



CROFTING COMMISSION
COIMISEAN NA CROITEARACHD



Crofting Commission

Annual Report & Accounts
2019/20

To regulate the crofting system fairly, and to protect and strengthen it for future generations

The Crofting Commission's main function is to regulate crofting in a manner that is fully compliant with the Crofters (Scotland) Act 1993. Therefore, the majority of the work carried out by the Crofting Commission is processing regulatory applications and recording notifications.

The number of applications decided will differ from the number of applications received due to applications which were carried over from 2018/19 and which will be carried over to 2020/21.

Application/Notification Type	Received	Approved/ Notified	Refused	Invalid	Withdrawn
Apportionment	40	31	3	7	3
Assignment Share	3	1	1	1	0
Assignment Croft	358	325	3	27	7
Create a new croft	10	6	0	2	1
Decrofting – Croft House Site and Garden Ground	180	162	1	30	7
Decrofting – Part Croft	436	285	6	46	14
Decrofting – S17 & S18 Feu	5	3	0	3	1
Decrofting – Whole Croft	4	1	4	1	0
Decrofting – Whole Croft – House Site Only	3	1	0	1	0
Division – Owner-Occupier Crofter	25	11	2	9	1
Division – Tenant	25	11	2	3	6
Exchange of croft land	1	0	0	1	0
Intestate Succession (Notification)	109	97	0	18	1
Letting – Landlord of a vacant croft	31	26	0	5	2
Letting – Owner-Occupier Crofter	24	17	0	4	5
Short Term Letting	21	23	0	3	2
Subletting	136	180	1	15	8
Testate Succession – Bequest of Croft Tenancy (Notification)	83	80	0	13	3
Totals 2019/20	1,494	1,260	23	189	61
Totals 2018/19	1,511	1,265	25	171	38
Totals 2017/18	1,366	925	21	132	36

Delegated Decision Making (DDM)

The Board of Commissioners have been delegating decision making on straightforward regulatory cases to officers. These cases must be within the agreed parameters and meet all the legislative and policy requirements, if not, they are escalated to a higher level.

The table below shows the different levels of decision making used within the Crofting Commission and the number of cases considered at each level.

Level of Decision Making	No of Cases Decided 2019/20	No of Cases Decided 2018/19	No of Cases Decided 2017/18
Tier 1 (Case officers)	859	735	678 **
Tier 2 (Senior Officials)	203	211	186
Tier 3 (3 Commissioners)	64	53	57
Decision by full Board of Commissioners	1	4	5

Note**: This figure includes 161 notifications. Notifications have been omitted from later years figures because the Commission does not take a decision on them.

Hearings

There were no Hearings held in relation to decrofting applications in 2019/20 (1 Hearing in 2018/19; 3 Hearings in 2017/18). The Crofting Commission did however hold one meeting with the applicant, shareholders, and the owner of a common grazings, as well as carrying out a site visit in relation to an apportionment application.



Appeals to the Scottish Land Court (SLC)

Applicants can appeal to the SLC against any decision, determination or direction made by the Crofting Commission, on an application under the Crofters (Scotland) Act 1993. Any appeal must be made within 42 days.

There were 7 appeals carried over from 2018/19 – in 6 of these appeals the SLC upheld the Commission's decision (*1 case has subsequently been appealed to the Court of Session and is currently before the Inner House of the Court of Session*) and 1 Commission decision was overturned by the SLC.

A further 6 appeals were received during 2019/20 – in 4 appeals the Commission's decision was upheld and 2 appeals are still to be decided by the Court.

General Enquiries

In addition to the number of applications/notifications the Crofting Commission also dealt with 2,394 general enquiries on crofts/common grazings and crofting in general over the course of the year (*2,459 in 2018/19; over 3,000 in 2017/18*). As information continues to be made available through the ROC Online we would expect this number to reduce further in 2020/21.



Register of Crofts (ROC)

