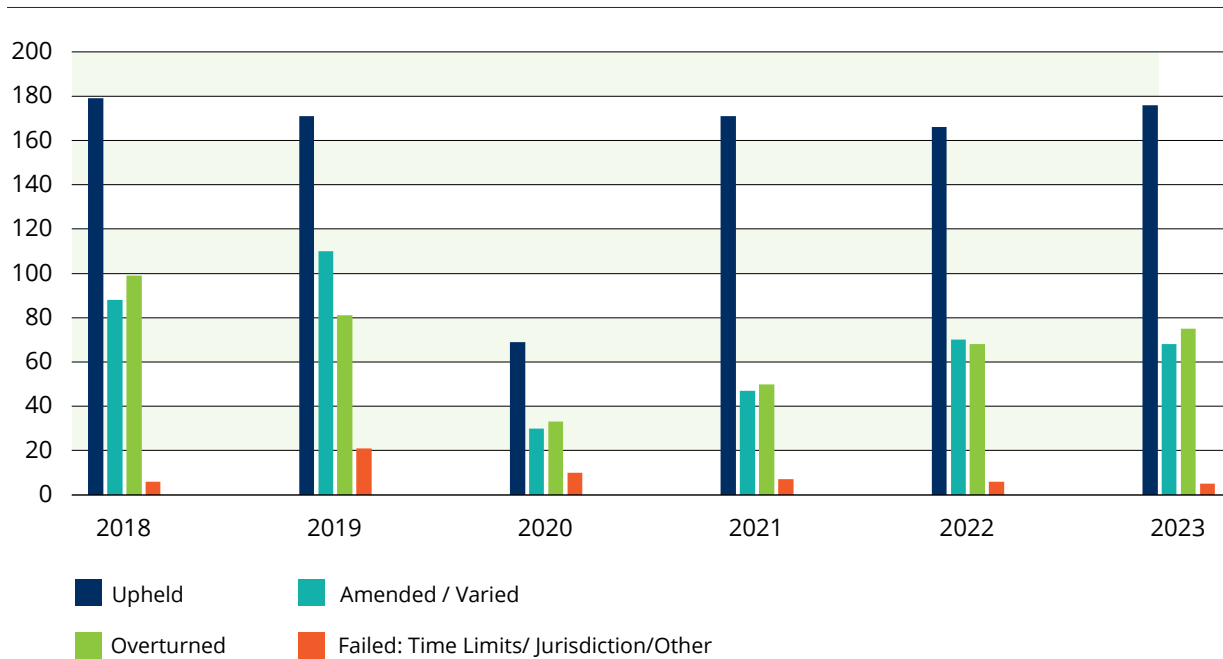
Labour Court Decisions on WRC Appeals

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

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



Figure 23: Labour Court Outcomes



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

4.4 | Corporate, Strategy and Digital Services Division

Governance

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

The Division provides key resource and facilities support for the WRC in the delivery of its core objectives. The Division is responsible for corporate governance, budgets, business planning, risk and information management, ICT, communications, liaising with the Department's HR unit on WRC staffing, supporting the work of the Divisions, providing financial management and facilities management across all WRC locations and providing secretariat support to the Board, and to the Director General.

Human Resourcing

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

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

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

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

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

Information and Communication Technologies

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

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

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



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

e-Complaint Form

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

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

Communications and Outreach

Website

The WRC website is a vital source of information and an interface with the WRC for service users, particularly in relation to updates on service delivery models and employment rights, both generally, and aligned to legislative changes.

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

Since the launch of the revised website in May 2019, the site has been regularly reviewed to ensure that it complies fully with all web standards in terms of the structure, layout and content and that it follows web standards laid out by the World Wide Web Consortium (W3C) and the Irish National Disability Authority.

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

Outreach

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

Social Media

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

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

Information Videos

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

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

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

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

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

WRC Office Premises

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

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

Public Sector Equality and Human Rights Duty

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

In line with established principles and section 42 of the Irish Human Rights and Equality Act 2014, the WRC places a strong emphasis on the right to fair procedures, the right to privacy, equal access and equal treatment in all aspects of the services provided. The WRC continues to work to ensure the dignity and welfare of all staff is protected and a culture of participation and respect is encouraged. The human rights and equality issues affecting staff include the right to equality of opportunity, and dignity and respect in the workplace.

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

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

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

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

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

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



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

Protected Disclosures Acts 2014 to 2022

As a public body, the WRC is required under Section 22 of the Protected Disclosures Acts, 2014 to 2022 to publish an annual report in relation to the number of protected disclosures made to it in the preceding year, and the action taken in response to any such protected disclosures.

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

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

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

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

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

Official Languages Acts 2003 and 2021

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



4.5 | 4.5 Legal Division

Overview

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

New Legislation

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

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

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

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

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

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

Protected Disclosures Acts 2014 to 2022

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



Litigation

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

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

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

Enhancing Accessibility

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

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

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

Data Protection

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

External Engagements

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

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

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

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

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

Appendices



Appendix

1



Work Programme 2023: Outcomes

Information and Customer Services

Work Programme Objectives	Action/Tasks	Delivery Time frame	Key Performance Indicators	Outcomes
Provide non-directive information on WRC activities generally, employment legislation and redress mechanisms through a variety of delivery formats.	Provide a high quality accessible, customer-focused and user-friendly response to telephone, email, white mail and other employment rights enquiries	Throughout 2023	90% of queries dealt with at initial query	61,800 calls dealt with promptly and efficiently
	Co-ordinate the targeted participation of the WRC at employment law seminars, presentations, exhibitions, roadshows, webinars, etc.	Throughout 2023	Key events identified, targeted message deliver effectively and efficiently Increased awareness of the WRC and its remit/services using social media accounts	44 events attended (30% increase on 2022)
	Utilise social media platforms to raise awareness of employment legislation, relevant decisions, WRC activities/remit and promote WRC redress mechanisms to the public	Throughout 2023	Key events, days, campaigns. research and data identified and effectively publicised on social media	Social media channels utilised to drive referrals to WRC website

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



Inspection and Enforcement Services

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

⁸ Successful outcomes include successful Prosecution, Probation and Charitable Donations

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



Conciliation, Advisory and Mediation Services

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Provide timely, effective and efficient conciliation service and ensure demand is met whilst maintaining delivery of all services	Provide conciliation in an appropriate timeframe to facilitate resolution of industrial relations disputes. Proactively engage with service users to provide assistance in the maintenance of positive industrial and working relations	As and when required by clients throughout 2023	Maintenance of high success rate in the resolution of industrial relations disputes	85% of disputes referred resolved
Work to expand client usage of relevant mediation services of WRC	Maintain and increase – where possible – pre-adjudication mediation where required. Unfair Dismissal cases to default to face-to-face mediation	Throughout 2023	Increase in cases successfully mediated to bring about a reduction in numbers advancing to adjudication process in rights-based claims	19% increase in pre-adjudication mediations with and increase of 42% in the number of cases resolved
	Introduction of Late Request Mediation (LRM) Service in conjunction with the Adjudication Service	Q1 2023	-Reduction in postponement of adjudication hearings. -Increase in volume of mediations. -Increase in settlements at mediation	65 Late Requests for Mediation received. 52% of LRM cases that proceeded to mediation were resolved
Chair and facilitate various industrial relations and statutory fora in both the private and public sector	Facilitate discussions in a timely fashion. Assist parties deal with all issues in accordance with procedures and operations as set in agreed terms of reference	Throughout 2023	Effective delivery, operation and conclusion of all issues raised in accordance with protocols and procedures with the agreement of all parties	All requests for assistance fully delivered
Improve site-specific workplace relations	Carry out reviews of industrial relations, chair joint working parties, facilitate resolution of individual disputes including referrals under the IR Act 2015	Throughout 2023	Effective, tailored programme delivery, high service user satisfaction, improved workplace relations	Assistance supplied as needed: 6 interventions concluded and 10 ongoing

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



Adjudication Service

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

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



Corporate, Strategy and Digital Services

Work Programme Objectives	Action/Tasks	Delivery Timeframe	Key Performance Indicators	Outcomes
Maintain robust corporate governance framework in WRC	Oversee and monitor internal standards/policies/procedures	Throughout 2023	Corporate governance in WRC in line with best practice	Robust corporate governance in place throughout 2023
Ensure WRC carries out statutory functions within budget	Oversee efficient and effective expenditure, monitor service demand and activity levels and liaise regularly with DETE in this regard	Throughout 2023	Work Programme achieved consistent with proper utilisation of budget allocation	Work Programme achieved within overall budget allocation
WRC has functional flexibility	Ensure that the WRC can respond quickly to shifting demand and resource patterns across the full range of its activities	Throughout 2023	WRC able to respond quickly to Divisional demand spikes and shifting resource patterns	WRC responded agilely to fluctuation demands across 2023
Manage the WRC risk-based strategic, business planning performance culture at all levels of the Organisation	Assist in implementation of, Board Strategy and Work Programme and roll out via Corporate, Divisional, Unit and personal business plans, measure and take remedial action against risks and report on progress to MC and Board on a regular basis	Throughout 2023	WRC operating within coherent strategic and business plan framework	Risk and Business Process frameworks fully operational
Enhance and inform the policy debate on workplace relations developments	In consultation with other Divisions identify areas of policy concern and input to policy formulation	Throughout 2023	Input provided and understood	Input provided as required
Maintain the WRC offices	Ensure that all WRC offices are maintained and can provide the full range of WRC services	Throughout 2023	Offices fully operational providing the full range of WRC services	All offices fully operational
Stakeholder Conference	Commission research and hold stakeholder conference	Q3 2023	Research completed and conference held	Postponed until 2024

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



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

Legal Affairs

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



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

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



Appendix

2



Convictions 2023

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

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



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

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



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

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



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

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



Appendix 3



Notable WRC Adjudication Decisions 2023

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Overview

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

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

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

Employment Status

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

Keywords

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

Background

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

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

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

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



Findings

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

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

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

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

Employment Equality Acts 1998 to 2021 – sexual harassment

Catherine Kelly v. An Post, ADJ-00040021

Keywords

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

Background

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

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

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

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

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

Findings

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

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

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

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

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

Employment Equality Acts 1998 to 2021 – mandatory retirement age

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

Keywords

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

Background

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

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

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

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



Findings

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

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

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

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

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

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

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

Equal Status Acts 2000 to 2018

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

Keywords

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

Background

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

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

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

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

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

Findings

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

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

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

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

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

Keywords

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

Background

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

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



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

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

Findings

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

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

Keywords

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

Background

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

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

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

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

Findings

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

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

Industrial Relations

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

Keywords

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

Background

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

Findings

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

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

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

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

Collective redundancies

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

Keywords

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

Jane Crowe

Background

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

Findings

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

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

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

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

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

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

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

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

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



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

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

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

Sick Leave Act 2022

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

Keywords

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

Background

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

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

Findings

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

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

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

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

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

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

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

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

Maternity Protection

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

Keywords

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

Background

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

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

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

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

Findings

EEA

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

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

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



MPA

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

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

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

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

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

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

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

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

Pay (including tips)

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

Keywords

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

Background

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

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

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

Findings

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

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

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

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

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

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

Keywords

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

Background

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

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



Findings

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

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

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

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

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

Protected Disclosures

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

Keywords

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

Background

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

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

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

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

The Respondent did not appear at the hearing.

Findings

Unfair Dismissal Act 1977 (“UDA”)

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

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

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

Protected Disclosures Act 2014 (“PDA”)

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

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

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

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

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

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

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



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

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

Terms of Employment (Information) Act 1994

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

Minimum Notice and Terms of Employment Act 1974

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

Organisation of Working Time Act 1997

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

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

Appendix 4



Legal Challenges involving the WRC

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

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

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

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

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

Keywords

Judicial review, recusal application, objective bias.

Background

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

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

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

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

Findings

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

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

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

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

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

2015 article

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

Relationship with counsel

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

Statements made during leave application

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

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

Nomination as mediator

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

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

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

Keywords

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

Background

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

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

Findings

The Applicant's behaviour throughout the hearing.

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

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

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



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

Application to dismiss

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

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

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

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

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

Court's jurisdiction to dismiss

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

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

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

The right to a fair hearing and consequent obligations

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

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

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

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

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

Keywords

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

Background

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

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

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

Findings

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

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



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

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

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

Keywords

Judicial review, statutory appeal, alternative remedy.

Background

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

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

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

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

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

Findings

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

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

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

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

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

The court refused the application.



Appendix

5



Legislation by which complaints may be submitted to the Adjudication Service

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

(S.I. No. 157 of 2008)

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

Adoptive Leave Act, 1995

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

Carer's Leave Act, 2001

Central Bank (Supervision and Enforcement) Act, 2013

Charities Act, 2009

Competition Act, 2002

Consumer Protection Act, 2007

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

Employees (Provision of Information and Consultation) Act, 2006

Employment Equality Acts, 1998

Employment Permits Act, 2006

Employment Regulation Orders 2022

Equal Status Act, 2000

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

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

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

European Communities (Working Conditions of Mobile Workers engaged in Interoperable Cross-Border Services in the Railway Sector) Regulations, 2009 (S.I. No. 377 of 2009)

European Union (reporting, Analysis and Follow-up of Occurrences in Civil Aviation) Regulations 2020 (S.I. 195/2020) in relation to a complaint of a contravention of Article 16(9) of EU regulations 376/2014

European Union (Transparent and Predictable Working Conditions) Regulations 2022

Further Education and Training Act, 2013

Health Act, 2004

Industrial Relations Acts, 1990

Inland Fisheries Act, 2010

Maritime Area Planning Act, 2021

Maternity Protection Act, 1994

Minimum Notice and Terms of Employment Act, 1973

National Asset Management Agency Act, 2009 Chemicals Act, 2008

National Minimum Wage Act, 2000

Organisation of Working Time Act, 1997

Parental Leave Act, 1998

Payment of Wages (Tips and Gratuities) Act, 2022

Payment of Wages Act, 1991

Pensions Acts, 1990

Property Services (Regulation) Act, 2011

Protected Disclosures (Amendment) Act, 2022

Protected Disclosures Act, 2014

Protection of Employees (Employers' Insolvency) Act, 1984

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

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

Protection of Employees (Temporary Agency Work) Act, 2012

Protection of Employment Act, 1977

Protection of Young Persons (Employment) Act, 1996

Protections for Persons Reporting Child Abuse Act, 1998

Redundancy Payments Acts, 1967

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

Regulation 19 of the European Communities (European Public Limited - Liability Company) (Employee Involvement) Regulations, 2006 (S.I. No. 623 of 2006)

Regulation 20(1) of the European Communities (European Cooperative Society)

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



Regulation 5, 8, 9, 10, 11 or 12 of the European Communities (Road Transport) (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations, 2012 (S.I. No. 36 of 2012)

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

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

Safety, Health and Welfare at Work Act, 2005

Terms of Employment (Information) Act, 1994

The Gender Pay Gap Information Regulations 2022

The Sick Leave Act, 2022

The Work Life Balance and Miscellaneous Provisions Act, 2023

Transnational Information and Consultation of Employees Act, 1996

Unfair Dismissal Acts, 1977

Explanatory Note

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

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

Section 41 of the Workplace Relations Act 2015 creates a common procedure for the presentation of complaints and the referral of disputes under various pieces of employment legislation to the Director General of the WRC.

The individual employment enactments under which a person can present a complaint or refer a dispute to the Director General of the WRC in accordance with the provisions of Section 41 are listed in Schedule 5 of the Workplace Relations Act, 2015.

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

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

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

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

The legislative basis for the referral of complaints to the Director General of the WRC under 44 the Pensions Act 1990 arises from Part VII of that Act (the relevant provisions of Part VII of the Pensions Act 1990 have been amended by Section 82 of the Workplace Relations Act 2015).

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

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

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



Appendix 6



Complaints submitted to the WRC by Legislation

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

Complaint seeking adjudication by the Workplace Relations Commission under Regulation 10 of the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003)	237
Complaint seeking adjudication by the Workplace Relations Commission under Section 14 of the Protection of Employees (Fixed-Term Work) Act, 2003	204
Complaint seeking adjudication by the Workplace Relations Commission under Section 28 of the Safety, Health & Welfare at Work Act, 2005	190
Complaint seeking adjudication by the Workplace Relations Commission under Section 45A of the Industrial Relations Act, 1946	145
Complaint seeking adjudication by the Workplace Relations Commission under Regulation 18 of the European Communities (Road Transport) (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations 2012 - S.I. No. 36/2012	116
Request for an investigation by a Workplace Relations Commission under the Terms of Employment (Information) Act, 1994	79
Complaint seeking adjudication by the Workplace Relations Commission under section 24 of the National Minimum Wage Act, 2000	73
Request for an investigation by a Workplace Relations Commission Inspector under the National Minimum Wage Act, 2000.	73
Complaint seeking adjudication by the Workplace Relations Commission under Section 23 of the Industrial Relations (Amendment) Act, 2015	58
Complaint seeking adjudication by the Workplace Relations Commission under Sick Leave Act 2022	57
Complaint seeking adjudication by the Workplace Relations Commission under Regulation 15 of the European Communities (Organisation of Working Time) (Mobile Staff in Civil Aviation) Regulations 2006 - S.I. No. 507 of 2006	45
Complaint seeking adjudication by the Workplace Relations Commission under Section 16 of the Protection of Employees (Part-Time Work) Act, 2001	43
Complaint seeking adjudication by the Workplace Relations Commission under section 86 of the Employment Equality Act, 1998	35
Complaint seeking adjudication by the Workplace Relations Commission under Section 25 of the Protection of Employees (Temporary Agency Work) Act, 2012	32
Complaint seeking adjudication by the Workplace Relations Commission under section 81E of the Pensions Act, 1990 as amended by the Social Welfare (Miscellaneous Provisions) Act 2004	32
Complaint seeking adjudication by the Workplace Relations Commission under Section 18 of the Parental Leave Act 1998	31
Complaint seeking adjudication by the Workplace Relations Commission under Section 11A of the Protection of Employment Act 1977	29
Request for an investigation by a Workplace Relations Commission Inspector.	27
Complaint seeking adjudication by the Workplace Relations Commission under Section 30 and 31 of the Maternity Protection Act 1994	25
Complaint seeking adjudication by the Workplace Relations Commission under Part 14 Section 103(55M) of the Health Act, 2007	24
Complaint seeking adjudication by the Workplace Relations Commission under Section 20(1) of the Industrial Relations (Amendment) Act, 2015	19
Complaint seeking adjudication by the Workplace Relations Commission under Section 41 of the Workplace Relations Act	18



Complaint seeking adjudication by the Workplace Relations Commission under Section 18A of the Organisation of Working Time Act, 1997	16
Complaint seeking adjudication by the Workplace Relations Commission under Schedule 2 of the Employment Permits Act, 2006	14
Complaint for adjudication by the Workplace Relations Commission under section 85C of the Employment Equality Act	12
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Request for an investigation by a Workplace Relations Commission Inspector under the Protection of Young Persons (Employment) Act, 1996	8
Complaint seeking adjudication by the Workplace Relations Commission under Part 3 Section 20 of (European Cooperate Society) (Employee Involvement) Regulations 2007	7
Complaint seeking adjudication by the Workplace Relations Commission under Section 24 of the National Minimum Wage Act, 2000	7
Request for an investigation by a Workplace Relations Commission Inspector under the European Communities (Protection of Employment) Regulations 2000	7
Complaint seeking adjudication by the Workplace Relations Commission SI No. 494 of 2004 and Clauses 6 of the EC (Working Conditions of Mobile Workers engaged in Interoperable Cross-Border Services in the Railway Sector) Regulations, 2009-SI No. 377 of 2009	5
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Complaint seeking adjudication by the Workplace Relations Commission under Schedule III of the Competition Act, 2002-2010	3
Request for an investigation by a Workplace Relations Commission under the Organisation of Working Time Act, 1997	3
Complaint seeking adjudication by the Workplace Relations Commission under Regulation 8 of the European Communities (Working Conditions of Mobile Workers engaged in Interoperable Cross-Border Services in the Railway Sector) Regulations, 2009-SI No. 377 of 2009	2

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



WRC

An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission



WRC

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Workplace Relations Commission

An Coimisiún um Chaidreamh san Áit Oibre

Tuarascáil Bhliantúil 2023





An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

An Coimisiún um Chaidreamh san Áit Oibre

2023 Tuarascáil Bhliantúil

Arna chur faoi bhráid an Aire Stáit um Fhiontar,
Trádáil, Fostaíocht agus Miondíol faoi réir alt 23(1) agus
23(3) den Acht um Chaidreamh san Áit Oibre, 2015.

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1



Audrey Cahill
Ard-Stiúrthóir

Stiúrthóir Tuarascáil an Ard-Stiúrthóra

Tá áthas orm go bhfuil sé ar na chéad tascanna faoi mo chúram tar éis dom glacadh le ról an Ard-Stiúrthóra, Tuarascáil Bhliantúil de chuid an Choimisiúin um Chaidreamh san Áit Oibre (CCÁO) a chur faoi bhráid an Aire ar son na foirne i ndáil le gníomhaíochtaí an Choimisiúin le linn 2023.

Tá foireann de bhreis agus 210 státseirbhíseach ón Roinn Fiontar, Trádála agus Fostaíochta ag obair don CCÁO agus cuireann 42 Oifigeach Breithniúcháin ceadaithe le hobair CCÁO anuas air seo. Fostaíonn an tAire na hoifigigh sin ar conradh chun cuidiú le CCÁO le cúrsaí fostaíochta, caidreamh tionsclaíoch, comhionannais agus comhstádais ar bhonn cás ar chás.

Tá ról fíorthábhachtach le himirt ag CCÁO i sochaí na hÉireann agus a chuid príomhsheirbhísí á soláthar go cothrom, go seasta agus go neamhspleách aige. Bíonn teagmháil ag CCÁO le daoine agus le gnólachtaí ar go leor bealaí éagsúla. Cabhraíonn seirbhísí CCÁO chun cobhsaíocht caidreamh tionsclaíoch a chothabháil ar bhonn náisiúnta, chun idirghabháil agus breithniú a dhéanamh i ndíospóidí aonair, chun aird a tharraingt

ar chaidreamh tionsclaíoch agus fostaíochta i gcoitinne agus an caidreamh sin a fheabhsú, chun comhlíonadh caighdeán fostaíochta a chur chun cinn, monatóireacht a dhéanamh ar na caighdeáin sin agus iad a fhorfheidhmiú, agus chun ceart cúitimh a sholáthar dóibh siúd atá den tuairim go ndearnadh leatrom orthu maidir le soláthar seirbhísí go ginearálta.

D'aistrigh na seirbhísí ar fad ina mbíonn teagmháil dhíreach le custaiméirí ar ais chuig idirghníomhaíochtaí duine le duine in 2023, agus an rogha ann idirghníomhaíochtaí fíorúla a éascú de réir mar is gá.

Bliain ghnóthach eile a bhí ann d'fhoireann CCÁO. Ó bunaíodh é, tá méadú seasta tar éis teacht ar éileamh, agus ar aschur. Mar a léirítear sa Tuarascáil, baineadh éachtaí suntasacha amach:



- ▶ Thug an fhoireann Faisnéise agus Seirbhísí do Chustaiméirí cabhair do bhreis agus 61,800 duine a chuir glaoch ar CCÁO agus eolas á lorg acu maidir le fostaíocht, comhionannas nó cúrsaí caidreamh tionsclaíoch – méadú 3% ar 2022 – agus bhí breis agus 4.6m amharc leathanaigh ar shuíomh gréasáin CCÁO, méadú 12% ar 2022.
- ▶ D'fhreastail foireann CCÁO thar na rannóga ar fad ar bhreis agus 40 imeacht for-rochtana a raibh raon páirtithe leasmhara páirteach iontu, amhail comhdhálacha ceardchumann agus fostóirí, imeachtaí i meánscoileanna agus in Oifigí Fiontair Áitiúla, agus cuir i láthair le sainghrúpaí páirtithe leasmhara. Is fiúntach agus is tábhachtach na himeachtaí seo chun teagmháil a dhéanamh leis an bpobal agus chun faisnéis a sholáthar maidir le seirbhísí CCÁO.
- ▶ Cuireadh 6,519 cuairt chigireachta san áit oibre i gcrích agus chuir an Chigireacht béim mhór ar earnálacha amhail lascaireacht, lompár de Bhóthar, Tógáil agus Talmhaíocht, agus ar Phá Íosta Náisiúnta.
- ▶ Rinneadh 4,727 cigireacht san iomlán agus aisghabhadh pá neamhíoctha ar luach
 - ▶ €1.95m.
- ▶ Tháinig méadú de bheagnach 13% agus 12% faoi seach ar líon na n-éisteachtaí a bhí sceidealaithe ag Seirbhís Bhreithnithe CCÁO agus ar líon na n-éisteachtaí a reáchtáladh i gcomparáid le 2022.
- ▶ Sholáthair seirbhís idirghabhála réamhbhreithnithe CCÁO 127 idirghabháil bhreise in 2023 i gcomparáid leis an mbliain roimhe. Is ionann sin agus méadú 19% ar idirghabháil.
- ▶ Cuireadh an Cód Cleachtais ar Chearta an Duine chun Cianobair/Obair Sholúbtha a larraidh go mór chun cinn in 2023 agus é le tabhairt chun críche go luath in 2024 faoi réir a fhaofa le hIonstraim Reachtúil. Tugtar suntas do chúnamh Ibec agus ICTU agus an-mholadh ag dul dóibh as ucht a gcúnamh leis an gCód a chur le chéile.
- ▶ Bhí baint ag Seirbhís Idir-réitigh CCÁO, seirbhís atá lárnach i gcothabháil dea-chaidreamh san áit oibre in Éirinn agus i réiteach díospóidí, le roinnt díospóidí dáiríre a bhí go mór i mbéal an phobail a réiteach nó a chosc. Tá a ráta rathúlachta fós ard ag thart ar 85%.

- ▶ D'éascaigh CCÁO plé i dtreo dheireadh 2023 idir an Rialtas agus Ceardchumann/Cumann san Earnáil Phoiblí ar chomhaontú a thiocfadh in ionad Building Momentum agus lean an idirghníomhaíocht ar aghaidh go dtí tús 2024.

I gcomhréir leis an gcolún “Digiteach ar dTús” de Straitéis Teicneolaíochta Faisnéise na Seirbhíse Poiblí, thosaigh CCÁO ar Fhoirm nua Ríomhghearáin a fhorbairt in 2023. Nuair a sheolfar an Fhoirm Ríomhghearáin in 2024, beidh ar chumas an phobail gearáin a chur faoi bhráid CCÁO ar bhealach níos éifeachtúla. Beidh fáil ar an bhFoirm ar gach ardán digiteach; ar an bhfón póca, ar an tábléad agus ar an ríomhaire.

Ceapadh mé i mí Feabhra 2024 tar éis do na hArd-Stiúrthóirí a d'ímigh romham imeacht ar scor; Anna Perry, a bhí ina hArd-Stiúrthóir Gníomhach ó mhí Aibreáin 2023 go dtí Feabhra 2024, agus Liam Kelly, a bhí ina Ard-Stiúrthóir ó 2018 go dtí go ndeachaigh sé ar scor i mí an Mhárta 2023. Ba mhaith liom an deis a thapú chun buíochas a ghabháil le hAnna agus le Liam beirt as ucht na mblianta ar chaith siad ag obair sa tseirbhís phoiblí agus as ucht a ndúthracht le linn dóibh a bheith ag obair le CCÁO. Guím gach rath ar an mbeirt acu agus iad ar scor anois.

Ó ceapadh mé, tá dúthracht, díograis agus solúbthacht na foirne ar fad in CCÁO tar éis dul i bhfeidhm go mór orm. Murach a gcuid obair chrua, ní éireodh le CCÁO an oiread a bhaint amach in 2023 agus táim ag súil go mór lena bheith ag tacú leis na foirne mar a leanfaidh siad ar aghaidh leis an gclár oibre a sholáthar agus go mbeidh an soláthar sin chomh rathúil céanna lena raibh ann go dtí seo.

Mar fhocal scoir, ba mhaith liom buíochas a ghabháil leis an Aire agus leis an Roinn as ucht a gcuid tacaíochta i rith na bliana, nach bhféadfadh le CCÁO a chuid feidhmeanna reachtúla a bhaint amach go hiomlán ina héagmais. Ba mhaith liom aitheantas a thabhairt don Chathaoirleach agus don Bhord chomh maith, agus buíochas a ghabháil leo as ucht na comhairle agus as ucht na tacaíochta a thug siad dom a bhí lárnach sa mhéid ar baineadh amach i mbliana.

Audrey Cahill
Ard-Stiúrthóir

Príomhtháscairí



61,823

Glaó
Infoline (+3%)



4,600,000

Amharc
Suímh Gréasáin (+12%)



1,660

Ceadúnas
Gníomhaireachtaí
Fostaíochta/
Leanaí Eisithe



€1,950,600

Pá Neamhíochta
Aisghafa (+39%)



6,519

Cuairt
Chigireachta



Feachtais Chigireachta:

Iascaireacht, Iompar
de Bhóthar,
Pá Íosta Náisiúnta,
Tógáil, Talmhaíocht



14,158

Gearán Sonrach
a Fuarthas (+11%)



4,765

Éisteacht
Bhreithnithe (+12%)



2,951

Cinneadh
Breithnithe Eisithe
(+50%)



85%

Ráta Rathúlachta
Idir-réitigh



44

Imeacht
For-rochtana



4

Fhíseán Faisnéise
Nua a Foilsíodh



Leantóirí:

X: +12%
LinkedIn: +75%



Próiseas Uathobrithe
Róbatach curtha
i bhfeidhm chun
gearáin a phróiseáil



3

An Coimisiún um Chaidreamh san Áit Oibre (CCÁO)

Feidhmeanna CCÁO

Seo a leanas príomhfeidhmeanna CCÁO:

- ▶ Feabhsú an chaidrimh san áit oibre a chur chun cinn, agus dea-chaidreamh san áit oibre a chothabháil,
- ▶ Comhlíonadh na reachtaíochta fostaíochta ábhartha a chur chun cinn agus a spreagadh,
- ▶ Treoir a thabhairt maidir le Cóid Chleachtais a chomhlíonadh,
- ▶ Athbhreithnithe a dhéanamh ar chaidreamh san áit oibre, agus monatóireacht a dhéanamh ar fhorbairtí go ginearálta,
- ▶ Taighde ábhartha a dhéanamh nó a choimisiúnú agus comhairle, faisnéis agus torthaí taighde a sholáthar do Chomhchoistí Oibreachais agus do Chomhchomhairlí Tionscail,
- ▶ Comhairle a thabhairt don Aire Fiontar, Trádála agus Fostaíochta maidir le reachtaíocht ábhartha a chur i bhfeidhm, agus a chomhlíonadh, agus
- ▶ Faisnéis a sholáthar don phobal maidir le reachtaíocht fostaíochta (taobh amuigh den Acht um Chomhionannas Fostaíochta).

Laistigh den chreat seo, áirítear ar phríomhsheirbhísí an Choimisiúin seirbhísí idirghabhála réamhbhreithnithe, idirghabhála, idir-réitigh, éascaithe agus comhairleoireachta a sholáthar, mar aon le breithniú ar ghearáin agus ar dhíospóidí, monatóireacht a dhéanamh ar choinníollacha fostaíochta chun comhlíonadh cearta fostaíochta a chinntiú agus (más gá) reachtaíocht ina leith a fhorfheidhmiú, faisnéis a sholáthar, agus ceadúnais gníomhaireachtaí fostaíochta agus cosanta daoine óga (fostaíochta) a phróiseáil.

Bord an Choimisiúin

Tá bord comhairleach ag CCÁO atá freagrach as Straitéis agus Clár Oibre bhliantúla CCÁO a shocrú.

Cuirtear an Clár Oibre faoi bhráid an Aire le haghaidh a cheadaithe faoin 1 Nollaig gach bliain agus cuireadh an Ráiteas Straitéise is déanaí faoi bhráid an Aire in 2021.

Is iad baill an Bhoird ná an Cathaoirleach an Dr David Begg, agus ochtar gnáthchomhaltaí arna gceapadh ag an Aire Fiontar, Trádála agus Fostaíochta mar a fhoráiltear dó san Acht um Chaidreamh san Áit Oibre 2015.

Seo a leanas an dá fheidhm reachtúla atá ag an mBord:

- ▶ clár oibre bliantúil don bhliain atá le teacht a ullmhú, i gcomhairle le hArd-Stiúrthóir CCÁO, lena fhaomhadh ag an Aire.
- ▶ i gcomhairle leis an Ard-Stiúrthóir, Ráiteas Straitéise trí bliana a ullmhú agus a chur faoi bhráid an Aire ina leagtar amach straitéis bheartaithe CCÁO as seo go ceann trí bliana.

Tháinig an Bord le chéile ceithre huairé in 2023.



An Dr David Begg
Cathaoirleach



Bean Uasal Ethel Buckley



An tUasal Stephen Driver



Bean Uasal
Judith Fitzgerald



Bean Uasal Sinead Gogan



An tUasal George
Maybury



An tUasal Brendan
McGinty



An tUasal Barry
O'Brien



Bean Uasal Virginija
Petrauskaite

Táillí/Eiticí in Oifig Phoiblí

Cuireadh comhairle ar na comhaltaí Boird, Moltóirí, Coimisinéirí Cearta agus Oifigigh ábhartha uile de chuid an Choimisiúin faoina gcuid oibleagáidí agus/nó chríochnaigh siad na tuairisceáin chuí faoi na hAchtanna um Eitic in Oifig Phoiblí, de réir mar is gá. Níl aon táille á fáil ag Cathaoirleach ná ag comhaltaí an Bhoird i dtaca le comhlíonadh a ndualgas mar chomhaltaí Boird.

Coiste Bainistíochta

Cuimsíonn an Coiste Bainistíochta an tArd-Stiúrthóir agus Stiúrthóirí Rannóga CCÁO:



**Bean Uasal Audrey Cahill -
ón 13 Feabhra 2024**
Ard-Stiúrthóir



Bean Uasal Anna Perry
*Stiúrthóir Idir-Réitigh, Comhairleach
agus Idirghabhála Eanáir 2023 go
31 Márta 2023*
*Ard-Stiúrthóir (gníomhach)
01 Aibreán 2023 go 12 Feabhra 2024*



An tUasal Liam Kelly
*Ard-Stiúrthóir
go 31 Márta 2023*



**Bean Uasal Aoibheann
Ní Shúilleabháin**
*Leas-Stiúrthóir Idir-Réitigh,
Comhairleach agus Idirghabhála*



An tUasal David Small
Stiúrthóir Breithniúcháin



An tUasal John Kelly
*Stiúrthóir Faisnéise,
Cigireachta agus Forfheidhmithe*



Bean Uasal Derval Monahan
*Stiúrthóir Seirbhísí Corparáideacha,
Straitéise agus Digiteacha*



Bean Uasal Gwendolen Morgan
Cláraritheoir agus Stiúrthóir Seirbhísí Dlí

Buiséad agus Foireann

Is oifig de chuid na Roinne Fiontar, Trádála agus Fostaíochta é CCÁO agus maoinítear é ó vóta foriomlán na Roinne.

B'ionann buiséad CCÁO do 2023 agus €16,833,000.

Pá (€)	14,219,000
Neamh-Phá (€)	2,614,000
Iomlán (€)	16,833,000

Ag deireadh 2023, b'ionann leithdháileadh na foirne agus 215 fostaí buan ar státseirbhísigh lánaimseartha iad agus ar chuid d'fhoireann fhoriomlán na Roinne Fiontar, Trádála agus Fostaíochta iad. Thairis seo, tá 42 Oifigeach Breithniúcháin eile ar an bhfoireann a fhostaítear ar conradh chun cabhrú leis an tSeirbhís Bhreithnithe ar bhonn cás ar chás.

Fíor 1 - Foireann CCÁO: Amhail deireadh mhí na Nollag 2023

Grád (agus coibhéisí)	Foireann Iomlán
Ard-Stiúrthóir	1
Cláraritheoir	1
Stiúrthóir	5
Abhcóide	3
Príomhoifigeach Cúnta/ Oifigeach Breithniúcháin	29
Ardoifigeach Feidhmiúcháin	29
Oifigeach Feidhmiúcháin	83
Oifigeach um Chomhlíonadh	64
Iomlán	215

Tá cúig oifig réigiúnacha ag CCÁO: Baile Átha Cliath, Ceatharlach, Corcaigh, Inis agus Sligeach.

4



Tuarascálacha Seirbhíse

4.1 | Faisnéis, Cigireacht agus Forfheidhmiú

Faisnéis agus Seirbhís do Chustaiméirí

Tá an tAonad um Fhaisnéis agus Seirbhís do Chustaiméirí (FSC) de chuid CCÁO freagrach as na cúramaí seo a leanas:

- ▶ Faisnéis neamhchlaonta a sholáthar maidir le reachtaíocht faoina rialaítear oibleagáidí fostóra, cearta fostaíochta an fhostaí, comhionannas fostaíochta, oibleagáidí maidir le stádas comhionann do sholáthraithe seirbhíse, caidreamh tionsclaíoch agus ceadanna fostaíochta d'fhostaithe agus d'fhostóirí araon,
- ▶ Iarratais Gearán a fhaightear le haghaidh Breithnithe/Idirghabhála a phróiseáil,
- ▶ Ceadúnais agus athnuachan na nGníomhaireachtaí Fostaíochta a phróiseáil, agus
- ▶ Iarratais ar cheadúnais a phróiseáil faoi na hAchtanna um Chosaint Daoine Óga chun leanaí a fhostú atá ag obair i ngníomhaíochtaí scannánaíochta, amharclainne, fógraíochta, ealaíon nó cultúrtha.

Baintear leas as na modhanna seo a leanas chun faisnéis a sholáthar maidir le cearta fostaíochta, ceadanna fostaíochta, comhionannas agus reachtaíocht eile san áit oibre:

- ▶ An líne faisnéis *Infoline*, arna hoibriú ag Oifig Faisnéise a bhfuil taithí acu (0818 80 80 90)
- ▶ Suíomh gréasáin CCÁO (www.workplacerelations.ie)
- ▶ Cuir i láthair for-rochtana shaincheaptha do pháirtithe leasmhara.
- ▶ For-rochtain ghinearálta agus spriocdhírthe.
- ▶ Cuireann an líne faisnéise *Infoline* nuashonruithe stádais ar fáil freisin do pháirtithe maidir le gearáin a atreoraítear le haghaidh Breithnithe agus d'iaratasóirí Ceadanna Fostaíochta atá ag fanacht ar chead.

Aithníodh gur tháinig méadú ginearálta ar an chuid is mó de ghníomhaíochtaí san Aonad um Fhaisnéis agus Seirbhís do Chustaiméirí in 2023 i gcomparáid le 2022 (Fíor 2). Tháinig méadú de bhreis agus 12% ar amhairc leathanaigh ar an suíomh gréasáin agus tháinig méadú 3% ar líon na nglanna teileafóin ar déileáladh leo.



Taobh amuigh de seo, tháinig méadú suntasach ar líon na gceadúnas do Gníomhaireachtaí Fostaíochta a próiseáladh (10%), ach tháinig laghdú 12% ar líon na gCeadúnas Fostaíochta do Leanaí a eisíodh. Mhéadaigh líon na ngníomhaíochtaí for-rochtana ó 34 in 2022 go 44 in 2023 chomh maith. Tháinig laghdú 1% ar líon na n-iarratas gearán a próiseáladh, mar a dtagraítear dó i bhFíor 2.

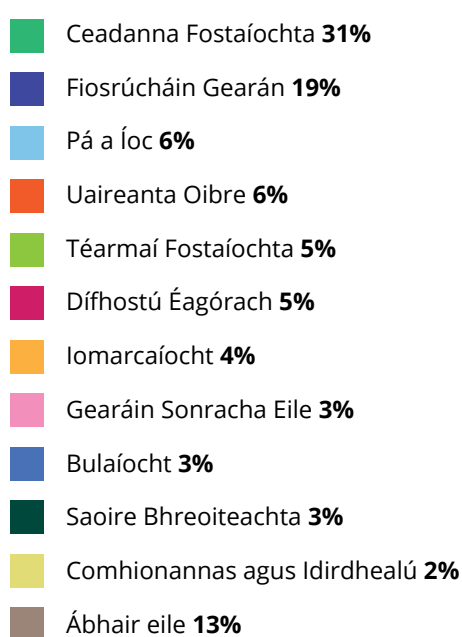
Fíor 2: Gníomhaíochtaí an Aonaid um Fhaisnéis agus Seirbhís do Chustaiméirí: 2023

Príomhghníomhaíochtaí	2023	2022
Glaonna teileafóin ar déileáladh leo	61,800	59,700
Amhairc Leathanaigh ar an Suíomh Gréasáin	4,600,000	4,200,000
Líon na n-Iarratas Gearán a Próiseáladh	6,100	6,200
Gníomhaíochtaí For-Rochtana ¹	44	34
Líon na gCeadúnas Gníomhaireachtaí Fostaíochta a eisíodh	1,028	936
Líon na gCeadúnas Fostaíochta do Leanaí a eisíodh	632	722
Líon na leanaí ar fostaíodh iad faoi cheadúnas	1,496	1,655

Glaonna ar Fhaisnéis agus Seirbhís do Chustaiméirí

Mar a tharla in 2022, tá líon na nglanna teileafóin a chuirtear ar Infoline ag méadú i gcónaí, mar is ionann agus an chuid is mó de ghníomhaíochtaí an Aonaid um Fhaisnéis agus Seirbhís do Chustaiméirí. Léirítear an méadú 3% ar líon na nglanna ar déileáladh leo in 2023 i bhFíor 2 thuas.

Fíor 3: Treochtaí Ábhair Infoline: 2023

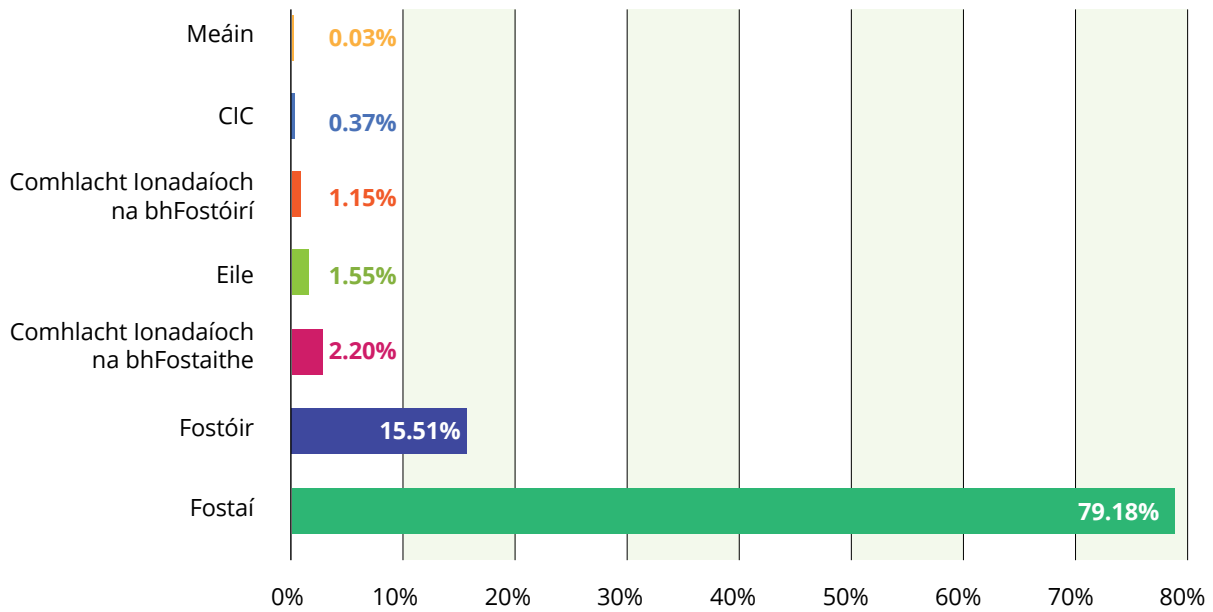


¹ Lena n-áirítear gníomhaíochtaí amhail cuir i láthair, cruinnithe faisnéise, comhdhálacha agus imeachtaí.

