

APPROVED

[2026] IEHC 538



THE HIGH COURT
JUDICIAL REVIEW

2025 744 JR

BETWEEN

ADE ADEYANJU

APPLICANT

AND

WORKPLACE RELATIONS COMMISSION

RESPONDENT

CHIEF STATE SOLICITOR'S OFFICE

NOTICE PARTY

JUDGMENT of Mr. Justice Garrett Simons delivered on 12 August 2026

INTRODUCTION

1. These judicial review proceedings seek to set aside a direction that a series of interrelated complaints and disputes before the Workplace Relations Commission be heard otherwise than in public (*“the impugned direction”*). The complaints and disputes arise out of the applicant's employment and have been

referred to an adjudication officer for determination pursuant to the Workplace Relations Act 2015.

2. Section 41(13) of the Act provides that such proceedings shall be conducted in public unless the adjudication officer determines that, due to the existence of “*special circumstances*”, the proceedings (or part thereof) should be conducted otherwise than in public.
3. Neither the Workplace Relations Commission nor the applicant’s employer opposes the application for judicial review. As explained by the Supreme Court in *Ballyboden Tidy Towns Group v. An Bord Pleanála* [2024] IESC 4, the onus remains on the applicant to persuade the High Court that its power of review is correctly being called in aid. This is so irrespective of the attitude of the other parties. The court must be satisfied that the grant of relief represents a lawful exercise of its supervisory function.

PROCEDURAL HISTORY

4. The interrelated complaints and disputes before the Workplace Relations Commission arose out of the applicant’s employment by the Chief State Solicitor’s Office. The Office ordinarily participates in litigation as a legal representative rather than as a party. To avoid any misunderstanding as to the capacity in which the Office is involved in these proceedings, the applicant and the Chief State Solicitor’s Office will be referred to in this judgment as “*the Employee*” and “*the Employer*”, respectively.
5. The matters before the WRC comprised a number of statutory complaints and two disputes under section 13 of the Industrial Relations Act 1969, to which

distinct procedural rules apply. The complaints and disputes were referred by the Director General of the WRC to an adjudication officer for determination.

6. At a hearing on 15 April 2025, the adjudication officer directed that the proceedings would be conducted otherwise than in public. The direction was delivered orally. By correspondence dated 16 April 2025, issued by the WRC Adjudication Services on behalf of the adjudication officer, the parties were informed that the resumed hearing would be conducted in private. The letter also recorded the rationale for that approach. The relevant part of the letter is set out at paragraph 20 below.
7. The Employee instituted these judicial review proceedings on 26 May 2025. The Employee initially represented himself as a litigant in person. This explains some of the informality in the pleadings. More recently, he has engaged solicitor and counsel on his behalf.
8. Leave to apply for judicial review was granted on 23 June 2025. Bolger J. directed that the Employer be joined to the proceedings as a notice party. The WRC and the Employer have each elected not to oppose the judicial review proceedings and neither has filed a statement of opposition.
9. The Employee subsequently issued a motion seeking directions, including a direction as to whether the Employer or some other party should be required to defend the judicial review proceedings as *legitimus contradictor*. The motion came on for hearing before me on 15 July 2026.
10. At that hearing, I invited the parties to consider whether the more appropriate course might be to expedite the substantive hearing of the judicial review proceedings. This seemed to me a more efficient approach than the court and parties being distracted by the motion.

11. Following an opportunity to take instructions, the parties agreed that the motion could be struck out with no order as to costs. The substantive hearing was fixed for the following week. Counsel for the WRC and the Employer confirmed that their respective clients would not participate actively, and counsel for the Employee confirmed that his client would not seek costs against either of them.
12. The substantive hearing took place on 21 July 2026. I delivered an *ex tempore* ruling indicating that the direction that the WRC proceedings be heard otherwise than in public would be quashed and that a modified declaration concerning public access would be granted. I indicated at the time that I would provide a fuller statement of reasons in due course. This judgment sets out my reasons for the orders ultimately made. As explained at paragraphs 28 to 36 below, further consideration has persuaded me that my initial view concerning the declaration was mistaken.

STATUTORY FRAMEWORK

13. Section 41 of the Workplace Relations Act 2015 provides for the presentation of specified complaints and the referral of specified disputes to the Director General of the Workplace Relations Commission. Subject to the provision for mediation under section 39, the Director General must refer the complaint or dispute for adjudication by an adjudication officer.
14. Section 41(13) provides as follows:

“Proceedings under this section shall be conducted in public unless the adjudication officer, of his or her own motion or upon the application by or on behalf of a party to the proceedings, determines that, due to the existence of special

circumstances, the proceedings (or part thereof) should be conducted otherwise than in public.”