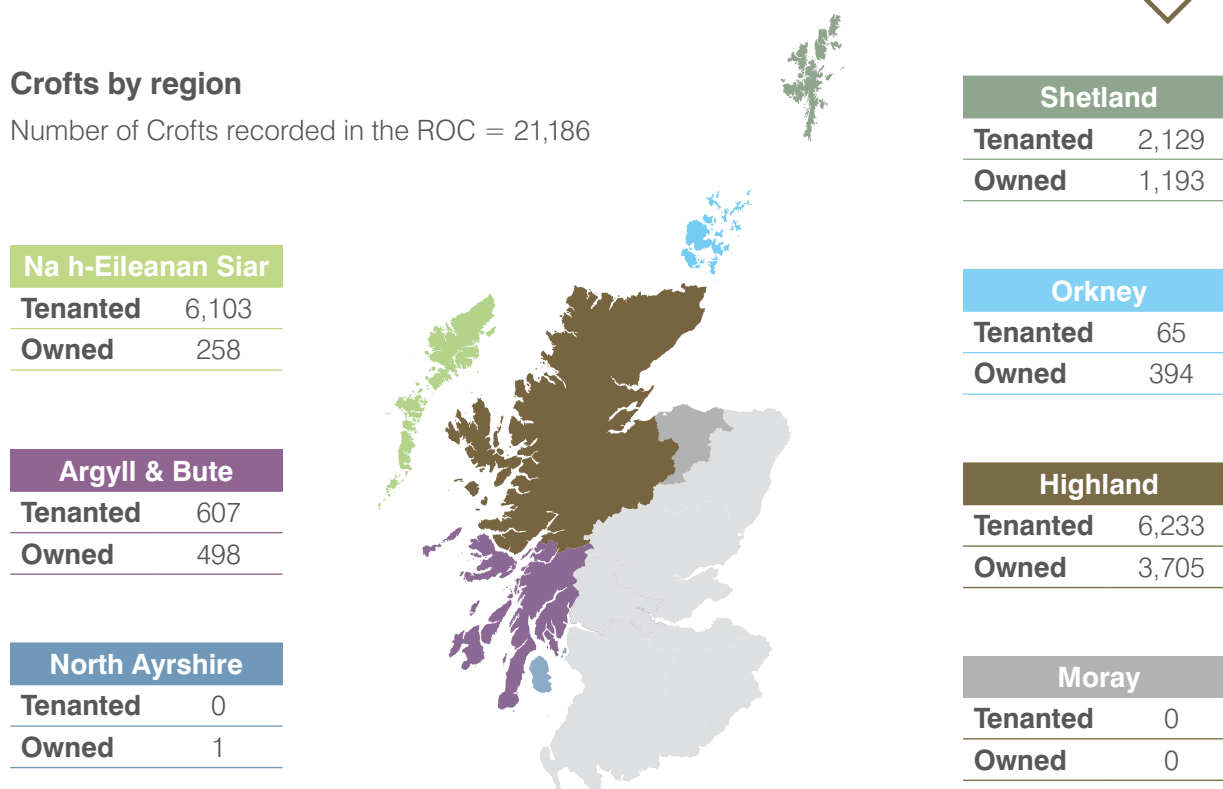
The Crofting Commission maintains its own ROC which holds information on the name, location, rent, the extent of each croft, details of the tenant, owner-occupier crofter, landlord and any rights held in a common grazings.

We made minor amendments to the Register of Crofts as a result of approximately 1,700 Crofting Census forms providing us with additional information which was missing or inaccurate. A further 74 forms required to be passed to Regulatory Teams for further investigation.