Léirítear i bhFíor 3 na hábhair ar tugadh faisnéis do ghlaiteoirí ina leith mar chuid den tseirbhís *Infoline* in 2023. Tugadh faisnéis i ndáil le Ceadúnais Fostaíochta do 31% de na glaitheoirí, laghdú ar an 38% a bhí ann in 2022. I measc na n-ábhar coitianta eile ar déileáladh leo bhí; stádas na ngearán a cuireadh faoi bhráid CCÁO (19%), ceisteanna maidir le huaireanta oibre lena n-áirítear saoire, sosanna, obair oíche agus obair ar an Domhnach (6%) agus ceisteanna maidir le pá (6%).

Déantar miondealú ar an gcineál glaitheora ar déileáladh leo in 2023 anseo thíos. B'ionann fostaithe agus breis is trí cheathrú de na glaitheoirí ar fad. B'ionann glaitheoirí ar fostóirí iad agus beagnach 16% de ghlaonna, agus b'ionann 3% de na glaonna ar déileáladh leo agus glaonna ó chomhlachtaí ionadaíocha (fostaithe agus fostóirí).

Fíor 4: Cineál Glaitheora ar Infoline



For-rochtain agus Feachtais

Tá ról lárnach ag an Aonad um Fhaisnéis agus Seirbhís do Chustaiméirí i gClár foriomlán For-rochtana CCÁO. Baintear é seo amach le cuir i láthair le grúpaí éagsúla maidir le reachtaíocht fostaíochta, lena bheith ag freastal ar thaispeántais faisnéise, le leabhráin faisnéise, bileoga agus litríocht eile a dhearadh agus a tháirgeadh, leis na meáin shóisialta, le físeáin agus leis an suíomh gréasáin a bhainistiú. In 2023, d'fhreastail CCÁO ar 44 imeacht (lena n-áirítear imeachtaí i scoileanna agus i gcoláistí, imeachtaí le comhlachtaí fiontair, imeachtaí le comhlachtaí gnó agus comhlachtaí ionadaíochta fostaithe, agus imeachtaí le comhlachtaí stáit). Méadú 30% a bhí anseo ar ghníomhaíochtaí 2022.

Reáchtáladh roinnt feachtas i rith na bliana lena n-áirítear na feachtais seo a leanas:

- ▶ méaduithe sa Phá Íosta Náisiúnta,
- ▶ cearta fostaíochta na nOibrithe Séasúracha in Éirinn (#rights4all seasons), agus
- ▶ athruithe ar Théarmaí agus Coinníollacha Fostaíochta



Chomh maith leis sin, thug an fhoireann Faisnéise agus Seirbhíse do Chustaiméirí tacaíocht do roinnt feachtas a rinne na Seirbhísí Cigireachta in 2023 agus é mar sprioc aici faisnéis a sholáthar d'fhostóirí agus d'fhostaithe i ndáil lena n-oibleagáidí agus lena dteidíochtaí le linn na cigireachtaí.

I measc na gníomhaíochtaí for-rochtana, rinneadh comhpháirtíocht leis an gCigireacht chun tacú le feachtais arna stiúradh ag an Údarás Eorpach Saothair (ÚES). Áirítear leo sin an feachtas Road to Fair Transport ar sheol an ÚES é ar dtús in 2022, agus an feachtas EU 4 FAIR CONSTRUCTION a seoladh i mí Dheireadh Fómhair 2023.

Mar fhreagra ar an méadú a tháinig ar líon na gceisteanna agus na n-iarratas ar fhaisnéis maidir le cearta fostaíochta, reáchtáladh gníomhaíochtaí spriocdhírthe san earnáil oideachais chun feachtas a ardú i measc dream níos óige. Mar chuid den chur chuige seo, cruthaíodh acmhainn oideachais don seomra ranga do scoláirí meánscoile i gcomhpháirt le hOIDE, seirbhís tacaíochta do mhúinteoirí agus do cheannairí scoile ar ainmníodh í i ndiaidh an fhocail "oide", a d'úsáidí go forleathan in ionad "múinteoir" uair amháin. Thairis seo, reáchtáladh cuir i láthair agus seisiúin faisnéise i roinnt meánscoileanna agus institiúidí tríú leibhéal.

Taobh amuigh de seo, tá ról na meán sóisialta ag éirí níos suntasaí ó thaobh gníomhaíochtaí for-rochtana CCÁO de, agus cabhraíonn siad le ceisteanna a threorú chuig suíomh gréasáin CCÁO. Le linn 2023, chuir CCÁO roinnt feachtas amach ar na meáin shóisialta a threoraigh 8,840 atreorú go dtí an suíomh gréasáin ó LinkedIn – méadú 155% ar 2022 (3,474 atreorú) agus 3,091 atreorú go dtí an suíomh gréasáin ó X (Twitter mar ab eol dó) – laghdú 44% ar 2022 (5,544 atreorú).



Ceadúnú

Fíor 5: Príomhghníomhaíochtaí Ceadúnaithe

Príomhghníomhaíochtaí	2023	2022
Líon na gCeadúnas Gníomhaireachtaí Fostaíochta a eisíodh	1,028	936
Líon na gCeadúnas Fostaíochta do Leanaí a eisíodh	632	722
Líon na leanaí ar fostaíodh iad faoi cheadúnas	1,496	1,655

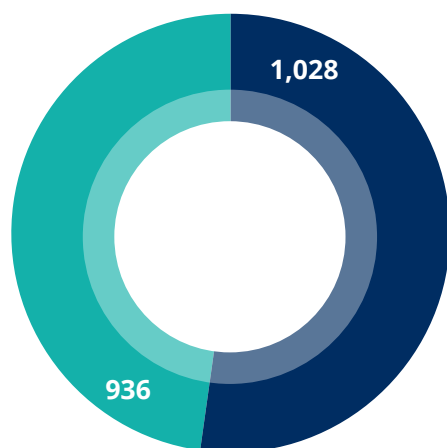
Ceadúnú Gníomhaireachtaí Fostaíochta agus Fostaíochta Leanaí

Próiseálann CCÁO iarratais ar cheadúnais do cheadúnais gníomhaireachtaí fostaíochta agus do cheadúnais do leanaí a fhostú san earnáil ealaíon agus siamsaíochta thar ceann na Roinne Fiontar, Trádála agus Fostaíochta.

Ceadúnú do Ghníomhaireachtaí Fostaíochta 2023

Ní mór do gach Gníomhaireacht Fostaíochta atá ag oibriú sa Stát ceadúnas a bheith aici leis an ngnó a oibriú. Glacann CCÁO le hiarratais Gníomhaireachtaí Fostaíochta agus déanann sé iad a phróiseáil thar ceann na Roinne Fiontar, Trádála agus Fostaíochta, agus déanann sé cigireachtaí freisin chun a chinntiú go bhfuil an tAcht um Ghníomhaireacht Fostaíochta, 1971 á chomhlíonadh ag gach Gníomhaireacht. Déantar ceadúnais Gníomhaireachtaí Fostaíochta a athnuachan ar bhonn bliantúil. Eisíodh 1,028 ceadúnas Gníomhaireachtaí Fostaíochta in 2023 faoin Acht um Ghníomhaireacht Fostaíochta, 1971, méadú 10% ar 2022.

Fíor 6: Ceadúnais Gníomhaireachtaí a eisíodh in 2022 agus 2023

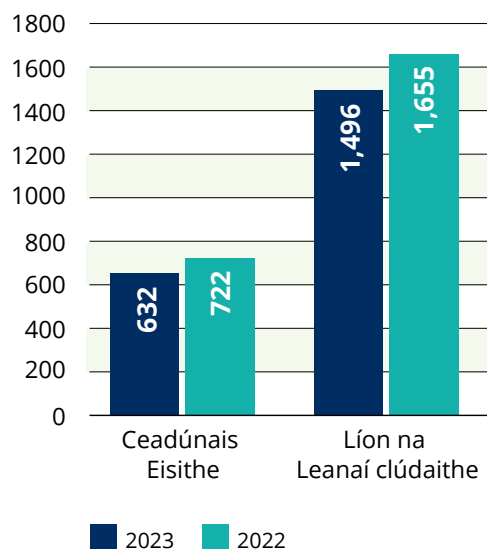


■ 2023 ■ 2022

Ceadúnais a eisíodh chun leanaí a fhostú in 2023

Thairis seo, eisíonn CCÁO ceadúnais ar son na Roinne Fiontar, Trádála agus Fostaíochta, lena dtugtar cead d'fhostóirí a oibríonn i réimsí amhail cultúr, ealaíon, spórt nó fógraíocht, leanaí a fhostú. Leagtar amach i gceadúnais chun leanaí a fhostú coinníollacha faoina bhféadfar na leanaí a fhostú, lena rialaítear coinníollacha ginearálta fostaíochta, toiliú tuismitheoirí, maoirseacht leanaí, socruithe oideachais, agus uasmhéid na n-uaireanta oibre agus na sosanna íosta is cuí do gach leanbh nó grúpa leanaí a bhíonn fostaíthe. In 2023, eisíodh 632 ceadúnas chun fostaíocht a cheadú do 1,496 leanaí.

Fíor 7: Ceadúnais a eisíodh do Leanaí chun obair a dhéanamh i réimsí ar leith



Seirbhísí Cigireachta agus Forfheidhmithe

Fíor 8: Gníomhaíochtaí na Seirbhísí Cigireachta agus Forfheidhmithe 2023

Príomhghníomhaíochtaí	2023	2022
Fostóirí a nDearnadh Cigireacht orthu	4,727	3,943
Fostóirí a sháraigh oibleagáidí dlí fostaíochta	2,221	1,763
Pá Neamhíochta a Aisghabhadh (€)	€1,950,601	€1,405,126
Líon na nGearán Suntasach a Fuarthas	957	708
Líon Iomlán na gCuartheanna Cigireachta san Áit Oibre	6,519	5,820

Déanann Cigireacht CCÁO cigireachtaí san áit oibre lena chinntiú go gcomhlíonann fostóirí dlí fostaíochta an Stáit. Áirítear leis an bpróiseas cigireachta taifid fostaíochtaí a scrúdú agus agallamh a chur ar fhostóirí agus ar fhostaithe. D'fhéadfadh go ndéanfaí na cuairteanna seo a fhógairt, nó gan iad a fhógairt. Tá ceart dlí ag cigirí dul isteach in áit oibre ar bith lena gcuid oibre a chur i gcrích agus is cion coiriúil é bac a chur ar chigire nó míthreoir a thabhairt maidir le faisnéis.

Áirítear na céimeanna seo a leanas leis an bpróiseas cigireachta ar dtús:

- ▶ Iniúchadh a dhéanamh ar leabhair, ar chomhaid agus ar thaifid an fhostóra a bhaineann le fostaíocht.
- ▶ Agallamh a chur ar an bhfostóir nó ar ionadaí fhostóra.
- ▶ Agallamh a chur ar fhostaithe.

Déanfaidh cigirí teagmháil leis an bhfostóir le linn an phróisis chigireachta. Is é an sprioc a bhíonn acu ná a dhearbhu an bhfuil an dlí fostaíochta cuí á chomhlíonadh ag an bhfostóir nó mura bhfuil, agus comhlíonadh an dlí sin a fhorfheidhmiú, más gá. D'fhéadfadh go mbeadh cúiteamh do na fostaíthe cuí i gceist leis an gcomhlíonadh i bhfoirm aon neamhphá a d'eascair as sárúithe comhlíonta a aithníodh le linn an phróisis cigireachta a íoc.

D'fhéadfadh go ndéanfaí cigireachtaí in éineacht leis an nGarda Síochána agus le comhlachtaí rialála eile amhail oifigigh de chuid na Roinne Coimirce Sóisialaí agus na Coimisinéirí Ioncaim chomh maith.

Cigireachtaí in 2023

De ghnáth, bíonn gníomhaíocht chigireachta dírithe ar earnálacha inar aithníodh riosca neamhchomhlíonta, nó in earnálacha ar aithníodh neamhchomhlíonadh iontu roimhe seo, trí shonraí nó trí fhaisnéis a chuir comhlachtaí nó daoine eile (lena n-áirítear comhlachtaí eile Stáit) ar fáil nó mar fhreagairt ar ghearáin shonracha a rinneadh díreach le CCÁO a líomhnaíodh maidir le neamhchomhlíonadh fostóirí ar leith.

Tháinig 4,727 cás cigireachta chun críche san iomlán in 2023 agus braitheadh gur sháraigh 2,221 fostóir dlí fostaíochta. Bhain 6,519 cigireacht aonair san áit oibre le breis agus 7,862 sárú reachtaíochta ar leith a nochtadh.

Cé go gcomhlíonann go leor fostóirí an dlí i ndiaidh na cigireachta, ní dhéanann roinnt fostóirí amhlaidh, agus bíonn gá le gníomh forfheidhmithe ina leith. As na 125 cúiseamh ar tugadh fúthu in 2023, bhain réiteach sásúil le 111 cás.²

Is iad na roghanna forfheidhmithe eile a bhíonn ar fáil do chigirí CCÁO ná Fógraí Pionós Seasta (eisíodh 10 bhfógra in 2023) agus Fógraí Comhlíonta (eisíodh 34 fógra in 2023).

² Áirítear Cúiseamh Rathúil, Promhadh agus Síntiúis Charthanachta leis na torthaí rathúla

Fíor 9: Torthaí Forfheidhmithe 2023

Torthaí	Líon
Ciontaithe	69
Gníomh Promhaidh	35
Síntiúis Charthanachta	7
Tarraingthe siar	5
Caite amach	1
Scríosta	4
Barántas Binse Eisithe	1
Níorbh fhéidir cúiseamh a dhéanamh	3

Áirítear le cigireachtaí 2023 262 comhchigireacht le hoifigí de chuid na Roinne Coimirce Sóisialaí agus 157 comhchigireacht le hoifigí de chuid na gCoimisinéirí Ioncaim chomh maith.

Gníomhaíochtaí Cigireachta agus Torthaí de réir na nEarnálacha Fostaíochta 2023

Léirítear sonraí ghníomhaíochtaí cigireachta 2023 i bhFíor 10. Ba cheart a thabhairt faoi deara go mbaineann sárúithe ar dhlí fostaíochta leis na fostóirí a ndearnadh cigireacht orthu agus d'fhéadfadh nach léiríú cuí atá ann ar an earnáil ar fad.

Comhchigireachtaí

Tá cumhachtaí fairsinge ag Cigireacht CCÁO chun faisnéis a mhalartú le comhlachtaí Stáit eile agus déanann sé comhchigireachtaí le comhlachtaí feidhmithe Stáit eile sa chás go gcuirfeadh oibríochtaí comhpháirteacha den sórt sin le héifeachtacht na gcomhlachtaí rannpháirteacha.

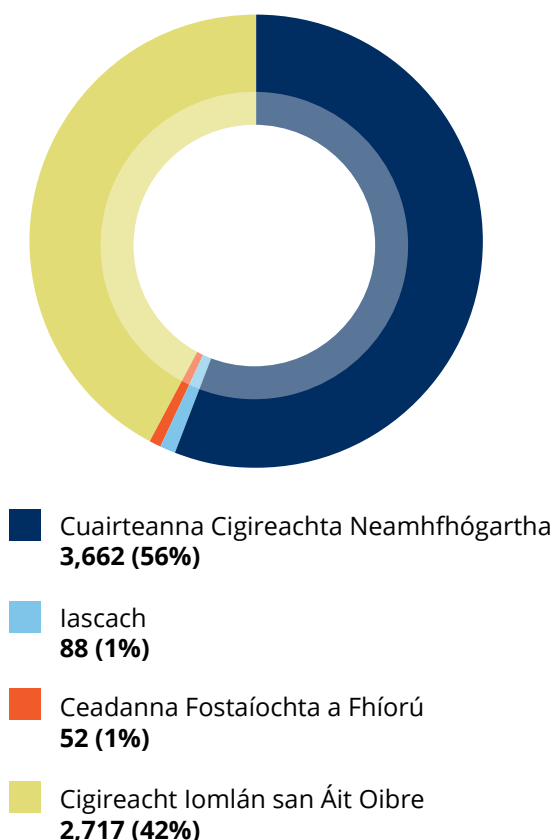
Áirítear 95 cigireacht a rinneadh i gcomhpháirt leis an nGarda Síochána (lena n-áirítear Biúró Náisiúnta Inimirce an Gharda Síochána agus Seirbhís Náisiúnta Cosanta an Gharda Síochána) leis na 4,727 cigireacht a cuireadh i gcrích in 2023.



Fíor 10: Gníomhaíochtaí Cigireachta agus Torthaí de réir na n-Earnálacha Fostaíochta: 2023

Earnáil	Fostóirí a nDearnadh Cigireacht Orthu	An Líon Sáruithe	Minicíocht na Sáruithe %	Fostaithe	Pá Neamhíochta Aisghafa
Seirbhísí Cuntasaíochta & Airgeadais	18	5	28%	324	€0
Gníomhaíochtaí Teaghlach mar Fhostóirí	5	1	20%	9	€0
Riarachán & Tacaíocht	20	4	20%	2,420	€397
Fógraíocht & Margaíocht	6	1	17%	36	€0
Talmhaíocht	39	22	56%	3,237	€35,584
Na hEalaíona, an tSiamsaíocht agus an tÁineas	59	23	39%	2,058	€46,423
Gníomhaíochtaí Seirbhíse Deochanna	222	119	54%	2,769	€159,077
Foirgníocht	223	55	25%	5,560	€109,893
Seirbhísí Glantacháin ar Conradh	19	6	32%	11,497	€57,050
Oideachas	21	12	57%	334	€20,231
Seirbhísí Leictreachais ar Conradh	7	3	43%	439	€4,213
Gníomhaireachtaí Socrúcháin Fostaíochta	20	8	40%	1,997	€61,822
Gníomhaíochtaí Eachaí	11	8	73%	30	€2,474
Iascaireacht	76	25	33%	159	€25,394
Gníomhaíochtaí Seirbhíse Bia	1,558	910	58%	18,269	€565,409
Gruaig & Áilleacht	376	218	58%	1,567	€69,995
Óstáin	123	70	57%	8,246	€105,343
Cúrsaí Sláinte & Obair Shóisialta	111	25	23%	4,467	€2,984
Faisnéis & Cumarsáid	33	10	30%	3,812	€5,301
Seirbhísí Dí	3	2	67%	9	€840
Déantúsaíocht	42	18	43%	5,195	€12,111
Próiseáil Feola	6	5	83%	495	€0
Innealtóireacht Mheicniúil Seirbhísí Tógála	9	7	78%	177	€0
Mianadóireacht & Cairéalacht	1	1	100%	12	€0
Lóistín Eile	10	5	50%	137	€7,415
Gníomhaíochtaí Seirbhíse Eile	182	73	40%	21,894	€82,952
Seirbhísí Poist & Seachadta	4	3	75%	115	€2,776
Seirbhísí Gairmiúla	45	18	40%	5,463	€172,495
Riarachán Poiblí	8	1	13%	632	€0
Gníomhaíochtaí Eastáit Réadaigh	2	0	0%	3	€0
Slándáil	16	3	19%	203	€802
Iompar	48	20	42%	1,570	€9,603
Tionscnóirí Taistil agus Turas	2	1	50%	14	€1,200
Seirbhísí Tréidliachta & Sláinte Ainmhithe	9	5	56%	206	€3,619
Ollstóráil & Gníomhaíochtaí Tacaíochta	1	1	100%	21	€0
Soláthar Uisce, Séarachas & Leasúchán Dramháiola	4	4	100%	1,235	€0
Trádáil Mhórdhíola & Mhiondíola	1,388	529	38%	28,508	€385,200
IOMLÁN	4,727	2,221	47%	133,119	€1,950,601

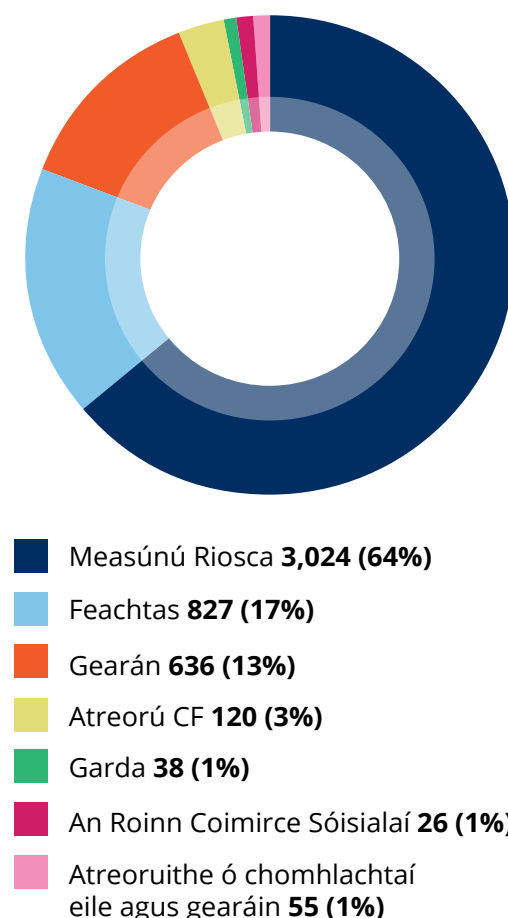
Fíor 11: Próifíl na gCuartheanna Cigireachta



Léirítear cúiseanna na gcuairteanna cigireachta a cuireadh i gcrích in 2023 i bhFíor 11. Is iondúil go mbaineann cleachtadh próifílithe le cuairteanna gan réamhfhogra chun tuairim a fháil maidir le stádas comhlíonta an fhostóra. Nuair a bhraitear neamhchomhlíonadh, nó má tá amhras ann go bhféadfadh neamhchomhlíonadh a bheith i gceist, d'fhéadfadh go n-oslófaí cás cigireachta iomlán. Bhí 6,519 cuairt chigireachta mar chuid de chigireachtaí iomlána ann in 2023, lena n-áirítear 88 cuairt chigireachta mar thoradh chigireachtaí san earnáil iascaireachta. Thug CCÁO cuairteanna ar áitreabh i mbliana chun an fhaisnéis a soláthraíodh mar chuid d'iarraitais ar cheadúnais fostaíochta a dhearbhu chomh maith.

Foinsí na gCásanna Cigireachta

Fíor 12: Príomhfhoinsí do Chásanna Cigireachta CCÁO



Léirítear príomhfhoinsí do chigireachtaí CCÁO a cuireadh i gcrích in 2023 i bhFíor 12 thuas. Bunaíodh formhór na gcásanna (3,024) ar mheasúnuithe riosca a rinne CCÁO. Bhí feachtais éagsúla earnála bainteach le 638 cás agus d'eascair 518 as gearáin a rinneadh leis an gCigireacht. Ar na foinsí eile bhí atreoruithe ó chomhpháirtithe amhail an Garda Síochána, na Coimisinéirí Ioncaim, an Roinn Coimirce Sóisialaí agus comhlachtaí poiblí eile.



Forfheidhmiú Sibhialta na mBronntaí Breithnithe

Faoi Alt 43 den Acht um Chaidreamh san Áit Oibre 2015, féadfaidh fostaí, nó féadfaidh an Coimisiún thar ceann fostaí, iarratas a dhéanamh chuig an gCúirt Dúiche ag lorg ordaithe a chuirfeadh ina luí ar fhostóir cinneadh a rinne Oifigeach Breithniúcháin a chomhlíonadh. In 2023, dhéileáil Rannóg Forfheidhmithe Sibhialta CCÁO le thart ar 97 cás forfheidhmithe. I 22 cás, d'íoc an fhostóir an bronnadh breithnithe tar éis d'fhoireann forfheidhmithe CCÁO idirghabháil a dhéanamh sula raibh gá le hiarratas a dhéanamh ar ordú cúirte. Mar thoradh air seo, aisghabhadh bronntaí d'fhostaithe ar luach €128,229.

Is féidir go gcuirfeadh an dlí ar fhostóir nach gcomhlíonann ordú ón gCúirt Dúiche maidir le cinneadh ó Oifigeach Breithniúcháin faoi Alt 51 den Acht. In 2023, ciontaíodh beirt fhostóirí ar an mbonn seo agus gearradh fíneáil orthu, agus bhí ar dhuine amháin díobh íoc as na costais.

Níor éirigh le 38 iarratas ar fhorfheidhmiú sibhialta mar thoradh ar roinnt cúiseanna éagsúla. Ina measc, bhí iarratais a fuarthas a bhain le fostaí nach raibh ag trádáil níos mó, agus iarratais eile nach rabhthas in ann teagmháil a dhéanamh leis an bhfostóir ina leith, nó iarratais ina léirigh an fostaí ábhartha nárbh acmhainn dó an táille a íoc. Bhí roinnt iarratas nárbh fhéidir a fhorfheidhmiú go dlíthiúil (i.e., cigireachtaí a rinneadh faoi R.13 den Acht um Chaidreamh Tionsclaíoch 1969).

Feachtais Chigireachta

Pá Íosta Náisiúnta

Reachtáil CCÁO feachtas náisiúnta faisnéise agus cigireachta le linn R1 2023 chun teacht leis an méadú ar Phá Íosta Náisiúnta (PÍN) in 2023. Ba é sprioc an fheachtais ná feachtas i ndáil leis an méadú ar PÍN a mhúscailt agus cigireachtaí a dhéanamh ag an am céanna chun comhlíonadh leis na rátaí nua a chinntiú. Bhí an feachtas dírithe ar ghnólachtaí beaga agus meánacha go príomha ina mbíonn pá íosta náisiúnta á íoc leis an bhfoireann.

As líon iomlán 672 fostaí a ndearnadh cigireacht orthu, bhí 135 fostaí comhlíontach agus d'éirigh le 443 eile an comhlíonadh a bhaint amach mar chuid den phróiseas cigireachta. Ciontaíodh 3 fostaí agus tá an próiseas cigireachta fós idir lámha i ndáil le 72 cás eile.

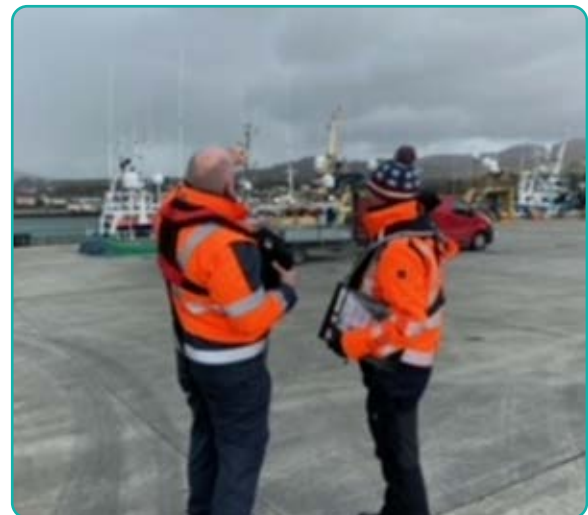
Tá thart ar 19 cás ann nach féidir a chur chun cinn mar thoradh ar chúiseanna éagsúla. Áirítear leo sin líon áirithe fostaí nach bhfuil ag trádáil níos mó. Aisghabhadh pá neamhíoctha ar luach €250,230 mar chuid den fheachtas seo in 2023.

Iascaireacht Mhara Thráchtála

Lean CCÁO ar aghaidh ag cur le hiarrachtaí ilghníomhaireachta chun an Scéim um Chead d'Oibrithe Neamhghnácha a fhorfheidhmiú d'Iascairí Neamh-LEE a bhí fostaite ar árthaí iascaireachta ar leith atá cláraithe in Éirinn, a bhí ag oibriú ó Fheabhra 2016 go dtí deireadh 2022, agus fuilleach ar leith a chuaigh ar aghaidh go 2023. Chuir Cigirí CCÁO tuilleadh cigireachtaí i gcrích i rith na bliana chun fiosrú an raibh a dteidlíochtaí faoi reachtaíocht fostaíochta á bhfáil ag Iascairí Neamh-LEE agus ag fostaite ar árthaí iascaireachta tráchtála i gcoitinne nó mura raibh.

Le linn na tréimhse ó Fheabhra 2016 go dtí deireadh 2023, chuir CCÁO na gníomhaíochtaí seo a leanas i gcrích:

- ▶ rinneadh 625 cigireacht iascaigh ar 190 ártach sa Scéim (féach ar Fhíor 13 thíos),
- ▶ cuireadh 326 cigireacht iascaigh i gcrích,
- ▶ braithheadh 412 sárú ar reachtaíocht fostaíochta in earnáil na hiascaireachta, agus
- ▶ cuireadh an dlí ar 28 úinéir árthaí iascaireachta.



Fíor 13: Cigireachtaí CCÁO ar Árthaí Iascaireachta 2016 go dtí deireadh 2023

2016	2017	2018	2019	2020	2021	2022	2023	Iomlán go Dáta
142	100	87	84	34	55	35	88	625

Cigireachtaí gan réamhfhógra a bhí i gceist leis an gcuid is mó de chigireachtaí agus rinneadh iad nuair a bhí na hárthaí i gcalaífort. Bhí gá le líon íseal cigireachtaí fógartha a bhí ina gcigireachtaí leantacha ar chigireachtaí neamhfhógartha chun breithniú a dhéanamh ar thaifid bhreise.



EMPACT

Is tionscnamh slándála é EMPACT (an tArdán Eorpach Ildisciplíneach i gcoinne Bagairtí Coiriúla) atá á thiomáint ag Ballstáit an AE chun bagairtí a bhaineann le coireacht idirnáisiúnta eagraithe agus thromchúiseach a aithint agus a chur in ord tosaíochta agus aghaidh a thabhairt orthu. Glacann CCÁO páirt i laethanta comhghníomhaíochta EMPACT ina ndírítear ar dhúshaothrú an lucht saothair agus ar gháinneáil ar dhaoine, agus bíonn baint ag cigireachtaí oibreachais agus ag fórsaí póilíneachta ar fud na hEorpa leis na laethanta sin.

Ghlaic CCÁO páirt i **Seachtain Ghníomhaíochta Shlabhra Domhanda EMPACT i gcoinne Dúshaothrú Saothair** ón 8-12 Bealtaine 2023.

I measc ábhar eile, dhírigh an feachtas seo ar dhaoine a d'fhéadfadh a bheith ina n-íospartaigh gáinneáil ar dhaoine a aithint, cosc a chur ar shlabhraí soláthair a d'fhéadfaí a úsáid le haghaidh gáinneáil ar dhaoine nó dúshaothrú gnéasach, iarraidh déirce faoi éigeantas agus dúshaothrú saothair. Le linn an fheachtais seo, rinneadh chomhchigireachtaí a raibh cigirí CCÁO, agus oifigigh ó Aonad Cosanta Náisiúnta an Gharda Síochána, ó Bhiúró Náisiúnta Inimisce an Gharda Síochána agus ó na Coimisinéirí Ioncaim páirteach iontu. San iomlán, rinneadh 22 cigireacht neamhfhógartha agus braithheadh go raibh nó go bhféadadh go raibh reachtaíocht na gceart fostaíochta á sárú i gcás 17 de na fostóirí a ndearnadh cigireacht orthu. Braithheadh go raibh an tAcht um Cheadúnais Fostaíochta 2003 á shárú ag 6 fhostóir.

Bhí 7 lá Comhghníomhaíochta i gceist leis an **bhFeachtas EMPACT i gCoinne Dúshaothrú Saothair 2023** le linn na seachtaine ón 10-17 Meitheamh 2023. Bhí Cigirí CCÁO, an Roinn Coimirce Sóisialaí, na Coimisinéirí Ioncaim, agus gardaí ón Aonad Náisiúnta Cosanta agus ó Bhiúró Náisiúnta Inimisce an Gharda Síochána páirteach san fheachtas. San iomlán, cuireadh 285 cigireacht i gcrích le linn an fheachtais agus bhí sáruithe dlí fostaíochta i gceist i gcás 184 de na fostóirí (agus 399 sárú ar reachtaíocht fostaíochta ann san iomlán). Cuireadh saincheisteanna eile nach dtiteann faoi chúraimí CCÁO ar aghaidh chuig na gníomhaireachtaí ábhartha Stáit.

Mar chuid de **Laethanta Comhghníomhaíochta EMPACT i gcoinne Dúshaothrú Saothair 2023**,

rinne cigirí CCÁO cigireachtaí san Earnáil Talmhaíochta ar fud na hÉireann, le linn na seachtaine 13-20 Meán Fómhair 2023, ar fhostóirí a bhíonn ag oibriú san earnáil sin, lena n-áirítear foraoiseacht, feirmeacha torthaí agus glasraí agus feirmeacha stoc (ainmhithe agus éanlaith chlóis). San iomlán, rinneadh 14 chigireacht neamhfhógartha agus bhí dlí fostaíochta á shárú ag 9 de na fostóirí a ndearnadh cigireacht orthu (agus 13 shárú ar dhlí fostaíochta braite san iomlán).

Feachtas Tógála 2023

Ghlaic Cigireacht CCÁO agus Seirbhísí Faisnéise agus Forfheidhmithe CCÁO páirt i gcoicís ghníomhaíochta thras-Eorpach san Earnáil Tógála le linn mhí Aibreáin agus mhí Dheireadh Fómhair 2023.

Bhí na seachtainí gníomhaíochta sin i measc ghníomhaíochtaí faisnéise agus forfheidhmithe an Údaráis Eorpaigh Saothair (ÚES) san Earnáil Tógála do 2023. Ba é sprioc na seachtainí ná cigireachtaí a dhéanamh ar fhostóirí a oibríonn san Earnáil Tógála chun monatóireacht a dhéanamh ar chomhlíonadh na reachtaíochta fostaíochta agus chun faisnéis a sholáthar d'fhostóirí agus d'fhostaithe i ndáil lena dteidlíochtaí agus lena gcearta. San iomlán, rinneadh 206 cigireacht, idir réamhfhógartha agus neamhfhógartha, thar na réigiúin go léir. Tacaíodh leis an bhfeachtas seo ar ardáin éagsúla CCÁO ar na Meáin Shóisialta.

Feachtas Faisnéise Oileán Árann 2023

Le linn 2023, thug Cigirí agus Oifigigh Faisnéise ó na hOifigí CCÁO in Inis agus i Sligeach faoi fheachtas faisnéise ar na hOileáin Árann amach ó chósta thiar na Gaillimhe. Tugadh cuairt ar dhá oileán mar chuid den fheachtas; Inis Bó Finne i mí Bealtaine 2023 agus an t-oileán is mó de chuid Oileán Árann, Inis Mór, i mí Mheán Fómhair 2023. An sprioc a bhí leis an bhfeachtas ná faisnéis a sholáthar d'fhostóirí maidir le reachtaíocht fostaíochta agus ceisteanna a fhreagairt i ndáil leis na hathruithe is déanaí sa reachtaíocht, lena n-áirítear an tAcht um Íoc Pá (Leasú) (Séisíní agus Aiscí), 2022 agus an tAcht um Shaoire Bhreiteachta, 2022. Toisc go mbaintear an buaicleibhéal fostaíochta amach ar Oileáin Árann i rith an ardséasúir turasóireachta ó Bhealtaine-Meán Fómhair gach bliain, chuir na fostóirí ar tugadh cuairt orthu le linn an fheachtais fáilte ghinearálta roimh an tionscadail.



Cigirí CCÁO agus comhghleacaithe ón Spáinn

Gníomhaíochtaí Thar Sáile

Le linn 2023, ghlac CCÁO páirt i seimineáir, i gcrúiníthe agus i gceardlanna arna réachtáil ag an Údarás Eorpach Saothair (ÚES). Leanann ÚES ar aghaidh ag tacú le Cigireachtaí Oibreachais sna Ballstáit le hacmhainní a fhorbairt sna réimsí cigireachta le haghaidh comhlíonta sna réimsí ina bhfuil soghluaisteacht saothair forleathan, agus chun obair neamhdhearbhaithe a bhrath agus dul i ngleic léi i gcoitinne.

Thug Cigirí CCÁO cuairt ar Údarás Oibreachais na Spáinne ón 26-28 Meán Fómhair 2023 mar chuid den Chlár Eorpach i gCoinne Obair Neamhdhearbhaithe do 2022-2023.

D'óstáil Cigireacht CCÁO toscaireacht de chuid Údarás Oibreachais na hUngáire ar an 10-11 Deireadh Fómhair 2023. Ba é sprioc na hócáide ná faisnéis, taithí agus nósanna dea-chleachtais a mhalartú idir CCÁO agus comhghleacaithe ón Ungáir i ndáil le creataí cigireachta oibreachais agus slándála sóisialta na hÉireann.



Toscaireacht d'Oifigigh Shinsearachta de chuid na hUngáire agus cuairt á tabhairt acu ar Theach Lansdún, Deireadh Fómhair 2023

4.2 | Seirbhísí Idir-réitigh, Comhairleacha agus Idirghabhála

Is é an sprioc atá ag an Rannóg Seirbhísí Idir-réitigh, Comhairleacha agus Idirghabhála (SICI) ná raon seirbhísí atá neamhchlaonta, tráthúil agus éifeachtúil a sholáthar má bhíonn cliseadh sa phlé ag an leibhéal áitiúil nó sa chás go gcreideann an Coimisiún gurbh fhéidir leis cúnaimh a thabhairt d'eagraíochtaí san earnáil phoiblí agus san earnáil phríobháideach, agus dá bhfostaithe, chun teacht ar chomhréitigh, próisis agus/nó struchtúir chomhaontaithe chun dea-chaidreamh a fhorbairt agus a chothabháil san áit oibre agus i gcaidreamh tionsclaíoch.

Cuirtear cúnaimh idirghabhála ar fáil, ar bhonn leathan geografach, thar raon leathan saincheistanna casta a bhaineann le caidreamh tionsclaíoch. Is é príomhról na seirbhísí ná cuidiú le páirtithe ceistanna na ndíospóidí a réiteach. Ní dhéanfaidh an Coimisiún idirghabháil i ndíospóidí má tá gníomhaíochtaí neamhoifigiúla idir lámha.

Idir-réiteach

In 2023, lean SICI ar aghaidh leis an ról gníomhach atá aige leis an tSeirbhís Idir-réitigh chun cuidiú le páirtithe coimhlintí dúshlánacha caidreamh tionsclaíoch a réiteach san earnáil phoiblí agus phríobháideach araon. Bhí 654 atreorú le haghaidh idir-réitigh ann in 2023. Is méadú 17% é seo ar an mbliain roimhe.

Reáchtáladh 606 comhdháil idir-réitigh san iomlán agus tionóladh 27 de na cruinnithe sin ar ardán fíorúil.

Shocraigh an Coimisiún comhaontuithe ar fud earnálacha éagsúla sa gheilleagar, a bhfuil go leor acu san fhearann poiblí cheana féin, amhail Aerfort lathar na hÉireann, Comhlacht Chalafort Átha Cliath (ar comhlacht fostáit é), an comhlacht cógaisíochta ilnáisiúnta Teva, Applus (oibritheoir na Tástála Náisiúnta Gluaisteán), táirgeoir táirgí déiríochta Corman Miloko agus Mianaigh na Teamhrach. Chomh maith leis sin, chuir an tSeirbhís cúnaimh suntasach ar fáil d'oibreoirí sláinte agus pobail thar ghníomhaireachtaí Ailt 39 agus gníomhaireachtaí eile a sholáthraíonn seirbhísí sláinte ar son an Stáit.

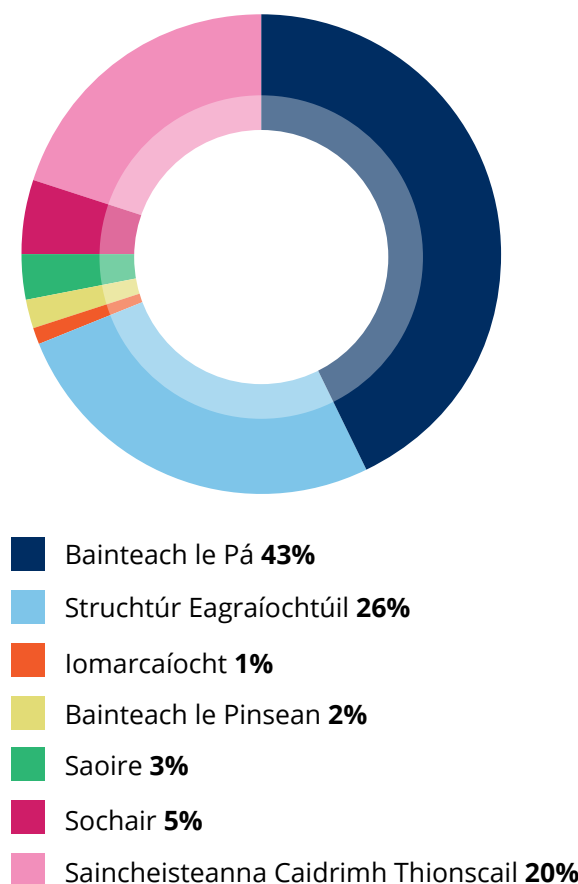
I ndeireadh 2023, iarradh ar an gCoimisiún plé a éascú idir an Rialtas agus Comharchumainn/Cumainn na hEarnála Poiblí maidir le comhaontú a thiocfadh in ionad Building Momentum. Lean an plé sin ar aghaidh in 2024.

Saincheistanna san idir-réiteach

Go ginearálta, léirigh na hiarratais ar idir-réiteach gur chosúil na pátrúin agus an raon saincheistanna lena raibh ann sa dá bhliain roimhe sin. Áirítear na hábhair seo a leanas leis na saincheistanna sin:

- ▶ Saincheistanna a bhaineann le pá (43%)
- ▶ Struchtúr eagraíochtúil amhail ceistanna maidir le huainchláir, athstruchtúir, soláthar foirne, uainobair etc. (26%)
- ▶ Saincheistanna caidreamh tionsclaíoch amhail athruithe ar théarmaí agus coinníollacha fostaíochta, grádú, táirgiúlacht, seachfhoinsiú etc. (20%)
- ▶ Cineálacha Saoire (3%)
- ▶ Sochair amhail bónais, pá seirbhíse, pá breoiteachta, dreasachtaí foirne, costais etc. (5%)
- ▶ Saincheistanna a bhaineann le pinsean (2%)
- ▶ Iomarcaíocht (1%)

Fíor 14: Cineálacha Díospóidí a Idir-réitíodh in 2023



Tá ráta rathúlachta na Seirbhísí Idir-réitigh níos airde ná 85% fós. Bhí ról suntasach ag an bpróiseas idir-réitigh chun na díospóidí idir an dá pháirtí a mhaolú ina lán de na cásanna a cuireadh ar aghaidh chuig an gCúirt Oibreachais. Mar thoradh air seo, beachtaíodh líon na gceisteanna ar theastaigh sainmholadh ón gCúirt Oibreachais ina leith.

Comhairleach

Oibríonn an tSeirbhís Chomhairleach le fostóirí, le fostaithe agus lena n-ionadaithe i gcásanna nach díospóidí iad go príomha, chun dea-chleachtais, nósanna imeachta agus struchtúir éifeachtúla sa chaidreamh tionsclaíoch, a fheilfidh go maith do riachtanais na bpáirtithe, a chur chun cinn, a fhorbairt agus a chur i bhfeidhm. Tá an tSeirbhís Chomhairleach neamhspleách, neamhchlaonta agus tá taithí ag an bhfoireann le cleachtais agus le teoiric caidreamh tionsclaíoch. Déanfaidh CCÁO plé le páirtithe chun cúnamh a chur in oiriúint do shainriachtanais láithreacha oibre éagsúla. Bíonn an cúnamh seo faoi rún agus bíonn sé saor in aisce. Cuidíonn an tSeirbhís le fostóirí agus le fostaithe chun dea-chaidreamh oibre a chruthú agus a chothabháil agus oibrítear leo chun meicníochtaí agus cleachtais a fhorbairt agus a chur i bhfeidhm chun fadhbanna a réiteach ar bhonn leanúnach.