15. The subsection thus establishes a public hearing as the default position. A departure from that default requires a determination by the adjudication officer that, due to the existence of special circumstances, the proceedings, or part thereof, should be conducted otherwise than in public. The reference to “*part thereof*” allows for a calibrated response in cases where the special circumstances relied upon affect only part of the proceedings.
16. The present form of section 41(13) was enacted following the decision of the Supreme Court in *Zalewski v. Adjudication Officer* [2021] IESC 24, [2022] 1 IR 421. The Supreme Court held that the adjudicative process established under the Workplace Relations Act 2015 involves the exercise of limited functions and powers of a judicial nature within the meaning of Article 37 of the Constitution.
17. As O’Donnell J. explained at paragraphs 138 and 142, Article 37 permits the administration of justice to be carried out by a body other than a court and by a person other than a judge, but the function performed and the power exercised must comply with the fundamental components of independence, impartiality, dispassionate application of the law, openness and, above all, fairness. The standard of justice administered under Article 37 cannot be lower or less demanding than the justice administered in courts under Article 34. Public hearings are of the essence of the administration of justice and establish a principle from which any exception must be justified.

ADEQUACY OF REASONS

18. The discretion conferred by section 41(13) is conditioned by the statutory requirement that “*special circumstances*” exist. The subsection provides for an exception to the general rule that proceedings be conducted in public. As explained in *Gilchrist v. Sunday Newspapers Ltd* [2017] IESC 18, [2017] 2 IR 284, any such exception must be strictly construed, both as to the circumstances capable of justifying its invocation and as to the manner in which the procedure departs from the standard of a full hearing in public.
19. The adjudication officer must, therefore, be satisfied that each departure from the public hearing default is no more than is required to protect the countervailing interest and must consider whether a lesser measure would suffice. This requirement is reflected in the words “*or part thereof*” in section 41(13), which allow any restriction to be confined to the part of the proceedings affected by the special circumstances. If the concern relates to the publication of identifying information in the resulting decision, section 41(14) may provide a less intrusive mechanism. A decision to exclude the public from the entirety of the proceedings requires reasons explaining why a more limited measure would not suffice.
20. The rationale for the impugned direction is recorded in correspondence dated 16 April 2025, issued by the WRC Adjudication Services on behalf of the adjudication officer:

“The hearing will resume in private based on the submissions of the parties and the existence of special circumstances. The complainant advised that he wished to pursue the disputes referred for resolution under the Industrial Relations Act 1969 and of some overlap in the factual matrix to the employment rights complaints and industrial relations disputes. Section 13(9) of the 1969 Act requires a private investigation of a dispute. A private hearing of the

employment rights complaints preserves the integrity of the dispute referrals under the 1969 Act.”

21. The reference to section 13(9) appears to be mistaken. The requirement that the investigation at first instance be conducted in private is contained in section 13(8). Section 13(9) concerns an appeal to the Labour Court, with section 13(9)(c) providing that the appeal hearing is to be held in private. Nothing turns on the erroneous statutory reference, however, because the adjudication officer’s underlying proposition that the Industrial Relations Act disputes were to be investigated in private was correct.
22. The distinct procedural rules applicable to the Industrial Relations Act disputes must not be conflated with those applicable to the statutory complaints falling within section 41 of the Workplace Relations Act 2015. The private character of the former does not, without more, displace the public hearing requirement applicable to the latter. Conversely, the public hearing default under section 41(13) does not determine the manner in which the Industrial Relations Act disputes must be heard.
23. Section 41(13) allowed the adjudication officer to consider whether the complaints and disputes should be treated separately for this purpose or whether their interrelated nature made such a course impracticable or unfair. The case file could not, however, be treated by default as procedurally homogeneous. The requirement to address the mixed nature of the proceedings is not an onerous one and does not require a lengthy ruling. If the adjudication officer considered that the overlap in the factual matrix justified conducting the hearing of some or all of the statutory complaints otherwise than in public, it was necessary to identify the nature and extent of that overlap and explain why it gave rise to “*special circumstances*” for the purposes of section 41(13).