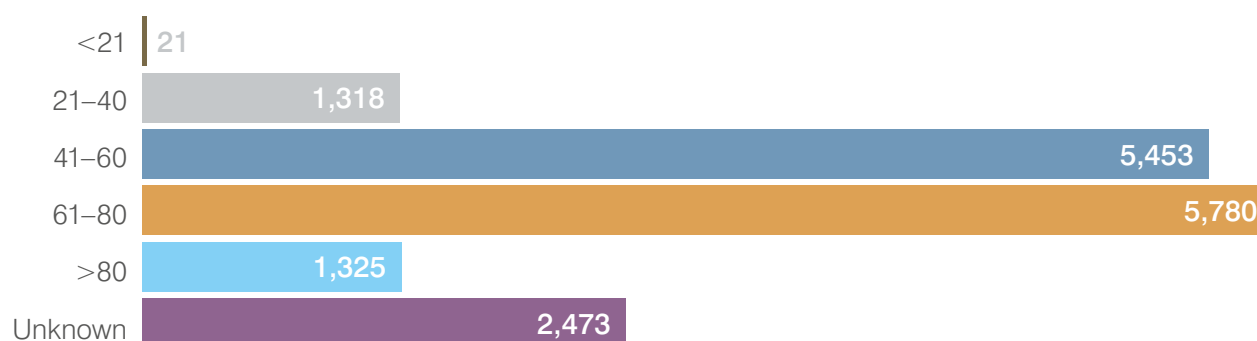
Crofts by region

Number of Crofts recorded in the ROC = 21,186



Crofters by age

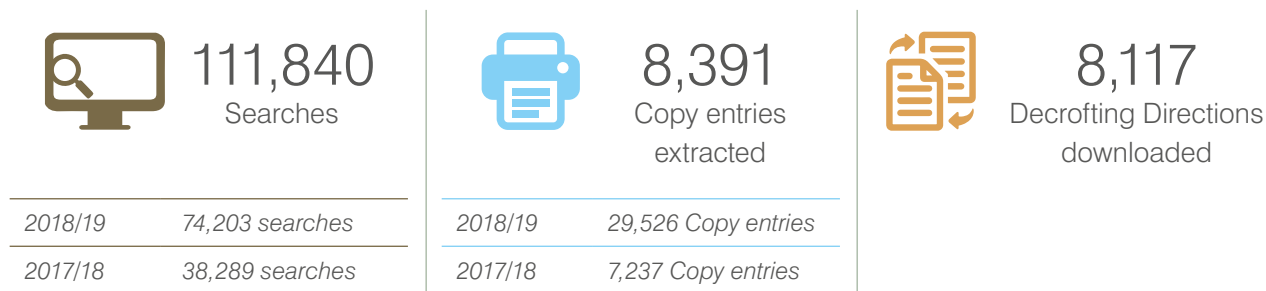
Number of Crofters recorded in the ROC = 16,370



Last year we reported there were over 26,000 crofters recorded in the ROC. This figure was incorrect, as in error we included landlords and neighbours in croft registration cases.

ROC Online

The ROC Online was made publicly available in August 2017. It has improved our customer service by allowing the public to have direct access to croft records. In November 2019 we introduced the facility to allow for Decrofting Directions to be available through the ROC Online and we are working to also get Apportionment Orders available shortly.



The ROC Online is available at www.crofting.scotland.gov.uk/register-of-crofts-roc

Crofting Register

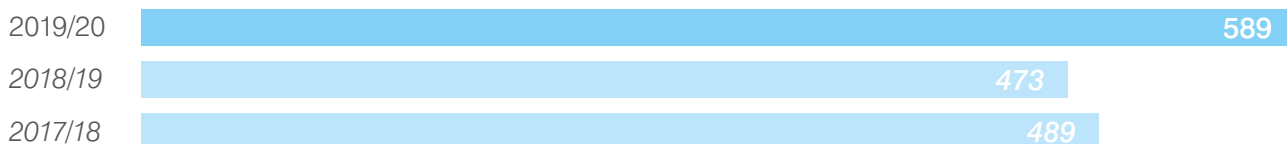
In addition to processing regulatory applications we also assess the validity of Croft Registration applications for the Keeper of the Registers of Scotland (RoS).

Croft Registration applications

First Registrations



Subsequent Event affecting a registered croft



There were also **26** non-trigger updates and **160** rectifications processed.
An overall total of **6,839** crofts are now entered in the RoS Crofting Register.



Crofters Duties

Tenants and Owner-Occupier crofters have a duty to:



Be ordinarily resident on,
or within 32km of their croft



Not to misuse
or neglect the croft



Cultivate and maintain the croft,
or put to another purposeful use.

Notifications of Suspected Breach of Duties

If a failure to comply with any of the duties is reported by a member of the crofting community, a grazings committee/constable or an Assessor, the Commission has an obligation to investigate.

! **18 cases of suspected breaches of duty were reported to the Commission over the year (10 cases in 2017/18; 19 cases in 2018/19).**

2 invalid (one where the crofter was deceased – and one where no note of the Committee meeting accompanied the notification)



1 assignation application received – pending decision



15 cases ongoing (**2** crofters are in the process of assigning their crofts; **2** crofters are in the process of subletting; **3** owner-occupier crofters are in the process of short term letting – the other **8** are still being investigated)



Consent to be Absent Applications

! **19 applications received (30 applications in 2017/18; 74 applications in 2018/19).**

11 approved



4 refused



4 invalid (**2** where the forms had not been fully completed and had to be returned to the crofter; **1** where the wrong form was completed and **1** where the applicant had not yet been entered in our records as the tenant of the croft).



Consent to be Absent – Extension

! **2 applications received (0 applications in 2017/18; 8 applications in 2018/19).**

1 invalid



1 withdrawn



Crofting Census 2018 – Duties

In 2019 the Commission wrote out to all **77** crofters who indicated for the first time in the 2018 Crofting Census that they were in breach of one or more of their crofting duties, setting out their options and allowing them until the 2019 Crofting Census to resolve the breach at their own hands.

Of those **77** written to – **7** crofters have, to date, resolved their breaches as follows:

- 1 croft was assigned
- 3 crofters took up residence
- 2 crofts were sublet
- 1 crofter applied for and received Consent to be Absent



In addition to the above, **5** crofters are in the process of subletting their croft, **4** are in the process of assigning their croft and one crofter intends to take up residence soon.