Ar an gcéad dul síos, déantar mionmheasúnú ar an áit oibre chun fadhbanna sna réimsí caidreamh tionsclaíoch agus caidreamh oibre a aithint. Déantar moltaí bunaithe ar an measúnú seo agus cuirtear béim ar chleachtais agus nósanna imeachta a fheabhsú agus ar chaidreamh a fhorbairt. Oibríonn an tSeirbhís leis na páirtithe ar fad i ndiaidh an mheasúnuithe go hiondúil chun na moltaí ar fad a chur i bhfeidhm.

Le linn 2023, lean an tSeirbhís Chomhairleach ar aghaidh ag obair le heagraíochtaí a raibh a gcuid measúnuithe curtha i gcrích, chun na próisis, nósanna imeachta agus struchtúir chumarsáide fheabhsaithe a chur i bhfeidhm.

Cóid Chleachtais

Bíonn Cóid Chleachtais á bhforbairt ag CCÁO le bheith ina dtreoir agus ina léiriú ar an méid a shamhlaítear de dhea-chleachtas sa chaidreamh tionsclaíoch. Mar fhreagra ar iarratas ón Aire Stáit le haghaidh Gnó, Fostaíochta agus Miondíola i mí an Mheithimh 2023, d'fhógair CCÁO an plean a bhí beartaithe aige chun Cóid Cleachtais a chruthú bunaithe ar Chearta an Duine chun Cianobair nó Obair Sholúbtha a iarraidh de réir mar a fhoráiltear dóibh faoin Acht um Chothromaíocht Oibre is Saoil agus Forálacha Ilghnéitheacha, 2023. Leagfaí na riachtanais d'fhostóirí agus d'fhostaithe amach sa chód seo maidir le hiarratais ar obair sholúbtha agus ar chianobair a dhéanamh agus a mheas. Fuair CCÁO breis agus 50 iarratas mar thoradh ar chomhairliúchán poiblí a rinneadh faoin gCód molta. Táthar ag súil go bhfoilseofar an Cód go luath in 2024.

Forbairt Faisnéise agus For-rochtain

Mar chuid dá seirbhísí for-rochtana, cuireann an rannóg SICI traenáil ar fáil ar réimse gnéithe a bhaineann le caidreamh oibre, lena n-áirítear nósanna imeachta san áit oibre agus cumarsáid agus dínit san áit oibre, agus ar sheirbhísí CCÁO amhail próisis idirghabhála, breithnithe agus idir-réitigh. Is í sprioc na seirbhíse ná cabhrú le heagraíochtaí dea-chaidreamh oibre a chruthú san áit oibre agus tuiscint mhaith a fháil ar choimhlint san áit oibre a chosc agus ar mheicníochtaí chun díospóidí a réiteach. Is féidir tionscnaimh thraenála a oiriúnú de réir riachtanais gach comhlachta. Tháinig borradh ar an éileamh ar an tseirbhís seo arís agus reáchtáladh 22 ceardlann in 2023, méadú 10% ar 2022.

Idirghabháil

Cuireann CCÁO dhá shainchineál idirghabhála ar fáil: idirghabháil réamh-bhreithnithe agus idirghabháil san áit oibre.

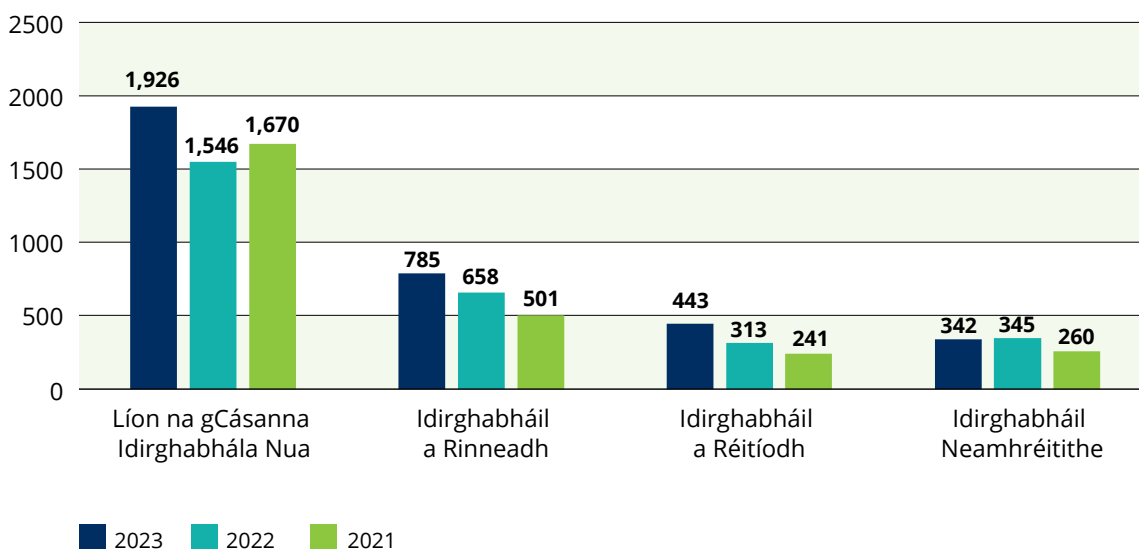
Idirghabháil Réamh-Bhreithnithe

Cuirtear idirghabháil réamh-bhreithnithe ar fáil do ghearán ar bith a atreoraítear chuig an tSeirbhís Bhreithnithe má aontaíonn an dá pháirtí chun bheith páirteach agus má tá an tArd-Stiúrthóir den tuairim gur féidir an t-ábhar a réiteach le hidirghabháil³. An buntáiste a bhaineann leis an gcur chuige seo ná go ligean sé do na páirtithe teagmháil a dhéanamh lena chéile agus réiteach a aimsiú ar an ngearán nó ar an díospóid ar bhealach rúnda neamhfhoirmiúil, agus neart iomlán acu ar thoradh na hidirghabhála. Thairis sin, laghdaíonn sé an t-am agus an costas a bhaineann le cás a ullmhú agus a thabhairt ar aghaidh chuig éisteacht bhreithnithe iomlán. Bíonn deis ag na páirtithe teacht ar chomhréiteach a fheilfidh dá riachtanais agus d'fhéadfadh go mbeadh níos mó solúbthachta ann ó thaobh réitigh de i gcomparáid lena mbeadh ar fáil ag breithniú. Bíonn comhaontú idirghabhála rúnda agus ceangailteach ó thaobh an dlí de do na páirtithe faoi réir Alt 39 den Acht um Chaidreamh san Áit Oibre 2015.

Féadfar idirghabháil a dhéanamh duine le duine, ar ríomhphost agus ar an bhfón, nó go fíorúil, ag brath ar chastacht agus ar chúinsí an cháis agus ar thoilteanas na bpáirtithe éagsúla i leith na hidirghabhála.

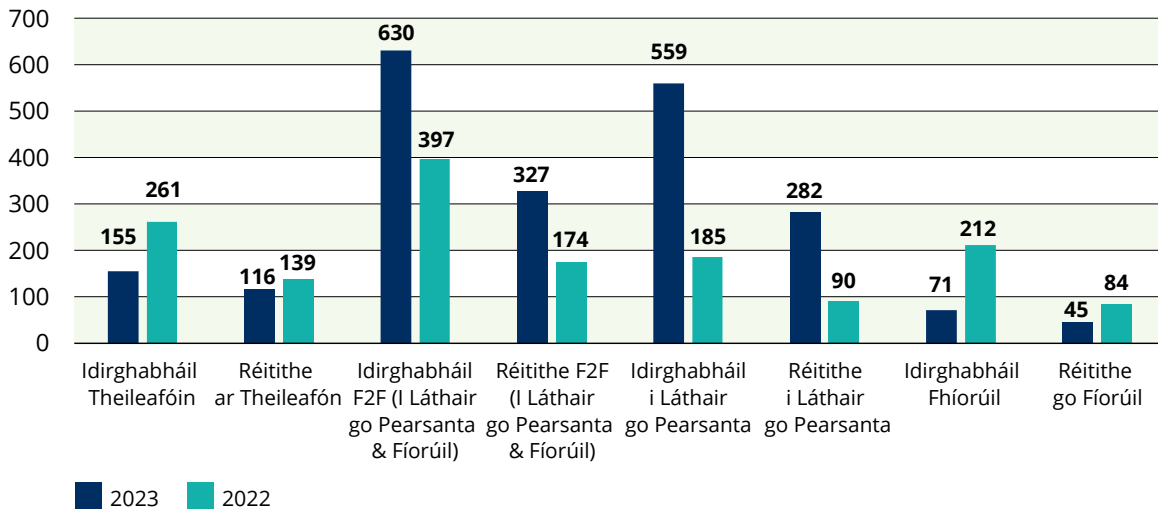
Reáchtáladh 127 idirghabháil sa bhreis in 2023 i gcomparáid leis an mbliain roimhe. Is ionann sin agus méadú 19% ar idirghabháil i gcomparáid le 2022 agus 57% i gcomparáid le 2021.

Fíor 15: Idirghabháil in 2023 i gcomparáid le 2022 agus le 2021



3 Gan gearáin aonair faoi Alt 13 den Acht um Chaidreamh Tionsclaíoch 1969 nó faoin Acht um Íocaíochtaí Iomarcaíochta 1967 a áireamh

Fíor 16: Idirghabháil de réir Modh Soláthartha agus Rátaí Réitigh (2023 v 2022)



Ba é an ráta réitigh le haghaidh idirghabhála ar an bhfón ná 75% in 2023, méadú ar an 53% a bhí ann in 2022. Ba í 2023 an chéad bhliain iomlán ina raibh idirghabhálaithe fón ag déileáil le cásanna cearta fostaíochta amháin, gan gearáin maidir le dífhostú éagórach a bheith san áireamh. Ba é an ráta réitigh le haghaidh idirghabháil duine le duine (ar an láthair agus go fíorúil le chéile) ná 52%, méadú ar 44% mar a bhí ann anuraidh. Déantar foráil chun idirghabháil duine le duine a sholáthar i ngach cás comhionannais, i gcás gearáin ar bith a ndéantar faoin reachtaíocht maidir le dífhostú éagórach, agus i gcás ar bith eile a bhfuil cúinsí casta ag gabháil leis.

Reáchtáladh 559 idirghabháil duine le duine in 2023, méadú 302% ar 2022.

San iomlán, bhí 1,026 sainghearáin ann a bhí le hatreorú chuig an gcéim bhreithnithe ach a réitíodh le hidirghabháil gan dul in iontaoibh éisteachta.

Cuirtear idirghabháil fhíorúil ar fáil do pháirtithe i gcúinsí eisceachtúla anois, nuair a bhíonn freastal réasúnta de dhíth ar pháirtí amháin nó níos mó, nó nuair a bhíonn páirtí amháin nó níos mó lasmuigh den dlínse. Laghdaigh líon na gcásanna idirghabhála a reáchtáladh go fíorúil in 2023 go 71, ó 212 mar a bhí ann sa bhliain roimhe sin.

Iarratas Déanach ar Idirghabháil

Tá seirbhís “iarratas déanach” ar idirghabháil á cur ar fáil ag an gCoimisiún ar bhonn trialach ó Mheán Fómhair 2022 i leith. Is é an sprioc leis an tseirbhís sin ná seirbhís eadrána a chur ar fáil do pháirtithe a bhfuil éisteacht bhreithnithe ag druidim leo, gan an éisteacht atá beartaithe a chur ar athlá. Dá bhrí seo, mura n-éiríonn leis an idirghabháil; rachaidh an éisteacht bhreithnithe ar aghaidh mar a bhí beartaithe. Laghdaíonn sé seo an tionchar a bhíonn ar an gCoimisiún ó thaobh ama agus acmhainní de nuair a chuirtear éisteachtaí ar athlá agus nuair a bhíonn gá le dáta nua a shocrú don éisteacht; agus cuirtear seirbhís thráthúil ar fáil don dá pháirtí gan moill bhreise a chur leis an bpróiseas. Bíonn teorainneacha leis an tseirbhís. Mar shampla; cathain a dhéantar an t-iarratas ar idirghabháil agus an méid ama idir sin agus an dáta éisteachta, má bhíonn an dá pháirtí ar fáil nó mura mbíonn, má bhíonn idirghabhálaí ar fáil má tá éileamh ar idirghabhálaí, agus má theip ar na páirtithe an cheist a réiteach in idirghabháil a bhí á héascú ag CCÁO roimhe sin. Cuirtear idirghabháil ar fáil duine le duine, nó go fíorúil ar ardán físchomhdhála CCÁO.

Ba í an bhliain 2023 an chéad bhliain iomlán ina raibh iarratas déanach ar idirghabháil ar fáil do pháirtithe. San iomlán, fuarthas 65 iarratas agus reáchtáladh 42 idirghabháil roimh na héisteachtaí a bhí beartaithe agus ráta réitigh 52% ag gabháil leo. Reáchtáladh 15 idirghabháil duine le duine san iomlán; reáchtáladh 18 acu go fíorúil agus éascaíodh 9 n-idirghabháil ar an bhfón nó ar ríomhphost.

I 77% de na cásanna ba é an Freagróir a rinne iarratas ar idirghabháil. Leanfaidh an Coimisiún ar aghaidh leis an tseirbhís seo a sholáthar le linn 2024 agus leanfar ar aghaidh le hathbhreithniú a dhéanamh ar éifeachtúlacht agus ar luach na seirbhíse i gcomhthéacs na seirbhíse idirghabhála i gcoitinne agus i ndáil le buntáistí intomhaiste a chuideoidh le CCÁO a spriocanna a bhaint amach.

Idirghabháil san Áit Oibre

Cuireann idirghabháil san áit oibre réiteach tráthúil, rúnda agus éifeachtúil ar fáil le haghaidh coimhlintí, díospóidí agus easaontuithe san áit oibre de réir mar is gá. Go hiondúil, freastalaítear ar dhíospóidí idir dhaoine aonair nó líon beag oibrithe leis an tseirbhís seo. D'fhéadfadh le hidirghabháil san áit oibre a bheidh cabhrach i gcásanna amhail na cásanna seo a leanas: easaontas idirphearsanta, coimhlintí agus deacrachtaí idir chomhghleacaithe a bhíonn ag obair le chéile, cliseadh ar chaidreamh oibre, agus saincheisteanna a eascraíonn as gearán agus as nós imeachta smachtaithe, go háirithe sula ndéantar ceist smachtaithe den ábhar. Mhéadaigh an t-éileamh ar idirghabháil san áit oibre arís in 2023 agus 110 iarratas ar idirghabháil san iomlán ann. Is fiú a thabhairt faoi deara go ndéantar measúnú ar gach atreorú agus go meastar nach mbíonn go leor acu feiliúnach don phróiseas idirghabhála. I roinnt cásanna mar seo, cuirtear an t-ábhar ar aghaidh chuig seirbhísí eile CCÁO. I mbliana, cuireadh 34 atreorú san iomlán ar aghaidh chuig an bpróiseas idirghabhála san áit oibre.

Éascú

Is cuid lárnach d'obair SICI í cúnamh a chur ar fáil trí phlé a éascú. Áirítear leis an obair sin cainteanna san Earnáil Phoiblí a éascú, cathaoirleacht a dhéanamh ar Ghrúpaí Maoirseachta laistigh de Chreat Comhaontuithe na hEarnála Poiblí, agus Cathaoirligh a sholáthar d'fhóiraim idirbheartaíochta eile amhail Comhchoiste Náisiúnta na Seirbhíse Sláinte, Comhairle Idir-réitigh na Múinteoirí agus raon Comhchomhairlí Tionsclaíocha amhail Coistí Tógála agus Leictreachais, agus Comhchoistí Oibreachais amhail an tSeirbhís Luathbhlianta. Chuige sin, rinne Oifigigh Idir-réitigh cathaoirleacht ar 184 cruinniú in 2023.



4.3 | Breithniú

Feidhm

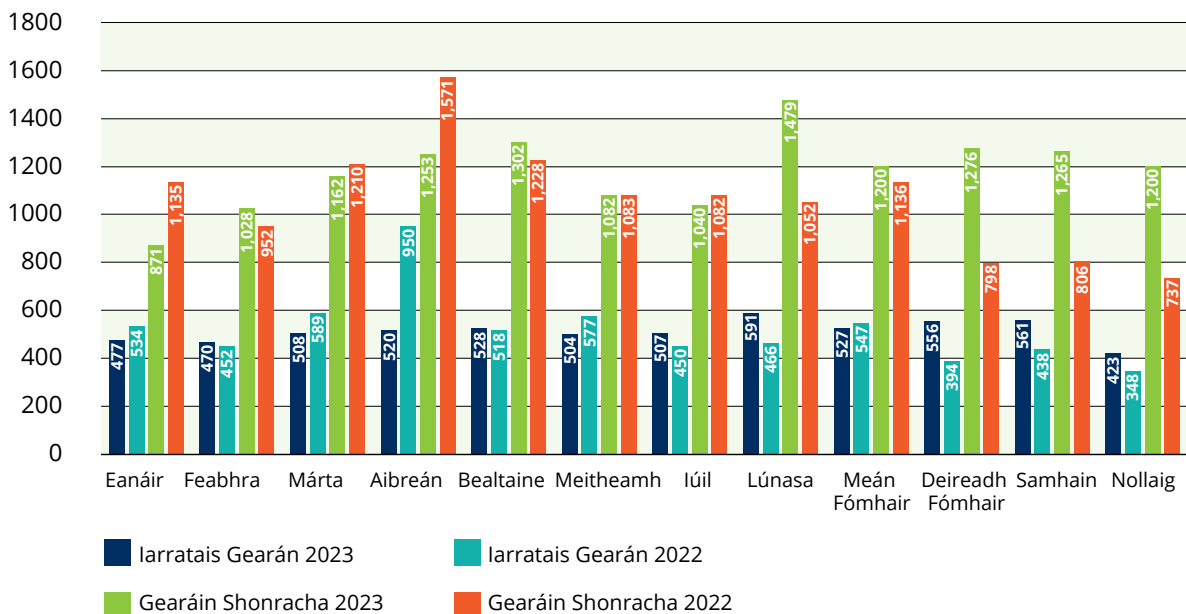
Déanann an tSeirbhís Bhreithnithe iniúchadh ar dhíospóidí, ar ghearáin agus ar éilimh a dhéanann daoine aonair agus grúpaí faoin reachtaíocht um fhostaíocht, chomhionannais agus stádas comhionann. Léirítear an reachtaíocht faoinar féidir gearáin a dhéanamh in Aguisín 5.

Foilsítear gach Cinneadh agus Moladh ar shuíomh gréasáin CCÁO. Go hiondúil, ainmnítear na páirtithe, seachas i gcás díospóidí Caidreamh Tionsclaíoch ina ndéantar ainmneacha na bpáirtithe anaithnid, nó sa chás go gcinneann an tOifigeach Breithniúcháin go bhfuil “cúinsí speisialta” ann a thugann cúis bhaíl chun páirtí nó páirtithe a choinneáil anaithnid.

Gearáin a Fuarthas 2023

I gcaitheamh na bliana 2023, fuarthas 6,172 larratas ar Ghearáin thar cheann 14,158 gearán aonair. Is ionann é seo agus 2 shainghearán/ ghearáin aonair in aghaidh an iarratais ar ghearáin. Caithfear na hiarratais seo ar fad a phróiseáil, a bhainistiú, éisteacht leo agus iad a mheas chun cinneadh a dhéanamh an mbeidh gá lena gcur ar aghaidh chuig éisteacht iomlán nó mura mbeidh. Cé go bhfuil laghdú beag 1% tar éis teacht ar líon na n-larratas ar Ghearáin i gcomparáid le 2022 (6,263), tá méadú 11% tagtha ar líon na sainghearán/na ngearán aonair (12,790) toisc gur féidir le Gearánach níos mó ná gearán amháin a dhéanamh ar larratas Gearáin.

Fíor 17: Líon Iomlán na nLarratas Gearán agus na nGearán Sonracha a fuarthas in aghaidh na Míosa 2023 v 2022



Ilghearáin

Fuair an Rannóg Bhreithniúcháin grúpaí gearán (ilghearáin) go fóill, ina luaitear an freagróir céanna.

As na 6,172 iarratas ar ghearáin a fuarthas ón 1 Eanáir go dtí an 31 Nollaig 2023, bhain 4% (271) de na hiarratais le hilghearáin, laghdú suntasach ar ilghearáin i gcomparáid le 2022. Fuarthas na hiarratais seo i ndáil leis na hearnálacha Miondíola, Sláinte, Iompair agus Déantúsaíochta i measc eile. Baineann 50% de na cásanna Breithniúcháin atá idir lámha le hilghearáin. Chun na gearáin sin a chur chun cinn, oibríonn an Rannóg Bhreithniúcháin leis na páirtithe agus leis na hionadaithe chun cásanna a bheadh feiliúnach mar chásanna “tástála” a aithint.

Cuirtear líon suntasach cásanna “tástála” – 60% de na hilghearáin idir lámha – ar aghaidh chuig cúirteanna níos airde le haghaidh achomhairc bunaithe ar phointí dlí agus, mar thoradh, ní féidir le CCÁO iad a chur chun cinn a thuilleadh ag an bpointe sin.

Cruthaítear ualach suntasach oibre riaracháin do CCÁO nuair a chuirtear foirmeacha ilghearáin isteach a comhlánaíodh de láimh. Moltar go mór an fhoirm leictreonach ar líne a úsáid, go háirithe le haghaidh ilghearán. I rith na bliana, d’úsáid 80% de dhaoine a rinne gearán an fhoirm ghearán ar líne.

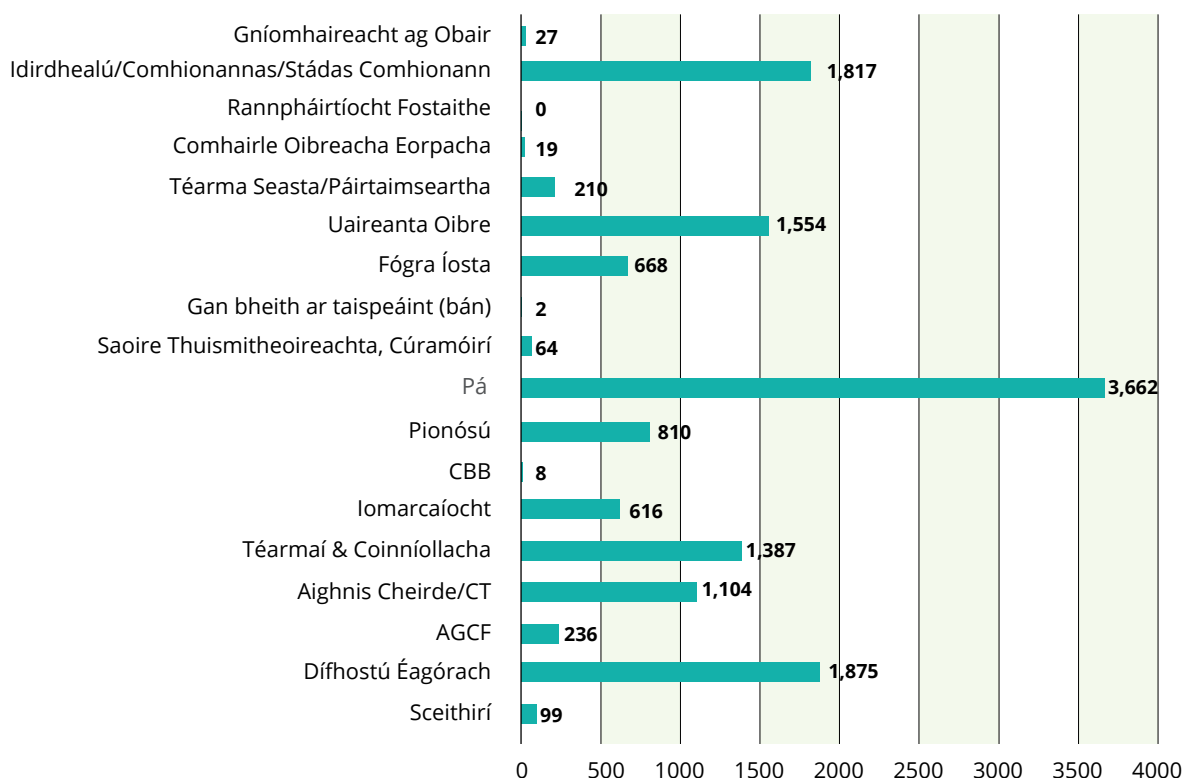
Miondealú Gearán

Sainghearáin de réir Cineál Gearáin

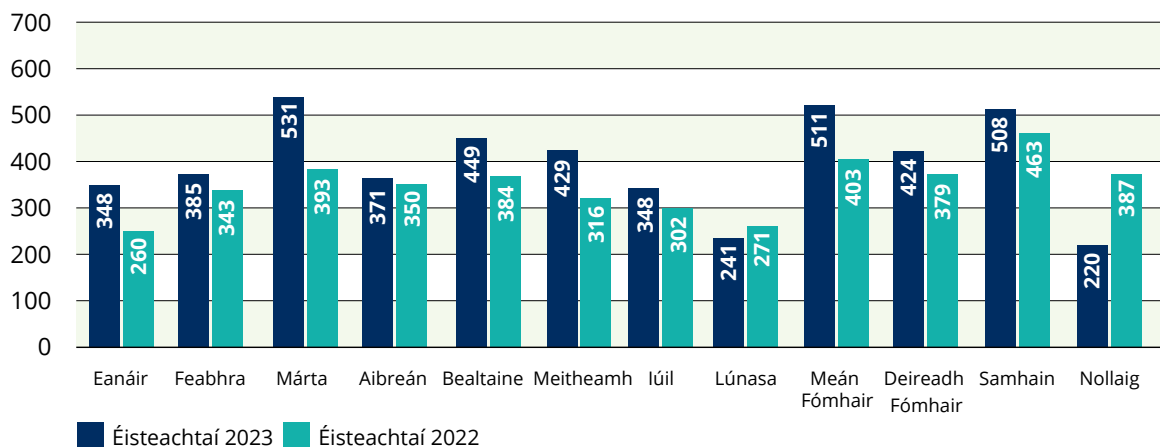
As na 14,158 gearán aonair a fuarthas, bhain 26% (3,662) gearán le Pá agus ba é sin an cineál gearáin ba choitianta. Ba é an cineál gearáin ba choitianta ina dhiaidh sin ná Dífhostú Éagórach, 13% (1,875), sin méadú suntasach 21% ar 2022. D’fhan líon na gcásanna a bhain le Leithcheal, Comhionannas agus Stádas Comhionann mar a bhí roimhe seo ag 13% (1,817). Bhain 71% de na cásanna sin le Comhionannas Fostaíochta, 27% le Stádas Comhionann agus 2% leis an Acht um Pinsin. Bhain 11% le hUaireanta Oibre (1,554), arb ionann é agus méadú 6% ar an mbliain roimhe, agus bhain 10% le Téarmaí Fostaíochta, a raibh méadú suntasach 13% le feiceáil ina leith. Bhain 8% de na cásanna le hAighnis Cheirde (1,104), laghdú 6% ar an mbliain roimhe.

D’aithin CCÁO gur tháinig méadú suntasach ar líon na ngearán faoi Sceideal 2 den Acht um Nochtadh Cosanta, 2014 agus méadú 201% ann i gcomparáid le 2022.

Fíor 18: Gearáin Shonracha de réir Cineál Gearáin



Fíor 19: Éisteachtaí de réir na Míosa 2023



Éisteachtaí

Éisteachtaí Sceidealaithe

Lean CCÁO ar aghaidh le héisteachtaí a réachtáil ar an láthair (70% ar an meán) agus go fíorúil ar an ardán WebEx (30% ar an meán).

Reachtáil CCÁO 13% éisteachtaí breise in 2023 ná mar a réachtáladh in 2022. Chuige seo, tairgeadh éisteacht do na 8,550 comhad breithnithe a bhfuil gearán aonair nó ilghearán iontu in 2023. B'ionann é sin agus 170 tairgeadh éisteachta in aghaidh na seachtaine ar an meán. Cuireadh 18% (1,539) de na héisteachtaí sin ar athlá de réir iarratas na bpáirtithe agus tarraingíodh 8% (699) siar roimh lá na héisteachta. Chuir CCÁO éisteachtaí eile ar ceal ar bhonn cúinsí éagsúla, lena n-áirítear socraíochtaí a rinneadh ar lá na héisteachta.

Tá sé tugtha faoi deara ag CCÁO go bhfuil níos mó ama anois ag teastáil chun éisteachtaí a chur i gcrích agus go mbíonn laethanta breise ag teastáil mar thoradh ar chásanna casta agus an riachtanas maidir le dearbhú fianaise faoi mhionn, croscheistiú faoi mhionn agus atráthanna.

Seachas ilghearáin nó gearáin nach féidir a chur chun cinn a thuilleadh fad is atáthar ag fanacht ar dhearbhu áirithe dlí i gCúirt níos airde, tairgeadh éisteacht do na comhaid bhreithnithe ar fad a cuireadh ar aghaidh chuig an Rannóg Bhreithniúcháin roimh 2023 (sa chás nár chuir cúinsí seachtracha nó breithnithe/cinntí maidir le hachomhairc moill ar chúrsaí).

Éisteachtaí a Réachtáladh

Cuireadh 4,765 éisteacht bhreithnithe i gcrích san iomlán sa tréimhse idir an 1 Eanáir agus an 31 Nollaig 2023 – méadú 12% (4,253) ar líon na n-éisteachtaí a cuireadh i gcrích in 2022. Mar a luadh roimhe seo, d'fhéadfadh go dtógfadh sé roinnt laethanta chun éisteachtaí a chur i gcrích.

Ateangairí

I roinnt cásanna, bíonn sé riachtanach ateangaire a bheith i láthair le go mbeidh an tOifigeach Breithniúcháin in ann a gearán a chloisteáil agus le cinntiú go bhfuil cumarsáid leordhóthanach idir an Finné agus an tOifigeach Breithniúcháin. Le linn 2023, d'fhreagair CCÁO 529 iarratas ar ateangairí. Ba mhéadú suntasach é seo; méadú 48% (358) ar 2022.

Iarratais ar Atráth

I gcúinsí áirithe, d'fhéadfadh go gcaithfeadh páirtí ar leith iarratas a dhéanamh go gcuirfí an éisteacht a bhí sceidealaithe ar athlá. D'fhéadfadh go gcuirfeadh sé isteach ar an bpáirtí eile agus ar úsáid éifeachtach and éifeachtúil acmhainní CCÁO má chuirtear cás ar atráth. Chuige sin, caitear le gach iarratas ar atráth go cúramach agus aird á tabhairt mar is cuí ar chearta na bpáirtithe ar nósanna imeachta cothroma agus ar dheifir réasúnta maidir le héisteacht le gearán atá sceidealaithe.

Bíonn gach iarratas ar chás a chur siar/a chur ar atráth faoi réir na tástála “cúinsí eisceachtúla agus cúiseanna leordhóthanacha”. Má chomhlíonann iarratais na critéir a ghabhann le Próiseas Atrátha 1, agus má chuirtear dearbhú comhaontaithe an pháirtí eile leis an iarratas ar atráth i bhfoirm scríbhinn, bíonn an cás simplí agus ceadaítear na hiarratais go hiondúil. Ní chheadaítear iarratais faoi Phróiseas Atrátha 2, a bhféachtar orthu i gcomhthéacs na tástála “cúinsí eisceachtúla agus cúiseanna leordhóthanacha”, go hiondúil, ach amháin má sholáthraítear fianaise chuí i gcomhar leis an bhfoirm atrátha chomhlíonta agus má éiríonn leis an gcás téarmaí na tástála a chomhlíonadh. Bíonn gach iarratas ar atráth faoi rogha CCÁO.

Tháinig méadú 9% ar líon na n-iarratas ar atráth agus agóidí i gcoinne éisteachtaí fíorúla a fuarthas in 2023 (2,835 iarratas) i gcomparáid le hiarratais 2022 (2,595). Ba é an chúis ba choitianta le hatráth ná an tlonadaí gan a bheith ar fáil 15% (434), arb ionann é agus méadú suntasach 28% ar an mbliain roimhe. Ba í an chúis ba choitianta ina dhiaidh sin ná an Finné gan a bheith ar fáil, mar a bhí ann i gcás 12% de na cásanna ar atráth (337), arb ionann é agus méadú 108% ar an mbliain roimhe. Bhain an fuilleach le tinneas nó le saoire réamhshocraithe. D'aithin CCÁO méadú suntasach 37% faoi Phróiseas 1 den pholasaí atrátha, i gcomparáid le 2022. Ceadaíodh 63% (1,801) de na hiarratais a fuarthas.

Próiseas Atrátha 1

Tá athbhreithniú déanta ag CCÁO ar an bPróiseas Atrátha le héifeacht ó 1 Eanáir 2024. Mar thoradh, ní féidir iarratas faoi Phróiseas Atrátha 1 a dhéanamh níos déanaí ná 10 lá oibre ón dáta a eisítear an fógra éisteachta. Cuireann sé seo cúig lá bhreise ar fáil i gcomparáid lena raibh ann in 2023.

Ní mór iarratais faoi Phróiseas Atrátha 1 a chur isteach i gcomhar le dearbhú comhaontuithe i scríbhinn an pháirtí eile sa ghearán. Má dhéantar amhlaidh, ceadófar an t-iarratas go huathoibríoch.

Cé go mbíonn gá le hiarratais ar atráth ar chúinsí éagsúla, cruthaíonn siad tuilleadh oibre do CCÁO agus bíonn moill leis an éisteacht a chur i gcrích dá mbarr.

Próiseas Atrátha 2

Ní mór do pháirtithe faoi Phróiseas Atrátha 2 faisnéis bhreise agus cáipéisí tacaíochta a chur isteach. Bíonn gá le tuilleadh acmhainní CCÁO freisin i ndáil le cinntí a dhéanamh agus is minic go gcailltear dátaí éisteachta mar gheall ar iarratais dhéanacha nach féidir cás eile a chur isteach ina n-ionad.

Cinntí

Eisíodh beagnach 3,000 (2,951) Cinneadh agus Moladh in 2023 i ndáil le 6,385 gearán aonair. Is ionann seo agus méadú leantach 50% (1,968) ar an méid a eisíodh in 2022.

Leagtar roinnt cinntí suntasacha CCÁO amach in Aguisín 3.

Gearáin tugtha chun Críche

Thóg CCÁO beagnach 15,000 gearán aonair chun críche in 2023 (14,985). D'fhéadfadh go mbeadh baint ag cuid acu seo le gearáin a fuarthas sna blianta roimhe sin. Bíonn ualach mór oibre ar an bhfoireann riaracháin chun na gearáin seo a phróiseáil, a bhainistiú agus a thabhairt chun críche.

Ba é an toradh ba choitianta ná gearáin ar tarraingíodh siar iad roimh, i rith agus i ndiaidh Breithnithe nó Idirghabhála; 51% (7,623).

Atreoruithe faoi na hAchtanna um Stádas Comhionann, 2000 go 2018

In 2023, fuarthas 428 atreorú faoin Acht um Stádas Comhionann 2000 go 2018, agus 733 foras sonrach á lua iontu, toisc gur féidir níos mó ná aon fhoras amháin a dhéanamh maidir le leithcheal ar ghearán aonair. Cé gur laghdú 15% (506) a bhí anseo ar líon na n-atreoruithe a fuarthas in 2022, ní raibh ach laghdú íseal ar na forais shonracha a luadh (2%) i gcomparáid le 2022.

Laistigh de na hatreoruithe ar an iomlán, tháinig méadú ar ocht gcinn de na deich bhforas a bhforáiltear dóibh sa reachtaíocht. Ba iad atreoruithe a rinneadh ar fhoras míchumais na hatreoruithe ab airde a fuarthas le trí bliana anuas. B'ionann iad agus 23% (170) de na hatreoruithe a fuarthas in 2023. Ba iad na forais ar tháinig an méadú is mó orthu ná Inscne (33%) agus Stádas Teaghlaigh (28%).

Fíor 20: Forais um Stádas Comhionann

Foras faoinar féidir gearán a atreorú	2022	2023	% Difríocht
Aois	35	37	+6%
Stádas Sibhialta	37	38	+3%
Míchumas	157	170	+8%
Stádas Teaghlaigh	53	68	+28%
Inscne	49	65	+33%
Stádas mar bhall den Lucht Siúil	150	132	-12%
Cine	133	105	-21%
Creideamh	25	30	+20%
Gnéaschlaonadh	12	15	+25%
Cóiríocht	97	73	+25%
Iomlán	748	733	-2%

Atreoruithe faoi na hAchtanna um Chomhionannas Fostaíochta, 1998 go 2021

In 2023, atreoraíodh 1,045 gearán faoin reachtaíocht um Chomhionannas Fostaíochta agus luadh 1,458 sain-fhoras leithcheala iontu. Is laghdú 15% é sin ar atreoruithe faoin reachtaíocht i gcomparáid le 2022 (1,235), tráth inar luadh 1,677 sain-fhoras. Cé go ndearnadh 1,045 atreorú faoi na hAchtanna um Chomhionannas Fostaíochta, luadh 1,458 sain-fhoras toisc gur féidir le gearánaigh níos mó ná aon fhoras leithcheala amháin a roghnú.

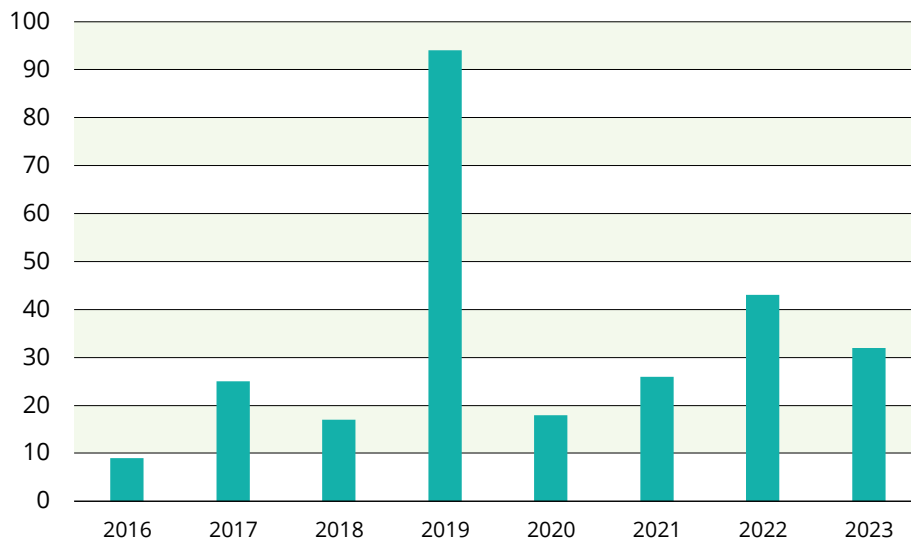
Rinneadh an chuid is mó de na hatreoruithe faoi fhoras Míchumais (331). Ba é an foras ba choitianta ina dhiaidh sin ná Inscne (322), ach tugadh méadú suntasach 135% faoi deara i ndáil le Gnéaschlaonadh agus Cine mar fhoras, agus méadú 64% ann ó 2022. Is iad Inscne, Míchumas agus Cine na trí fhoras is mó a luaitear in sna hatreoruithe chuig CCÁO.

Tháinig laghdú suntasach 66% ar líon na n-atreoruithe a rinneadh faoi fhoras Aoise agus laghdú 31% ar atreoruithe inar luadh Stádas mar Bhall den Lucht Siúil mar fhoras.

Fíor 21: Miondealú ar Ghearáin Shonracha de réir Forais

Miondealú de réir Forais	2022	2023	% Difríocht
Aois	514	176	-66%
Stádas Sibhialta	65	55	-15%
Míchumas	349	331	-5%
Stádas Teaghlaigh	183	183	0%
Inscne	286	322	13%
Stádas mar bhall den Lucht Siúil	26	18	-31%
Cine	166	272	64%
Creideamh	65	47	-28%
Gnéaschlaonadh	23	54	135%
Iomlán	1677	1458	-13%

Fíor 22: Atreoruithe a fuarthas faoin Acht um Pinsin, 1990



Atreoruithe a fuarthas faoin Acht um Pinsin, 1990

In 2023, fuarthas thart ar 32 atreorú faoin Acht um Pinsin, 1990, figiúir arb ionann é agus laghdú 26% ar líon na n-atreoruithe a fuarthas in 2022 (43).

Rannpháirtíocht le Páirtithe Leasmhara

Le linn 2023, ghlac an fhoireann Bhreithnithe páirt i roinnt cruinnithe déthaobhacha le príomhghrúpaí páirtithe leasmhara agus chuir sí traenáil shaincheaptha ar fáil mar chuid dá tiomantas do fheabhsú leanúnach seirbhísí.

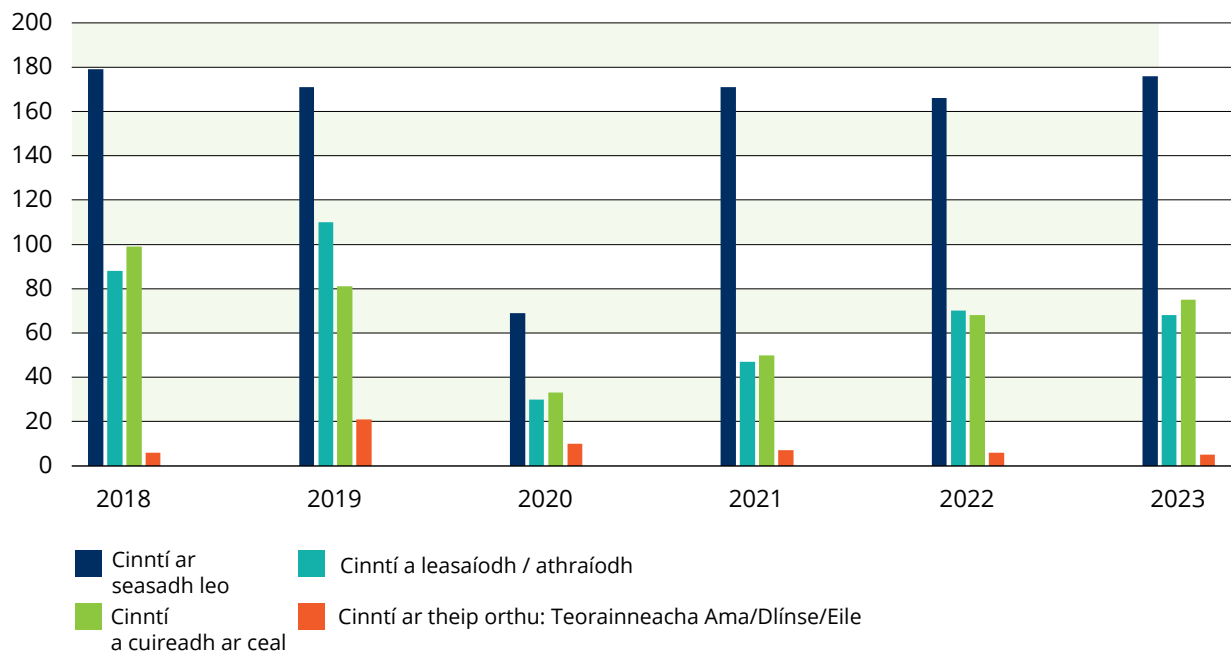
Cinntí na Cúirte Oibreachais i ndáil le hAchomhairc CCÁO

I gcaitheamh na bliana 2023, fuair CCÁO 6,172 larratas Gearáin thar ceann 14,158 Sain-ghearán. Cuireadh CCÁO ar an eolas mar gheall ar 324 cinneadh a d’eisigh an Chúirt Oibreachais in 2023 a bhain le hachomhairc i leith Chinntí/Mholtaí Oifigigh Bhreithnithe CCÁO. I gcomhthéacs líon iomlán na ngearán a dhéantar le CCÁO, tá líon na n-achomharc chuig an gCúirt Oibreachais íseal.