24. The correspondence of 16 April 2025 does not provide that explanation. The general reference to “*some overlap in the factual matrix*” does not identify the evidence or issues which were said to overlap. Nor does the correspondence explain why the complaints and disputes could not practicably or fairly be treated separately, why a public hearing of the statutory complaints would compromise the integrity of the Industrial Relations Act referrals, or whether the countervailing interest could be protected by a lesser measure confined to part of the proceedings.
25. The requirement to give reasons assumes particular importance in mixed proceedings because the parties and the court of judicial review must be able to understand how the distinct statutory regimes informed the course adopted. As explained by the Supreme Court in *Connelly v. An Bord Pleanála* [2018] IESC 31, [2021] 2 IR 752, [2018] 2 ILRM 453, one function of the obligation to give reasons is to allow the courts to exercise their supervisory jurisdiction. At paragraph 46 of the reported judgment, Clarke C.J. stated as follows:

“Therefore, it seems to me that it is possible to identify two separate but closely related requirements regarding the adequacy of any reasons given by a decision maker. First, any person affected by a decision is at least entitled to know in general terms why the decision was made. This requirement derives from the obligation to be fair to individuals affected by binding decisions and also contributes to transparency. Second, a person is entitled to have enough information to consider whether they can or should seek to avail of any appeal or to bring judicial review of a decision. Closely related to this latter requirement, it also appears from the case law that the reasons provided must be such as to allow a court hearing an appeal from or reviewing a decision to actually engage properly in such an appeal or review.”

26. It is essential to the exercise of the High Court's supervisory jurisdiction that the rationale of the first-instance decision-maker be disclosed. A decision-maker cannot, by delivering an inscrutable decision, shield the exercise of its statutory power from effective judicial review.
27. It remained open to the adjudication officer to consider whether the interrelationship between the Industrial Relations Act disputes and any part of the statutory complaints gave rise to special circumstances justifying a limited departure from the public hearing default. The deficiency in reasoning lies in the failure to explain why the stated overlap justified conducting the statutory complaints otherwise than in public and why a more limited measure would not suffice. The court cannot, therefore, be satisfied that the adjudication officer correctly understood and applied section 41(13). It follows that the impugned direction must be set aside.

PUBLIC ACCESS AND IDENTIFICATION REQUIREMENTS

28. The Employee sought a declaration that an alleged requirement that members of the public disclose personal details as a condition of attending his hearing had a chilling effect on public attendance, particularly among members of minority and migrant communities, and thereby undermined the principle that the hearing be conducted in public.
29. In the *ex tempore* ruling delivered on 21 July 2026, I indicated that I would grant a modified and less expansive form of declaration. Having considered the matter more fully in preparing this written judgment, I realised that my initial view was mistaken for the following two reasons.

30. First, the question of whether administrative arrangements in respect of access undermine the requirement for a public hearing is highly fact-specific. There are certain circumstances in which it will be legitimate to restrict access to a hearing room. The exigencies of fire safety and public health may impose a physical constraint on the number of people who can attend at any one time. It may also be necessary to record the number of attendees to allow an accurate count in the event of an emergency evacuation. Where demand exceeds capacity, it may be legitimate to prioritise access by journalists.
31. The evidential basis for the contended-for declaration is insufficiently developed to allow a proper assessment to be made of the legitimacy of the administrative arrangements regulating access to hearing rooms in the Workplace Relations Commission's premises. The Employee states in his supplementary affidavit that, on 15 April 2025, he and his relatives "*were required to submit personal data to attend the hearing*". This is the height of the affidavit evidence concerning the operation of administrative arrangements. There is no indication as to what personal information had to be provided, whether any form of identification had to be produced, or whether the information was merely inspected or was recorded and retained. Moreover, the entity which sought the personal information has not been identified on the evidence.
32. It appears from the limited evidence and correspondence before the court that the WRC is only one of a number of occupants of the building in which the hearing room is located. It seems that the request to provide personal information may have been made by the personnel manning the building's reception desk rather than by any employee or official of the WRC. This is a potentially significant distinction. The argument for saying that the access

arrangements had a “*chilling effect*” might be stronger if the information had been collected by the WRC, associated with attendance at the particular hearing, or communicated to the parties. None of those matters has been established on the evidence.