Cuireadh thart ar 11% de na 2,951 Cinneadh/Moladh a d’eisigh CCÁO in 2023 ar aghaidh chuig an gCúirt Oibreachais le haghaidh achomhairc. Seasadh le 54% (176) díobh sin, leasaíodh 22% (68) díobh, cuireadh 23% (75) díobh ar ceal agus bhí an fuilleach as am.



Fíor 23: Torthaí na Cúirte Oibreachais



Torthaí na Cúirte Oibreachais	2018	%	2019	%	2020	%	2021	%	2022	%	2023	%
Cinntí a eisíodh	372		383		142		275		310		324	
Cinntí ar seasadh leo	179	48%	171	45%	69	49%	171	62%	166	53%	176	54%
Cinntí a leasaíodh / athraíodh	88	24%	110	29%	30	21%	47	17%	70	23%	68	22%
Cinntí a cuireadh ar ceal	99	26%	81	21%	33	23%	50	18%	68	22%	75	23%
Cinntí ar theip orthu: Teorainneacha Ama/Dlínse/Eile	6	2%	21	5%	10	7%	7	3%	6	2%	5	1%

4.4 | An Rannóg Seirbhísí Corparáideacha, Straitéise agus Digiteacha

Rialachas

Ní mór do CCÁO a chinntiú go gcuirtear a ghníomhaíochtaí agus a acmhainní i bhfeidhm ar an modh is éifeachtúla agus is éifeachtaí agus is féidir, de réir riachtanais rialachais. Áirítear leis sin monatóireacht rialta a dhéanamh ar dhul chun cinn de réir na bpleananna gnó, athbhreithniú rialta a dhéanamh ar an timpeallacht riosca agus gníomh a dhéanamh chun rioscaí a d'fhéadfadh a bheith ann a mhaolú de réir mar is gá.

Tugann an Rannóg tacaíocht do CCÁO i bhfoirm príomhacmhainní agus áiseanna chun cuidiú leis a phríomhspríocanna a bhaint amach. Tá an Rannóg freagrach as rialachas corparáideach, buiséid, planáil ghnó, bainistiú rioscaí agus faisnéise, teicneolaíocht faisnéise, cumarsáid, teagmháil a dhéanamh le haonad Acmhainní Daonna na Rannóige maidir le soláthar foirne CCÁO, tacú le hobair na Rannóg éagsúla, bainistiú airgeadais agus áiseanna a sholáthar thar gach láthair oibre de chuid CCÁO agus tacaíocht riaracháin a sholáthar don Bhord agus don Ard-Stiúrthóir.

Acmhainní Daonn

Tacaíonn an Rannóg Seirbhísí Corparáideacha leis an bhfoireann chun príomhspríocanna CCÁO a sheachadadh.

Tháinig athrú suntasach ar sholáthar foirne CCÁO i rith na bliana maidir le hoibrithe a d'ímigh ar scor, oibrithe a d'aistrigh go róil eile agus arduithe céime; cuireadh 41 oibrí nua le foireann CCÁO i gcaitheamh na bliana san iomlán agus d'fhág 43 oibrí CCÁO.

Cuireadh comhaontú foirmiúil maidir leis an obair chumaisc i bhfeidhm thar CCÁO i gcomhar leis an Roinn Fiontar, Trádála agus Fostaíochta in 2022. Lena chinntiú gur féidir leis an bhfoireann leas a bhaint as na deiseanna sin, déanann CCÁO monatóireacht leanúnach ar aschur ó thaobh cainníochta agus cáilíochta de chun na patrúin oibre is fearr a oireann dá oibleagáidí seachadta seirbhíse a aithint. Seachas baill foirne allamuigh a oibríonn ar shiúl ón oifig cuid mhaith den am, freastalaíonn foireann CCÁO ar an oifig trí lá sa tseachtain ar a laghad agus i gcuid mhaith cásanna ceithre agus cúig lá sa tseachtain.

Tá an patrún tinrimh ag teastáil chun tacú le riachtanais straitéiseacha agus oibríochtúla CCÁO agus chun a chinntiú go gcuirtear na scileanna riachtanacha ar fáil do bhaill foirne nua go tapa agus go mbeidh caidreamh acu ar leibhéal pearsanta lena gcomhghleacaithe.

Cuireadh leis an acmhainn soláthair foirne in 2023 chomh maith. Ghlac foireann CCÁO páirt i raon seisiún traenála “Lón agus Foghlaim”, chomh maith le cúrsaí traenála inmheánacha agus foirmiúla a d’eagraigh Aonad Foghlama agus Forbartha Gairmeacha na Rannóige. Chuir roinnt den fhoireann cúrsaí tríú leibhéal i gcrích, arna maoiniú ag an Roinn, in ábhair a thagann le tosaíochtaí straitéiseacha CCÁO amhail Dí Feidhmeach Fostaíochta, Bainistiú Acmhainní Daonna, Anailísíocht Sonraí, Bainistiú Feidhmeannach agus Cúrsaí d’Abhcóidí.

Teicneolaíochtaí Faisnéise agus Cumarsáide

Le linn 2023, lean CCÁO ar aghaidh ag tógáil ar an dul chun cinn a rinneadh roimhe seo maidir le réitigh teicneolaíochta faisnéise ghréasán-bhunaithe agus sholáimhsithe a fhorbairt agus a chur i bhfeidhm. Bhí ról lárnach ag Straitéis Teicneolaíochta Faisnéise CCÁO, a forbraíodh in 2022, san obair seo agus rinneadh a thuilleadh dul chun cinn ar an Straitéis in 2023.

Bhain CCÁO úsáid as Próiseas Uathoibríthe Róbatach den chéad uair in 2023, a chuidigh leis an obair tosaigh chun iarratais ar ghearáin a láimhseáil. Baineadh úsáid as anailísíocht chun réimsí a d'fhéadfaí a fheabhsú a aithint agus rinneadh uasdátú ar an gcóras róbatach i rith na bliana. Tá aschur níos fearr agus níos éifeachtúla anois ann.

I gcomhréir le Straitéis Teicneolaíochta Faisnéise CCÁO, agus le tionscnamh “néal-chórais ar dtús” de chuid Straitéis Teicneolaíochta Faisnéise na Rannóige, thosaigh CCÁO ar thionscadal a fhiosrú in 2023 maidir le haistriú a dhéanamh go dtí an néal-chóras. Tabharfar faoin tionscadal sin# ina dhá shraith; sa chéad tsraith déanfar uasghrádú ar an gcóras Bainistíochta Caidreamh le Custaiméirí (BCC) i rith 2024. Cuirfear tús le sraith 2 i rith 2025 chun an córas BCC ar an láthair a ascnamh go dtí an néal-chóras. Beidh buntáistí fadtéarmacha digiteacha ag baint



leis an ascnamh seo do CCÁO. Déanfaidh sé nuachóiriú ar an gcóras BCC arb ann dó faoi láthair agus beidh sé mar bhonn le fás digiteach amach anseo sa néal-mhargadh.

Foirm Leictreonach Ghearáin

I gcomhréir leis an gcolún “Digiteach ar dTús” de Straitéis Teicneolaíochta Faisnéise na Seirbhíse Poiblí, thosaigh CCÁO ar fhoirm nua Ríomhghearáin a fhorbairt in 2023. Nuair a sheolfar an Fhoirm Ríomhghearáin in 2024, beidh ar chumas an phobail gearáin a chur faoi bhráid CCÁO ar bhealach níos éifeachtúla.

Beidh fáil ar an bhFoirm Ríomhghearáin nua ar gach ardán digiteach; ar an bhfón póca, ar an táibléad agus ar an ríomhaire. Déanfaidh an fhoirm próiseas cuíchóirithe, iomasach den phróiseas iarratais dóibh siúd a chuirfidh gearán isteach. Beidh áis uaslódála ar fáil mar chuid den chóras nua chomh maith chun cáipéisíocht thábhachtach a bhaineann leis an ngearán a chur leis an iarratas.

Cumarsáid agus For-rochtain

Suíomh Gréasáin

Is foinse eolais ríthábhachtach é suíomh gréasáin CCÁO agus é ina chomhéadan d’úsáideoirí seirbhíse chun teagmháil a dhéanamh le CCÁO, go háirithe maidir le huasdátú a dhéantar ar mhodhanna soláthartha seirbhíse agus cearta fostaíochta i gcoitinne, agus mar a thagann na hábhair sin le hathruithe sa reachtaíocht.

In 2023, bhí 4,647,870 amharc leathanaigh ag suíomh gréasáin CCÁO, méadú 12% ar an mbliain roimhe. Bhain sé seo le suim a chruthaigh feachtais spriocdhírithé go príomha, a bhain le hoibrithe séasúracha agus le hearnálacha amhail iascaireacht agus tógáil. Chomh maith leis sin, cuireadh béim ar eolas ar an suíomh gréasáin maidir leis an méadú ar Phá Íosta Náisiúnta agus maidir le teidlíochtaí Saoire Poiblí, neamhláithreach mar thoradh ar eachtraí tromchúiseacha aimsire, agus reachtaíocht amhail an tAcht um Shaoire Bhreitheachta, 2022 agus An tAcht um Íoc Pá (Leasú) (Séisíní agus Aiscí), 2022.

Ó seoladh an suíomh gréasáin athchóirithe i mí Bealtaine 2019, rinneadh athbhreithniú rialta ar an suíomh lena chinntiú go gcomhlíonann sé caighdeáin ghréasáin i ndáil le struchtúr, leagan amach agus ábhar, agus go gcomhlíonann sé na caighdeáin ghréasáin mar atá á leagan amach ag Feadhnacht an Ghréasáin Dhomhanda (W3C) agus an tÚdarás Náisiúnta Míchumais in Éirinn.

Chuir stiúrthóir gréasáin CCÁO athbhreithniú iomlán ábhair i gcrích i rith na bliana agus cuireadh feabhsúcháin bhreise i bhfeidhm chun comhlíonadh leanúnach le treoracha maidir le dea-chleachtais rochtana a chinntiú.

For-rochtain

Le linn 2023, d’fhreastail Foireann Faisnéise agus Seirbhíse do Chustaiméirí (FSC) de chuid CCÁO ar 44 imeacht seachtrach chun páirtithe leasmhara, fostóirí, fostaithe, baill den phobal agus spriocghrúpaí amhail daoine óga agus oibrithe imirceacha a chur ar an eolas faoi thacaíochtaí agus seirbhíse CCÁO. Cuidíonn an fhor-rochtain seo le húsáideoirí sheirbhíse CCÁO, leis an bpobal, le fostóirí agus fostaithe agus cuireann sí eolas ar fáil dóibh faoi na cearta agus na hoibleagáidí a bhforáiltear dóibh i reachtaíocht fostaíochta. Thacaigh an Rannóg Seirbhíse Corparáideacha leis an bhFoireann FSC leis an obair seo trí fheasacht a ardú ar chainéil CCÁO ar na meáin shóisialta.

Na Meáin Shóisialta

Le linn 2023, baineadh úsáid as cainéil shóisialta CCÁO chun faisnéis a roinnt leis an bpobal maidir le fostaíocht agus le comhionannas agus maidir le hathruithe sa reachtaíocht. Mhéadaigh rochtain na n-ardán seo i rith na bliana. Faoi láthair, tá breis agus 3,000 leantóir ag cuntas CCÁO, WRC_IE, ar X (Twitter mar ab eol dó roimhe seo) agus tá breis agus 16,000 leantóir ag cuntas CCÁO ar LinkedIn: méaduithe 12% agus 75% faoi seach i rith na bliana.

Le linn 2023, chuir CCÁO roinnt feachtas amach ar na meáin shóisialta a threoraigh 8,840 atreorú go dtí an suíomh gréasáin ó LinkedIn – méadú 155% ar 2022 (3,474 atreorú) agus 3,091 atreorú go dtí an suíomh gréasáin ó X – laghdú 44% ar 2022 (5,544 atreorú).

Físeáin Faisnéise

Go luath in 2023, d’fhoilsigh CCÁO an chéad ghrúpa de shraith físeán beochana gearr a bheidh ina gcuidiú d’úsáideoirí sheirbhíse CCÁO agus a spreagfaidh caidreamh níos fearr san áit oibre i gcoitinne.

Tá fáil ar na físeáin bheochana i nGaeilge, Béarla, Polainnis, Rómáinis, Rúisis, Spáinnis agus Úcráinis agus pléitear raon seirbhíse CCÁO iontu, lena n-áirítear:

- ▶ Conas gearán a dhéanamh le CCÁO agus Cad a tharlaíonn i rith Éisteacht Bhreithnithe
- ▶ Dínit a Chur Chun Cinn san Áit Oibre
- ▶ Idirghabháil Réamh-bhreithnithe á Míniú agus
- ▶ Seirbhís Chomhairleach CCÁO á Míniú

Tá na físeáin bheochana ar an gcéad chuid de shraith beochaintí atá mar chuid de chlár for-rochtana CCÁO chun feasacht a ardú maidir le seirbhísí CCÁO. Cuireann na físeáin bheochana nua seo leis na beochaintí a seoladh in 2022:

- ▶ Na hAchtanna um Chomhionannas Fostaíochta – Fostóirí
- ▶ Na hAchtanna um Chomhionannas Fostaíochta agus na hAchtanna um Stádas Comhionann – Fostaithe agus an Pobal i gCoitinne
- ▶ Na hAchtanna um Stádas Comhionann – Soláthraithe Seirbhíse

Áitreabh Oifige CCÁO

Tá cúig oifig réigiúnacha ag CCÁO, i mBaile Átha Cliath, i gCeatharlach, i gCorcaigh, in Inis agus i Sligeach, agus is í a sprioc seirbhís do chustaiméirí ar ardchaighdeán a sholáthar ar fud na hÉireann agus an tseirbhís sin a bheith tapa, soláimhsithe, neamhspleách, éifeachtach, neamhchlaonta agus éifeachtúil ó thaobh costais de. Bíonn roinnt modhanna á soláthar ag CCÁO maidir le réiteach díospóidí, cúiteamh agus forfheidhmiú éifeachtach, agus déanann sé an caidreamh san áit oibre a fheabhsú. Bíonn na seirbhísí seo ar fad saor in aisce.

Le linn 2023, rinne CCÁO uasghrádú ar an teicneolaíocht sna hoifigí i gCorcaigh agus i mBaile Átha Cliath, ar na cláir dhigiteacha thaispeána ar a léirítear na héisteachtaí sceidealaithe agus ar an bhfearas le haghaidh éisteachtaí cumaisc i seomraí cruinnithe a éascaíonn éisteachtaí cumaisc agus fíorúla.

Comhionannas san Earnáil Phoiblí agus Dualgas um Chearta an Duine

Faoin Acht faoi Choimisiún na hÉireann um Chearta an Duine agus Comhionannas 2014 cuireadh d'oibleagáid ar chomhlachtaí poiblí aird chuí a thabhairt ar shaincheisteanna chearta an duine agus comhionannais i bhfeidhmiú a bhfeidhmeanna, agus leantar cur chuige réamhghníomhach chun an oibleagáid sin a chomhlíonadh i ngach gné d'obair CCÁO. Is príomhthosaíocht é spás inrochtana agus ionchuimsitheach a chruthú do gach duine a oibríonn in oifig de chuid CCÁO nó a úsáideann na hoifigí sin.

I gcomhréir le prionsabail bhunaithe agus le hAlt 42 den Acht faoi Choimisiún na hÉireann um Chearta an Duine agus Comhionannas 2014, cuireann CCÁO béim láidir ar an gceart chun nósanna imeachta cothroma, chun príobháideachais, agus chun rochtana agus córa comhionainne i ngach gné de na seirbhísí

a chuirtear ar fáil. Leanann CCÁO ar aghaidh leis an obair chun a chinntiú go gcosnaítear dínit agus leas na foirne go léir agus spreagtar cultúr rannpháirtíochta agus measa. I measc na saincheisteanna um chearta an duine agus comhionannas a théann i bhfeidhm ar an bhfoireann tá an ceart chun comhionannais deiseanna, chun dínite agus chun measa san áit oibre. Coinnítear gach beartas inmheánach faoi athbhreithniú chun comhlíonadh dea-chleachtais sna réimsí sin a chinntiú.

Tá ról lárnach ag an Aonad um Fhaisnéis agus Seirbhís do Chustaiméirí freisin i gClár foriomlán For-rochtana CCÁO chun teagmháil a dhéanamh leis an bpobal is leithne agus is féidir. I rith na bliana, rinne CCÁO teagmháil le raon leathan grúpaí agus eagraíochtaí lena n-áiríodh mic léinn ar chúrsaí fáilteachais/turasóireachta, líon áirithe Coistí Cúram Leanaí agus meánscoileanna. Thairis seo, d'fhreastail ionadaithe CCÁO ar Mhóraonach Scipéirí na hÉireann agus ar Aonaigh Earcaíochta de chuid na Roinne Coimirce Sóisialaí, agus réachtáil siad feachtas faisnéise ar Inis Mór sna hOileáin Árann.

Chuir CCÁO raon foilseachán ar fáil i roinnt teangacha éagsúla ar shuíomh gréasáin CCÁO. I rith na bliana, d'fhoilsigh CCÁO raon físeán beochana faisnéise chun cuidiú le húsáideoirí sheirbhísí CCÁO ar shuíomh gréasáin CCÁO. Tá na físeáin sin ar fáil i nGaeilge, Béarla, Polainnis, Rómáinis, Rúisis, Spáinnis agus Úcráinis agus pléitear na hábhair seo a leanas iontu; “Dínit san Áit Oibre”, “Conas Gearán a Dhéanamh le CCÁO”, “Cad a tharlaíonn ag Éisteacht Bhreithnithe” agus “Idirghabháil Réamh-bhreithnithe”. Bíonn na físeáin bheochana seo áisiúil do pháirtithe atá ag dul i dteagmháil le CCÁO den chéad uair.

Teastaíonn ateangairí ó úsáideoirí sheirbhísí CCÁO go minic. Nuair a iarrann duine ar ateangaire a bheith i láthair ag idirghabháil bhreithnithe, don éisteacht nó le haghaidh coinne le Cigire, glacann CCÁO leis an iarratas gan costas a ghearradh ar na páirtithe. Le linn 2023 tháinig méadú 48% ar líon na n-éisteachtaí ina raibh gá le hateangairí i gcomparáid le 2022. Tugtar aird ar leith ar na hoibleagáidí a ghabhann leis an Acht um Theanga Chomharthaíochta na hÉireann, 2017 i ndáil le húsáideoirí seirbhíse a bhfuil deacrachtaí éisteachta acu.

Chuir CCÁO, le cúnamh ó Oifig Náisiúnta FSS um Fhéinmharú a Chosc, traenáil SafeTALK ar fáil do na baill foirne a bhíonn ag obair go díreach leis an bpobal chun a gcuid scileanna feasachta agus airde a ullmhú agus a fhorbairt de réir na Straitéise Náisiúnta um Fhéinmharú a Chosc. Cuireann sé seo ar chumas na mball foirne a bheith in ann daoine a thagann i dteagmháil leo ar an bhfón nó ar an gcóras ríomhphoist agus atá trína chéile, agus a d'fhéadfadh go mbeidís ag cuimhneamh ar fhéinmharú, a aithint. Sa chaoi sin, beidh ar chumas na mball foirne labhairt leo mar is cuí agus iad a threorú chuig acmhainní garchabhrach.



Áiríodh na hábhair seo a leanas i measc na n-ábhar a pléadh mar chuid de thraenáil inmheánach na Rannóige, Lón agus Foghlaim: Feasacht Chultúrtha: Teanga Ionchuimsitheach agus Traenáil Feasachta maidir le Míchumas. Bíonn sainchúrsa traenála maidir le Dualgas na hEarnála Poiblí faoi Choimisiún na hÉireann um Chearta an Duine agus Comhionannas (CÉCDC) ar fáil don fhoireann chomh maith. Rinneadh ionadaíocht thar cheann CCÁO freisin sa Ghrúpa Oibre Comhionannais, Éagsúlachta agus Ionchuimsitheachta de chuid na Rannóige chun Straitéis maidir le Comhionannas, Éagsúlacht agus Ionchuimsitheacht a fhorbairt.

Na hAchtanna um Nochtadh Cosanta 2014 go 2022

Mar chomhlacht poiblí, ceanglaítear ar CCÁO faoi alt 22 de na hAchtanna um Nochtadh Cosanta 2014 go 2022 tuarascáil bhliantúil a fhoilsiú maidir le líon na nochtaí cosanta a rinneadh chuige sa bhliain roimhe, agus an gníomh a rinneadh mar fhreagairt ar aon nochtadh cosanta den sórt sin.

Chuige sin, deimhníonn CCÁO go bhfuarthas 22 tuairisc sheachtrach mar Nochtaí Cosanta líomhnaithe le linn 2023. D'admhaigh CCÁO go bhfuarthas na 22 tuairisc ar fad laistigh den tréimhse ama a shainítear sa reachtaíocht. Cuireadh toradh an cháis in iúl don duine cuí in gach cás.

Tar éis an chéad mheasúnaithe, measadh nach nochtaí cosanta a bhí in 9 n-iarratas agus cuireadh an duine cuí ar an eolas i ngach cás agus dúnadh an cás.

Cuireadh 7 n-iarratas san iomlán ar aghaidh chuig an Rannóg chúí de chuid CCÁO le haghaidh gníomh breise i ndiaidh an mheasúnaithe thosaigh, agus dúnadh an cás maidir le Nochtadh Cosanta. Cuireadh trí chás ar aghaidh chuig Oifig an Choimisinéara um Nochtadh Cosanta, nó chuig comhaltaí cuí eile.

Dúnadh cás amháin mar thoradh ar easpa sonraí a tugadh leis an iarratas tosaigh agus toisc nach bhfuarthas aon fhaisnéis bhreise nuair a iarradh ar an iarratasóir amhlaidh a sheoladh isteach. Tá dhá chás fós "oscailte" agus an measúnú tosaigh idir lámha, ag fanacht ar an iarratasóir faisnéis bhreise a sheoladh isteach. Ní bhfuair CCÁO aon tuairisc inmheánach le linn 2023.

Faoi I.R. 367/2020 den Ordú fán Acht um Nochtadh Cosanta 2014 (Nochtadh do Dhaoine Forordaithe) 2020, ainmnítear an tArd-Stiúrthóir mar Dhuine Forordaithe faoi réir Alt 7 den Acht.

Achtanna na dTeangacha Oifigiúla 2003 agus 2021

Le linn 2023, chinntigh CCÁO gur comhlíonadh gealltanais a rinneadh i ndáil le seirbhísí a sholáthar trí mheán na Gaeilge faoi réir Acht na dTeangacha Oifigiúla. Foilsíodh raon cáipéisí ar an suíomh gréasáin as Gaeilge lena n-áirítear Clár Oibre CCÁO 2023, Tuarascáil Bhliantúil CCÁO 2022 agus roinnt Cód Cleachtas. Foilsíodh ábhar ar chainéil meán sóisialta CCÁO as Gaeilge freisin, X (Twitter mar ab eol dó) agus LinkedIn.



4.5 | 4.5 Rannóg Dlí

Forbhreathnú

Is í príomhfheidhm na Rannóige Dlí ná comhairle a chur ar CCÁO i ndáil lena raon leathan feidhmeanna ó bhreithniú go cigireacht agus forfheidhmiú, idir-réitigh, idirghabháil agus soláthar faisnéise, le go mbeidh córais i bhfeidhm ar fud CCÁO a bheidh láidir ó thaobh an dlí de. Chomh maith leis sin, soláthraíonn an rannóg eolas maidir le nuashonruithe sa dlí maidir leis an Aontas Eorpach, cúrsaí riaracháin, an chuideachta, cúrsaí fostaíochta agus comhionannais, agus tugann sí tacaíocht don fhoireann agus d'Oifigigh Bhreithnithe.

Reachtaíocht Nua

Le linn 2023, tugadh roinnt cearta fostaíochta agus comhionannais eile isteach agus béim iontu arís ar chothromas, ar chomhionannas, ar éagsúlacht agus ionchuismitheacht. Cearta de chuid an AE a bhí i gcuid de na cearta agus cearta de chuid na hÉireann a bhí i roinnt eile. Thug an Rannóg tacaíocht don fhoireann thar fheidhmeanna éagsúla CCÁO lena hullmhú do na cearta nua dlí a tháinig i bhfeidhm lena n-áirítear cearta faoin Acht um Chothromaíocht Oibre agus Saoil agus Forálacha Ilghnéitheacha 2023, faoin Acht um Nochtadh Cosanta (Leasú) 2022, faoin Acht um Shaoire Bhreitheachta 2022, agus athruithe tánaisteacha ar an Acht um Íoc Pá (Leasú) (Séisíní agus Aiscí) 2022 agus faoin leathnú a rinneadh ar chúram fostóirí níos lú faoi na Rialacháin Faisnéise maidir leis an mBearna Phá idir na hInscní 2022.

Cruthaíodh roinnt cásanna fiúntacha ó thaobh anailíse de nuair a bunaíodh cearta nua le Rialacháin an Chomhphobail Eorpaigh (Dálaí Oibre Trédhearcacha agus Intuartha) 2022, leis an Acht um Shaoire Bhreitheachta 2022 agus leis an Acht um Íoc Pá (Leasú) (Séisíní agus Aiscí) 2022.

Tá CCÁO ar an eolas go mbeidh a thuilleadh athruithe ag teacht isteach sa reachtaíocht maidir le ceadanna fostaíochta, stádas fostaíochta, iomarcaíocht chomhchoiteann agus dlí na gcuideachtaí, agus cosaint na bhfostaithe i gcás dócmhainneachta, mar aon leis an athbhreithniú leanúnach atá ar siúl ar an dlí comhionannais. Leanfaidh CCÁO ar aghaidh le teagmháil a dhéanamh leis na Rannóga cuí chuige sin. Thug an Rannóg comhairle freisin

maidir le reachtaíocht nua AE lena n-áirítear an Treoir mholta d'Oibrithe Ardáin, an Treoir AE maidir le Trédhearcacht Pá 2023/970, an Treoir AE maidir le Cothromaíocht Inscne ar Bhoird 2022/2381 agus an Treoir AE maidir le Leordhóthanacht an Phá Íosta Reachtúil 2022/2041.

Tháinig an tAcht um Chúirteanna agus an Dlí Sibhialta (Forálacha Ilghnéitheacha), 2023 i bhfeidhm i mí Iúil 2023. Cuireann an tAcht cosc ar éisteachtaí ó chian a thaifead nó bac a chur orthu agus chuir sé deireadh leis an réamhshocrú go ndéanfaí éisteachtaí a réachtáil ó chian. Tá athrú á dhéanamh ar pholasaí CCÁO i ndáil le hagóidí i gcoinne éisteachtaí ó chian chun an dlí nua agus chun cúinsí sochdhlíthiúla i ndiaidh na paidéime a léiriú. Beidh fáil ar éisteachtaí ó chian agus éisteachtaí fíorúla fós má bheidh buntáistí ar mhaithe le ceartas agus le cothromaíocht ag gabháil lena leithéid a dhéanamh. B'fhiú a lua mar sin féin, gur réachtáladh an chuid is mó d'éisteachtaí CCÁO in 2023 ar an láthair.

Cuireadh traenáil agus treoir maidir leis an dlí nua ar fáil d'Oifigigh Bhreithnithe agus don fhoireann. Thacaigh an Rannóg lena comhghleacaithe le raon athruithe ar an bhFoirm Ghearáin, ar pholasaí agus ar na próisis ábhartha chomh maith, chun cuidiú leo a bheith ullamh don reachtaíocht nua.

Na hAchtanna um Nochtadh Cosanta 2014 go 2022

Tháinig an reachtaíocht leasaithe i ndáil leis na hAchtanna um Nochtadh Cosanta 2014 go 2022 i bhfeidhm ar an 1 Eanáir 2023 agus cuireadh roinnt athruithe eile i bhfeidhm i gcaitheamh na bliana. Chuidigh an Rannóg leis an bhfoireann go himmheánach le polasaithe agus le nósanna imeachta nua chun comhlíonadh a chinntiú i ndáil leis na hoibleagáidí breise ar chomhlachtaí poiblí agus ar dhaoine forordaithe ach go háirithe. Rinne CCÁO teagmháil le páirtithe leasmhara agus rinne sé idirghabháil leis na Rannóga cuí agus le hOifig nuabhunaithe an Choimisinéara um Nochtadh Cosanta chun cur chuige comhsheasmhach a chinntiú. Chuidigh an Rannóg le hathbhreithniú reachtúil 2023 de chuid na Roinne ar an reachtaíocht nua.



Dlíthíocht

Ba bhliain ghnóthach eile é 2023 don Rannóg Dlí ó thaobh dlíthíochta de. Taobh amuigh den obair dlíthíochta a bhain le Forfheidhmiú agus Cúiseamh, rinne an Rannóg ionadaíocht ar son CCÁO i dtrí cinn déag d'ábhair shibhialta san Ard-Chúirt agus d'éirigh le CCÁO sna sé athbhreithniú bhreithiúnacha inar ainmníodh CCÁO i gceart mar Fhreagróir. Bhí baint ag CCÁO le trí agóid sa Chúirt Chuarda agus le hachomhairc reachtúla éagsúla i gcaitheamh na bliana atá idir lámha fós.

Tar éis di diúltú don iarratas tosaigh dícháilithe i mí Bealtaine 2023 ar chúinsí claonta⁴, thug Bolger J breithiúnas i mí an Mheithimh agus dhíbh sí an t-athbhreithniú breithiúnach i ndáil le *Ammi Burke i gcoinne Oifigeach Breithniúcháin, an Coimisiún um Chaidreamh san Áit Oibre agus Eile* [2023] IEHC 360⁵, bunaithe ar iompar an iarratasóra. Bronnadh costais ar CCÁO ar bhonn cleachtóra dlí-cliaint i mbreithiúnas a tugadh i mí Dheireadh Fómhair. Bunaíodh an cinneadh seo ar iompar an iarratasóra chomh maith⁶. Tá achoimre ar na breithiúnais faoi iamh leis na hagusíní a ghabhann leis an tuarascáil seo.

I mí Iúil 2023, dhíbh Phelan J iarratas i ndáil le *Gogova i gcoinne an Bhoird um Thionóntachtaí Cónaithe, an Coimisiún um Chaidreamh san Áit Oibre, an tArd-Aighne agus Eile* [2023] IEHC 449. Chuir an breitheamh i gcuimhne don iarratasóir gur gá réitigh reachtúla eile a fhiosrú go cuimsitheach agus imeachtaí a thionscnamh go tráthúil.

Rochtain a Fheabhsú

Mar chuid de chúram CCÁO chun faisnéis a sholáthar don phobal agus chun rochtain éifeachtúil ar cheartas a éascú i gcúrsaí ábhartha fostaíochta agus comhionannais, d'úsáid an Rannóg intleacht shaorga chun anailís a dhéanamh ar bhreis agus 10,000 cás de chuid CCÁO chun na 150 údarás ar mhinicí a luadh ina chásanna a dhearbhu. ⁷ Foilsíodh liosta inrochtana de na cinntí ba mhinicí a luadh ó chúirteanna agus binsí eile i mí Iúil 2023. Tá fáil ar dhlí-eolaíocht CCÁO ar bhunachar sonraí inchoirdaithe shuíomh gréasáin CCÁO.

Chun laghdú a dhéanamh ar an drochthionchar don timpeallacht a bhaineann le comhaid mhóra a chur i gcló agus a sheoladh chuig CCÁO, ní bhíonn ar pháirtithe cóipeanna de na cásanna a mbíonn siad ag brath orthu a sheoladh chuig CCÁO a thuilleadh má bhíonn na cásanna sin san áireamh ar an liosta ar a ndéanfar athbhreithniú go tréimhsiúil. Bíonn ar pháirtithe míniú a thabhairt fós maidir leis an mbaint atá ag cás ar leith lena n-argóint áfach, agus ní mór dóibh na hailt chuí sa chás a mbeifear ag brath orthu a lua.

Mar fhreagra ar an bhfuilleach reachtaíochta nua thuas, d'fhoilsigh an Rannóg tábla cuimsitheach cúitimh freisin chun cuidiú le páirtithe agus le cleachtóirí tuiscint a fháil ar an raon iomlán réiteach ar féidir le CCÁO a bhronnadh agus chun na 52 creat reachtúil éagsúil faoinar féidir éisteachtaí a chur lena mbreithniú a léiriú ar bhealach inrochtana.

Cosaint Sonraí

Leanann Oifigeach Cosanta Sonraí na Rannóige ar aghaidh ag tacú le CCÁO i ndáil le dlí faisnéise agus cuirtear traenáil rialta agus tacaíocht ar fáil don fhoireann thar gach Rannóg. Coinnítear polasaithe CCÁO faoi athbhreithniú i ndáil le dlí-eolaíocht nua agus déanann CCÁO teagmháil le hOifigeach Cosanta Sonraí na Rannóige chun comhlíonadh a chinntiú.

Socruithe Seachtracha

Ó thaobh socruithe seachtracha de, labhair an Cláráitheoir le Coiste Chumann an Bharra um Chomhionannas agus Teacht Aniar maidir le hIntleacht Ilchultúrtha agus tionscnaimh CCÁO chun comhionannas agus éagsúlacht a chur chun cinn agus chun claontuairim neamh-chomhfhiosach a chosc. Labhair sí le Cumann Dlíodóirí Fostaíochta na hÉireann (CDFÉ) maidir le forbairtí nua dlíthiúla, rinne sí cur i láthair mar chuid den mhodúl comhionannais ar Dhioplóma Scileanna Breithnithe Dhlí-Chumann na hÉireann agus chuaigh sí i dteagmháil le comhghleacaithe AE chomh maith le roinnt páirtithe leasmhara in Éirinn maidir le cearta daonna, comhionannas agus dlí fostaíochta.

4 [Diúltú don iarratas dícháilithe, Ammi Burke i gcoinne Oifigeach Breithniúcháin, an Coimisiún um Chaidreamh san Áit Oibre agus Eile.](#) [2023] IEHC 225

5 [Ammi Burke i gcoinne Oifigeach Breithniúcháin, an Coimisiún um Chaidreamh san Áit Oibre agus Eile.](#) [2023] IEHC 360

6 [Ammi Burke i gcoinne Oifigeach Breithniúcháin, an Coimisiún um Chaidreamh san Áit Oibre agus Eile. Breithiúnas i ndáil le Costais](#) [2023] IEHC 560

7 [Údarás a Luaitear go Minic – An Coimisiún um Chaidreamh san Áit Oibre](#)

Aguisíní



Aguisín

1



Clár Oibre 2023: Torthaí

Faisnéis agus Seirbhísí do Chustaiméirí

Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Am Seachadta	Príomhtháscairí Feidhmíochta	Torthaí
Faisnéis neamhthreorach a sholáthar ar ghníomhaíochtaí CCÁO go ginearálta, ar reachtaíocht fostaíochta agus ar mheicníochtaí chun córais a shásamh trí mhodhanna seachadta éagsúla.	Freagra inrochtana ar ardchaighdeán, dírithe ar an gcustaiméir agus éasca le húsáid a sholáthar ar an teileafón, ríomhphost, post bán agus fiosrúcháin eile maidir le cearta fostaíochta	Le linn 2023	90% de na fiosrúcháin réitithe ag an gcéad cheist	Réitíodh 61,800 glao go gasta agus go héifeachtach
	Comhordú a dhéanamh ar rannpháirtíocht spriocdhírthe CCÁO ag seimineáir dlí fostaíochta, cur i láthair, taispeántais, seónna bóthair, seimineáir ghréasáin, etc.	Le linn 2023	Príomhimeachtaí aitheanta, teachtaireachtaí spriocdhírthe a sheachadadh go héifeachtach agus go feidhmiúil Feasacht mhéadaithe ar an CCÁO agus a shainchúram/seirbhísí ag baint úsáid as cuntais meán sóisialta	Freastalaíodh ar 44 imeacht (ardú 30% ó 2022)
	Bain úsáid as ardáin ar na meáin shóisialta chun feasacht a ardú ar reachtaíocht fostaíochta, ar chinntí ábhartha agus ar ghníomhaíochtaí/téarmaí tagartha an CCÁO, agus meicníochtaí sásaimh CCÁO a chur chun cinn don phobal	Le linn 2023	Príomhimeachtaí, laethanta, feachtais, taighde agus sonraí aitheanta agus poiblíocht éifeachtach déanta orthu ar na meáin shóisialta	Baineadh úsáid as cainéil meán sóisialta chun daoine a chur ar aghaidh chuig suíomh gréasáin an CCÁO

Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Am Seachadta	Príomhtháscairí Feidhmíochta	Torthaí
Próiseáil éifeachtúil gearán agus iarratas chuig an CCÁO	Gach gearán a phróiseáil ar bhealach tráthúil agus éifeachtach, agus iad a chur ar aghaidh chuig an bhfóram sásaimh cuí	Le linn 2023	Gach gearán a fuarthas le linn 2023 próiseáilte go feidhmiúil le 90% de na comhaid cruthaithe laistigh de 10 lá oibre agus an freagróir curtha ar an eolas	Próiseáladh 14,158 (+10.7%) gearán ar leith, agus chuidigh Uathobriú Próisis Róbataice le hamanna próiseála a ghiorrú
Straitéis For-rochtana agus Cumarsáide a Sheachadadh	Obair a dhéanamh leis an Aonad Cumarsáide chun gníomhaíochtaí CCÁO a shainaithint (lena n-áirítear for-rochtain ghréasánbhunaithe agus cianrochtain) is féidir a úsáid chun éifeachtúlacht agus éifeachtacht CCÁO a fheabhsú go ginearálta	Le linn 2023	Feasacht agus tuiscint mhéadaithe ar an CCÁO, a chéannacht, a ról, agus a fheidhmeanna, thar chúrsaí caidrimh thionsclaíoch, cearta fostaíochta, comhionannais agus stádas comhionann	Foilsíodh beochaintí nua ar sheirbhísí CCÁO ar an suíomh gréasáin Freastalaíodh ar 44 imeacht for-rochtana
	Feachtais a thosú agus a sheachadadh dírithe ar ghrúpaí agus saincheisteanna aitheanta (e.g., stádas comhionann agus réimsí ábhartha eile)	Le linn 2023	Feasacht mhéadaithe ar ról an CCÁO sa réimse seo agus méadú ar líon na ndaoine ábhartha a dhírítear chuig an CCÁO	Foilsíodh beochaintí faisnéise chun cuidiú le húsáideoirí seirbhísí CCÁO
	Ullmhaigh treoracha agus teimpléid shaincheaptha d'fhostaithe agus d'fhostóirí	Le linn 2023	Treoracha agus teimpléid seolta agus á n-úsáid agus á rochtain	Rinne an CCÁO feachtais ar athruithe ar Phá Íosta Náisiúnta, ar Shaoire Bhreiteachta agus ar Oibrithe Séasúracha, agus thacaigh sé le feachtais faoi cheannas Chumann an Dlí Fostaíochta in earnálacha an lompair ar Bhóithre agus na Tógála Nuashonraíodh roinnt Leabhráin faisnéise agus foilsíodh teimpléid do Thearmaí Fostaíochta



Seirbhísí Cigireachta agus Forfheidhmithe

Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Ama Seachadta	Príomhtháscairí Feidhmíochta	Torthaí
Comhlíonadh an dlí fostaíochta a chur chun cinn agus a fhorfheidhmiú	Cigireachtaí bunaithe ar riosca, agus cigireachtaí bunaithe ar ghearáin, le comhlachtaí Stáit eile nuair is cuí	Le linn 2023	4500 cás cigireachta san ionad oibre tugtha chun críche	4,727 cás cigireachta curtha i gcrích €1.9M de phá clúdaithe
	Cionta a ionchúiseamh faoi reachtaíocht fostaíochta, de réir mar is cuí	Le linn 2023	Déanfar gach cás nach mbaintear comhlíonadh amach a mheas le haghaidh caingean dlí	D'éirigh le 90% d'ionchúisimh ⁸
Díriú dírithe ar fhostóirí, eárnálacha, réigiúin neamhchomhlíontacha	Fógraí um Chomhlíonadh (de réir mar is infheidhme) agus Íocaíocht Sheasta a eisiúint agus a phróiseáil agus achomhairc ar Fhógraí Comhlíonta a chosaint	Le linn 2023	Fógraí eisithe go cuí agus éifeacht a bheith leo. Achomhairc cosanta	Deich bhFógra Pionóis Sheasta agus Tríocha a Ceathair Fógra Comhlíonta eisithe in 2023
	Socruithe roghnúcháin riosca le haghaidh cigireachta le húsáid chun cásanna a roghnú	Le linn 2023	Beidh 50% de chásanna cigireachta dírithe ar fhostóirí ardriosca agus ar eárnálacha leasa	64% de na cigireachtaí bunaithe ar mheasúnú riosca
Dámhachtainí a eascraíonn as breitheanna breithnithe agus imeachtaí na Cúirte Oibreachais a fhorfheidhmiú	Forfheidhmiú sibhialta ar chinntí agus ar dhámhachtainí a eascraíonn as cinntí na nOifigeach Breithniúcháin agus as cinntí na Cúirte Oibreachais maidir le gníomhaíocht bhreithnithe agus chigireachta a shaothrú, agus é a ardú chuig ionchúiseamh nuair is cuí	Le linn 2023	Cinntí agus dámhachtainí leanta ar bhealach a uasmhéadaíonn éifeachtúlacht agus feidhmiúlacht	Dúnadh 97 cás forfheidhmithe sibhialta
Ceadúnais a eisiúint agus reachtaíocht a fhorfheidhmiú maidir le Gníomhaireachtaí Fostaíochta agus fostú Daoine Óga	Ceadúnais a phróiseáil agus a eisiúint ar bhealach éifeachtach agus dleathach	Le linn 2023	Iarratais próiseáilte laistigh de 21 lá ón dáta a fhaightear iad	Próiseáladh 1,028 Ceadúnas Gníomhaireachta Fostaíochta agus 632 Ceadúnas Leanaí

8 Áirítear Cúiseamh Rathúil, Promhadh agus Síntiúis Charthanachta leis na torthaí rathúla

Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Ama Seachadta	Príomhtháscairí Feidhmíochta	Torthaí
Comhoibriú le gníomhaireachtaí forfheidhmithe eile	Oiliúint, malartuithe foirne, cigireachtaí comhphárteacha agus comhroinnt sonraí cuí a éascú, athbhreithniú a dhéanamh ar MTanna (Meabhrán Tuisceana) chun a chinntiú go bhfuil siad cothrom le dáta, bailí agus ag cloí le ceanglais RGCS	Le linn 2023	Gníomhaíochtaí rathúla a bhfuil reachtaíocht agus Meabhráin Tuisceana chuí mar bhonn agus mar thaca leo Déan athbhreithniú agus athnuachan ar gach Meabhráin Tuisceana atá ann cheana féin, más cuí	Rinneadh 95 cigireacht leis an nGarda Síochána (lena n-áirítear Biúró Náisiúnta an Gharda Síochána um Inimirce agus Biúró Náisiúnta an Gharda Síochána um Sheirbhísí Cosanta) 262 comhchigireacht le hoifigigh na Roinne Coimirce Sóisialaí 157 comhchigireacht le hoifigigh na gCoimisinéirí Ioncaim
Feachtas spriocdhírthe a chur i gcrích sna hearnálacha aitheanta	Feachtas lena mbaineann cigireacht agus SFC araon déanta go héifeachtach agus go feidhmiúil	Le linn 2023	Tionchar dearfach a imirt ar chomhlíonadh agus feasacht ar chearta agus dualgais ábhartha a chruthú/a fheabhsú	Áiríodh leis na feachtas spriocdhírthe Pá Íosta Náisiúnta, lascaireacht Mhara, EMPACT agus Tógáil
Tacú le gníomhaíochtaí faisnéise agus oideachais chun comhlíonadh a fheabhsú go ginearálta	Obair a dhéanamh le Faisnéis agus FSC, leis an Aonad Cumarsáide agus le Rannóga eile de chuid CCÁO	Le linn 2023	Foireann, ábhar faisnéise/ treorach, agus saineolas ábhartha a chur ar fáil	Comhoibriú, treoir agus tacair scileanna curtha ar fáil
Comhoibriú le gníomhaireachtaí idirnáisiúnta maidir le réimsí leasa choitinn	Obair a dhéanamh le gníomhaireachtaí, ardáin agus údaráis a bhfuil cuspóirí comhchosúla acu amhail an Eagraíocht Idirnáisiúnta Saothair, an tÚdarás Eorpach Saothair, an t-Ardán Eorpach um Obair Neamhdhearbhaithe, EUROPOL	Le linn 2023	Freastal ar gach seisiún iomlánach, nuair atá ainmnithe, mar chomhalta/ toscaire/ saineolaí Éireannach, tabhair cúnaimh cuí do chláir	Ionchur dearfach chuig bord bainistíochta an Údaráis Eorpaigh Saothair (ÚES). Freastal ar cheardlanna agus ar ghrúpaí oibre ÚES (lena n-áirítear Cigireacht agus Faisnéis)



Seirbhísí Idir-réitigh, Comhairleacha agus Idirghabhála

Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Ama Seachadta	Príomhtháscairí Feidhmíochta	Torthaí
Seirbhísí idir-réitigh thráthúil, éifeachtach agus feidhmiúil a sholáthar agus a chinntiú go gcomhlíontar an t-éileamh agus seachadadh na seirbhísí go léir á gcothabháil ag an am céanna	Idir-réiteach a sholáthar i dtréimhse ama iomchuí chun réiteach díospóidí caidrimh thionsclaíoch a éascú. Dul i dteagmháil go réamhghníomhach le húsáideoirí seirbhíse chun cúnamh a chur ar fáil le caidreamh dearfach tionsclaíoch agus oibre a chothabháil	De réir mar a éilíonn agus nuair a éilíonn cliaint é le linn 2023	Caomhnú ardráta rathúlachta i réiteach díospóidí caidrimh thionsclaíoch	Réitíodh 85% de na díospóidí a cuireadh ar aghaidh
Obair chun cur leis an úsáid a bhaineann cliaint as seirbhísí idirghabhála ábhartha CCÁO	Idirghabháil réamhbhreithnithe a chothabháil agus a mhéadú nuair is gá – nuair is féidir. Cásanna um Dhífhostú Éagórach le fillleadh ar idirghabháil aghaidh ar aghaidh	Le linn 2023	Méadú ar chásanna a ndearnadh idirghabháil rathúil orthu chun líon na ndaoine a théann ar aghaidh chuig an bpróiseas breithnithe in éilimh bunaithe ar chearta a laghdú	Méadú 19% ar idirghabhálacha réamhbhreithnithe agus méadú 42% ar líon na gcásanna a réitíodh
	Seirbhís um larratas Déanach ar Idirghabháil (IDI) a thabhairt isteach i gcomhar leis an tSeirbhís Bhreithnithe	R1 2023	- Laghdú ar chur siar éisteachtaí breithnithe. - Méadú ar líon na n-idirghabhálacha. - Méadú ar shocraíochtaí ag am na hidirghabhála	Fuarthas 65 larratas Déanach ar Idirghabháil. Réitíodh 52% de chásanna LRM a chuaigh ar aghaidh chuig idirghabháil
Cathaoirleacht agus éascú a dhéanamh ar chaidrimh thionsclaíocha agus fóraim reachtúla éagsúla san earnáil phríobháideach agus san earnáil phoiblí araon	Plé a éascú ar bhealach thráthúil. Cabhraigh le páirtithe chun gach saincheist a réiteach de réir nósanna imeachta agus oibríochtaí mar atá leagtha síos sna téarmaí tagartha comhaontaithe	Le linn 2023	Seachadadh, oibriú agus tabhairt i gcrích éifeachtach na saincheisteanna uile a ardaíodh i gcomhréir le prótacail agus nósanna imeachta le comhaontú na bpáirtithe uile	Tugadh gach iarratas ar chúnamh go hiomlán

Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Ama Seachadta	Príomhtháscairí Feidhmíochta	Torthaí
Feabhas a chur ar chaidreamh san ionad oibre a bhaineann go sonrach leis an láithreán	Athbhreithnithe a dhéanamh ar chaidreamh tionsclaíoch, cathaoirleacht a dhéanamh ar pháirtithe oibre comhpháirteacha, réiteach díospóidí aonair a éascú, lena n-áirítear tarchuir faoin Acht Caidrimh Thionscail, 2015	Le linn 2023	Seachadadh clár éifeachtach, saincheaptha, sástacht mhór i measc úsáideoirí seirbhíse, caidreamh feabhsaithe san ionad oibre	Cúnamh curtha ar fáil de réir mar is gá: 6 idirghabháil tugtha chun críche agus 10 gcinn ar siúl
Cuir tús le hathbhreithniú ar na cóid ó chuid de na Cóid Chleachtais sheanbhunaithe	Obair a dhéanamh le páirtithe leasmhara chun tús a chur le hathbhreithniú a dhéanamh ar ábhar praiticiúil agus struchtúrach roinnt Cóid Chleachtais atá ann cheana féin	R2 2023 agus le linn 2023	Cóid curtha i gcrích agus nuashonraithe	Cuireadh dréachtú Cóid Cleachtais ar Oibriú Fleisc-am agus Cianobair chun cinn le tabhairt chun críche go luath sa bhliain 2024. Rinneadh athbhreithniú ar roinnt Cóid Cleachtais seanbhunaithe maidir le téarmaíocht a nuashonrú
Cláir oideachais agus cláir roinnte eolais san ionad oibre a chur ar fáil	Faisnéis chuí a fhorbairt agus a sholáthar ar phrionsabail dhearfacha caidrimh tionsclaíoch agus ar chaidreamh oibre trí cheardlanna éascaitheacha	Le linn 2023	Tuiscint níos leithne agus níos fearr ar shaincheisteanna agus caidreamh feabhsaithe san ionad oibre	Méadú 10% ar na ceardlanna a cuireadh ar fáil
Córas Bainistíochta Cásanna Comhréitigh (IRIS) a chur i bhfeidhm agus an Córas Bainistíochta Cásanna Idirghabhála (Mitsy) a fheabhsú	Aistriú réidh chuig próiseas nua	R1 2023	Córas ag feidhmiú go hiomlán	Córas Bainistíochta Cásanna Comhréitigh (IRIS) i bhfeidhm go hiomlán ó mhí Eanáir
	Obair a dhéanamh leis an soláthraí ábhartha chun Share Point a chumasú ar chóras Mitsy	R1 2023	Próiseas ag feidhmiú go hiomlán	Ag Feidhmiú go hiomlán



An tSeirbhís Bhreithnithe

Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Ama Seachadta	Príomhtháscairí Feidhmíochta	Torthaí
Leanúint le gearáin a phróiseáil chomh tapa agus is féidir	Tacaíocht riaracháin iomlán agus maoirseacht iomlán a sholáthar d'Oifigigh Bhreithnithe chun an sprioc a bhaint amach	Le linn 2023 agus ar aghaidh	Maoirseacht a dhéanamh ar phróiseáil éifeachtach gearán ó chlárú, go sceidealú, go dtí eisiúint cinntí	Breithniú: +13% de mhéadú ar líon na n-éisteachtaí a bhí sceidealta Cinntí eisithe +50% de mhéadú ar líon na gcinntí a eisíodh
	Leas iomlán a bhaint as forbairtí maidir leis an ardán rghearáin agus an tairseach TFC	Deireadh Q4 2023	Cur i bhfeidhm céimneach de fheabhsuithe TFC ar phróiseáil gearán	Foirm Leictreonach Ghearáin nua le cur ar fáil in 2024
	Acmhainní riaracháin chúí a chothabháil agus monatóireacht agus athbhreithniú a dhéanamh ar chainníocht agus ar infhaighteacht na moltóirí chun cumas seachadta a chinntiú	Le linn 2023 agus ar aghaidh	Lánacmhainnithe agus in lánúsáid	Méadú suntasach ar éisteachtaí atá sceidealaithe le linn 2023. Tairgeadh éisteacht in 2023 do gach gearán a fuarthas roimh 2023 (nuair nach raibh moill ag fachtóirí seachtracha orthu nó i gcás nach raibh cinntí/breithiúnais achomhairc ar feitheamh). Dúnadh 29% de na gearáin a fuarthas sa bhliain 2023 faoi dheireadh na bliana
	Anailís a dhéanamh ar mhéid agus ar uainiú na n-iarratas ar chur siar roimh éisteacht	Deireadh Q2 2023	Tuarascáil críochnaithe/ gníomh aitheanta	Tháinig méadú +9% ar iarratais ar chur siar. Eisíodh beartas nuashonraithe maidir le cur siar i mí na Nollag 2024

Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Ama Seachadta	Príomhtháscairí Feidhmíochta	Torthaí
Atreoruithe “Iomadúla” a dhiúscairt	Obair a dhéanamh le páirtithe agus le hionadaithe chun an modh is fearr a aithint chun déileáil le hatreoruithe “iomadúla” ar bhealach éifeachtach	Le linn 2023	Cuireadh de láimh cásanna “iomadúla”	Dúnadh líon mór cásanna iomadúla agus rinneadh dul chun cinn suntasach le cúnamh ó na páirtithe. Bhain 12% de na gearáin a cuireadh de láimh le cásanna iomadúla. Tá roinnt cásanna iomadúla curtha ar sos go bhfaighfear toradh breithiúnas/cinntí ó chomhlachtaí achomhairc
Déan monatóireacht ar an “meascán seachadta” le haghaidh éisteachtaí breithnithe	Déan monatóireacht agus measúnú ar an mbealach is éifeachtúil ó thaobh costas de agus is éifeachtaí chun cásanna a chur de láimh	Le linn 2023	Meascán de chásanna atá éifeachtúil ó thaobh costas de agus éifeachtach i bhfeidhm	Meascán Éisteachta: 70% go pearsanta 30% fíorúil
Aighneachtaí gonta a fháil go tráthúil	Déan athbhreithniú faoi dheireadh R2 2023 ar na patrúin aighneachta agus ar thráth a dtaiscthe le hOifigigh Bhreithnithe	Déan measúnú ar an athbhreithniú agus forbair plean gníomhaíochta más gá	Aighneachtaí faighte go tráthúil de réir Nósanna Imeachta Breithnithe nua an CCÁO	Ní bhfuarthas na haighneachtaí go léir chomh tráthúil agus a leagtar amach i dTreoir an CCÁO – ardaíodh ceist bheartais leis an Roinn Fiontar, Trádála agus Fostaíochta – ábhar faoi athbhreithniú
Cinntí ardchaighdeáin a tháirgeadh	Déanfaidh an Grúpa Athbhreithnithe um Rialú Cálíochta Inmheánach athbhreithniú ar chinntí iar-eisiúna chun pointí foghlama a aithint, chun comhsheasmhacht na gcinntí i gcomhréimsí a chinntiú, agus chun an tseirbhís a chuirtear ar fáil do chustaiméirí na Seirbhíse Breithnithe a fheabhsú	Le linn 2023	Eisítear cinntí ardchaighdeáin go tráthúil, faoi réir na n-acmhainní atá ar fáil Aithnítear go hinmheánach agus go seachtrach caighdeán breithiúnais an CCÁO agus seachadadh é	Glacadh le thart ar 90% de na Cinntí/ Moltaí a eisíodh in 2023 As na cinntí a ndearnadh achomharc orthu chuig an gCúirt Oibreachais, seasadh le 54%, athraíodh 22% agus cealaíodh 21%



Seirbhísí Corparáideacha, Straitéise agus Digiteacha

Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Ama Seachadta	Príomhtháscairí Feidhmíochta	Torthaí
Creat láidir rialachais chorparáidigh a choinneáil i CCÁO	Caighdeáin/polasaithe/nósanna imeachta inmheánacha a mhaoirsiú agus monatóireacht a dhéanamh orthu	Le linn 2023	Rialachas corparáideach CCÁO ag teacht leis an gcleachtas is fearr	Rialachas corparáideach láidir i bhfeidhm le linn 2023
A chinntiú go gcuireann CCÁO feidhmeanna reachtúla i gcrích laistigh den bhuiséad	Maoirseacht a dhéanamh ar chaiteachas éifeachtúil agus éifeachtach, monatóireacht a dhéanamh ar éileamh seirbhíse agus ar leibhéil ghníomhaíochta agus idirchaidreamh rialta a dhéanamh le RFTF ina leith sin	Le linn 2023	Clár Oibre bainte amach ag teacht le húsáid cheart a bhaint as leithdháileadh buiséid	Clár Oibre bainte amach laistigh den leithdháileadh buiséid foriomlán
Solúbthacht fheidhmiúil ag CCÁO	A chinntiú gur féidir leis an CCÁO freagairt go tapa do phatrúin aistrithe éilimh agus acmhainní thar raon iomlán a ghníomhaíochtaí	Le linn 2023	An CCÁO in ann freagairt go tapa d'ardú tobann ar éilimh rannáin agus patrúin aistrithe acmhainní	D'fhreagair CCÁO go solúbtha d'éilimh luaineachta le linn 2023
Bainistiú a dhéanamh ar chultúr feidhmíochta straitéiseach pleanála gnó an CCÁO, atá bunaithe ar riosca, ag gach leibhéal den Eagraíocht	Cabhrú le cur i bhfeidhm, Straitéis agus Clár Oibre an Bhoird agus feidhmiú céimneach trí phleananna gnó Corparáideacha, Rannáin, Aonaid agus pearsanta, gníomh feabhais a thomhas agus a ghlacadh i gcoinne rioscaí agus tuairisc a thabhairt ar dhul chun cinn don CB (An Coiste Bainistíochta) agus don Bhord ar bhonn rialta	Le linn 2023	CCÁO ag feidhmiú laistigh de chreat comhleanúnach straitéiseach agus plean gnó	Creataí Riosca agus Próisis Ghnóagfeidhmiú go hiomlán
An díospóireacht bheartais ar fhorbairtí caidrimh san ionad oibre a fheabhsú agus bonn eolais a chur fúithi	I gcomhairle le Rannáin eile, aontaigh ar réimsí inní beartais agus ar ionchur i bhfoirmiú beartais	Le linn 2023	Ionchur curtha ar fáil agus intuigthe	Ionchur curtha ar fáil de réir mar is gá
Oifigí CCÁO a chothabháil	A chinntiú go gcoinnítear gach oifig CCÁO agus gur féidir leo raon iomlán seirbhísí CCÁO a sholáthar	Le linn 2023	Oifigí ag feidhmiú go hiomlán an raon iomlán de sheirbhísí CCÁO á chur ar fáil acu	Gach oifig ag feidhmiú go hiomlán
Comhdháil na nPáirtithe Leasmhara	Taighde a choimisiúnú agus comhdháil páirtithe leasmhara a réachtáil	R3 2023	Taighde críochnaithe agus comhdháil tionólta	Curtha siar go dtí 2024

Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Ama Seachadta	Príomhthásairí Feidhmíochta	Torthaí
Acmhainní a chur ar fáil d'Acmhainní Daonna	Obair a dhéanamh le hAcmhainní Daonna an RFTF ar acmhainn foirne, pleanáil comharbais, oiliúint foirne, solúbthacht foirne agus an tionchar a bhíonn ag obair cumaisc, chun leibhéal chúí foirne CCÁO leis na scileanna ábhartha a chinntiú	Le linn 2023	Acmhainní cuí curtha ar dáil d'fhoireann CCÁO. Tacaítear le riachtanais ghnó agus le riachtanais forbartha gairme	D'oibrigh CCÁO leis an RFTF chun aghaidh a thabhairt ar riachtanais foirne
Forbairt Fostaithe	Obair a dhéanamh le hAcmhainní Daonna an RFTF agus le comhlachtaí eile chun oiliúint shaincheaptha a fhorbairt d'fhoireann CCÁO	Ar siúl faoi láthair	Riachtanais oiliúna nua aitheanta agus tús curtha le próiseas tairisceana do sholáthraí	Bhain an fhoireann leas as raon oiliúna intí agus foirmiúla lena n-áirítear cúrsaí 3ú leibhéal arna maoiniú ag an Roinn
TFC Úsáid TFC a uasmhéadú	Straitéis TFC CCÁO 2022-2024 a chur i bhfeidhm go céimneach	Le linn 2023	Straitéis curtha chun úsaide	Baineadh leas as an straitéis le tuilleadh éifeachtúlachtaí a sholáthar i soláthar seirbhísí
Monatóireacht a dhéanamh ar chórais TFC lena chinntiú go n-éascaíonn siad soláthar seirbhísí éifeachtúla agus feidhmiúla CCÁO	Monatóireacht, cothabháil, nuálaíocht agus uasghrádú a dhéanamh ar chórais agus bogearraí faoi réir acmhainní de réir mar is gá	Le linn 2023	Córais TFC atá éasca le húsáid ag oibriú go héifeachtúil agus go héifeachtach	Monatóireacht agus feabhsú ar chórais de réir mar is gá
Cibearshlándáil	Comhoibriú leis an RFTF chun beartas agus nósanna imeachta láidre slándála TFC a sholáthar	Le linn 2023	Beartais agus Nósanna Imeachta Láidre i bhfeidhm	Teagmháil rialta le hAonad TFC RFTF chun a chinntiú go ndéantar gach riosca a mhaolú
Foirm Leictreonach Ghearáin	Foirm ghearáin nua a thógáil a chuireann inrochtaineacht agus feidhmiúlacht níos fearr ar fáil d'úsáideoirí. Cuirfear tús le hobair ar an bhFoirm Leictreonach Ghearáin i R4 2022, agus an aidhm í a chríochnú i R2 2023	R4 2022 go R2 2023	Foirm Leictreonach Ghearáin curtha i bhfeidhm, le feidhmiúlacht uaslódáil doiciméad	Cuireadh an tionscadal chun cinn agus cuireadh foirm ghearáin lánfheidhmiúil ar fáil in 2024, a oibríonn ar gach gléas
Cur i bhfeidhm na dTairseach	Déanfar an tairseach a dhearadh agus a thógáil in éineacht leis an bhFoirm Leictreonach Ghearáin	R4 2022 go R2 2023	Tairseach lánfheidhmiúil ag feidhmiú le háis chun stádas cáis a sheiceáil. Críochnú iomlán an tionscadail tairsí ina dhiaidh sin	Tionscadal nasctha leis an bhFoirm Leictreonach Ghearáin. Céim 1 le cur ar fáil go luath in 2024



Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Ama Seachadta	Príomhthásairí Feidhmíochta	Torthaí
Teicneolaíocht a uasmhéadú chun éifeachtúlachtaí agus úsáid acmhainní a fheabhsú	Cur i bhfeidhm chéim 1 den phróiseas uathoibríthe a thabhairt chun críche maidir le próiseáil luathchéime na ngearán a fhaightear agus iniúchadh a dhéanamh ar úsáidí féideartha breise uathoibríthe	R1 2023	Céim 1 curtha i gcrích, agus an Róbat ag déanamh na próiseála luathchéime ar na gearáin a fhaightear	Cuireadh Céim 1 i bhfeidhm go luath in 2023 agus rinneadh tuilleadh éifeachtúlachtaí i rith na bliana
Anailísíocht Sonraí: Réitigh anailísíochta sonraí a úsáid chun bonn eolais níos fearr a chur faoi chinnteoireacht bhainistíochta	Tuilleadh painéal a fhorbairt don tSeirbhís Bhreithnithe. Cruthaigh faisnéis níos inúsáidte le haghaidh Tuarascálacha Faisnéise Bainistíochta. Anailísíocht níos sofaisticiúla a úsáid chun cinntí gnó a bhrú chun cinn níos fearr Le linn 2023	Le linn 2023	Baintear úsáid iomlán as anailísíocht sa chinnteoireacht	Anailísíocht sonraí feabhsaithe ar fáil agus in úsáid
Cumarsáid	Straitéis Chumarsáide a úsáid chun tacú le cuspóirí gnó CCÁO	Le linn 2023	Baineadh leas as an straitéis chun tacú le cuspóirí gnó na Rannóg	Straitéis curtha chun úsáide
	Leanúint ar aghaidh ag pleanáil, ag seachadadh agus ag tomhas Ábhar agus fechtais chumarsáide CCÁO i gcomhairle leis na Rannóga ábhartha	Le linn 2023	Tá ábhar CCÁO réamhphleanáilte, foilsithe agus tomhaiste	Ábhar cuí foilsithe i rith na bliana
	Comhoibriú leis an RFTF agus le hAonaid Chumarsáide eile de chuid an Rialtais	Le linn 2023	Páirt a ghlacadh i Líonra Cumarsáide GIS	Leanúnach de réir mar is gá
Na Meáin Dhigiteacha	Bain úsáid as Cainéil Meán Sóisialta <ul style="list-style-type: none"> X LinkedIn WRC.ie 	Le linn 2023	Úsáidtear X, LinkedIn agus suíomh gréasáin CCÁO go rialta agus úsáidtear iad chun tacú le pleananna gnó.	Leantóirí/ Imprisin: <ul style="list-style-type: none"> X +12% LinkedIn +75% Suíomh gréasáin +12%
	Obair a dhéanamh le páirtithe leasmhara chun éifeachtúlacht an tsuímh gréasáin a mheas agus é a leasú de réir mar is gá	R2 2023	Suíomh gréasáin reatha, ábhartha agus in úsáid	Déantar athbhreithniú ar ábhar an tsuímh gréasáin ar bhonn rialta i rith na bliana
Seirbhís do Chustaiméirí	Cuir Suirbhé ar Sheirbhís do Chustaiméirí ar fáil go luath sa bhliain 2023		Rinneadh Suirbhé ar Sheirbhís do Chustaiméirí go luath sa bhliain 2023	Suirbhé ar Sheirbhís do Chustaiméirí curtha siar lena bhreithniú in 2024

Gnóthaí Dlí

Cuspóirí an Chláir Oibre	Gníomh/Tascanna	Fráma Ama Seachadta	Príomhtháscairí Feidhmíochta	Torthaí
Comhairle dlí thráthúil, éifeachtach agus láidir a sholáthar ar gach gné de chúrsaí dlí os comhair CCÁO agus a bhaineann le CCÁO	Comhairle a sholáthar don Ard-Stiúrthóir agus do gach Rannóg den CCÁO ionas go dtabharfar tacaíocht dóibh	Le linn 2023	Seirbhísí láidre dlí curtha ar fáil don CCÁO	Comhairle curtha ar fáil
seirbhís dlí CCÁO ag feidhmiú go héifeachtach agus go feidhmiúil	Seirbhís dlí le soláthar do gach struchtúr, nós imeachta agus próiseas gnó inmheánach a oibríonn go feidhmiúil Sreabhadh faisnéise chuig agus ón Rannán Dlí	Le linn 2023	Seirbhís dlí ag feidhmiú go hiomlán	Seirbhísí dlí seachadta go héifeachtach agus go héifeachtúil
Oiliúint chúí dlí a chur ar fáil don fhoireann agus d'Oifigigh Bhreithnithe	Riachtanais oiliúna a aithint agus a sheachadadh do OBanna agus don fhoireann Foireann na Rannóige Dlí coinnithe ar an eolas faoi gach forbairt dlí nua agus cloíonn siad le hoibleagáidí gairmiúla FGL	Le linn 2023	Tá oiliúint curtha ar fáil agus tá na OBanna cothrom le dáta ar an gcreat dlíthiúil agus ar an dlí-eolaíocht atá mar bhonn agus mar thaca le gearáin, agus tá tuiscint mhaith ag an bhfoireann tacaíochta ar an mbunús dlí ar a gcuirfear seirbhísí ar fáil	Cuireadh oiliúint ar fáil le linn 2023, agus choinnigh na OBanna agus baill foirne ar an eolas faoi forbairtí dlí agus dlí-eolaíochta le linn 2023
A chinntiú go dtugtar tacaíocht chúí do na OBanna agus don fhoireann sa Rannóg Breithniúcháin	Cabhrú le faisnéis a sholáthar do na OBanna agus don fhoireann agus scileanna a roinnt leo	Le linn 2023	Eolais agus tacair scileanna roinnte de réir mar is gá	Faisnéis agus cúnamh do na OBanna agus don fhoireann sa Rannóg Breithniúcháin
Cuidiú leis an Rannóg Breithniúcháin cáilíocht agus comhsheasmhacht an aschuir a chinntiú	Déan éascaíocht ar dhearbhu cáilíochta rialta; dean athbhreithniú ar cheisteanna a thagann chun cinn, agus tabhair moltaí agus treoir	Le linn 2023	Cáilíocht agus seachadadh i gcomhréir leis an Acht um Chaidreamh san Áit Oibre (Forálacha Ilghnéitheacha), 2021	Faisnéis agus treoir curtha ar fáil le linn 2023



<p>Leanúint ar aghaidh ag obair le RFTF chun saincheisteanna dlí a aontú a mbíonn tionchar acu ar sheachadadh shainchúram reachtúil CCÁO</p>	<p>Príomhthosaíochtaí reachtacha a shainaithint agus cuidiú le dul chun cinn nuair is féidir, agus idirchaidreamh a dhéanamh le RFTF maidir le hiarmhairtí dhúshlán bunreachtúil na Cúirte Uachtaraí agus athchóirithe reachtaíochta eile a rabhthas ag súil leo in 2023, m.sh. maidir le hathchóiriú nós imeachta, an ceart chun cianobair a iarraidh, saoire bhreiteachta le pá, leideanna, sceithireacht, creat tuairiscithe na bearna pá idir na fir agus na mná, agus coinníollacha oibre oscailte i measc nithe eile</p>	<p>Le linn 2023</p>	<p>Sainaithníodh saincheisteanna leis an Roinn agus cuireadh chun cinn iad de réir mar is cuí</p>	<p>Sainaithníodh agus pléadh príomhcheisteanna maidir le réimsí ábhartha de chlár reachtaíochta an Rialtais</p>
<p>Cabhrú leis an A-S agus le Rannóga le cur i bhfeidhm an Achta um Nochtadh Cosanta 2022</p>	<p>Comhairle agus oiliúint a sholáthar don fhoireann agus don lucht bainistíocht ar fad</p>	<p>Le linn 2023</p>	<p>Gach duine ar an eolas faoina n-oibleagáidí ANC agus cur amach acu ar chainéil tuairiscithe agus ar Ról na hArd-Stiúrthóireachta mar Dhuine Forordaithe faoin ANC</p>	<p>Faisnéis, Comhairle agus Treoir curtha ar fáil don fhoireann</p>
<p>Cabhrú le hathchóirithe ar an suíomh gréasáin agus ar an bhfoirm ghearáin</p>	<p>Cur le feabhas a chur ar chóras foirmeacha gearáin CCÁO agus ar struchtúr láithreán gréasáin</p>	<p>Le linn 2023</p>	<p>Foirm ghearáin athbhreithnithe CCÁO i bhfeidhm agus an láithreán gréasáin cuíchóirithe agus an t-ábhar nuashonraithe</p>	<p>Soláthraíodh cúnaimh leis an suíomh gréasáin agus rinneadh athbhreithniú ar an bhfoirm ghearáin agus nuashonruithe dá réir</p>
<p>Bunachar sonraí speisialaithe agus saoráid leabharlainne a chothabháil d'Oifigigh Bhreithnithe agus don fhoireann CCÁO go ginearálta</p>	<p>A chinntiú go bhfuil rochtain chuí ar bhunachair shonraí seachtracha ábhartha, agus go gcoimeádtar an leabharlann fhíorúil agus fhisiceach cothrom le dáta</p>	<p>Le linn 2023</p>	<p>Baintear lánúsáid as bunachair shonraí agus as an leabharlann agus nuashonraítear lámhleabhar OBanna de réir na reachtaíochta agus na nósanna imeachta nua</p>	<p>Bainte amach</p>

Cuidiú le páirtithe leasmhara a choinneáil ar an eolas faoi threochtaí i ngearáin agus i gcinntí	<p>Cur le hanailísí seachtracha agus déan athbhreithniú ar chinntí CCÁO, ag féachaint go háirithe do chásanna maidir le comhionannas agus stádas comhionann agus treochtaí atá ag teacht chun cinn</p>	<p>Le linn 2023</p>	<p>Athbhreithniú Críochnaithe agus Páipéar foilsithe</p>	<p>Bainte amach</p>
Líonraí páirtithe leasmhara a dhoimhniú ar bhonn intíre, ar leibhéal an AE agus ar an leibhéal idirnáisiúnta chun dea-chleachtas a roinnt	<p>Rannpháirtíocht le páirtithe leasmhara</p>	<p>Le linn 2023</p>	<p>Bunaíodh líonraí láidre intíre agus idirnáisiúnta chun na cleachtais is fearr a roinnt agus chun fanacht chun tosaigh ar threochtaí dlí atá ag teacht chun cinn i ndlí fostaíochta agus comhionannais, agus i nós imeachta cothrom do chinnteoirí garbhreithiúnacha a riarann an ceartas</p>	<p>Nearraithe agus bainistithe go cuí</p>
Tacaíocht faighte ag an Rannán Breithnithe maidir le samhlacha nua seirbhíse	<p>Comhairle a chur ar CCÁO maidir le nósanna imeachta agus beartais nua maidir le samhlacha nua seachadta seirbhíse.</p>	<p>Le linn 2023</p>	<p>Córais láidre, éifeachtúla i bhfeidhm chun a chinntiú gur féidir le CCÁO leanúnachas seirbhíse ar ardchaighdeán a sholáthar.</p> <p>Aird chuí á tabhairt do dhualgas earnála poiblí de réir a.42 Acht CÉCDC 2014</p>	<p>Cuireadh comhairle ar ardchaighdeán ar fáil agus tá ag éirí go maith le samhlacha seachadta seirbhíse nua</p>



Aguisín

2



Ciontuithé 2023

Fostóir	Ag trádáil mar	Earnáil	Seoladh	Reachtaíocht lena mbaineann an Ciontú
Lee & Ryan Cuisine Ltd	Hi 5	Gníomhaíochtaí Seirbhíse Bia	5 Bóthar na dTurcaithe, Trá Mhór Port Láirge	An tAcht um Chaidreamh san Áit Oibre 2015
Jin Xin Limited	Mi Asian Street Food	Gníomhaíochtaí Seirbhíse Bia	Aonad 1C The Palms Centre Guaire Loch Garman	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
DQ Chinese Takeaway Limited	Dragon Palace	Gníomhaíochtaí Seirbhíse Bia	8A Hazelwood Centre Gleann Maghair Corcaigh	An tAcht um Eagrú Ama Oibre 1997
CLG Food Limited	New China Garden	Gníomhaíochtaí Seirbhíse Bia	Sráid Doimínic An Muileann gCearr An Iarmhí	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
Bod Food Ltd	Tenda Oriental Food	Gníomhaíochtaí Seirbhíse Bia	7 Sráid Phódraig An Muileann gCearr An Iarmhí	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
Pin Hui Chen	KK Pizza & Lin Garden – Ros Mhic Thriúin	Gníomhaíochtaí Seirbhíse Bia	70 An Baile Gaelach Ros Mhic Thriúin Loch Garman	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006

Fostóir	Ag trádáil mar	Earnáil	Seoladh	Reachtaíocht lena mbaineann an Ciontú
Vino Beauty Limited	Nguyen Dinh Nails	Gruaig & Áilleacht	53 Sráid San Labhrás Droichead Átha Lú	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
Win Soon Limited	The Tasty Chinese Take Away	Gníomhaíochtaí Seirbhíse Bia	Aonad 1, Ionad Siopadóireachta Bhaile an Dodaigh, Bóthar Bhaile an Dodaigh Baile Átha Cliath	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
One Sunny Beauty & Spa Limited	Eden Beauty	Gruaig & Áilleacht	Sráid an Rí Thuaidh Baile Átha Cliath 7	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Sree Sai Prabha Ltd	Spice India	Gníomhaíochtaí Seirbhíse Bia	Sráid an Chaisleáin An Muileann gCearr An Iarmhí	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
Sunit Lama		Gruaig & Áilleacht	11 Cearnóg Dhoire Fhionnáin Baile Átha Cliath 1	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
Ardee Beauty And Massage Centre Limited	Ardee Massage Centre	Gruaig & Áilleacht	Aonad 2A Sráid Eoin, Baile Átha Fhirdhia Lú	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Jasmount Fastfood & Takeaway Limited	Roma Takeaway	Gníomhaíochtaí Seirbhíse Bia	Cearnóg na Saoirse Durlas Tiobraid Árann	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Dundalk Massage Centre Limited	Dundalk Massage Centre	Gruaig & Áilleacht	35 Bóthar Chaisleán Dhún Dealgan Dún Dealgan Lú	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
OM Jai Maa Foods Limited	Apache Pizza	Gníomhaíochtaí Seirbhíse Bia	Aonad 2 Bóthar na Sollán An Nás Cill Dara	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006



Fostóir	Ag trádáil mar	Earnáil	Seoladh	Reachtaíocht lena mbaineann an Ciontú
				An tAcht um Eagrú Ama Oibre 1997
Umar Tariq	Tasty Spice	Gníomhaíochtaí Seirbhíse Bia	An Phríomhshráid Mainistir Laoise Laois	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Brilliant Castle Limited	Jade Palace	Gníomhaíochtaí Seirbhíse Bia	An Phríomhshráid Mainistir Laoise Laois	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
Trong Hieu Nguyen	Eva Nail & Beauty	Gruaig & Áilleacht	2A Radharc na Páirce Cnoc Uí Bhrú An Uaimh An Mhí	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Kevin Yuk Shing Lee	China Garden	Gníomhaíochtaí Seirbhíse Bia	Aonad 3 Ionad Supervalu Sráid Dhroichead Átha Baile Brigín Baile Átha Cliath	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
Kealan O'Connor	Esquires Coffee Shop	Gníomhaíochtaí Seirbhíse Bia	13 Sráid na gCapall Droichead Átha Lú	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Patrick Keane	The Discount Centre	Trádáil Mhórdhíola & Mhiondíola	An Chearnóg Fearna Loch Garman	An tAcht um Eagrú Ama Oibre 1997
				An tAcht um Chaidreamh san Áit Oibre 2015
Lin Shao	M&J	Gníomhaíochtaí Seirbhíse Bia	28 Bóthar Bhaile Átha Cliath Bré Cill Mhantáin	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Ming Gao	LAM'S ASIAN CUISINE AND ESKIMO PIZZA	Gníomhaíochtaí Seirbhíse Bia	An Phríomhshráid Baile Shéamais Dhuibh An Cabhán	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006

Fostóir	Ag trádáil mar	Earnáil	Seoladh	Reachtaíocht lena mbaineann an Ciontú
Young Feng Limited	Lily House	Gníomhaíochtaí Seirbhíse Bia	26 An Phríomhshráid Neidín Ciarraí	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Flexy Discounts Limited	Big Discount	Trádáil Mhórdhíola & Mhiondíola	12 Sráid Chlann Bhreasail Dún Dealgan Lú	An tAcht um Eagrú Ama Oibre 1997
Wincassat Limited	Plaza Chinese Restaurant	Gníomhaíochtaí Seirbhíse Bia	Aonad 20 Urlár 1 The Plaza Sord Baile Átha Cliath	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
				An tAcht um Eagrú Ama Oibre 1997
W & S Foods Limited	Stoneyford Kebabish	Gníomhaíochtaí Seirbhíse Bia	An Phríomhshráid Áth na gCloch Cill Chainnigh	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
Mohammad Rehan Nasserí	Tik Tok	Gníomhaíochtaí Seirbhíse Bia	81 Cé Meagher Port Láirge	An tAcht um Chaidreamh san Áit Oibre 2015
Key Guard Security Ltd	Key Guard Security	Slándáil	Aonad 2 An tIonad Fiontair, Teicneolaíochta agus Nuálaíochta Páirc Ghnó an Mhuilinn Chearr An Muileann gCearr An Iarmhí	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Evergreen Fields Ltd	Evergreen Fields	Iompar	Fleascach Mhór Dún Mór Gaillimh	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Mamo Cafe Limited	Moonwok	Gníomhaíochtaí Seirbhíse Bia	2 Ardlo Manor Ráth an Tamhain An Mullach An Cabhán	An tAcht um Eagrú Ama Oibre 1997
Feng Shi	Sun Garden	Gníomhaíochtaí Seirbhíse Bia	20 Sráid Fhearnaí Carraig Mhachaire Rois Muineachán	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006



Fostóir	Ag trádáil mar	Earnáil	Seoladh	Reachtaíocht lena mbaineann an Ciontú
Mizzoni Pizza & Kebab Cashel Limited	Mizzoni Pizza	Gníomhaíochtaí Seirbhíse Bia	101 An Phríomhshráid An Caiseal Tiobraid Árann	An tAcht um Eagrú Ama Oibre 1997
Yong Juan Zhuang	Shang Garden	Gníomhaíochtaí Seirbhíse Bia	An Phríomhshráid Béal Átha Conaill An Cabhán	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006 An tAcht um Pá Íosta Náisiúnta 2000 (arna leasú)
XCY Retail Ltd	Soy Bar Asian Street Food	Gníomhaíochtaí Seirbhíse Bia	Sráid Austin Friar An Muileann gCearr An Iarmhí	An tAcht um Eagrú Ama Oibre 1997 Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Pizza Dog Limited	Pizza Dog	Gníomhaíochtaí Seirbhíse Bia	An Phríomhshráid Maigh Nuad Cill Dara	An tAcht um Eagrú Ama Oibre 1997 Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Aston Catering Limited	East Garden	Gníomhaíochtaí Seirbhíse Bia	Mullach an Chnoic Cill Chuillinn Cill Dara	An tAcht um Eagrú Ama Oibre 1997 Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Jehlum Catering Limited	Black Pepper/ Khan's Balti House	Gníomhaíochtaí Seirbhíse Bia	Aonad 5B Newlands Retail Centre Baile Átha Cliath 22	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Bo Zhou	Oriental Wok	Gníomhaíochtaí Seirbhíse Bia	Uimhir 5 An Baile Gaelach Cill Chainnigh	An tAcht um Eagrú Ama Oibre 1997 Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006

Fostóir	Ag trádáil mar	Earnáil	Seoladh	Reachtaíocht lena mbaineann an Ciontú
Oriental Cook-In Takeaway Limited	Oriental Cook-In Takeaway	Gníomhaíochtaí Seirbhíse Bia	Aonad 12 Cúirt an Choill Bay Estate Dún Dealgan Lú	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Wesley Correa DaSilva	Friends Garage	Gníomhaíochtaí Seirbhíse Eile	Eastát Tionscail Pháirc na bhFianna Órán Mór Gaillimh	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Link Entertainment Limited	Il Padrino Restaurant	Gníomhaíochtaí Seirbhíse Bia	Il Padrino 19/21 Sráid an Chócaigh Corcaigh	An tAcht um Eagrú Ama Oibre 1997
Salena Asian Massage & Spa Limited	Salena Asian Massage & Spa	Gruaig & Áilleacht	Aonad 1 Lána Metge An Uaimh An Mhí	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Four Counties Essential Oil Company Limited	E-cig	Trádáil Mhórdhíola & Mhiondíola	35A Sráid na gCapall Droichead Átha Lú	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Siam to go Limited	Siam Thai	Gníomhaíochtaí Seirbhíse Bia	1 Lána Chlós an Bhaile Mullach Íde Baile Átha Cliath	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Kai Yun Food Services Limited	New Great Wall Chinese	Gníomhaíochtaí Seirbhíse Bia	93 Sráid Liam Uí Bhriain Mhór An Linn Dubh Corcaigh	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
D&F Express Catering Enterprises Limited	Apache Pizza	Gníomhaíochtaí Seirbhíse Bia	92 Sráid na Trá Na Sceirí Baile Átha Cliath	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Zaina Pizza Limited	Apache Pizza	Gníomhaíochtaí Seirbhíse Bia	Cearnóg an Mhargaidh An Cabhán	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Pá Íosta Náisiúnta 2000 (arna leasú)
				An tAcht um Eagrú Ama Oibre 1997
Hoxha Foods Limited		Gníomhaíochtaí Seirbhíse Bia	6A An Phríomhshráid Mullach Íde Baile Átha Cliath	An tAcht um Chaidreamh san Áit Oibre 2015



Fostóir	Ag trádáil mar	Earnáil	Seoladh	Reachtaíocht lena mbaineann an Ciontú
Poweroy Inn Limited	Peony Inn	Gníomhaíochtaí Seirbhíse Bia	6 Sráid Stanhope Baile Átha Í Cill Dara	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Lobster Doyle Limited	The Lobster	Gníomhaíochtaí Seirbhíse Bia	An Phríomhshráid An Coireán Ciarraí	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
NLY & Co. Limited	Great Wall	Gníomhaíochtaí Seirbhíse Bia	Ionad Siopadóireachta Westend Baile an Chollaigh Corcaigh	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Chaidreamh san Áit Oibre 2015
Cork Oriental Supermarket Limited	Oriental Supermarket Express	Trádáil Mhórdhíola & Mhiondíola	26 Sráid Phóil Corcaigh	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Rayya Express Limited	Eco Express Hand Car Wash	Gníomhaíochtaí Seirbhíse Eile	Bóthar Bhaile Átha hÚlla Baile an Mhulláin Corcaigh	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
YY Restaurant Ltd	Mr Wong Restaurant	Gníomhaíochtaí Seirbhíse Bia	Mullingar Park Hotel An Muileann gCearr An Iarmhí	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
Dillian Foods Limited	Rama Take Away	Gníomhaíochtaí Seirbhíse Bia	Sráid Bhaile Átha Cliath Cornahilt Baile Shéamais Dhuibh An Cabhán	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
ZAMZAM FOODS DUNDALK LIMITED	Zam Zam Kebabs	Gníomhaíochtaí Seirbhíse Bia	Lána na hAbhann Dún Dealgan Lú	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
Teriyaki Soba Limited	Mekong	Gníomhaíochtaí Seirbhíse Bia	29 Sráid Oilibhéir Pluincéid An Muileann gCearr An Iarmhí	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006

Fostóir	Ag trádáil mar	Earnáil	Seoladh	Reachtaíocht lena mbaineann an Ciontú
				An tAcht um Eagrú Ama Oibre 1997
GHRN Ltd	Golden Palace Chinese Restaurant	Gníomhaíochtaí Seirbhíse Bia	Newtown Inn Restaurant Bóthar Beaufield Maigh Nuad Cill Dara	An tAcht um Eagrú Ama Oibre 1997
XL Golden Ltd	Golden Asian Street Food	Gníomhaíochtaí Seirbhíse Bia	An Phríomhshráid An Gleann Luimneach	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
Esselle Limited	Flannerys Bar	Gníomhaíochtaí Seirbhíse Deochanna	17 Sráid na Danmhairge Uachtarach Luimneach	An tAcht um Eagrú Ama Oibre 1997
Asian Food Store and Catering Equipment Limited	Asian Foodstore	Trádáil Mhórdhíola & Mhiondíola	Eastát Bhaile Raithin Bóthar Ráth Mealtain Leitir Ceanainn Dún na nGall	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Pá Íosta Náisiúnta 2000 (arna leasú)
				An tAcht um Eagrú Ama Oibre 1997
Jian Shen Limited	Willows Chinese	Gníomhaíochtaí Seirbhíse Bia	Bóthar Bhaile Átha Cliath Boynehill An Uaimh An Mhí	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006
				An tAcht um Eagrú Ama Oibre 1997
Chao Wen Wu & Quin Juin Gao	Tikka	Gníomhaíochtaí Seirbhíse Bia	Tikka An Phríomhshráid Baile Coimín Cill Mhantáin	Na hAchtanna um Cheadanna Fostaíochta 2003 agus 2006



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3



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Forbhreathnú

Tugann an t-aguisín achomair cáis seo a leanas forbhreathnú ar chuid de na príomhcheisteanna dlí a tháinig chun cinn sna cinntí a d'eisigh Oifig Bhreithniúcháin (dá ngairtear "OB" sna hachoirí) i gCoimisiún um Chaidreamh san Áit Oibre ("CCÁO") le linn 2023. Foilsítear é mar chuid de bheartas foriomlán trédhearcachta agus inrochtaineachta CCÁO. Soláthraíonn sé forbhreathnú áisiúil agus faisnéiseach ar an raon leathan saincheisteanna dlí a breithníodh in 2023. D'fhéadfaí go bhfuil na cinntí dá dtagraítear anseo curtha ar ceal ina dhiaidh sin ar achomharc. Ní thugtar aon bharántas, gealltanús ná ráthaíocht maidir lena stádas dlíthiúil.