33. In the absence of a proper evidential basis, it is not possible for this court to assess whether the alleged access arrangements were compatible with the requirement for a public hearing.
34. The second reason for finding that it would be inappropriate to grant a declaration goes to fair procedures. Having regard to the history of the proceedings, the WRC could not reasonably have anticipated that the question of access arrangements would be determined at the substantive hearing. The motion listed for hearing on 15 July 2026 had been disposed of on the agreed basis that the substantive hearing would be brought forward. The discussion preceding that agreement indicated that the principal issue for determination would be the validity of the adjudication officer’s direction that the proceedings be conducted otherwise than in public. As the WRC did not seek to defend that direction, counsel on its behalf confirmed that it would not participate actively at the substantive hearing. Had the WRC understood that declaratory relief concerning access arrangements remained a live issue, it might well have sought to participate and to place relevant evidence before the court. Although the WRC does not ordinarily intervene to defend the merits of an individual adjudication officer’s decision, it often participates where judicial review proceedings raise an issue of systemic importance concerning its procedures or practices. It would be unfair to determine the lawfulness of the alleged access arrangements without affording the WRC that opportunity.

35. The issue is an important one and may raise difficult constitutional questions concerning the practical operation of the principle of open justice and the extent to which access to a public hearing may be made subject to identification or security requirements. An issue of that weight should not be determined without affording the WRC, as the appropriate *legitimus contradictor* in respect of its procedures or practices, a proper opportunity to be heard. Depending upon the form in which the constitutional issue arose, it might also have been appropriate to place the Attorney General on notice.
36. I will not, therefore, grant any declaration on this issue. Nothing in this judgment should be understood as expressing a concluded view on the compatibility with the principle of open justice of any particular identification, sign-in, or security arrangement governing access to WRC hearings.

CONCLUSION AND PROPOSED FORM OF ORDER

37. Section 41(13) of the Workplace Relations Act 2015 establishes that proceedings under that section are to be conducted in public unless the adjudication officer determines that, due to the existence of special circumstances, the proceedings, or part thereof, should be conducted otherwise than in public. The impugned direction was based upon the inclusion of two disputes under section 13 of the Industrial Relations Act 1969, the private character of the investigation of those disputes, and the existence of some factual overlap between the disputes and the statutory employment rights complaints.
38. Those considerations were relevant to the management of the interrelated matters. They did not, without further explanation, justify hearing the entirety of the statutory complaints otherwise than in public. The correspondence of

16 April 2025 did not identify the nature or extent of the overlap, explain why the complaints and disputes could not practicably or fairly be treated separately, or consider whether a more limited measure would suffice. In particular, it did not explain why hearing the statutory complaints in public would compromise the integrity of the Industrial Relations Act referrals. The court cannot, therefore, be satisfied that the adjudication officer correctly understood and applied section 41(13).

39. An order of *certiorari* will issue quashing the impugned direction insofar as it required the complaints falling within section 41 of the Workplace Relations Act 2015 to be conducted otherwise than in public.
40. The Employee also sought a declaration concerning an alleged requirement that persons seeking to attend a WRC hearing provide personal information or identification. Although I indicated in the *ex tempore* ruling delivered on 21 July 2026 that I would grant a modified and less expansive declaration, I realised, on fuller consideration, that my initial view was mistaken. No declaration will be made for the reasons set out at paragraphs 28 to 36 above.
41. It is unnecessary to determine the remaining grounds advanced by the Employee. In particular, the court expresses no concluded view on the request for witness summonses, the alleged reasonable apprehension of bias, the complaint concerning the late delivery of submissions, or the wider constitutional and European Union law arguments. None of those matters requires to be resolved in order to dispose of these proceedings.
42. It is proposed to remit the underlying complaints and disputes to the WRC for determination by a different adjudication officer. The investigation of the two disputes under section 13 of the Industrial Relations Act 1969 is to be conducted

in private in accordance with section 13(8). If it is proposed to conduct any complaint falling within section 41 of the Workplace Relations Act 2015, or any part thereof, otherwise than in public, the adjudication officer must identify the special circumstances relied upon, explain why those circumstances justify the particular departure from the public hearing default, and consider whether the countervailing interest could be protected by a lesser measure. Any such determination must be supported by intelligible reasons.

43. If any party contends that the underlying complaints and disputes should not be remitted to the WRC or should not be assigned to a different adjudication officer, that party may deliver concise written submissions on the proposed form of order by 21 September 2026. Any other party may deliver written submissions in response by 5 October 2026. In the absence of such submissions, an order will be made in the terms indicated in the preceding paragraph.
44. The Employee does not seek anonymity or any restriction upon the publication of this judgment or the identification of the parties. The judgment will, therefore, be published in the ordinary course. In accordance with the arrangements agreed on 15 July 2026, the Employee does not seek costs against either the WRC or the Employer. Accordingly, there will be no order as to costs.

Appearances

David Leonard for the applicant instructed by Mannion Solicitors LLP
The other parties did not participate at the substantive hearing