Maidir le cinntí CCÁO 2023, is é an critéar le haghaidh cuimsiú ná cibé an bhfuil an cheist ábhartha agus suimiúil do pháirtithe a bhfuil baint acu le cásanna os comhair CCÁO. Ba cheart a thabhairt faoi deara, áfach, nach bhfuil iontu ach léargas ar na cinntí a foilsíodh sa bhliain 2023.

Foilsíodh an tAguisín seo ar mhaithe le faisnéis ghinearálta agus le hinrochtaineacht amháin. Ní ráiteas ar an dlí é ó CCÁO ná thar a cheann: treoraítear gach léitheoir chuig na cinntí bunaidh, a bhfuil na ráitis faoin dlí a rinne CCÁO nó a fhoireann iontu. Ní chaitear, agus níor cheart caitheamh leis na hachoirí cáis mar chomhairle dlí. I gcomhréir lena oibleagáid reachtúil a chinntí a fhoilsiú, tá téacsanna iomlána a chinntí agus a mholtaí curtha ar fáil ag an CCÁO ar a shuíomh gréasáin ag www.workplacerelations.ie. Déantar an suíomh gréasáin a nuashonrú go rialta agus tá ardscairí cuardaigh ann. Táthar ag súil gur acmhainn úsáideach agus phraiticiúil é do gach úsáideoir.

Stádas Fostaíochta

Amy Farrell i gcoinne an Garda Síochána, ADJ-00036366

Eochairfhocail

An tAcht um Chosaint Fostaithe (Obair Téarma Shocráithe) 2003, coinníoll oibiachtúil, seasta, locus standi

Cúlra

Thosaigh an Gearánach ag obair mar ghlantóir leis an bhFreagróir i mí Lúnasa 2016. Rangáíodh a ról mar ghlantóir faoisimh, agus bhí sí ar ráta pá socraithe, ag teacht leis an gcéad phointe den scála tuarastail don ghrád glantóra.

Ní bhfuair sí creidmheas incriminteach, saoire bhreiteachta íoctha, ná teidlíochtaí eile a raibh fostaithe buana sa ghrád glantóra ina dteideal.

Le linn 2016/2017, d'oibrigh sí ag stáisiúin éagsúla ag soláthar clúdach faoisimh, ach ó 2017, d'oibrigh sí go leanúnach ag an stáisiún céanna agus an obair agus na huairéanta céanna á ndéanamh aici in aghaidh na seachtaine. Chuir ceardchumann an Ghearánaigh an cheist maidir le conradh d'fhad éiginnte i mí Eanáir 2021. D'aontaigh an Freagróir go raibh teidlíocht ar chonradh den sórt sin ach níor cuireadh an cheist chun cinn. Tar éis gearán a dhéanamh le CCÁO, d'eisigh an Freagróir conradh éiginnte faoi dhó, ach tharraing sé siar iad. Ar deireadh, in Aibreán 2023, sular éisteadh leis an gcás, d'eisigh an Freagróir conradh d'fhad éiginnte don Ghearánach a bhí siardhátaithe le teacht i bhfeidhm ón 1 Aibreán 2019.

Rinne an Gearánach gearán gur theip ar an bhFreagróir conradh d'fhad éiginnte a sholáthar di, agus go raibh tionchar diúltach ag an easpa rannpháirtíochta agus ag moill an Fhreagróra uirthi agus go raibh sí trína chéile.

Ghlac an Freagróir leis go raibh moilleanna ann mar gur ábhar casta a bhí ann; bhí ionchur ag teastáil ó aonaid éagsúla agus bhí ar an gceannaireacht shinsearach comhaontú leis na téarmaí agus coinníollacha fostaíochta. D'áitigh sé, áfach, go raibh toradh sásúil ar an scéal agus go mbeadh aon phionós eile díréireach.



Torthaí

Luaigh an OB gur bhain an t-aon ghearán a bhí os a comhair le hAlt 9 den Acht um Chosaint Fostaithe (Obair Téarma Shocraithe) 2003 (“OTS”) agus nach raibh aon dlínse aici murach gur fostaí téarma shocraithe an Gearánach ag an am ábhartha. Seo a leanas an sainmhíniú a thugtar in Alt 2 OTS ar fhostaí téarma seasta:

“duine a bhfuil conradh fostaíochta déanta go díreach aige le fostóir i gcás ina gcinntear deireadh an chonartha fostaíochta lena mbaineann ag coinníoll oibiachtúil amhail teacht ar dháta sonrach, tasc sonrach a chur i gcrích nó teagmhas sonrach a tharlú.”

Luaigh an OB an easpa doiciméadaithe agus an easpa faisnéise a cuireadh ar fáil don Ghearánach maidir lena fostaíocht. Níor chuir an Freagróir aon chonradh fostaíochta ar fáil. Cé gur fostaíodh an Gearánach ar dtús mar ghlantóir faoisimh ag oibriú ó phainéal faoisimh, níorbh fhéidir leis an bhFreagróir a shoiléiriú conas a d’fheidhmigh an painéal seo agus níor chuir sé aon fhaisnéis isteach maidir le bunú agus feidhmiú an phainéil. Chinn an OB go bhféadfadh an Gearánach a bheith fostaithe ar shraith conarthaí ar théarma seasta ar leith, ach go raibh seans ann freisin go raibh sí fostaithe ar chonradh amháin agus gur tréimhsí asleagain aon tréimhsí nach raibh sí ag obair. Chinn an OB nach raibh aon fhianaise ann go raibh an Gearánach fostaithe ar chonradh fostaíochta a bhí inchinntithe ag coinníoll oibiachtúil ar nós dáta ar leith a bhaint amach, tasc ar leith a chur i gcrích, nó teagmhas ar leith a bheith ag tarlú. Dá réir sin, ní raibh an Gearánach ina fostaí téarma seasta agus ní raibh seasamh aici chun gearán a dhéanamh faoin OTS. Ní raibh bunús maith leis an ngearán.

[Bhí fíricí cosúla ag **Samantha McDermott i gcoinne an Garda Síochána, ADJ-00036383** agus socraíodh an cás ar an mbonn céanna]

Na hAchtanna um Chomhionannas Fostaíochta 1998 go 2021 – gnéaschiapadh

Catherine Kelly i gcoinne an Post, ADJ-00040021

Eochairfhocail

Ciapadh gnéasach, na hAchtanna um Chomhionannas Fostaíochta 1998 go 2021, imscrúdú agus achomharc neamhleor, beartas um Dhínit ag an Obair

Cúlra

Rinne an Gearánach, oibrí poist leis an bhFreagróir, gearán faoi ghnéaschiapadh. D’éiligh sí gur leag comhghleacaí lámh uirthi go míchuí ar an 22 Feabhra 2022. Mhaígh sí, agus í ag caint le comhghleacaí eile, gur tháinig sé suas taobh thiar di agus gur chuir sé a lámh ar an taobh istigh dá leise. Bhrúigh sí uaidh é, á rá gur thug sí rabhadh dó roimhe sin gan é sin a dhéanamh.

Cúpla lá ina dhiaidh sin, thuairiscigh an Gearánach an teagmhas don bhainisteoir urláir agus rinne sí ráiteas scríofa. Fuarthas TCI den eachtra, agus rinne an comhghleacaí a raibh an Gearánach ag labhairt léi ag am na heachtra ráiteas. Cuireadh na líomhaintí faoi bhráid an chiontóra a líomhnaíodh, agus dúirt sé nach raibh a fhios aige faoin eachtra. Rinne duine in ‘oibríochtaí urláir’ an eachtra a fhiosrú. Níor cuireadh an Gearánach faoi agallamh. I mí na Bealtaine, dúradh léi nach raibh dóthain fianaise ann chun seasamh leis an ngearán mar níor léirigh an TCI aon teagmháil mhíchuí agus níor chuir an ráiteas ón gcomhghleacaí aon fhianaise thacaíochta ar fáil, go díreach gur thug sí faoi deara freagairt suaite an Ghearánaigh.

Rinne an Gearánach achomharc chuig an mBainisteoir Acmhainní Daonna. Tionóladh cruinniú achomhairc i mí an Mheithimh 2022 agus bhí an duine a rinne an t-imscrúdú tosaigh i láthair mar bhreacaire nótaí. Ní dhearnadh athbhreithniú ar TCI agus níor cuireadh ceist ar an nGearánach faoi na himeachtaí ba chúis léi an gearán a dhéanamh. Seasadh leis an mbuntoradh.

Rinne an Gearánach gearán go raibh an t-imscrúdú míshásúil, agus nár lean an Freagróir na nósanna imeachta a leagadh amach ina lámhleabhar d’fhostaithe.

Dúirt an Freagróir go ndearnadh imscrúdú iomlán ar an eachtra faoin mBeartas um Dhínit ag an Obair.

Torthaí

Luaitear in Alt 14A den Acht um Chomhionannas Fostaíochta 1998 (“ACF”) más féidir féachaint ar ghnéaschiapadh ag duine seachas an fostóir mar idirdhealú ag an bhfostóir, féadfaidh an fostóir brath ar an gcosaint go ndearnadh cibé bearta a bhí indéanta le réasún chun déileáil leis an líomhain maidir le gnéaschiapadh. Bhreithnigh an OB an tOrdú fán Acht um Chomhionannas Fostaíochta 1998 (Cód Cleachtais) (Ciapadh) 2012 a fhorálann go ndéileáiltear le himscrúdú ar aon ghearán “go cothrom, go hógair agus le meas cuí ar chearta an ghearánaigh agus an chiontóra a líomhnaíodh araon”. Ba cheart go gcloífeadh an t-imscrúdú leis na rialacha maidir le cothroime nós imeachta lena n-áirítear an gearánach agus an té líomhnaithe a chur ar an eolas faoin nós imeachta agus faoina gceart chun ionadaíocht a fháil, agus sonraí iomlána a thabhairt dóibh i scríbhinn faoin ngearán agus faoi ráitis na bhfinnéithe.

Chinn an OB go raibh sé soiléir gur sháraigh an t-imscrúdú a raibh leagtha amach sa Chód Cleachtais agus a raibh riachtanach chun leas a bhaint as an gcosaint faoi a.14A.

Maidir leis an achomharc, thug an OB faoi deara gur cuireadh agallamh ar an nGearánach agus ar an gciontóir líomhnaithe ach níor thug nótaí na beirte le fios go raibh dianphlé ar an eachtra. Chuir láithreach an imscrúdaitheora ag na hagallaimh isteach ar leithliseacht an achomhairc ón imscrúdú tosaigh. Thug an OB faoi deara freisin nár léirigh an TCI, mar gheall ar shuíomh an cheamara, go raibh teagmháil fhisiciúil ann, ach léirigh sé go raibh an té a rinne an cion ag teacht gar don Ghearánach agus ag brú uirthi.

Mhaígh an OB, i bhfianaise ráiteas an Ghearánaigh agus an TCI, gur cheart aird a thabhairt ar an ngearán agus imscrúdú a dhéanamh air de réir an bheartais um Dhínit ag an Obair, Frithbhulaíocht agus Ciapadh. Bhí go leor easnamh san imscrúdú tosaigh agus san achomharc araon. Dá réir sin, ní fhéadfadh an Freagróir brath ar chosaint s.14A ACF. Thug an OB faoi deara nach raibh sé soiléir cén fáth ar mheas bainisteoirí áitiúla go raibh sé cuí déileáil le gearán den sórt sin go háitiúil, gan aon tagairt d’Acmhainní Daonna.

D’éirigh leis an nGearánach ina gearán faoi ghnéaschiapadh. Bhronn an OB uasdámhachtain de luach saothair dhá bhliain maidir le cé chomh dona agus a leanadh an beartas agus

éifeachtaí an idirdhealaithe ar an nGearánach; luaigh an OB freisin gur cheart go mbeadh dámhachtainí éifeachtach, comhréireach agus athchomhairleach. B’ionann an dámhachtain agus €53,560. D’ordaigh an OB freisin go gcuirfí oiliúint iomlán ar gach ball foirne maoirseachta agus bainistíochta maidir leis an mbeartas um Dhínit ag an Obair.

Na hAchtanna um Chomhionannas Fostaíochta 1998 go 2021 – aois scoir éigeantach

Thomas Doolin i gcoinne Eir Business Eircom Limited, ADJ-00045261

Eochairfhocail

Aois scoir éigeantach, fírinniú oibiachtúil, pleanáil comharbais, measúnú aonair, post a thabhairt ar ais.

Cúlra

Thosaigh an Gearánach ag obair don Fhreagróir i Meán Fómhair 2019. D’oibrigh sé mar Ghníomhaire Tacaíochta Deisce ar thuarastal €35,000 sa bhliain.

Nuair a thosaigh an Gearánach ag obair don Fhreagróir, bhí athbhreithniú á dhéanamh ag an bhFreagróir ar a scéimeanna pinsin agus a mholtaí chun an aois scoir a ailíniú go 65. Cuireadh an t-athrú sin in iúl don fhoireann go léir i mí Aibreáin 2020 agus tháinig sé i bhfeidhm i mí Iúil 2020.

Bhí an Gearánach le 65 bliain d’aois a bhaint amach i mí Iúil 2023. I mí Eanáir 2023, cuireadh in iúl dó go raibh sé le dul ar scor agus ina dhiaidh sin d’iarr sé go foirmiúil leanúint ag obair thar 65 bliain d’aois. Bhuail an Gearánach lena bhainisteoir líne agus le ball na nAcmhainní Daonna chun athbhreithniú a dhéanamh ar an iarratas, iarratas a diúltaíodh ina dhiaidh sin. Tar éis cruinniú achomhairc, eisíodh cinneadh deiridh don Ghearánach i mí Aibreáin 2023 a sheas leis an gcinneadh bunaidh gan síneadh ama a chur leis an aois scoir.

Rinne an Gearánach gearán go ndearna an Freagróir idirdhealú ina aghaidh contrártha leis an Acht um Chomhionannas Fostaíochta 1998 (“ACF”) nuair a cuireadh ar scor go héigeantach é.



Torthaí

Deir Alt 85A ACF nach mór don Ghearánach na fíricí a chruthú a thugann idirdhealú le fios, agus ina dhiaidh sin ní mór don Fhreagróir a chruthú nach raibh aon idirdhealú ann. Tugann aois éigeantach scoir idirdhealú le fios.

Bhreithnigh an OB ar chuir an Freagróir fírinne oibiachtúil chun cinn don aois scoir éigeantach de 65. D'áitigh an Freagróir go raibh na cúiseanna seo a leanas dlisteanach agus oibiachtúil dá aois scoir éigeantach: an gá atá le cothroime ó ghlúin go glúin a chur chun cinn, an gá le comharbas a phleanáil go héifeachtach, agus an tábhacht a bhaineann le cothromaíocht aoise a choinneáil san fhórsa saothair chun seasamh le dínit aonair an fhostaí.

Thug an OB faoi deara nuair a scrúdaíodh ceist na cothroime idirghlúine agus an gá gaolmhar le conairí gairme a chosaint agus scileanna agus eolas a chaomhnú, gurbh é comhthéacs an ghearáin seo ná go raibh ról sóisearach ag an nGearánach, agus nár dhócha go gcuirfí bac ar dhul chun cinn gairme aon fhostaí eile dá gcoimeádfaí san fhostaíocht é.

Ina theannta sin, chinn an OB nach mbeadh aon tionchar ar phleananna comharbais, agus nach dtiocfadh cás priacal féideartha (ina bhféadfadh líon suntasach fostaithe dul ar scor go comhuaineach) chun cinn dá gcoinneofaí an Gearánach ina fhostaíocht, maidir leis an roinn bheag agus neamhstraitéiseach TF ina raibh an Gearánach ag obair, mar aon le nádúr neamhchriticiúil an ról a bhí á chomhlíonadh aige don Fhreagróir. D'aithin an OB dlisteanacht imní sláinte agus sábháilteachta an Fhreagróra do 85% den fhórsa saothair a bhí i mbun gníomhaíochtaí allamuigh. Thug sé le fios, áfach, nach raibh feidhm ag imní dá leithéid maidir leis an nGearánach, toisc go raibh sé ag obair ag an ndeasc amháin.

Dá réir sin, chinn an OB nach raibh údar oibiachtúil ag baint le cinneadh an Fhreagróra diúltú do chhead a thabhairt don Ghearánach leanúint ag obair thar 65 bliain d'aois ar aon cheann de na forais a leagadh amach sa bheartas scoir, i bhfianaise a ról shonraigh. Chinn sé go raibh “easpa grinnscrúdaithe léirithe maidir le comhoiriúnacht aidhmeanna dlisteanacha sonraithe an Fhreagróra sa chás láithreach le saintréithe sonracha an Ghearánaigh”.

Thug an OB aird freisin ar an gCód Cleachtas ar Oibriú Níos Faide agus ar an moladh go gcaithfidh fostóirí machnamh a dhéanamh ar an “creat reachtúil agus dlíthiúil athraitheach maidir le teidlíochtaí scoir agus pinsin”. Luaigh an OB tacar teoranta sainscileanna an Ghearánaigh, an fhíric go raibh sé fós ar lorg oibre, agus gur tháinig a ioncam ar fad ó íocaíochtaí leasa shóisialaigh, arbh ionann í agus níos lú ná 40% dá thuilleamh ón bhFreagróir. Chinn an OB nach raibh aon fhianaise ann gur bhreithnigh an Freagróir ionchais phoist an Ghearánaigh sa todhchaí agus an laghdú a rabhthas ag súil leis ar a ioncam agus cinneadh á dhéanamh aige a fhostaíocht a chríochnú.

Agus cinneadh á dhéanamh maidir le sásamh, ghlac an OB leis go raibh an Gearánach gafa go gníomhach le fostaíocht a lorg ach nach raibh sé in ann obair a aimsiú. Chinn sé freisin go raibh sé soiléir go raibh caidreamh iontach idir na páirtithe le linn fhostaíocht an Ghearánaigh agus gurbh fhostaí é a raibh an-luach air. Mar sin, d'ordaigh an OB go dtabharfaí a ról roimhe sin ar ais don Ghearánach le héifeacht ón dáta a scoir sé.

Na hAchtanna um Stádas Comhionann 2000 go 2018

Sofiya Kalinova i gcoinne Bellerophon Ltd ag trádáil mar Griffith College, ADJ-00031408

Eochairfhocail

An tAcht um Stádas Comhionann 2000 go 2018, freastal réasúnta, ateangaireacht Theanga Chomharthaíochta na hÉireann.

Cúlra

Sa bhliain 2020, theastaigh ón nGearánach iarratas a dhéanamh ar chúrsa ullmhúcháin leis an bhFreagróir roimh scrúduithe iontrála Óstaí an Rí. Tá an Gearánach bodhar amach is amach agus bhí freastal á lorg aici chun páirt a ghlacadh sa chúrsa, amhail ateangaireacht TCÉ agus breacaire nótaí. Dúirt an Gearánach go raibh sí ag súil le plé faoina riachtanais ach go bhfuair sí freagra diúltach ón bhFreagróir.

Bhí ‘Beartas Tacaíochta d’Fhoghlaimoirí Acadúla’ ag an bhFreagróir. In alt 6.2 thug sé aghaidh ar ‘Laige éisteachta, bodhar, allaire’ mar a leanas:

6.2.1 Braithfidh méid na ndúshlán a bheidh roimh fhoghlaimoir a bhfuil lagú éisteachta air/uirthi ar mhéid na bodhaire a diagnóisíodh. Buailtear le foghlaimoirí ina n-aonar chun a gcuid riachtanas, agus oiriúnuithe a d’fhéadfadh a bheith de dhíth, a phlé sula gcuirtear tús leis an gclár.

6.2.2 I gcás ina mbíonn ateangaire Theanga Chomharthaíochta na hÉireann (TCÉ) ag teastáil ó fhoghlaimoir atá bodhar, íocfaidh an foghlaimoir as an gcostas sin.

Ní raibh an Freagróir ina institiúid incháilithe faoin gCiste do Dhaltaí faoi Mhíchumas. Nuair a fuarthas iarratas an Ghearánaigh, a bhí thart ar leath bealaigh tríd an gcúrsa, d’fhéach ceannasaí na scoile dlí gairmiúla ar shuíomhanna gréasáin chun praghas a fháil ar ateangaire agus ar bhreacaire nótaí. B’ionann an costas agus beagnach costas na táille teagaisc. Ghlac an Freagróir leis gur fhéach sé ar an iarratas mar iarratas a chuaigh siar go dtí tús an chúrsa. Dúirt an Freagróir nár bhuail sé leis an nGearánach ná nár roinn sé na costais léi mar gheall ar an bhfráma ama a bhí i gceist. Mheas an Freagróir gur ar ateangaire TCÉ a bhí iarratas an Ghearánaigh agus dá bhrí sin, níor bhreithnigh an Freagróir tacaíochtaí eile. Luaigh an Freagróir freisin go ndearna an Gearánach iarratas in 2019 ar ateangaireacht TCÉ, a tarraingíodh siar níos déanaí, agus go ndúradh leis an nGearánach ag an am sin nach bhféadfadh an Freagróir freastal ar an iarratas.

Torthaí

Luaigh an OB go bhforáiltear le halt 4(1) de na hAchtanna um Stádas Comhionann 2000 go 2018 (“ASC”) “folaíonn idirdhealú diúltú nó mainneachtain ag soláthraí seirbhíse gach ní réasúnach a dhéanamh chun freastal ar riachtanais duine atá faoi mhíchumas trí chóir speisialta nó trí shaoráidí speisialta a sholáthar, más rud é, d’uireasa na córa nó na saoráidí speisialta sin, nárbh fhéidir leis an duine féin leas a bhaint as an tseirbhís”. Deir alt 4(2) nach measfar diúltú nó teip den sórt sin a bheith míréasúnta “mura dtitfeadh costas, seachas costas ainmniúil, ar sholáthraí na seirbhíse atá i gceist mar gheall ar an soláthar sin”.

Mhaígh an OB gurb é croílár a.4 ná “an riachtanas chun riachtanais duine a mheas féachaint an féidir freastal ar na riachtanais sin”. Bhí deacracht ann le polasaí seasta, mar atá leagtha amach i 6.2.2 de bheartas an Fhreagróra, toisc go gcuireann sé bac ar an soláthraí seirbhíse ó riachtanais duine a mheas. Luaigh an OB nach bhfuil sé éigeantach bualadh le duine atá ar lorg freastal réasúnta ach “gur cheart go mbeadh tuiscint shoiléir ag an soláthraí seirbhíse ar riachtanais an duine” chun a.4(1) a chomhlíonadh.

Rinne an Freagróir tuairimí ansin maidir le riachtanais an Ghearánaigh: ghlac sé leis go raibh ateangaireacht TCÉ agus breacaire nótaí uaithi, agus gur theastaigh an freastal sin uaithi don chúrsa iomlán, agus thuig sé é sin ó fhiosrúchán 2019. Cé gur bhreithnigh an Freagróir costas ateangaireachta, bhí sé sin bunaithe ar an gcúrsa iomlán agus níor lorgaíodh ach praghas amháin. Mhaígh an OB gur cheart don Fhreagróir tuilleadh fiosrúchán a dhéanamh agus gur cheart go mbeadh an costas roinnte aige leis an nGearánach agus go mbeadh deimhnithe léi an raibh sí ar lorg ateangaireachta do na seachtainí cailte.

Chinn an OB gur sárú ar an ACF a bhí ann agus dámhadh €3,000 mar chúiteamh ar an nGearánach, agus éifeachtaí an idirdhealaithe curtha san áireamh. D’ordaigh an OB freisin beart gníomhaíochta go ndéanfadh an Freagróir athmheasúnú ar a bheartas chun a chinntiú go gcomhlíonann sé an ACF.

Othar i gcoinne Ospidéal agus dochtúra, ADJ-00035976

Eochairfhocail

An tAcht um Stádas Comhionann, a.16(2), nótaí leighis, breithiúnas cliniciúil.

Cúlra

D’éiligh an Gearánach go ndearnadh idirdhealú uirthi ar fhorais inscne, cine agus míchumais, contrártha do na hAchtanna um Stádas Comhionann 2000 go 2018 (“ASC”).

D’fhreastail an Gearánach ar an dochtúir ar an 15 Iúil 2020 le haghaidh comhairliúcháin maidir le strus trámach tar éis ionsaí gnéis tromchúiseach. Rinne an Gearánach gearán go raibh míchruinneas i nótaí leighis an dochtúra agus d’iarr sí iad a cheartú.



Cé go ndearnadh go leor leasuithe, chuir an Gearánach in aghaidh na tagartha gur óltóir ragúis í. Dúirt sí go raibh sé seo ag cur an mhilleáin ar an íospartach agus gur steiréitíopa é go raibh an milleán ar íospartaigh ionsaithe gnéis mar gheall ar an úsáid a bhaineann siad as alcól. B'ionann é seo agus idirdhealú inscne.

D'áitigh an dochtúir agus an t-ospidéal gur cleachtadh breithiúnais chliniciúil a bhí sa tagairt do ragús óil.

Torthaí

Ghlac an OB leis go bhféadfadh cóireáil níos measa a bheith mar thoradh ar mhí-úsáid téarma cosúil le 'ragús óil' ar fhorais inscne, i gcomhthéacs milleán a chur ar íospartach an fhoréigin ghnéasaigh. Ghlac an OB le fianaise ón nGearánach freisin nach raibh sí ag ól go trom ag am an chomhairliúcháin. Mar sin féin, b'é úsáid an téarma úsáid téarma chliniciúil agus feidhmiú breithiúnais chliniciúil. Tháinig sé seo laistigh den chur síos ar ghníomhaíochtaí neamh-idirdhealaitheacha a leagtar amach in a.16 ASC, agus go sonrach alt 16(2)(a): "Ní idirdhealú déileáil ar bhealach éagsúil le duine más rud é, maidir leis an duine, nach ndéileáiltear amhlaidh leis nó léi ach amháin i bhfeidhmiú breithiúnais chliniciúil i dtaca le tinneas a fháthmheas nó lena chóireáil mhíochaine nó lena cóireáil mhíochaine". Dá réir sin, ní raibh aon idirdhealú i gcoinne an Ghearánaigh.

Sarah Holmes i gcoinne Chomhairle Náisiúnta na mBan, ADJ-00040678

Eochairfhocail

Na hAchtanna um Stádas Comhionann 2000-2018, a.15(1), riosca suntasach d'iompar coiriúil nó mí-ordúil.

Cúlra

Reáchtáil an Freagróir imeacht poiblí ar an 9 Meitheamh 2022 in óstán. Chláraigh an Gearánach chun dhá thicéad a fháil don imeacht ach diúltaíodh cead isteach ar an lá. Bhí aithne ag an bhFreagróir ar an nGearánach, toisc go raibh comhfhreagras seolta aici chuig an bhFreagróir roimhe sin a chuir in aghaidh cuid dá pholasaithe agus comhalta boird ainmnithe.

Roimh an imeacht ar an 9 Meitheamh 2022, rinne an Freagróir measúnú riosca. Cuireadh béim ar an nGearánach mar chuid den mheasúnú riosca sin, ach bhí sé beartaithe ag an bhFreagróir daoine a raibh tuairimí láidre acu, a bhí contrártha lena chuid tuairimí féin, lena n-áirítear an Gearánach, a ligean isteach san imeacht. An oíche roimh an imeacht, áfach, d'eisigh eagraíocht preaseisiúint, a scaipeadh ar na mílte daoine ar na meáin shóisialta, a dhírigh ar chomhalta boird den Fhreagróir agus a chuir síos ar a pleananna chun "gníomh a chur ar siúl" ag an imeacht. Cuireadh an Freagróir ar an eolas faoin bpreaseisiúint an mhaidin dár gcionn, díreach uair an chloig roimh an imeacht. Dúirt an Freagróir go raibh tréimhse ghairid aige chun an fhorbairt sin a réiteach agus chun sábháilteacht an chomhalta boird ainmnithe, na ndaoine a bheadh i láthair, na gcomhaltaí boird eile, agus na gcainteoirí a chinntiú. Chomh maith le bearta a dhéanamh amhail baill foirne a athdháileadh agus leagan amach an limistéir chlárúcháin a athchumrú, chinn an Freagróir iontráil a dhiúltú do chomhaltaí na heagraíochta agus do dhaoine a d'ailínigh iad féin le tuairimí na heagraíochta, lena n-áirítear an Gearánach. Dúirt an Freagróir go raibh an cinneadh sin bunaithe ar riosca.

Líomhain an Gearánach go ndearnadh idirdhealú uirthi bunaithe ar reiligiún, contrártha leis an Acht um Stádas Comhionann 2000 ("ASC").

D'áitigh an Freagróir nach raibh cás idirdhealaithe prima facie bunaithe ag an nGearánach.

Torthaí

Sonraíonn Alt 15(1) den ASC nach gá seirbhís a sholáthar "in imthosca lena dtabharfaí ar phearsa aonair réasúnach a mbeadh freagracht, eolas agus taithí an duine aige nó aici a chreidiúint, ar fhorais seachas forais idirdhealaitheacha", go gcruthódh soláthar na seirbhíse don chustaiméir "baol mór iompair nó iompraíochta atá coiriúil nó easordúil nó baol mór go ndéanfaí damáiste do mhaoin". Dá réir sin, thug an OB faoi deara go gceadaíonn alt 15(1) "do sholáthraí seirbhíse seirbhís a dhiúltú i gcúinsí ina gcreideann sé go bhfuil baol mór iompair nó iompraíochta atá coiriúil nó easordúil ann". Maidir le cásdlí, thug an OB faoi deara go gcaithfeadh sí an fianaise ina hiomláine a mheas agus go gcaithfeadh fianaise a bheith ann ar bhaol mór, ar baol níos mó ná baol réasúnta é.

Tar éis don OB an fhianaise a mheas, bhí sí sásta go ligfí an Gearánach isteach san imeacht mura mbeadh an preasráiteas eisithe. Bhí an OB sásta, nuair a fuair an Freagróir an preasráiteas, go raibh air gníomhú go tapa chun déileáil le baol mór iompair nó iompraíochta atá coiriúil nó easordúil. Thug an OB faoi deara go raibh dualgas ar an bhFreagróir iad siúd go léir a bhí ag an imeacht a chosaint. Dá réir sin, chinn an OB go raibh feidhm ag alt 15(1) agus nach raibh aon idirdhealú ann.

Caidreamh Tionsclaíoch

Comhairleach Liachta i gcoinne CMN2, IR-SC-00000752

Eochairfhocail

Caidreamh Tionsclaíoch, an sainmhíniú ar ‘aighneas ceirde’, aighneas oibrí in aghaidh oibrí, dlínse.

Cúlra

Chuir oibrí díospóid faoi bhráid CCÁO faoin Acht Caidrimh Thionscail 1969 (“Acht CT”). Bhain conspóid an oibrí le tuairimí a thug oibrí eile le linn imscrúdaithe dínit ag an obair ina ionad fostaíochta. Líomhain an t-oibrí go raibh mífhaisnéis sna tuairimí sin agus go raibh siad clúmhillteach agus theastaigh uaidh go dtarraingeofaí siar na tuairimí. Níor oibrigh an t-oibrí eile leis an bhfostóir a thuilleadh.

Torthaí

Bhreithnigh an OB ar dtús an raibh dlínse ann chun éisteacht leis an díospóid. Luaigh an OB go raibh an dlínse teoranta d’imscrúdú a dhéanamh ar ‘aighneas ceirde’. Sainmhíonann Alt 3 den Acht Caidrimh Thionscail 1966 ‘aighneas ceirde’ mar “aon aighneas nó díospóid idir fhostóirí agus oibríthe nó idir oibríthe agus oibríthe maidir le fostaíocht nó neamhfhostaíocht, nó le téarmaí fostaíochta, nó le coinníollacha fostaíochta, dhuine ar bith, agus foláinn sé aon aighneas ceirde nó díospóid den sórt sin idir fostóirí agus oibríthe i gcás deireadh a bheith leis an bhfostaíocht.”

Mheas an OB go raibh dhá chomhpháirt riachtanacha sa sainmhíniú sin: (i) na páirtithe sa díospóid; agus (ii) an t-ábhar.

Maidir leis na páirtithe sa díospóid, luaigh an OB go gcaithfidh oibríthe agus fostóirí a bheith bainteach le haighneas ceirde. Bhí sé i gceist go

gclúdódh an tagairt do “oibríthe agus oibríthe” aighnis idircheardchumainn agus aighnis maidir le críochadóireacht amháin. Tá sé sin soiléir ó reachtaíocht a bhí ann roimhe sin agus ó stair achtaithe Acht 1946. Ní mór breathnú ar an sainmhíniú “mar thoradh ar an timpeallacht pholaitiúil, thionsclaíoch, eacnamaíoch agus shóisialta a bhí i réim in Éirinn tar éis an Dara Cogadh Domhanda/an Éigeandáil” áit a raibh méadú ar chorráil idircheardchumainn agus ar aighnis maidir le críochadóireacht le deich mbliana anuas. Dá réir sin, ní chlúdaíonn an sainmhíniú ar ‘aighneas ceirde’ aighnis ‘oibrí i gcoinne oibrí’.

Toisc gur aighneas ‘oibrí in aghaidh oibrí’ a bhí san aighneas seo, agus nár bhain an t-ábhar le téarmaí nó coinníollacha fostaíochta an oibrí lena fhostóir, mar go ndearna sé gearán faoi thuairimí líomhnaithe clúmhillteacha ó chomhghleacaí oibre, chinn an OB nárbh aighneas ceirde an t-aighneas agus nach raibh dlínse ag an CCÁO éisteacht leis an scéal.

Iomarcaíochtaí comhchoiteanna

Jane Crowe i gcoinne Debenhams Retail (Ireland) Limited agus Debenhams Retail (Ireland) Limited (faoi leachtú), ADJ-00038906 agus ADJ-00041248; Breda Cox i gcoinne Debenhams Retail (Ireland) Limited (faoi leachtú), ADJ-00039722

Eochairfhocail

Iomarcaíochtaí comhchoiteanna, an tAcht um Chaomhnú Fostaíochta 1977, comhairliúchán, in am agus i dtráth, faisnéis ábhartha, Treoir 98/59/CE ón gComhairle maidir le comhfhogasú dhlíthe na mBallstát a bhaineann le hiomarcaíochtaí comhchoiteanna.

Jane Crowe

Cúlra

Bhain an cás seo le brainse Debenhams in Éirinn ag scor de thrádáil agus ag dul faoi leachtú, agus le hiomarcaíocht na foirne ar fad ag tús phaindéim Covid-19, ach bhain sé go sonrach le saincheisteanna a bhain leis an gcomhairliúchán a rinneadh leis an bhfoireann faoi alt 9 agus 10 den Acht um Chaomhnú Fostaíochta 1977 go 2014 (“ACF”).



Cé gur Gearánach amháin a rinne an gearán, a bhí ag obair mar chúntóir siopa in Debenhams Ireland, ba é seo an chéad cheann de go leor gearán a rinne Mandate thar ceann fostaithe Debenhams Ireland.

Ba é Debenhams Retail (Limited) Ltd fochuideachta Éireannach na máthairchuideachta sa RA. Ar an 8 Aibreán 2020, chuir Debenhams UK in iúl do Debenhams Ireland nach bhféadfadh sé tacaíocht airgeadais a sholáthar dó a thuilleadh toisc go raibh máthairchuideachta na RA dócmhainneach agus go gceapfaí riarthóirí gan mhoill.

Ar an 9 Aibreán 2020, bhí cruinniú éigeandála ag Bord Stiúrthóirí Debenhams Ireland agus chinn comhaltaí an Bhoird nach bhféadfadh an chuideachta leanúint ar aghaidh ag trádáil. Mhol siad go ndéanadh Debenhams UK, mar mháthairchuideachta agus scairshealbhoir aonair Debenhams Ireland, achainí láithreach chuig an Ard-Chúirt chun deireadh a chur leis an gcuideachta agus leachtaitheoir a cheapadh. Ar an dáta céanna, scríobh Príomhfheidhmeannach Debenhams Ireland chuig an bhfoireann chun an leachtú a rabhthas ag súil leis a chur in iúl agus chun a dheimhniú nach raibh na siopaí na Éirinn chun athoscailt.

Ar an 14 Aibreán 2020, cheadaigh Debenhams Ireland rún scríofa ag rá go gcuirfí deireadh leis an gcuideachta agus ag ordú do na stiúrthóirí achainí a dhéanamh chun deireadh a chur leis an gcuideachta. Ar an dáta céanna, scríobh bainisteoir AD Debenhams Ireland chuig Ard-Rúnaí Cúnta Cheardchumann Mandate i gcomhréir leis an ACF chun a rá gur bhain na cúiseanna leis na hiomarcaíochtaí beartaithe le deacrachtaí trádála agus leis an iarratas chun leachtaitheoir a cheapadh. Luaigh sé go raibh ról fhostaithe uile na cuideachta beartaithe le haghaidh iomarcaíochta.

Ceapadh comhleachtaitheoirí sealadacha ar an 16 Aibreán 2020. Ceapadh iad mar leachtaitheoirí ar an 30 Aibreán 2020 agus ar an dáta sin d'ordaigh an chúirt freisin deireadh a chur leis an gcuideachta.

Ar an 17 Aibreán 2020, bhí cruinniú Zoom ag na comhleachtaitheoirí sealadacha, ag pearsanra na cuideachta agus ag ionadaithe na bhfostaithe. Chuir an cruinniú seo tús leis an tréimhse chomhairliúcháin 30 lá mar atá leagtha amach san ACF.

Ón dáta sin go dtí deireadh na tréimhse chomhairliúcháin, chuaigh na leachtaitheoirí i dteagmháil leis an gceardchumann trí chomhfhreagras, agus reáchtáladh go leor cruinnithe chomhairliúcháin eile.

Uaireanta, rinne an ceardchumann gearán go raibh an fhaisnéis a chuir na leachtaitheoirí ar fáil neamhiomlán.

Ar an 20 Bealtaine 2020, tar éis an phróisis comhairliúcháin a thabhairt chun críche, scríobh na leachtaitheoirí chuig na fostaithe ag tabhairt fógra faoi fhorceannadh fostaíochta ar fhorais iomarcaíochta.

Ceanglaíonn Alt 9 ACF ar fhostóir a bheartaíonn iomarcaíochtaí comhchoiteanna a chruthú dul i gcomhairle le hionadaithe fostaithe a luaithe is féidir, agus ar a laghad 30 lá sula dtugtar an chéad fhógra dífhostaithe. Le linn an chomhairliúcháin, ba cheart don fhostóir dul i ngleic leis an bhféidearthacht na hiomarcaíochtaí atá beartaithe a sheachaint, líon na bhfostaithe a ndéanann siad difear dóibh a laghdú, nó iarmhairtí na n-iomarcaíochtaí a mhaolú.

Ceanglaíonn Alt 10 ACF ar fhostóir an fhaisnéis ábhartha ar fad a sholáthar d'ionadaithe na bhfostaithe le haghaidh na gcomhairliúcháin.

D'áitigh an Gearánach gur theip ar Debenhams Ireland ailt 9 agus 10 a chomhlíonadh. Ba cheart go mbeadh tús curtha ag Debenhams Ireland leis an bpróiseas comhairliúcháin ar an 9 Aibreán 2020 ar a mhoille, mar ba léir go raibh iomarcaíochtaí comhchoiteanna á mbeartú ag an bpointe sin. Níor cuireadh tús leis an bpróiseas comhairliúcháin go dtí an 17 Aibreán 2020, áfach, nuair a bhí leachtaitheoirí sealadacha ceaptha cheana féin. Ina theannta sin, theip ar na leachtaitheoirí dul i mbun comhairliúcháin fiúntach, agus ghlac siad páirt go héighníomhach sa phróiseas mar chleachtadh ticbhosca. Theip orthu faisnéis ábhartha a thabhairt faoin úinéireacht stoic, faoin gcumas an t-ardán ar líne a oibriú, faoi bhrabúsacht na siopaí, agus faoi ús léasachta.

D'áitigh Debenhams Ireland gur cuireadh tús leis an gcomhairliúcháin chomh luath agus ab fhéidir tar éis don mháthairchuideachta sa RA a rá nach bhféadfadh sí an gnó in Éirinn a mhaoiniú a thuilleadh. Bhí airgead á chailleadh ag Debenhams Ireland le blianta anuas agus bhí sé ag brath go hiomlán ar mháthairchuideachta na RA le haghaidh tacaíochta. Ghníomhaigh na leachtaitheoirí go pras in ainneoin na mbacainní móra lóistíochta a chruthaigh an phaindéim agus an dianghlasáil a bhí ar siúl. Chomhlíon siad a n-oibleagáidí dlíthiúla maidir le comhairliúcháin fiúntach, toisc gur soláthraíodh an fhaisnéis ábhartha ar fad. Bhí smacht teoranta ag an gcuideachta chun gníomhú ina haonar ó tháinig máthairchuideachta na RA isteach sna comhaontuithe léasa agus ó rialaigh sí an t-ardán ar líne a raibh sí ina úinéir air.

D'áitigh Debenhams Ireland nárbh fhéidir scála na gcaillteanas post a theorannú ná a dtionchar a mhaolú mar gheall ar na bhfírinní airgeadais. Bhí oibleagáidí ar na leachtaitheoirí freisin do chreidiúnaithe faoi Acht na gCuideachtaí 2014.

Torthaí

Bhreithnigh an OB ar dtús pointe spreagtha na gcomhairliúcháin. Ag féachaint do chásdlí na hÉireann agus an AE (*Tangey i gcoinne Dell Products* [2013] IEHC 622), chinn an OB go gcaithfeadh sé machnamh a dhéanamh ar cén teagmhas “a bhí de chineál cinnidh straitéisigh agus a d’fheidhmigh fórsa láidir ar an bhfostóir chun críocha éifeacht a thabhairt don oibleagáid chomhairliúcháin”.

Anseo, chinn an OB go ndearna Debenhams UK cinneadh straitéiseach/eacnamaíoch ar an 8 Aibreán 2020 gan Debenhams Ireland a mhaoiniú a thuilleadh. Chuir “an cinneadh sin fórsa láidir ar an bhfostóir éifeacht a thabhairt don oibleagáid chomhairliúcháin i gcás ina gcaithfí machnamh a dhéanamh ar iomarcaíochtaí comhchoiteanna”.

Toisc gur spreagadh cúrsaí ar an 8 Aibreán 2020, ba í an chéad cheist eile ná ar cuireadh tús leis an bpróiseas comhairliúcháin chomh luath agus ab fhéidir faoi a. 9. Cuireadh tús leis ar an 17 Aibreán 2020. Bhí an OB ag brath ar Threoir 98/59/CE ón gComhairle maidir le comhfhogasú dhlíthe na mBallstát a bhaineann le hiomarcaíochtaí comhchoiteanna, go háirithe Airteagal 2(1) lena bhforáiltear:

“I gcás ina bhfuil fostóir ag beartú iomarcaíochtaí comhchoiteanna, tosóidh sé comhairliúcháin le hionadaithe na n-oibrithe in am trátha chun teacht ar chomhaontú.”

D’áitigh Debenhams Ireland gur cuireadh tús ‘in am i dtráth’ leis an gcéad chruinniú comhairliúcháin ar an 17 Aibreán 2020, i bhfianaise na gcéimeanna praiticiúla a raibh gá leo maidir le glasáil Covid-19, lena n-áirítear srianta ama toisc go ndearnadh an cinneadh le linn na Cásca agus tréimhse saoire poiblí.

Mhaígh an OB go gcaithfí ‘in am i dtráth’ a léamh i gcomhar le hAirteagal 2(2), a deir nach mór don chomhairliúcháin “bealaí agus modhanna a chlúdach chun iomarcaíochtaí comhchoiteanna a sheachaint nó líon na n-oibrithe a ndéantar difear dóibh a laghdú, agus chun na hiarmhairtí a mhaolú”.

Luaigh an OB go raibh an t-am ríthábhachtach sa chás seo. Ní mór breathnú ar an gceanglas dul i gcomhairle ‘in am i dtráth’ i gcomhthéacs leochaileacht na cuideachta, i.e. “go háirithe maidir leis an tionchar airgeadais ar an eintiteas de bharr orduithe sláinte poiblí Covid-19 agus dúnadh siopaí a measadh a bheith neamhriachtanach agus aistarraingt na tacaíochta airgeadais ón Máthairchuideachta”. Murab ionann agus máthairchuideachta na RA, ní fhéadfadh Debenhams Ireland cosaint a lorg i gcoinne creidiúnaithe. I gcúinsí den sórt sin, is éard a bhí i gceist le ‘in am i dtráth’ ná ‘chomh luath agus is féidir’, “go háirithe nuair a laghdaítear na roghanna chun tionchar na n-iomarcaíochtaí comhchoiteanna a mhaolú nuair a chuirtear cuideachta faoi leachtú”. Dá réir sin, chinn an OB “nach mbeadh sé míréasúnta go gcuirfí tús leis an gcomhairliúcháin faoin 9 Aibreán 2020”. Bhí an mhoill go dtí an 17 Aibreán ábhartha maidir le “roghanna féideartha a laghdú chun iarmhairtí na n-iomarcaíochtaí comhchoiteanna beartaithe a laghdú agus a mhaolú”.

Maidir leis an oibleagáid an fhaisnéis ábhartha ar fad a sholáthar de réir a.10, chinn an OB nach mór ciall a bhaint as sin ag féachaint don cheanglas go gcaithfidh an chomhairliúcháin a bheith faoi na “bealaí agus modhanna chun iomarcaíochtaí comhchoiteanna a sheachaint nó líon na n-oibrithe a ndéantar difear dóibh a laghdú, agus chun na hiarmhairtí a mhaolú”. D’iarr an ceardchumann faisnéis le go bhféadfaí moltaí cuiditheacha a chur le chéile. Chinn an OB, i gcomhthéacs siopa miondíola, go raibh “brabúsacht gach siopa; luach an stoic; cé leis a raibh an stoc; an cumas chun trádáil ar líne le linn na Paindéime; agus na socruithe léasa tiarna talún” ina bhfachtóirí ábhartha maidir le tograí cuiditheacha a cheapadh. Bhí an fhaisnéis sin ábhartha agus riachtanach agus níor cuireadh ar fáil í. Chuir easpa na faisnéise sonraí bac ar chumas an cheardchumainn tograí cuiditheacha a dhéanamh.

Dá réir sin, chinn an OB gur ghá tús a chur leis an bpróiseas níos luaithe ná mar a rinneadh agus, nuair a cuireadh tús leis, nach ndearnadh é go fiúntach. Mar sin sháraigh Debenhams Ireland ailt 9 agus 10 ACF. Forálann Alt 11A ACF d’uasdámhachtain de luach saothair ceithre seachtaine. Maidir leis an bhfíric gur sárúithe ar Threoir Shóisialta a bhí iontu sin, chinn an OB go gcaithfeadh an dámhachtain a bheith éifeachtach agus comhréireach. Dá bharr sin, bhronn an OB pá ceithre seachtaine as gach sárú, €2,280 ar an iomlán.



Breda Cox i gcoinne Debenhams Retail (Ireland) Limited (faoi leachtú), ADJ-00039722

Rinneadh an cás céanna thar ceann oibrithe faoi CSTGT, agus an Gearánach ag gníomhú mar chás tástála. Thosaigh an Gearánach ag obair leis an bhFreagróir i 1998 agus d'oibrigh sí mar chúntóir lónadóireachta.

Ar na cúiseanna céanna, chinn an OB gur sháraigh Debenhams Ireland Ailt 9 agus 10 ACF maidir leis an bpróiseas comhairliúcháin. San éileamh seo, áfach, chinn an OB nach raibh cás déanta amach le haghaidh uaschúitimh, agus bhronn sé ceithre seachtaine de luach saothair de €1,800 san iomlán ar an nGearánach.

An tAcht um Shaoire Bhreiteachta 2022

Karolina Leszczynska i gcoinne Musgrave Operating Partners Ireland, ADJ-00044889

Eochairfhocail

An tAcht um Shaoire Bhreiteachta 2022, scéim saoire breiteachta níos fabhraí, saoire bhreiteachta reachtúil, laethanta feithimh.

Cúlra

Thosaigh an Gearánach, cúntóir siopa, ag obair don Fhreagróir in 2007. I mí Eanáir 2023, bhí sí as láthair ón obair ar feadh ceithre lá. Tá scéim saoire breiteachta ag an bhFreagróir a dhéanann foráil d'ocht seachtaine de shaoire bhreiteachta le pá i dtréimhse rollach dhá mhí dhéag; mar sin féin, meastar gur 'laethanta feithimh' iad na chéad trí lá agus bíonn siad neamhíoctha. De réir na scéime, níor íocadh ach an ceathrú lá d'asláithreacht an Ghearánaigh. D'áitigh sí gur cheart go mbeadh a hasláithreacht íoctha faoin Acht um Shaoire Bhreiteachta 2022 ("ASB").

Rinneadh scéim saoire breiteachta an Fhreagróra a idirbheartú agus a chomhaontú leis na ceardchumainn. Baineann an scéim le fostaithe a bhfuil sé mhí de sheirbhís acu. Ón gceathrú lá, bíonn fostaithe i dteideal 100% dá dtuarastal, lúide aon sochar leasa shóisialaigh, a fháil. D'áitigh an Freagróir go bhfuil a scéim saoire breiteachta, ar an iomlán, níos fabhraí ná saoire bhreiteachta reachtúil, agus mar sin níl feidhm ag na hoibleagáidí faoin ASB.

Torthaí

Cuireadh tús leis an ASB ar an 1 Eanáir 2023. Soláthraíonn Alt 5 ceart reachtúil ar thrí lá saoire breiteachta. Ach ceadaíonn alt 8 d'fhostóirí téarmaí níos fearr a sholáthar do shaoire bhreiteachta agus "go mbeidh aon fhoráil den sórt sin in ionad na teidlíochta reachtúla, agus ní sa bhreis uirthi". Deir Alt 9 nach bhfuil feidhm ag na hoibleagáidí faoin ASB maidir le "fostóir a sholáthraíonn scéim saoire breiteachta dá fhostaithe nó dá fostaithe sa chás go dtugann téarmaí na scéime, ar feadh na tréimhse tagartha atá leagtha amach sa scéim, sochair atá, ina n-iomláine, níos fearr don fhostaí ná saoire bhreiteachta reachtúil". Agus cinneadh á dhéanamh faoina bhfuil scéim saoire breiteachta níos fearr, cuirtear na nithe seo a leanas san áireamh:

- An tréimhse sheirbhíse nach mór a bheith críochnaithe ag fostaí sula mbíonn saoire bhreiteachta iníoctha.
- Líon na laethanta a mbíonn fostaí as láthair sula mbíonn saoire bhreiteachta iníoctha.
- An tréimhse a mbíonn saoire bhreiteachta iníoctha ina leith.
- An méid saoire breiteachta a bhíonn iníoctha.
- Tréimhse thagartha na scéime saoire breiteachta.

Luaigh an OB gurb í an cheist, sa chás sin, ná an raibh scéim an Fhreagróra níos measa ná an tsaoire bhreiteachta reachtúil mar gheall ar an tréimhse feithimh trí lá.

Agus scéim an Fhreagróra á breithniú, chinn an OB go bhfuil tréimhse feithimh trí lá ag teacht leis an gcoinníoll céanna a bhaineann le híocaíocht sochair breiteachta ag an Roinn Coimirce Sóisialaí. Lean formhór na scéimeanna fostóirí an coinníoll sin, agus ba chosúil gurbh é an cuspóir loighciúil atá leis ná tréimhsí gearra eatramhacha d'asláithreacht a dhíspreagadh. Mhaígh an OB, sa chás go n-íoctar fostaí agus é/í as láthair de bharr breiteachta ar feadh tréimhse réasúnta ama, nach raibh sé míréasúnta d'fhostóir an cur chuige sin a ghlacadh.

Faoin ACF bíonn fostaithe i dteideal saoire bhreiteachta reachtúil a fháil tar éis trí seachtaine déag de sheirbhís; ní mór d'fhostaithe an Fhreagróra 26 seachtain de sheirbhís a bheith acu. Cé nár chuir sé seo isteach ar an nGearánach, ná ar 89% d'fhoireann an Fhreagróra, chinn an OB go raibh tionchar aige sin agus cinneadh á dhéanamh 'ar an iomlán' an raibh scéim an Fhreagróra níos fearr.

Dúirt an OB go raibh sé soiléir go raibh ocht seachtaine de shaoire bhreiteachta íochta níos tairbhí ná trí lá, agus go bhfuil 100% den phá níos tairbhí ná 70% den phá faoin scéim reachtúil.

Chuir an OB san áireamh freisin go raibh scéim saoire breiteachta an Fhreagróra bunaithe ar idirbheartaíocht le ceardchumann agus, ó achtaíodh an ACF, nár chuir na páirtithe tús le hathruithe beartais a phlé.

Chinn an OB go raibh fad na saoire breiteachta íochta agus méid an phá breiteachta níos tábhachtaí ná an polasaí trí 'lá feithimh' agus an riachtanas sé mhí de sheirbhís leanúnach a bheith ann. Chuir scéim an Fhreagróra sochair ar fáil a bhí, ar an iomlán, níos fearr d'fhostaithe ná na sochair faoin ACF agus measadh nach raibh bunús maith le cás an Ghearánaigh.

Cosaint Mháithreachais

Mandy Hurley i gcoinne Eazy Connections Ltd. ag trádáil mar Complete Outsource Solutions, ADJ-00033976

Eochairfhocail

Na hAchtanna um Chomhionannas Fostaíochta 1998 go 2021, foras inscne, saoire mháithreachais, ceart chun fillleadh ar an obair, obair mhalartach oiriúnach, na hAchtanna um Chosaint Mháithreachais 1994 go 2022, an tAcht um Chaidreamh san Áit Oibre 2015, teorainneacha ama, mífheidhmiú an dlí náisiúnta, carnadh cúiseanna caingne.

Cúlra

Baineann an cás seo le líomhaintí maidir le hidirdhealú bunaithe ar thoircheas: Chuir an Gearánach dhá ghearán isteach: ceann amháin faoin Acht um Chomhionannas Fostaíochta 1998 ("ACF"), ar an bhforas 'inscne', agus ceann eile faoin Acht um Chosaint Mháithreachais 1994 ("ACM"). Chuir an Gearánach gearán isteach freisin faoin ACF ar an bhforas 'stádas teaghlaigh', nach ndearnadh amach.

D'oibrigh an Gearánach mar Bhainisteoir Oifige don chuideachta Freagróra. Chuaigh sí ar shaoire mháithreachais i mí Aibreáin 2020 agus d'fhill sí ar an obair i mí na Nollag 2020. Nuair a d'fhill sí ar an obair, bhí an chuideachta ag obair ar mhórfheachtas margáíochta do chliant mór, agus bhí gach duine an-ghnóthach ar fad. Mar thoradh air sin bhí gach cineál dualgas ar an nGearánach nach raibh uirthi de ghnáth mar chuid dá ról – ach bhí sí sásta an obair a dhéanamh.

Nuair a d'fhill sí ar an obair tar éis na Nollag, áfach, i mí Eanáir 2021, ba léir don Ghearánach nach raibh an ról céanna aici agus a bhí aici roimhe sin, go raibh dualgais níos lú á dtabhairt di, agus leibhéal freagrachta níos ísle aici, agus go raibh sí á cur as an áireamh ó chruinnithe a d'eagraigh sí agus a d'fhreastail sí orthu roimhe sin. Ba é a cás nach raibh an ról céanna aici agus a bhí aici roimhe sin, ná nár cuireadh obair oiriúnach mhalartach ar fáil di, tar éis di fillleadh ar an obair tar éis na saoire cosanta.

Shéan an Freagróir éilimh an Ghearánaigh agus mhaígh sé, nuair a bhí an Gearánach ar saoire mháithreachais, gur tháinig méadú suntasach ar an ngnó agus gur soláthraíodh obair mhalartach oiriúnach di nuair a d'fhill sí ar an obair. Dúirt sé freisin go raibh a gearán faoin ACM faoi urchosca reachta.

Torthaí

ACF

Thug an OB breith i bhfabhar an Ghearánaigh. Bhí sí sásta gur éirigh leis an nGearánach tátal idirdhealaithe dhírigh a thabhairt chun solais, ar chúis na hinscne (faoi a. 85A den ACF). Aistríodh an dualgas cruthúnais ansin chuig an bhFreagróir chun 'a mhalairt a chruthú', rud a chinn an OB nár éirigh leis a dhéanamh.

Chinn an OB gur tugadh céim níos ísle don Ghearánach agus gur cuireadh ar leataobh í nuair a d'fhill sí ar an obair ó shaoire mháithreachais; gur imigh post an Ghearánaigh agus an réamhlíne tuairiscithe araon; agus go raibh snáithe soiléir idirdhealaithe ann ón uair a d'fhill sí ar an obair ó shaoire chosanta go dtí an am a chuaigh sí ar shaoire bhreiteachta dheimhniú, i mBealtaine 2021.

Chinn an OB nár thuig an Freagróir a dhualgais dhlíthiúla agus a oibleagáidí dlíthiúla i leith fostaithe ar mná iad ag fillleadh ar an ionad oibre tar éis dóibh a bheith ar thréimhse saoire cosanta. Cé go raibh an Gearánach ag plé go gníomhach leis an bhFreagróir, ní raibh aon mheicníocht chúil ann chun éisteacht lena gearán. Bhronn an OB €31,000, le haghaidh "éifeachtaí an idirdhealaithe", arbh ionann é agus tuairim is bliain amháin den tuarastal.



ACM

Leagtar amach in Ailt 26 agus 27 den ACM an ceart chun fillleadh ar an obair go dtí an ról a bhí ag an bhfostaí díreach roimh dhul ar shaoire mháithreachais, nó an ceart chun obair mhalartach oiriúnach a fháil i gcúinsí áirithe.

D'áitigh an Freagróir go raibh gearán an Ghearánaigh faoin ACM faoi urchosc reachta. Forálann alt 41(7)(c)(i) den Acht um Chaidreamh san Áit Oibre 2015 do theorainn ama chun éilimh faoin ACM a thabhairt chuig an CCÁO de shé mhí dar tús an dáta a chuirtear in iúl don fhostóir “go bhfuil an fostaí ag iompar clainne, gur saolaíodh leanbh don fhostaí le déanaí nó go bhfuil an fostaí ag beathú cíche”; agus toisc go ndeachaigh an Gearánach ar shaoire mháithreachais in Aibreán 2020, agus nár chuir sí a gearán isteach go dtí Meitheamh 2021, bhí an t-am “caite” aici.

Luaigh an OB gur achtaíodh an ACM chun Treoir 92/85/CEE ón gComhairle a thrasú maidir le bearta a thabhairt isteach chun feabhsuithe ar shábháilteacht agus ar shláinte oibríthe torracha agus oibríthe a raibh leanbh acu le déanaí nó atá ag cothú cíche a spreagadh ag an obair. Tá sé aitheanta ag an gCúirt Bhreithiúnais gurb ionann an toradh a shaothraíonn an Treoir agus comhionannas suntasach, ní comhionannas foirmiúil. Ceanglaíonn Airteagal 12 den Treoir ar Bhallstáit bearta a chur i bhfeidhm chun ligean do na hoibríthe go léir a ndéantar éagóir orthu de bharr mainneachtain na n-oibleagáidí a eascraíonn as an Treoir a chomhlíonadh, a n-éilimh a leanúint trí phróiseas breithiúnach, nó trí dhul ar iontaoibh údaráis inniúla eile, trí “leigheas baile éifeachtach” a sholáthar.

De réir chinneadh na Cúirte Breithiúnais in *An tAire Dlí agus Cirt agus Comhionannais i gcoinne Choimisinéir an Gharda Síochána C-378/17*, tá dualgas ar an CCÁO reachtaíocht náisiúnta atá contrártha do dhlí an AE a dhífheidhmiú. Chinn an OB go raibh sé riachtanach an reachtaíocht náisiúnta a léirmhíniú de réir na Treorach ionas go mbeadh teacht ag an nGearánach ar leigheas dlí éifeachtach baile, mar a cheanglaítear faoi théarmaí na Treorach. Seachas sin, ní sholáthraí aon leigheas baile éifeachtach chun cearta máithreacha nua a chosaint nuair a bhain an patrún fórais iomchuí le héileamh a d'fhabhraigh tráth nó tar éis iarracht an Ghearánaigh a ceart chun fillleadh ar a cuid oibre a fheidhmiú tar éis tréimhse saoire máithreachais.

Sa chás seo, ba é an pointe ba luaithe a d'fhéadfadh cúis chaingne a bheith fabhraithe faoin ACM ná tráth fhilleadh an Ghearánaigh ar an obair i mí na Nollag 2020.

Ar fhíricí an cháis, áfach, chinn an OB gur fhabhraíodh an chúis chaingne in Eanáir 2021, nuair ba léir don Ghearánach nár tugadh a dualgais ar ais chuici. Luaigh an OB go ritheann tréimhsí teorann i ndlí na hÉireann go hiondúil ón am a fhabhraíonn an chúis chaingne. Ar na cúiseanna sin, níor úsáid an OB alt 41(7)(c) agus chinn sé, mar gur cuireadh an gearán isteach i Meitheamh 2021, laistigh de shé mhí ó dháta fabhraithe chúis chaingne an Ghearánaigh, go raibh an gearán “in am” agus nach raibh sé faoi urchosc reachta.

Chuir an OB béim ar an bhfíric nach bhfuil aon bhriseadh sa chaidreamh fostaíochta idir fostóir agus fostaí ar shaoire mháithreachais agus go bhfágann aon chur chuige eile tairbhe an tsaoire cosanta máithreachas gan aon ní. Chinn an OB gur cuireadh bac ar an nGearánach fillleadh ar an obair tar éis tréimhse saoire máithreachais agus nár cuireadh obair oiriúnach eile ar fáil di. Cé nach bhfuil aon cheanglas reachtúil ann roghnú idir éilimh faoin ACF agus faoin ACM, níor bhronn an OB cúiteamh faoin ACM, ag teacht le riail an dlí choitinn i gcoinne aisghabháil dhúbailte, agus ós rud é go ndearna an OB dámhachtain airgeadaíochta faoin ngearán ACF maidir le hidirdhealú ar na fíricí céanna.

Tar éis na héisteachta, rinne an Freagróir iarratas i scríbhinn chun ainmneacha na bpáirtithe a dhéanamh anaithnid, iarratas a ndearna an Gearánach agóid ina choinne, agus ar dhiúltaigh an OB dó.

Pá (lena n-áirítear séisíní)

Rhona Matthews i gcoinne Morbury Ltd. ag trádáil mar Top Security, ADJ-00037983

Eochairfhocail

An tAcht um Eagrú Ama Oibre 1977, laethanta saoire poiblí, ráta ilchodach pá.

Cúlra

D'oibrigh an Gearánach mar gharda slándála statach don Fhreagróir idir 2017 agus 2021. D'oibrigh sí ar phatrún seala a d'athraigh, agus chinn sé sin cé mhéad sealanna in aghaidh na seachtaine a d'oibrigh sí i seachtain ar leith.

Rinne an Gearánach gearán nach bhfuair sí aon fócaíocht bhreise riamh i leith laethanta saoire poiblí. Íocadh an Gearánach má d'oibrigh sí lá saoire poiblí, ach murar oibrigh sí, ní raibh an rogha aici é a chur lena saoire bhliantúil. D'áitigh an Gearánach go raibh an Freagróir ag sárú an Achta um Eagrú Ama Oibre 1997 ("EAO").

D'áitigh an Freagróir gur íocadh ráta ilchodach pá le fostaithe i leith laethanta saoire poiblí, ag teacht lena gconarthaí fostaíochta. Íocadh laethanta saoire poiblí mar chuid den phá in aghaidh na huairé a íocadh (ráta 36 cent in aghaidh na huairé).

Torthaí

Bhí cúig lá saoire phoiblí, mar atá sainmhínithe san EAO, sa tréimhse ábhartha don éileamh seo. Faoi a. 21, tá ceithre rogha ag fostóirí d'fhostaithe i leith lá saoire phoiblí. Féadfaidh fostaithe na nithe seo a leanas a fháil:

- Lá saoire le pá ar lá saoire poiblí
- Lá saoire le pá laistigh de mhí lá na saoire poiblí
- Lá breise de shaoire bhliantúil
- Lá breise pá

Agus an reachtaíocht á cur san áireamh, bhí an OB sásta gurb iad seo na roghanna dleathacha amháin atá ar fáil d'fhostóir chun cloí leis an EAO. Luaigh an OB go raibh idirdhealú idir cur chuige an reachtais i leith phréimh an Domhnaigh a cheadaíonn go sonrath ráta ilchodach a íoc, agus cur chuige an reachtais i leith laethanta saoire poiblí, nach dtugann aon fhaisnéis maidir le ráta ilchodach pá. Forálan alt 14(1) EAO, i gcás ina mbíonn ar fhostaithe oibriú ar an Domhnach, agus nach gcuirtear san áireamh ar shlí eile a bhfuil orthu oibriú an lá sin agus an pá á chinneadh, déanfar iad a chúiteamh trí liúntas, méadú ar an ráta pá, am saor íoctha in ionad, nó meascán díobh seo a fháil. Mar sin féin, níl aon roghanna mar seo ag an bhfostóir maidir le laethanta saoire poiblí. Dá réir sin, chinn an OB go raibh sé réasúnach a bheith den tuairim nár cheadaigh an reachtaíocht cur chuige dá leithéid maidir le laethanta saoire poiblí.

Chinn an OB mar sin go raibh an cur chuige a ghlac an Freagróir maidir le híocaíocht laethanta saoire poiblí lasmuigh den mhéid a bhí ceadaithe faoin EAO agus go raibh sé mídhleathach.

Mheas an OB gur sárú an-tromchúiseach é seo ar an reachtaíocht agus d'ordaigh sé don Fhreagróir athbhreithniú a dhéanamh ar a chonarthaí agus a bheartas párolla agus iad a ailíniú le ceanglais an EAO. D'ordaigh an OB freisin don Fhreagróir cúiteamh de €600 a íoc leis an nGearánach.

Sous-chef i gcoinne Óstáin, IR-SC-00001262

Eochairfhocail

An tAcht um Íoc Pá, séisíní agus aiscí, dáileadh séisíní, séisíní leictreonacha, agus fógra do chustaiméirí.

Cúlra

Oibríonn an fostaí mar sous-chef sóisearach in óstán agus faigheann sé €17.16 in aghaidh na huairé. D'áitigh sé, ó achtaíodh an tAcht um Íoc Pá (Leasú) (Leideanna agus Aiscí) 2022, a leasaíonn an tAcht um Íoc Pá 1991 ("AÍP") agus an tAcht um Théarmaí Fostaíochta (Faisnéis), 1994, go raibh sé ag déanamh iarrachtaí dáileadh séisíní a thabhairt chun rialtacha san óstán. Is é an nós imeachta atá ann faoi láthair ná go gcaitear le gach príomhchócaire a oibríonn seal mar dhuine amháin le dáileadh, ag fáil séisíní comhionann leis na daoine atá ag obair sa bheár nó sa bhialann. Mheas sé go raibh sé seo éagórach agus theastaigh uaidh go ndéileálfai leis mar dhuine aonair seachas mar chuid de ghrúpa.

D'áitigh an fostóir gur saincheist chomhchoiteann a bhí i ndáileadh leideanna, mar sin ní raibh sé cuí é a bhreithniú faoin Acht Caidrimh Thionscail toisc go ndéanfadh aon mholadh dífeair do thart ar 35 ball foirne. D'áitigh an fostóir freisin go dtaispeántar fógra séisíní agus aiscí ar an mbealach isteach sa bhialann, agus ar bhiachláir, agus go sonraítear ann 'go dtéann 100% de shéisíní go díreach chuig an bhfoireann'. Feidhmíonn an t-óstán córas 'tronc'; bailíonn agus bainistíonn fostaithe séisíní agus ní bhíonn baint ag an lucht bainistíochta leis an dáileadh. Deir an polasaí maidir le séisíní i lámhleabhar an fhostóra go 'roinneann na baill foirne na séisíní ag deireadh gach seala'. Tá an polasaí neamhfhoirmiúil seo mar nós agus cleachtas san óstán le tamall anuas. Bailítear séisíní airgid agus dailítear iad ar na baill foirne ag deireadh gach seala. Athraítear séisíní cárta creidmheasa/dochair go hairgead tirim agus áirítear iad le séisíní airgid ag deireadh gach seala.



Torthaí

Ghlac an OB leis gur saincheist chomhchoiteann é an bealach a dháiltear séisíní agus go bhfuil sé de dhualgas ar fhostaí a bhfuil gearán aige/aici nósanna imeachta a bhfostóra a úsáid chun réiteach a fháil. Mar sin féin, mheas an OB gur ardaigh an fostaí ceisteanna tábhachtacha maidir le cur i bhfeidhm na reachtaíochta nua san óstán.

Luaigh an OB go mbaineann a.4B ATP leis an gcaoi a gcaitear le séisíní nó aiscí a fhaigheann an fostóir trí mhodh leictreonach íocaíochta. Cuireann sé sin an fhreagracht maidir le dáileadh cothrom na séisíní leictreonacha ar an bhfostóir, agus mheas an OB nár chomhlíon airgeadú na séisíní agus iad a chur le séisíní airgid riachtanais an ailt sin.

D'eaontaigh an OB leis an bhfostóir nach raibh aon oibleagáid air dul i gcomhairle le fostaithe, de réir a.4B(7) ATP, maidir le dáileadh séisíní, mar go raibh an polasaí i bhfeidhm trí nós agus trí chleachtas agus níl aon athrú tagtha air ó achtaíodh an reachtaíocht. I gcomhréir leis an Acht, ní mór d'fhostóir polasaí a bhunú chun séisíní leictreonacha a dháileadh. Ina theannta sin, mheas an OB go dteastaíonn níos mó sonraí ón ATP i bpolasaí séisíní agus aiscí ná mar a sholáthraítear faoi láthair i bpolasaí an fhostóra. Ba cheart go mbeadh na nithe seo a leanas sa pholasaí: teideal poist an duine atá freagrach as séisíní leictreonacha a bhainistiú agus an méid a fuarthas i séisíní a chur in iúl d'fhostaithe; minicíocht ríomh agus dáileadh séisíní leictreonacha; na fostaithe atá incháilithe le haghaidh séisíní leictreonacha; agus an cion séisíní atá le tabhairt do gach catagóir d'fhostaí.

Mheas an OB freisin gur theip ar fhógra an fhostóra do chustaiméirí an méid a bhí riachtanach faoi a.4E(1) ATP a thaispeáint, go sonrach sa chás nár luadh an bealach a ndáiltear séisíní agus aiscí agus na méideanna a dháiltear. Mheas an OB go gcaithfí a chur in iúl do chustaiméirí “cé chomh minic agus a dháiltear séisíní ar an bhfoireann, má íoctar na séisíní in airgead tirim nó trí phá, agus an cion de na séisíní a thugtar do gach catagóir d'fhostaí”.

Sna cúinsí seo, mhol an OB go ndéanfadh an fostóir machnamh ar na heasnamh a aithníodh ina iarratas ar an ATP, agus mhol sé dá bhfanfadh gearán an fhostaí gan réiteach tar éis trí mhí, gur cheart dó nós imeachta gearáin an fhostóra a úsáid chun réiteach a lorg ar leibhéal áitiúil.

Nochtadh Cosanta

Oibrí i gcoinne Gnó teiripe suathaireachta, ADJ-00043225

Eochairfhocail

Na hAchtanna um Dhífhostú Éagórach 1977 go 2015, an tAcht um Nochtadh Cosanta 2014, nochtadh cosanta, pionósú, dífhostú éagórach, cúiteamh cothromasach, agus uasdámhachtain.

Cúlra

D'fhostaigh an Freagróir an Gearánach mar theiripeoir suathaireachta ón 1 Feabhra 2020 go dtí an 17 Bealtaine 2022. Níor tugadh conradh scríofa di, ach go hiondúil d'oibrigh sí 40 uair sa tseachtain agus íocadh €70 in aghaidh an lae in airgead tirim léi. Shann bainisteoirí an Fhreagróra, lánúin, cliaint do na hoibrithe ar chóras scuaine. Go luath tar éis di tosú ar a cuid fostaíochta, thug an Gearánach faoi deara gur minic a d'iarr cliaint seirbhísí breise de chineál gnéasach, ag rá gur sholáthair oibrithe eile na seirbhísí sin. D'ardaigh an Gearánach an méid sin lena bainisteoirí agus dúirt siad léi go bhféadfadh sí seirbhísí breise a sholáthar agus an praghas a d'fhéadfadh sí a ghearradh orthu. Dúradh léi go bhféadfadh sí 'níl' a rá ach nach bhfaigheadh sí cliaint a thuilleadh. Dúirt an Gearánach gur thosaigh sí ar sheirbhísí gnéasacha teoranta a sholáthar tar éis an chomhrá sin ach go raibh brú uirthi níos mó a dhéanamh. Ar roinnt ócáidí, chuir sí in iúl dá bainisteoirí nach raibh sí ag iarraidh seirbhísí den sórt sin a sholáthar agus d'ardaigh sí imní faoina sláinte, a sábháilteacht féin agus a coinníollacha oibre.

D'éiligh duine dá bainisteoirí uirthi go rialta suathaireacht a sholáthar dó saor in aisce agus chuir sé brú uirthi seirbhísí gnéasacha a sholáthar dó. Tar éis don Ghearránach diúltú dó, d'éirigh a bainisteoirí drochbhéasach agus dímhéasúil, agus ní raibh sí ar an sceideal chomh minic. Chuir na bainisteoirí polasaí i bhfeidhm freisin nach n-íocfaí pá leis an nGearánach mura bhfeicfeadh sí ceathrar cliant ar a laghad in aghaidh an lae, rud a d'fhág go minic nach n-íocfaí pá léi as lá oibre.

I mBealtaine 2022, níor cuireadh an Gearánach ar an uainchlár chun aon sealanna a dhéanamh. Chuir sí ceist faoi seo agus dúirt an Freagróir léi nach raibh a thuilleadh oibre ann di agus go bhféadfadh sí post eile a fháil. Briseadh as a post í go héifeachtach ar an 17 Bealtaine 2022.

Rinne an Gearánach go leor gearán faoin reachtaíocht fostaíochta maidir lena téarmaí agus coinníollacha fostaíochta agus an chaoi ar caitheadh léi, go príomha gur dífhostaíodh go héagórach í agus gur gearradh pionós uirthi mar gheall ar nochtadh cosanta a dhéanamh.

Ní raibh an Freagróir i láthair ag an éisteacht.

Torthaí

An tAcht um Dhífhostú Éagórach 1977 (“ADÉ”)

D’áitigh an Gearánach go raibh a dhífhostú éagórach mar gur theip ar an bhFreagróir nós imeachta dífhostaithe a sholáthar agus nósanna imeachta cothroma agus ceartas nádúrtha a thabhairt di.

Luaigh an OB go ndéanann a.6 ADÉ foráil go bhfuil dífhostú éagórach mura bhfuil forais shuntasacha ann a thugann údar maith dó. Ní mór don Fhreagróir a chruthú go raibh forais shuntasacha leis an dífhostú. Toisc nach raibh an Freagróir i láthair ag an éisteacht, chinn an OB gur dífhostaíodh an Gearánach go héagórach.

Maidir leis an bhfíric go raibh an Gearánach as obair ar feadh tréimhse 20 seachtain tar éis di a bheith dífhostaithe, agus na hiarrachtaí a rinne sí chun fostaíocht eile a aimsiú le linn na tréimhse sin, bhronn an OB €7,000 uirthi, comhionann le luach saothair 20 seachtain.

An tAcht um Nochtadh Cosanta 2014 (“ANC”)

D’áitigh an Gearánach go raibh nochtadh cosanta déanta aici maidir le coinníollacha agus cúinsí a fostaíochta. Tar éis di an nochtadh cosanta a dhéanamh, gearradh pionós uirthi; bhraith sí iompar dímheasúil óna bainisteoirí agus laghdú ar a huaireanta oibre.

Faoi a.5 ANC, sainmhínítear nochtadh cosanta mar nochtadh ‘faisnéis iomchuí’ a thagann faoi bhráid oibrí maidir lena fhostaíocht agus a léiríonn, dar le réasún an oibrí, éagóiritheoireacht iomchuí. Áirítear le ‘éagóiritheoireacht iomchuí’ cion a rinneadh agus sláinte nó sábháilteacht duine aonair a chur i mbaol. Is féidir an nochtadh a dhéanamh d’fhostóir an oibrí.

Luaigh an OB gur nocht an Gearánach imní go raibh éagóiritheoireacht á déanamh agus go raibh a sláinte agus a sábháilteacht i mbaol. Bhain an ‘éagóiritheoireacht’ le sárú féideartha ar an dlí coiriúil ar thaobh an Fhreagróra.

Bhí an OB sásta gur ‘faisnéis iomchuí’ a bhí i nochtadh an Ghearánaigh dá fhostóir maidir le ‘éagóiritheoireachtaí iomchuí’ agus dá réir sin ghlac sí go raibh sí cosanta, faoi a.5(8). In éagmais aon fhianaise dá mhalairt, chinn an OB go raibh nochtadh cosanta déanta ag an nGearánach nuair nár aontaigh sí le soláthar seirbhísí gnéis do chliaint an Fhreagróra.

Cuireann Alt 12(1) ANC cosc ar fhostaí a phionósú as nochtadh cosanta a dhéanamh. Sainmhínítear pionós mar “aon ghníomh nó neamhghníomh a dhéanann difear d’oibrí chun aimhleas an oibrí” agus foláionn sé dífhostú, laghdú pá nó athrú ar uaireanta oibre, cóir éagórach, agus comhéigean, imeaglú nó ciapadh.

Mhaígh an OB gur gearradh pionós ar an nGearánach i bhfoirm athrú meoin ina leith agus laghdú ar luach saothair nuair a sannadh níos lú cliant di. Bhí nasc cúisíoch díreach idir an nochtadh cosanta agus an pionós mar dúradh go sainráite leis an nGearánach go bhfaigheadh sí níos lú oibre mura gcuirfeadh sí seirbhísí gnéasacha ar fáil. Ina theannta sin, chinn an OB gurbh ionann an chaoi ar chaith a bainisteoir fireann leis an nGearánach agus é ag éileamh uirthi seirbhísí gnéasacha a sholáthar dó agus pionós breise i bhfoirm comhéigin, imeaglaithe, ciaptha nó cóir éagórach.

Maidir le cúiteamh, luaigh an OB go ndéanann Sceideal 2 ANC foráil d’uasdámhachtain de luach saothair cúig bliana. Ní mór don OB a mheas go bhfuil an cúiteamh “cóir agus cothromasach ag féachaint do na himthosca go léir”. Cé gur admhaigh an OB nach raibh an ANC (roimh achtú an Achta um Nochtadh Cosanta (Leasú) 2022, nach raibh feidhm aige maidir le fíricí an cháis seo) ag trasú dlí an AE, luaigh an OB go bhfuil an ANC cosúil le reachtaíocht chosanta agus ba é an rún reachtach ná leibhéal an-ard cosanta a thabhairt do dhaoine a dhéanann nochtadh cosanta. Tá cearta a eascraíonn as nochtadh cosanta a dhéanamh aitheanta ar leibhéal AE ó 2019 i leith. Rinne an OB tagairt do chinntí na Cúirte Breithiúnais, a chinn “i gcás ina sáraítear ceart sóisialta bunúsach, ní mór don dlí náisiúnta leigheas éifeachtach, comhréireach nó athchomhairleach a sholáthar”, agus go bhfuil oibleagáid ann an dlí náisiúnta a léirmhíniú i bhfianaise fhoclaíocht agus chuspóir Treorach chun an toradh atá beartaithe a bhaint amach.



Ar na cúiseanna sin, chinn an OB nach bhfuil cúiteamh as pionósú teoranta do chaillteanas airgeadais amháin agus go bhféadfaí “tosca eile a bhreithniú, lena n-áirítear measúnú a dhéanamh chun a dhearbhu an bhfuil dámhachtain éifeachtach, comhréireach nó athchomhairleach”.

Mheas an OB gur oibrí thar a bheith leochaileach í an Gearánach, mar náisiúnach neamh-AE a tháinig go hÉirinn chun staidéar a dhéanamh agus a d’oibrigh leis an bhFreagróir chun tacú léi féin agus chun a hoideachas a mhaoiniú. Chomh maith le cruatan airgeadais a d’eascair as nochtadh cosanta a dhéanamh, d’fhulaing an Gearánach anacair mhothúchánach agus náiriú suntasach ón bhFreagróir. Cás “an-eisceachtúil” a bhí ann de réir an OB agus chinn an OB go raibh cineál agus méid an phionóis chomh huafásach sin go raibh an uasdámhachtain cúitimh tuillte aici. Bronnadh €91,000 ar an nGearánach, arbh ionann é agus luach saothair cúig bliana.

An tAcht um Théarmaí Fostaíochta (Faisnéis), 1994

Dúirt an Gearánach gur theip ar an bhFreagróir doiciméad a sholáthar di a leag amach téarmaí agus coinníollacha a fostaíochta. Gan aon fhianaise dá mhalairt, ghlac an OB leis an éileamh seo agus bhronn siad €1,400 ar an nGearánach.

An tAcht um Fhógra Íosta agus Téarmaí Fostaíochta 1974

D’áitigh an Gearánach gur theip ar an bhFreagróir fógra nó íocaíocht a sholáthar di in ionad fógra sular dífhostaíodh í. Ghlac an OB leis an éileamh seo gan fianaise dá mhalairt agus bronnadh luach saothair coicíse arbh fhiú €700 ar an nGearánach.

An tAcht um Eagrú Ama Oibre 1997

Dúirt an Gearánach gur theip ar an bhFreagróir a pá saoire a íoc. Ghlac an OB leis an éileamh sin agus bronnadh luach saothair seacht seachtaine de €2,450 ar an nGearánach.

Bronnadh cúiteamh iomlán de €102,550 ar an nGearánach.

Aguisín

4



Dúshláin Dhlíthiúla a raibh CCÁO bainteach leo

Ammi Burke i gcoinne Oifigeach Breithniúcháin, An Coimisiún um Chaidreamh san Áit Oibre, agus Arthur Cox LLP (Fógrapháirtí) [2023] IEHC 225 (neamhthuairiscithe, An Ard-Chúirt, Bolger J., 3 Bealtaine 2023)

Ammi Burke i gcoinne Oifigeach Breithniúcháin, An Coimisiún um Chaidreamh san Áit Oibre, agus Arthur Cox LLP (Fógrapháirtí) [2023] IEHC 360 (neamhthuairiscithe, An Ard-Chúirt, Bolger J., 26 Meitheamh 2023)

Ammi Burke i gcoinne Oifigeach Breithniúcháin, An Coimisiún um Chaidreamh san Áit Oibre, agus Arthur Cox LLP (Fógrapháirtí) [2023] IEHC 560 (neamhthuairiscithe, An Ard-Chúirt, Bolger J., 16 Deireadh Fómhair 2023)

Jana Gogova i gcoinne an Bhoird um Thionóntachtaí Cónaithe, James Donoghue, An Coimisiún um Chaidreamh san Áit Oibre agus Catherine Byrne [2023] IEHC 449 (neamhthuairiscithe, An Ard-Chúirt, Phelan J., 21 Iúil 2023)

Ammi Burke i gcoinne Oifigeach Breithniúcháin agus An Coimisiún um Chaidreamh san Áit Oibre (Freagróirí) agus Arthur Cox LLP (Fógrapháirtí) [2023] IEHC 225 (neamhthuairiscithe, An Ard-Chúirt, Bolger J., 3 May 2023)

Eochairfhocail

Athbhreithniú breithiúnach, iarratas ar dhícháiliú, claonadh oibiachtúil.

Cúlra

I mí Iúil 2022, tugadh cead don Iarratasóir imeachtaí athbhreithnithe breithiúnaigh a thionscnamh (2022/535 JR) ag cur i gcoinne an CCÁO a éileamh ar dhífhostú éagórach a dhífhostú. Liostaíodh an cás le héisteacht leis ar an 2 Bealtaine 2023. Nuair a cuireadh in iúl do na páirtithe gur sannadh Bolger J. chun an cás a éisteacht, d'éiligh an Iarratasóir gur cheart don bhreitheamh í féin a dhícháiliú.

Rinne an Iarratasóir iarratas ar dhícháiliú bunaithe ar chlaonadh oibiachtúil agus chuir sí ceithre fhoras ar aghaidh lena hiarratas a chosaint:

- (i) Scríobh Bolger J. alt in 2015, agus é ina abhcóide ag cleachtadh, inar léiríodh imní faoi ghnéithe den Bhille um an gCoimisiún um Chaidreamh san Áit Oibre agus a mhainneachtain croscheistiú faoi mhionn a cheadú. Dúirt an Iarratasóir gur léirigh ráiteas faoi nádúr sáraíochta i gcoinne nádúr fiosrúcháin na n-imeachtaí réamhchinneadh Bolger J. ar cheann de na saincheisteanna a ardaíodh san athbhreithniú breithiúnach.
- (ii) Dlúthchaidreamh thar na blianta fada idir Bolger J. agus Abhcóide Sinsearach don Fhógrapháirtí (Arthur Cox LLP) ag eascairt as a bheith ina gcomhaltaí bunaithe den Chomhlachas Barra Fostaíochta, tar éis páipéir a chur i láthair ag comhdháil bhliantúil CBF, agus tar éis cathaoirleacht a dhéanamh ar sheisiún de chomhdháil 2022.
- (iii) Tuairimí Bolger J. a léiríodh le linn an iarratais ar chead, nach raibh an cás ar mhaithe le leas an phobail.

(iv) Áiríodh ainm Bolger J mar idirghabhálaí beartaithe ag an bhFógragháirtí i mí Lúnasa 2020 (agus é fós ag cleachtadh) maidir leis an mbundóspóid idir an tIarratasóir agus an Fógragháirtí. Chreid an tIarratasóir go gcaithfeadh comhrá a bheith déanta idir aturnae an Fhógragháirtí agus Bolger J. sular moladh idirghabhálaí.

Torthaí

Luaigh Bolger J. go raibh an tástáil le haghaidh claonadh oibiachtúil seanbhunaithe: “má thuigeann breathnóir réasúnta oibiachtúil cóir, nach bhfuil íogair go míchuí, ach a bhfuil na fíricí ábhartha go léir aige nó aici, go réasúnta go bhfuil an baol ann nach mbeidh an déantóir cinntí cothrom agus neamhchlaonta.”

Bhreithnigh sí freisin tuairimí na Cúirte Uachtaraí ar an dearbhú a rinne breitheamh ar a gceapachán faoi Airteagal 34.6.1 den Bhunreacht agus ar dhualgas breithimh cás a shanntar dó nó di a éisteacht. Thug Bolger J. aird freisin ar Threoirlínte na Comhairle Breithiúnaí do na Breithiúna ar Iompar agus Eitic agus ar na treoirlínte sonracha maidir le dícháiliú.

Agus í ag lua *Kelly i gcoinne an Aire Talmhaíochta* [2021] 2 IR 624, leag Bolger J. amach na fíorais sa chás seo a measfaí go mbeadh an breathnóir réasúnach agus oibiachtúil ar an eolas fúthu agus a thuigfeadh iad:

- An difríocht idir tuairimí abhcóide in iris acadúil agus an fheidhm bhreithiúnach chun cinneadh a dhéanamh bunaithe ar an dlí agus ar fhasach.
- An dóchúlacht go nglacfadh breitheamh le tráchtairacht dhlíthiúil i bhfoilseacháin agus i bpáipéir le linn a t(h)réimhse mar chleachtóir.
- Nádúr chaidrimh ghairmiúla abhcóide lena c(h)omhghleacaithe laistigh de bharr speisialaithe agus i mbunú agus i bhfeidhmiú sainchumainn barra.
- An t-ionchas go gcoinneodh breitheamh i dteagmháil le saol an oideachais dlí tar éis dó nó di a bheith ceaptha ina b(h)reitheamh.
- An difríocht idir iarratas ar chead agus iarratas tábhachtach ar athbhreithniú breithiúnach agus comhthéacs na dtuairimí a rinneadh le linn an chéad cheann.
- Diúltú na cúirte ag an iarratas ar chead ligean don Iarratasóir a pléadálacha a leasú.

- Iompar an Iarratasóra le linn an iarratais ar chead chun agóid a dhéanamh arís agus arís eile ar chinntí na cúirte.
- Nádúr agus cleachtas na hidirghabhála.
- Easpa rannpháirtíochta abhcóide atá ag cleachtadh a ainmníodh mar idirghabhálaí féideartha nach raibh aon phlé ag ceachtar den dá pháirtí leis nó léi agus nár ceapadh mar idirghabhálaí i ndeireadh na dála.

Alt 2015

Luaigh Bolger J. nach mbaineann na caighdeáin a bhaineann le breithiúna a scríobhann go seachbhreithiúnach (mar atá leagtha amach ag Cúirt Achomhairc Shasana agus na Breataine Bige in *Locabail (UK) Ltd i gcoinne Bayfield Properties Ltd* [2000] QB 451) le habhcóidí a scríobhann go hacadúil. Dúirt sí faoi bhreithiúna “ní chónaíonn siad i dtúir eabhair agus níor cheart go gcónóidís i dtúir eabhair”, agus go gceaptar iad bunaithe ar a dtaithí roimhe seo ina bhféadfadh tráchtairacht acadúil a bheith i gceist. Léirigh ábhar imní an Iarratasóra a “míthuiscint ar ról na tráchtairachta dlí ag cleachtóirí i gcomparáid leis an bhfeidhm bhreithiúnach chun éisteacht le cás agus cinneadh a dhéanamh faoin dlí agus faoin bhfasach ceangailteach”

Caidreamh leis an abhcóide

Deimhníonn treoirlínte na Comhairle Breithiúnaí gur féidir le breitheamh “gníomhaíochtaí a bhaineann leis an dlí, leis an gcóras dlí, le riar an cheartais nó le hábhair ghaolmhara a scríobh, léachtaí a thabhairt fúthu, iad a mhúineadh agus páirt a ghlacadh iontu”. Thagair Bolger J. freisin do chinneadh na Cúirte Uachtaraí in *O’Driscoll i gcoinne Hurley* [2016] IESC 32 a chinn go bhfuil “an-luach ag baint le malartú tuairimí agus smaointe a d’fhéadfaí a dhéanamh ag cruinnithe dá leithéid”. Bhain sí de thátaí as gur “gnáthchuid den chleachtas agus de bheith ina bhreitheamh” é an bhaint a bhí ag breitheamh roimhe seo le cumann barra speisialaithe nuair a bhí sé nó sí ag cleachtadh agus abhcóidí os a c(h)omhair

Ráitis a rinneadh le linn iarratais ar chead

Rinne Bolger J. tagairt do mhír 2.6.4 de Threoirlínte na Comhairle Breithiúnaí, ina sonraítear “Ní tátaí a bhaint as an gclaonadh oibiachtúil amháin go bhfuil orduithe eatramhacha nó idirbhreitheacha déanta ag breitheamh sna himeachtaí” agus chinn sí “nach léiríonn diúltú d’iarratas ag breitheamh agus tráchtanna a rinneadh agus an diúltú sin

ann féin, claonadh oibiachtúil.” Maidir leis na tuairimí sonracha a rinneadh le linn an iarratais ar chead, luaigh Bolger J. go raibh an tIarratasóir i dteideal iniúchadh a dhéanamh ar léirmhíniú na reachtaíochta ag an éisteacht tábhachtach agus, má bhí sí míshásta leis an gcinneadh ag céim an cheada, bhí deis aici achomharc a dhéanamh ina leith.

Ainmniú mar idirghabhálaí

Luaigh Bolger J. go raibh a fhios ag an Iarratasóir go raibh sí molta mar idirghabhálaí i mí Lúnasa 2020, agus nár ardaigh sí é sin mar shaincheist le linn an iarratais ar chead. Le linn éisteacht an iarratais ar dhícháiliú, chomhdaigh an t-atornae mionnscríbhinn ag dearbhú nár tharla aon chomhrá idir iad agus na hidirghabhálaithe beartaithe. Dúirt Bolger J. go raibh sé míchuí don Iarratasóir féachaint le claonadh oibiachtúil a dhearbhu gan aon iarracht a dhéanamh a fháil amach ar tharla an comhrá a dúirt sí a tharla. Bhain sí de thátal as go measfaí go mbeadh a fhios ag duine oibiachtúil a bhí i láthair gur gnáthchleachtas é roinnt idirghabhálaithe a mholadh agus mar sin ní cheapfadh sí go dtiocfadh claonadh oibiachtúil chun cinn ina leithéid de chás.

Ar na cúiseanna thuas, chinn Bolger J. nach gcinneadh duine réasúnach a bhí i láthair ar cuireadh na fíricí ábhartha in iúl dó nó di nach bhféadfadh sí an cás a éisteacht go hoibiachtúil agus go neamhchlaonta, agus mar sin dhiúltaigh sí í féin a dhícháiliú.

Ammi Burke i gcoinne Oifigeach Breithniúcháin agus An Coimisiún um Chaidreamh san Áit Oibre (Freagróir) agus Arthur Cox LLP (Fógrapháirtí) [2023] IEHC 360 (neamhthuairiscithe, An Ard-Chúirt, Bolger J., 26 Meitheamh 2023)

Eochairfhocail

Athbhreithniú breithiúnach, iompar suaite sa chúirt, dlínse chúirte imeachtaí a dhíbhe mar gheall ar iompar an Iarratasóra, an ceart chun éisteacht chothrom a fháil, nádúr frithpháirteach an chirt chun dlíthíochta agus ceart chun nósanna imeachta córa, mí-úsáid phróisis.

Cúlra

I mí Iúil 2022, tugadh cead don Iarratasóir athbhreithniú breithiúnach a dhéanamh ar chinneadh an Oifigigh Breithniúcháin a héileamh ar dhífhostú éagórach a dhíbhe mar gheall ar a hiompar bacúil le linn na héisteachta.

Cuireadh tús leis an athbhreithniú breithiúnach ar an 2 Bealtaine 2023 roimh Bolger J. Éisteadh iarratas an Iarratasóra ar dhícháiliú Bolger J. an chéad lá, agus tugadh breithiúnas ([2023] IEHC 225) an lá dár gcionn. Ní bhfuair Bolger J. aon chúis chun í féin a dhícháiliú ón gcás. Cuireadh tús le héisteacht an athbhreithnithe bhreithiúnaigh tábhachtaigh ar an 3 Bealtaine 2023.

Torthaí

Iompar an Iarratasóra ar feadh na héisteachta.

Luaigh Bolger J. go ndearna an Iarratasóir agóid arís agus arís eile in aghaidh “cur isteach” ón gcúirt. Luaigh Bolger J. gur chuimsigh iad sin fiosruithe ón gcúirt maidir leis an gcás agus iarrachtaí na cúirte chun na saincheisteanna a ardaíodh a phlé. Dúirt Bolger J. freisin, le linn a cuid aighneachtaí, go ndearna an Iarratasóir “éilimh gan bhunús” agus luaigh sí “nár cheart aighneachtaí dlíthí chuig cúirt a úsáid chun líomhaintí míchuí a dhéanamh”. Ina theannta sin, níl aon fhoighne eisceachtúil a d’fhéadfaí a thabhairt do dhlíthí tuata ar fáil d’atornae cáilithe.

Luaigh Bolger J. freisin gur thug an Iarratasóir in aghaidh chinntí na cúirte go seasta agus go ndearnadh iarracht pointí a cinneadh cheana féin a athrá. Agus é sin á dhéanamh, sháraigh an Iarratasóir an méid a bhí á rá ag an gcúirt agus ag an abhcóide arís agus arís eile. Bhí ar an gcúirt éirí freisin roinnt uaireanta mar gheall ar iompar an Iarratasóra. Tharla sé seo leis an gcinneadh dícháilithe agus leis an gcinneadh a iarratas a chur ar athrá faoin Riail faoi Bhotún (Ordú 28 Riail 11(b)(i)) agus luaigh Bolger J. go raibh “patrún ann inar diúltaíodh glacadh le cinntí na cúirte ar feadh na héisteachta”.

Um thráthnóna ar an dara lá den éisteacht, 4 Bealtaine, le linn aighneachtaí an Fhreagróra, d’ardaigh an chúirt ceist faoi chinneadh na Cúirte Uachtaraí i *Walsh i gcoinne an Aire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí* [2019] IESC 15, [2020] 1 IR 488. Toisc nach raibh an cinneadh seo san áireamh i leabhar na n-údarás, shocraigh an chúirt go dtabharfaí cóipeanna do na páirtithe go léir, an Iarratasóir san áireamh, ós rud é go raibh deacracht ag an Iarratasóir níos luaithe teacht ar fhoinsí toisc nach raibh rochtain réidh aici ar phrintéir. Rinne an Iarratasóir agóid sa chúirt nuair a tugadh an cinneadh, ag rá go raibh sé neamhghnách cásdlí a chur ar fáil le linn éisteachta.



In ainneoin an mhínithe a tugadh, lean an tlarratasóir leis an agóid agus sáraíodh an méid a bhí á rá ag an gcúirt agus ag abhcóide an Fhreagróra. Cé gur éirigh an chúirt ar feadh tamaill, d'iarr sí arís agus arís eile ar an larratasóir stad as a bheith ag labhairt nuair níor ceadaíodh í, agus ar deireadh d'iarr sé ar abhcóide an Fhreagróra an méid a bhí á rá ag an larratasóir a shárú. Lean an tlarratasóir ar aghaidh ag scairteadh agus ag bualadh an léachtáin. Luaigh Bolger J. nár fhan ord ná eagar ar an éisteacht, agus go raibh sé dodhéanta leanúint ar aghaidh mar ní raibh an luathscríbhneoir in ann an méid a bhí á rá a scríobh síos i gceart.

Iarratas ar dhíbhe

Rinne abhcóide an Fhógrapháirtí, le tacaíocht abhcóide don Fhreagróir, iarratas go ndéanfaí éileamh an larratasóra a dhíbhe ar fhorais a hiompraíochta ar cuireadh síos uirthi mar “bac comhfhiosach d’aon ghnó ar riaradh an cheartais”. Luaigh an t-abhcóide oibleagáid dlíthí don chúirt glacadh le cinntí a bhféadfadh sé nó sí easaontú go mór leo agus cloí leo. Chuir an Fógrapháirtí agus an Freagróir araon i gcoinne an rogha an éisteacht a chur ar atráth. Cé gur thug an chúirt cuireadh don larratasóir freagra a thabhairt ar na haighneachtaí, dhiúltaigh sí é sin a dhéanamh.

Chuir an chúirt in iúl don larratasóir go raibh a hiompar “uafásach” agus go raibh “uafás ar an gcúirt go n-iompródh aon duine, go háirithe aturnae cáilithe, iad féin ar an mbealach sin os comhair na cúirte”. Sheas Bolger J. suas agus chuir sí in iúl go gcuimhneodh sí, ar fhilleadh di, (i) ar an larratasóir a chur as an gcúirt; (ii) ar an larratasóir a fháil chiontach i ndíspeagadh; agus (iii) ar na himeachtaí a dhíbhe.

Nuair a shuigh an chúirt arís, thug Bolger J. cuireadh don larratasóir suí síos agus fanacht ciúin, agus mhínigh sí go ndéanfaí a cuid imeachtaí a dhíbhe dá leanfadh sí lena hiompar roimhe sin. Thairg Bolger J. am don larratasóir chun machnamh agus plé a dhéanamh lena teaghlach. Thosaigh an tlarratasóir ag scairt a hagóidí arís áfach.

Luaigh Bolger J. go raibh sé soiléir go raibh an tlarratasóir meáite ar leanúint ar aghaidh ag cur isteach ar an éisteacht trína hagóidí arna socrú roimh ré a ghlaoch amach agus gur chun stop a chur leis an éisteacht amháin a bhí a hiompar.

Dúirt Bolger J. gur bhreithnigh sí na céimeanna eile a bhain leis an larratasóir a bhaint den chúirt, na himeachtaí a chur ar atráth, nó díspeagadh a fhógairt, ach chinn sí nach raibh aon bhunús le bheith ag súil go ligfeadh aon cheann de na roghanna sin leis an éisteacht leanúint ar aghaidh agus aird chuí á tabhairt ar chearta na n-úsáideoirí cúirte ar fad.

Dlínse na Cúirte maidir le dícháiliú

Luaigh an chúirt go n-eascaíonn dlínse dhúchasach na cúirte ó “nádúr fheidhm bhreithiúnach na cúirte nó ról bunreachtúil na cúirte i riaradh an cheartais” (Mavior i gcoinne Zerko Ltd [2013] IESC 15, [2013] 3 IR 268) agus, mar chuid dá dlínse dhílis, gur féidir léi imeachtaí athbhreithnithe bhreithiúnaigh a dhíbhe ar na forais seo a leanas:

- (i) Moill;
- (ii) Sa chás gur tharla mí-úsáid phróisis;
- (iii) Má theipeann ar iarratasóir ina d(h)ualgas nochtadh iomlán a dhéanamh ar na fíorais agus iarratas ex parte ar chead á dhéanamh aige nó aici;
- (iv) Má ardaíonn iarratasóir ceist a bhféadfaí aghaidh a thabhairt uirthi in imeachtaí eile;
- (v) Má bhí iompar an iarratasóra ina chúis lena t(h)eideal ar fhaoiseamh a bhaint;
- (vi) Chun cosc a chur ar ionchúiseamh éileamh cráiteach agus ar mhí-úsáid an phróisis.

Bhí Bolger J. sásta go raibh an chumhacht aici imeachtaí athbhreithnithe breithiúnaigh a dhíbhe ar fhorais iompar an iarratasóra.

An ceart chun éisteacht chóir a fháil agus chun oibleagáidí iarmhartacha

Dúirt Bolger J. freisin go n-áirítear i gceart bunreachtúil dlíthí an teidlíocht do nósanna imeachta córa agus an ceart chun éisteacht a fháil. Tá an Freagróir agus an Fógrapháirtí, mar chomhlachtaí corpraithe, i dteideal éisteacht chóir a fháil a éilíonn go léiríonn gach úsáideoir cúirte meas ar a gcearta gan cur isteach orthu. Dá réir sin, ní mór do dhlíthí “fanacht ciúin le linn imeachtaí ionas gur féidir éisteacht le daoine eile, agus ní mór dó nó di glacadh le cinntí a dhéantar le linn éisteachta”. Ní féidir le dlíthí agóid a dhéanamh i gcoinne an chinnteora tar éis don chinneadh a bheith déanta ná “íde béil a thabhairt don chinnteoir chun féachaint ar a c(h)inneadh arís”.

Téann oibleagáid dlíthí meas a léiriú ar an gcúirt agus ar phróisis chúirte “lena gcearta chun dlíthíochta agus a gcearta ar nósanna imeachta córa”. Thagair Bolger J. do chinneadh na Cúirte Uachtaraí in Walsh i gcoinne an Aire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí, a dhearbhaíonn nádúr frithpháirteach na gceart agus na n-oibleagáidí sin. Áiríodh ar iompar an larratasóra in Walsh, a bhí “go hiomlán do-ghlactha”, “diúltú dolúbtha glacadh le rialuithe an bhreithimh” agus “cur isteach leanúnach agus áitiú ar a thuairimí féin, go raibh sé deacair don bhreitheamh nó d’aon duine eile fiú labhairt, gan trácht ar ghnó na cúirte a sheoladh”. Dúirt Bolger J. go raibh iompar an larratasóra sa chás seo “cosúil leis an iompar a cháin an Chúirt Uachtarach go láidir in Walsh”.

Ar deireadh, chinn Bolger J. go bhféadfadh dlíthí a c(h)eartha a fheidhmiú ar bhealach a thiocfadh chun bheith ina mhí-úsáid phróisis. I gcás ina bhfaightear amach gur mí-úsáid phróisis é iompar dlíthí, tá dlínse ag an gcúirt na himeachtaí a dhíbhe faoina dlínse dhúchasach. An mí-úsáid phróisis é an t-iompar nó nach ea “braithfidh sé sin ar dhéine an iompair agus d’fhéadfadh sé a bheith ag brath ar an gcomhthéacs inar tharla sé, ag cur san áireamh gur féidir le teannas agus mothúcháin a bheith an-ard le linn éisteachta”.

Mheas Bolger J. go raibh iompar an larratasóra (scairt sí amach agóidí i gcoinne cinneadh a bhí déanta cheana féin agus ní rabhtas in ann leanúint leis an éisteacht) “ina shainmhíniú ar mhí-úsáid phróiseas na cúirte”. Mar gheall ar mhí-úsáid fhollasach an larratasóra de phróiseas na cúirte, in ainneoin gur tugadh am di machnamh a dhéanamh ar a hiompar agus ar na hiarmhairtí a bhain leis, dhiúltaigh Bolger J. éileamh an larratasóra.

Ammi Burke i gcoinne Oifigeach Breithniúcháin agus An Coimisiún um Chaidreamh san Áit Oibre (Freagróir) agus Arthur Cox LLP (Fógrapháirtí) [2023] IEHC 560 (neamhthuairiscithe, An Ard-Chúirt, Bolger J., 16 Deireadh Fómhair 2023)

Eochairfhocail

Athbhreithniú breithiúnach, costais, a.169 den Acht um Rialáil Seirbhísí Dlí, 2015, Ordú 99, Rial 10(3), costais ar bhonn cleachtóra dlí agus cliaint, easaontú ar iompar páirtí.

Cúlra

Dhiúltaigh Bolger J. imeachtaí athbhreithnithe bhreithiúnaigh an larratasóra ar chinneadh an CCÁO a héileamh ar dhífhostú éagórach a dhíbhe mar gheall ar iompar an larratasóra le linn na héisteachta, ar cinneadh gur mí-úsáid phróisis a bhí ann ([2023] IEHC 360).

D’iarr an Freagróir agus an Fógrapháirtí costais na n-imeachtaí ar bhonn cleachtóra dlí agus cliaint.

D’áitigh an tlarratasóir gur sholáthair sí seirbhís phoiblí le linn imeachtaí a thionscnamh agus mar sin nár cheart go mbeadh costais le híoc aici.

Torthaí

Forálann Alt 169 den Acht um Rialáil Seirbhísí Dlí, 2015 go bhfuil an páirtí rathúil in imeachtaí i dteideal a gcostais a fháil ar ais, mura n-ordaíonn an chúirt a mhalairt. Ligeann Ordú 99 le rial 10(3) de Rialacha na Cúirte Uachtaraí do chúirt a ordú go ndéanfar na costais a bhreithniú ar bhonn cleachtóra dlí agus cliaint. Luaigh Bolger J. gur dlínse an-neamhghnách é costais ar bhonn cleachtóra dlí agus cliaint don chúirt a fheidhmiú agus go ginearálta bíonn sí teoranta d’imthosca ina measann an chúirt gur gá a míshástacht le hiompar páirtí a mharcáil.

Chinn an chúirt roimhe sin go raibh iompar an larratasóra le linn na héisteachta ina “mhí-úsáid fhollasach phróisis” agus “go raibh sé deartha chun an éisteacht a stopadh sula bhféadfaí aighneachtaí freasúra a éisteacht go hiomlán”. Luaigh Bolger J. gur ar an larratasóir a bhí an fhreagracht as an gcíor thuathail agus nach raibh sí sásta: go ndearna an tlarratasóir seirbhís phoiblí le himeachtaí a thionscnamh, go raibh an t-iarratas dícháilithe *bona fide*, nó go raibh gníomhartha na cúirte nó iompar abhcóide freasúra ina bhforais gan ordú costais a dhéanamh ina coinne.



Ina theannta sin, luaigh Bolger J. gur chúisigh an tIarratasóir agus baill dá teaghlach an t-abhcóide ón taobh eile as bréaga a insint agus as an gcúirt a chur amú agus go ndearna siad é sin arís agus arís eile. Arís, b'éigean don chúirt deireadh a chur leis an éisteacht faoi na costais mar gheall ar iompar an Iarratasóra agus an cinneadh a thabhairt chun críche bunaithe ar aighneachtaí scríofa.

Mhaígh Bolger J. gur cheart don chúirt a míshástacht faoin gcaoi ar roghnaigh an tIarratasóir í féin a iompar le linn na n-imeachtaí a shonrú agus d'ordaigh sí dá réir sin go n-íocfaidh an tIarratasóir costais an Fhreagróra agus an Fhógrapháirtí i leith an iarratais ar dhícháiliú agus na himeachtaí suntasacha ar bhonn cleachtóra dlí agus cliaint (ach gan costais na tras-scríbhíne agus an iarratais ar chostais ar atráth a áireamh). Níor chuir an chúirt bac ar fhorghníomhú an ordaithe costas.

Jana Gogova i gcoinne an Bhoird um Thionóntachtaí Cónaithe, James Donoghue, an Coimisiún um Chaidreamh san Áit Oibre agus Catherine Byrne [2023] IEHC 449 (neamhthuariscithe, An Ard-Chúirt, Phelan J., 21 Iúil 2023)

Eochairfhocail

Athbhreithniú breithiúnach, achomharc reachtúil, leigheas eile.

Cúlra

Lorg an tIarratasóir cead chun imeachtaí athbhreithnithe bhreithiúnaigh a thionscnamh i gcoinne an Bhoird um Thionóntachtaí Cónaithe ("BTC") agus an CCÁO in imeachtaí éagsúla a d'eascair as ordú cinnidh a rinneadh i leith a tionóntachta. Éisteadh leis an iarratas seo ar fhógra.

Sheirbheáil a tiarna talún Fógra Foirceanta ar an Iarratasóir ar an 31 Deireadh Fómhair 2019. Rinne sí agóid i gcoinne bhailíocht an Fhógra sin trí éileamh a thabhairt chuig an mBinse Tionóntachta. Chinn an Binse gur cás gan dealramh a bhí i gcás an Iarratasóra. Rinne an tIarratasóir iarracht agóid a dhéanamh i gcoinne an chinnidh trí achomharc ar phointe dlí faoin reachtaíocht ábhartha ach theip uirthi é sin a dhéanamh laistigh den teorainn ama d'achomhairc dá leithéid. Dhiúltaigh an Ard-Chúirt síneadh ama a shocrú, agus rinne an tIarratasóir achomharc chuig an gCúirt Achomhairc i gcoinne an chinnidh sin. Rinneadh é sin a dhíbhe ar an mbonn go bhfuil achomharc chuig an Ard-Chúirt críochnaitheach agus cinntitheach.

Thionscain an tIarratasóir imeachtaí ar leith, ag lorg ordú ag cur síneadh ama leis chun achomharc a dhéanamh in aghaidh chinneadh an Bhinse Tionóntachta ach dhiúltaigh an Ard-Chúirt é sin freisin.

Ar leithligh, rinne an tIarratasóir gearán leis an CCÁO faoin Acht um Stádas Comhionann 2000 ag líomhain idirdhealú ar fhorais éagsúla i gcoinne an BTC. Chinn an tOifigeach Breithniúcháin gur theip ar an tIarratasóir an t-éileamh a thabhairt laistigh den teorainn ama atá leagtha amach san Acht. Ní dhearna an tIarratasóir achomharc i gcoinne an chinnidh sin ach rinne sí iarracht athbhreithniú breithiúnach a dhéanamh ar an gcinneadh seo in éineacht le cinneadh an Bhinse Tionóntachta. Sna himeachtaí céanna, bhí an tIarratasóir ag iarraidh faoiseamh a fháil i gcoinne a hiar-thiarna talún, i gcoinne an BTC do nósanna imeachta éagóracha, i gcoinne chinneadh na hArd-Chúirte, agus i gcoinne an BTC as imeachtaí forfheidhmithe a thionscnamh ina coinne sa Chúirt Dúiche.

D'áitigh na Freagróirí i gcoinne cead a dheonú chun athbhreithniú breithiúnach a lorg.

Torthaí

Luaigh Phelan J. go n-éilíonn an tástáil ar chead ar iarratasóir cás prima facie nó cás inargóinte a bhunú. D'éiligh sé seo ar iarratasóir a thaispeáint:

- Go bhfuil dóthain suime aige nó aici sa scéal;
- Go mbeadh na fíorais dóthanach, dá gcruthófaí iad, chun tacú le foras sonraithe le haghaidh an fhaoisimh atá á lorg;
- Go bhféadfar cás inargóinte a dhéanamh go bhfuil an t-Iarratasóir i dteideal an fhaoisimh atá á lorg;
- Go ndearnadh an t-Iarratas go pras agus laistigh de na teorainneacha ama iomchuí; agus agus
- Gurb é an t-aon leigheas éifeachtach ná athbhreithniú breithiúnach agus nach bhfuil aon nós imeachta eile níos oiriúnaí.

Luaigh Phelan J. go raibh an t-am caite ag an tIarratasóir chun imeachtaí athbhreithnithe bhreithiúnaigh a thionscnamh ar chinntí an Bhinse Tionóntachta agus an CCÁO, toisc nach ndearnadh iad a thionscnamh laistigh de thrí mhí ó na cinntí. Dá réir sin, ní mór don tIarratasóir cúis mhaith leordhóthanach

a thaispeáint ar cheart don chúirt síneadh ama a chur leis. Chinn an chúirt, i gcás nach ndearnadh aon chás inargóinte le haghaidh síneadh ama, nach mbeadh sé ina fheidhmiú cuí ar rogha na cúirte cead a thabhairt. Chinn Phelan J. freisin, i gcás ina bhforáiltear d'achomharc reachtúil, maidir le cinneadh an Bhinse Tionóntachta agus an CCÁO (chuig an gCúirt Oibreachais), "is é an leigheas iomchuí d'éilitheoir a mheasann go bhfuil locht dlíthiúil ar an gcinneadh ná achomharc reachtúil a soláthraíodh chun na críche sin". Chinn sí go raibh achomharc reachtúil nár baineadh leas as in am ina ghné thábhachtach chun cinneadh a dhéanamh ar cheart cead a thabhairt chun athbhreithniú breithiúnach a lorg. Fiú nuair a lorgáitear cead laistigh den teorainn ama trí mhí, is "gné bhreise atá in aghaidh cead a dheonú" é an fhíríc nár baineadh leas as leigheas reachtúil éifeachtach. Bhí Phelan J. sásta go raibh réitigh éifeachtacha mhalartacha ag an Iarratasóir chun agóid a dhéanamh i gcoinne chinntí an Bhinse Tionóntachta agus an CCÁO araon. Dá réir sin, chinn sí nár cleachtadh iomchuí discréide a bheadh ann cead a thabhairt.

Chinn an chúirt nár cuireadh saincheisteanna eile a d'ardaigh an Iarratasóir chun cinn i gceart trí athbhreithniú breithiúnach.

Dhiúltaigh an chúirt an t-Iarratas.



Aguisín

5



Reachtaíocht faoinar féidir gearáin a chur faoi bhráid na Seirbhíse Breithnithe

Rialacháin (Rannpháirtíocht Fostaithe), 2007 (I.R. Uimh. 259 de 2007)

(I.R. Uimh. 157 de 2008)

Ordú fostaíochta earnála de réir bhrí Chaibidil 3 de Chuid 2 den Acht Caidrimh Thionscail (Leasú), 2015

An tAcht um Shaoire Uchtaíoch, 1995

Ordú Rialaithe Fostaíochta faoi A.42C (a cuireadh isteach le A.12 den Acht Caidrimh Thionscail (Leasú) 2012) den Acht Caidrimh Thionscail, 1946

An tAcht um Shaoire Cúramóra, 2001

Acht an Bhainc Ceannais (Maoirsiú agus Forfheidhmiú), 2013

An tAcht Carthanas, 2009

Acht Iomaíochta, 2002

An tAcht um Chosaint Tomhaltóirí, 2007

An tAcht um Cheartas Coiriúil, 2011 ag tabhairt faoi deara go bhfuil an tAcht um Cheartas Coiriúil (Cionta Éillithe) 2018 mar chuid de Sceideal 1 d'Acht 2011

An tAcht um Fhostaithe (Faisnéis agus Comhchomhairle a Sholáthar), 2006

Na hAchtanna um Chomhionannas Fostaíochta, 1998

An tAcht um Cheadanna Fostaíochta, 2006

Orduithe Rialaithe Fostaíochta 2022

An tAcht um Stádas Comhionann, 2000

Rialacháin na gComhphobal Eorpach (Am Oibre a Eagrú) (Gníomhaíochtaí Dochtúirí faoi Oiliúint), 2004 (I.R. Uimh. 494 de 2004)

Rialacháin na gComhphobal Eorpach (Eagrú Ama Oibre) (Foireann Shoghluaiste san Eitlíocht Shibhialta)

Rialacháin na gComhphobal Eorpach (Cosaint Fostaithe ar Ghnóthais a Aistriú), 2003 (I.R. Uimh. 131 de 2003) (ach amháin Rialachán 4(4)(a))

Rialacháin na gComhphobal Eorpach (Coinníollacha Oibre Oibríthe Soghluaiste atá ag gabháil do Sheirbhísí Trasteorann Idir-inoibrítheacha san Earnáil Iarnróid), 2009 (I.R. Uimh. 377 de 2009)

Rialacháin an Aontais Eorpaigh (Tuairisciú, Anailís agus Obair Leantach ar Theagmhais san Eitlíocht Shibhialta) 2020 (I.R. 195/2020) i ndáil le gearán maidir le sárú ar Airteagal 16(9) de rialacháin AE 376/2014

Rialacháin an Aontais Eorpaigh (Dálaí Oibre Trédhearcacha agus Intuartha), 2022

An tAcht Breisoideachais agus Oiliúna, 2013

An tAcht Sláinte, 2004

Na hAchtanna Caidrimh Thionscail, 1990

An tAcht um Iascach Intíre, 2010

An tAcht um Pleanáil Limistéir Mhuirí, 2021

An tAcht um Chosaint Mháithreachais, 1994

An tAcht um Fhógra Íosta agus Téarmaí Fostaíochta, 1973

An tAcht fán nGníomhaireacht Náisiúnta um Bainistíocht Sócmhainní, 2009 An tAcht Ceimiceán, 2008

An tAcht um Pá Íosta Náisiúnta, 2000

An tAcht um Eagrú Ama Oibre, 1997

An tAcht um Shaoire do Thuismitheoirí, 1998

An tAcht um Íoc Pá (Séisíní agus Aiscí), 2022

An tAcht um Íoc Pá, 1991

Achtanna na bPinsean, 1990

An tAcht um Sheirbhísí Maoine (Rialáil), 2011

An tAcht um Nochtadh Cosanta (Leasú), 2022

An tAcht um Nochtadh Cosanta, 2014

An tAcht um Chosaint Fostaithe (Dócmhainneacht Fostóirí), 1984

An tAcht um Chosaint Fostaithe (Obair Téarma Shocraithe), 2003

An tAcht um Chosaint Fostaithe (Obair Pháirtaimseartha), 2001

An tAcht um Chosaint Fostaithe (Obair Ghníomhaireachta Shealadach), 2012

An tAcht um Chaomhnú Fostaíochta, 1977

An tAcht um Chosaint Daoine Óga (Fostaíocht), 1996

An tAcht um Chosaintí do Dhaoine a Thuairisceoidh Drochúsáid Leanaí, 1998

Na hAchtanna um Íocaíochtaí Iomarcaíochta, 1967

Comhaontú fostaíochta cláraithe de réir bhrí Chaibidil 2 de Chuid 2 den Acht Caidrimh Thionscail (Leasú), 2015

Rialachán 19 de Rialacháin na gComhphobal Eorpach (Cuideachta Eorpach) (Páirteachas Fostaithe), 2006 (I.R. Uimh. 623 de 2006)

Rialachán 20(1) de Rialacháin na gComhphobal Eorpach (Comharchumann na hEorpa) (Páirteachas Fostaithe), 2007

Rialachán 39(1) de Rialacháin na gComhphobal Eorpach (Cumaisc Thrasteorann), 2008



Rialachán 5, 8, 9, 10, 11 nó 12 de Rialacháin na gComhphobal Eorpach (Iompar de Bhóthar) (Am Oibre Daoine atá i mBun Gníomhaíochtaí Soghluaiste Iompair de Bhóthar a Eagrú), 2012 (I.R. Uimh. 36 de 2012)

Rialachán 6 de Rialacháin na gComhphobal Eorpach (Fostaíocht a Chosaint), 2000 (I.R. Uimh. 488 de 2000)

Rialacháin, 2006 (I.R. Uimh. 507 de 2006)

An tAcht um Shábháilteacht, Sláinte agus Leas ag an Obair, 2005

An tAcht um Théarmaí Fostaíochta (Faisnéis), 1994

Na Rialacháin um Fhaisnéis faoin mBearna Pá idir na hInscní 2022

An tAcht um Shaoire Bhreiteachta, 2022

An tAcht um Chothromaíocht Oibre agus Saoil agus Forálacha Ilghnéitheacha, 2023

An tAcht um Fhaisnéis agus Comhchomhairle Thrasnáisiúnta d'Fhostaithe, 1996

Na hAchtanna um Dhífhostú Éagórach, 1977

Nóta Mínithe

Eascaíonn an bonn reachtúil le gearáin agus díospóidí a tharchur chuig Ard-Stiúrthóir an CCÁO le haghaidh breithnithe ó go leor achtacháin éagsúla, lena n-áirítear an tAcht um Chaidreamh san Áit Oibre 2015, an tAcht um Dhífhostú Éagórach 1977, an tAcht um Chomhionannas Fostaíochta 1998, an tAcht um Stádas Comhionann 2000, Acht na bPinsean 1990, an tAcht um Chosaint Fostaithe (Dócmhainneacht Fostóirí), 1984, an tAcht um Íocaíochtaí Iomarcaíochta 1967 agus an tAcht Caidrimh Thionscail 1969.

Tá an bunús reachtúil le gearáin agus díospóidí a tharchur faoi fhormhór na n-achtachán a bhfuil dlínse chéadchéime ag Ard-Stiúrthóir an CCÁO ina leith á rialú le forálacha Alt 41 den Acht um Chaidreamh san Áit Oibre 2015 (Uimh. 16 de 2015).

Cruthaíonn Alt 41 den Acht um Chaidreamh san Áit Oibre 2015 nós imeachta coiteann chun gearáin a chur faoi bhráid Ard-Stiúrthóir an CCÁO agus chun díospóidí a tharchur chuige nó chuici, faoi phíosáí éagsúla reachtaíochta fostaíochta.

Tá na hachtacháin fostaíochta aonair faoina bhféadfaidh duine gearán a chur faoi bhráid Ard-Stiúrthóir an CCÁO nó díospóid a tharchur chuige nó chuici, faoi fhorálacha Alt 41, liostaithe i Sceideal 5 den Acht um Chaidreamh san Áit Oibre, 2015.

Leasaíodh forálacha Alt 41 den Acht um Chaidreamh san Áit Oibre 2015 le hAlt 24(b) den Acht Caidrimh Thionscail (Leasú), 2015 (I.R. Uimh. 329 de 2015) agus Alt 20(1)(g) den Acht um Pá Íosta Náisiúnta (An Coimisiún um Pá Íseal), 2015 (I.R. Uimh. 411 de 2015).

Eascaíonn an bunús reachtúil le gearáin a tharchur chuig Ard-Stiúrthóir an CCÁO faoin Acht um Dhífhostú Éagórach 1977 as Alt 8 den Acht sin (leasaíodh forálacha ábhartha Alt 8 den Acht um Dhífhostú Éagórach 1977 le hAlt 80 den Acht um Chaidreamh san Áit Oibre 2015 agus Ailt 14 agus 20(1)

(I) den Acht um Pá Íosta Náisiúnta (An Coimisiún um Pá Íseal), 2015 (I.R. Uimh. 410 de 2015).

Eascaíonn an bunús reachtúil le gearáin a tharchur chuig Ard-Stiúrthóir an CCÁO faoin Acht um Chomhionannas Fostaíochta 1998 as Alt 77 den Acht sin (leasaíodh forálacha ábhartha Alt 77 den Acht um Chomhionannas Fostaíochta 1998 le hAlt 83 den Acht um Chaidreamh san Áit Oibre 2015).

Eascaíonn an bunús reachtúil le gearáin a tharchur chuig Ard-Stiúrthóir an CCÁO faoin Acht um Stádas Comhionann 2000 as Alt 21 den Acht sin (leasaíodh forálacha ábhartha Alt 21 den Acht um Stádas Comhionann 2000 le hAlt 84 den Acht um Chaidreamh san Áit Oibre 2015).

Eascaíonn an bunús reachtúil le gearáin a tharchur chuig Ard-Stiúrthóir an CCÁO faoi 44 Acht na bPinsean 1990 as Cuid VII den Acht sin (leasaíodh na forálacha ábhartha de Chuid VII d'Acht na bPinsean 1990 le hAlt 82 den Acht um Chaidreamh san Áit Oibre 2015).

Eascaíonn an bunús reachtúil le gearáin a tharchur chuig Ard-Stiúrthóir an CCÁO faoin Acht um Íocaíochtaí Iomarcaíochta 1967 as Alt 39 den Acht sin (leasaíodh forálacha ábhartha Alt 39 den Acht um Íocaíochtaí Iomarcaíochta 1967 le hAlt 76 den Acht um Chaidreamh san Áit Oibre 2015).

Eascaíonn an bunús reachtúil le gearáin a tharchur chuig Ard-Stiúrthóir an CCÁO faoin Acht um Chosaint Fostaithe (Dócmhainneacht Fostóirí) 1984 as Alt 9 den Acht sin (leasaíodh forálacha ábhartha Alt 9 den Acht um Chosaint Fostaithe (Dócmhainneacht Fostóirí) 1984 le hAlt 81 den Acht um Chaidreamh san Áit Oibre 2015).

Eascaíonn an bunús reachtúil le díospóid trádála a tharchur chuig Ard-Stiúrthóir an CCÁO faoin Acht Caidrimh Thionscail 1969 as Alt 13 den Acht sin (leasaíodh forálacha ábhartha Alt 13 den Acht Caidrimh Thionscail 1969 le hAilt 8, 40(9) agus Sceideal 2 Cuid 1 Mír 2 den Acht um Chaidreamh san Áit Oibre 2015).



Aguisín

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Gearáin curtha faoi bhráid an CCÁO de réir Reachtaíochta

Reachtaíocht a luadh mar Acht um Shásamh le haghaidh Breithnithe	Iomlán
Gearán chun Breithniú a fháil ag Coimisiún um Chaidreamh san Áit Oibre faoi alt 6 den Acht um Íoc Pá, 1991	1,856
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi alt 27 den Acht um Eagrú Ama Oibre, 1997	1,790
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Alt 8 den Acht um Dhífhostú Éagórach, 1977	1,544
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi alt 77 den Acht um Chomhionannas Fostaíochta, 1998	1,308
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi alt 7 den Acht um Théarmaí Fostaíochta (Faisnéis), 1994	1,182
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi alt 13 den Acht Caidrimh Thionscail, 1969	1,104
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Alt 12 den Acht um Fhógra Íosta & Téarmaí Fostaíochta, 1973	666
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Alt 39 den Acht um Íocaíochtaí Iomarcaíochta, 1967	557
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Alt 21 den Acht um Stádas Comhionann, 2000	490
Iarratas ar imscrúdú ó Chigire de chuid an Choimisiúin um Chaidreamh san Áit Oibre faoin Acht um Íoc Pá, 1991	443
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Alt 13 den Acht Caidrimh Thionscail	360
Iarratas ar imscrúdú ó Chigire de chuid an Choimisiúin um Chaidreamh san Áit Oibre faoin Acht um Eagrú Ama Oibre, 1997	323
Imscrúdú ag Cigire faoin Acht um Íoc Pá, 1991	306

Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Sceideal 2 den Acht um Nochtadh Cosanta, 2014	301
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Rialachán 10 de Rialacháin na gComhphobal Eorpach (Cosaint Fostaithe ar Ghnóthais a Aistriú) 2003 (I.R. Uimh. 131 de 2003)	237
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Alt 14 den Acht um Chosaint Fostaithe (Obair Téarma Shocraithe), 2003	204
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Alt 28 den Acht um Shábháilteacht, Sláinte agus Leas ag an Obair, 2005	190
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Alt 45A den Acht Caidrimh Thionscail, 1946	145
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Rialachán 18 de Rialacháin na gComhphobal Eorpach (Iompar de Bhóthar) (Am Oibre Daoine atá i mBun Gníomhaíochtaí Soghluaiste Iompair de Bhóthar a Eagrú) 2012 – I.R. Uimh. 36/2012	116
Iarratas ar imscrúdú ag an gCoimisiún um Chaidreamh san Áit Oibre faoin Acht um Théarmaí Fostaíochta (Faisnéis), 1994	79
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi alt 24 den Acht um Pá Íosta Náisiúnta, 2000	73
Iarratas ar imscrúdú ó Chigire de chuid an Choimisiúin um Chaidreamh san Áit Oibre faoin Acht um Pá Íosta Náisiúnta, 2000.	73
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Alt 23 den Acht Caidrimh Thionscail (Leasú), 2015	58
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoin Acht um Shaoire Bhreiteachta 2022	57
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Rialachán 15 de Rialacháin na gComhphobal Eorpach (Eagrú Ama Oibre) (Foireann Shoghluaiste san Eitlíocht Shibhialta) 2006 – I.R. Uimh. 507 de 2006	45
Gearán ag lorg breithiúnais ón gCoimisiún um Chaidreamh san Áit Oibre faoi Alt 16 den Acht um Chosaint Fostaithe (Obair Pháirtaimseartha), 2001	43
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An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