We also wrote to **40** crofters who did not resolve their breach from the 2017 Crofting Census, setting out a timescale for resolving their breach.

Of those **40** written to – **2** crofters have, to date, resolved their breaches as follows:

- 1 crofter took up residence
- 1 croft was sublet

In addition to the above:

- 6 crofters are in the process of assigning their croft, 5 of which are pending decisions.
- 12 crofters are in the process of subletting their croft, 3 of which are pending decisions.
- 2 crofts have been put up for sale
- 2 crofts have been purchased which require follow-up action

The remaining cases are progressing through the Duties enforcement process.

Crofting Census 2019

Crofters have a legal obligation to complete and return their Crofting Census forms, which are issued on an annual basis by the Crofting Commission.

2019 saw the issue of 19,485 Crofting Census forms (19,269 in 2018/19), 17,519 general croft forms and 1,966 in relation to grazings shares (deemed crofts). This was the first-year crofters had the option to complete their Census form online and 1,674 forms, or 11.4% of all returns, were made in that way. Overall, 14,726 forms were returned to the Commission (13,347 in 2018/19). This makes a 75.5% return rate, which is an increase of 6.5% on 2018.



It should be noted that the final date for returning Crofting Census forms was 31 March 2020 but due to the unusual circumstances created by Covid-19 we extended the deadline to 17 April. We had 1,217 returns in the 3-week extension period, which have been included in the total number of forms returned (14,726). However, as we did not have access to the Crofting Commission office and the IT equipment to analysis the 1,217 forms the information from those forms has not be included in the breakdown below. These percentages are therefore based on the return figure of 13,509.



Ordinarily Resident on, or
within 32km of their Croft:
86%

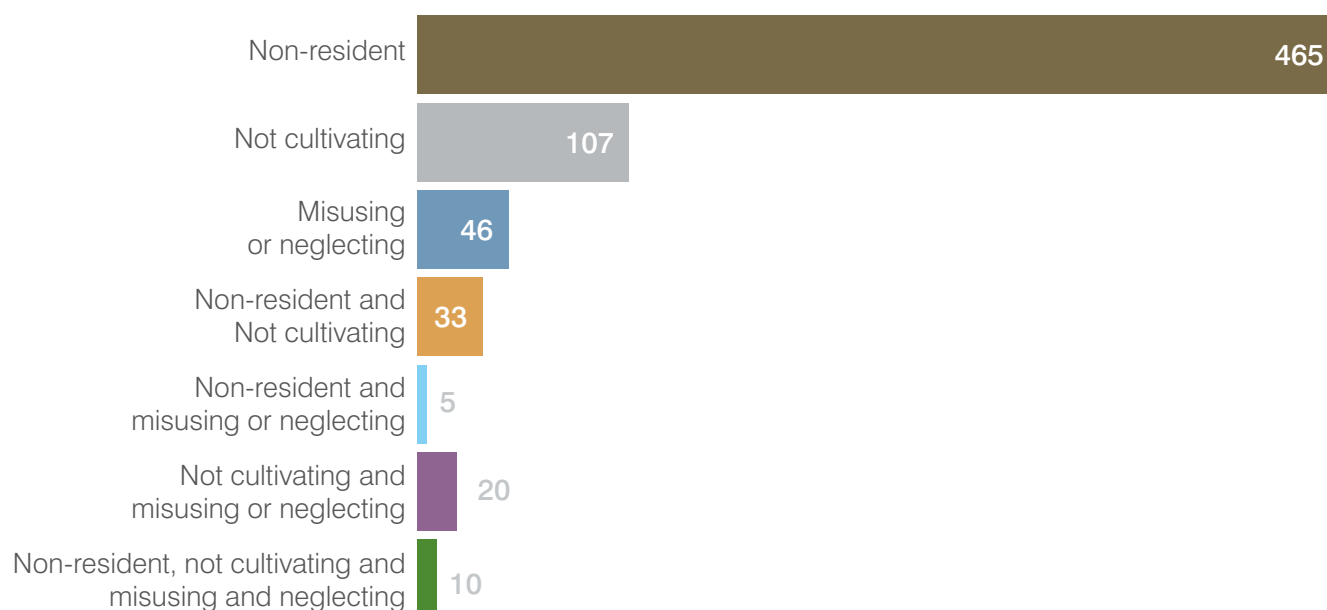


Not Neglected/
Misused:
89%



Croft is Cultivated/Maintained/
Put to Purposeful Use:
89%

Number of crofters not complying with their Duties as notified to the Commission (TOTAL: 686)



Common Grazings

Common grazings are areas of land used by crofters and others who share the right to graze stock on that land. A shareholder can make an application to the Crofting Commission to apportion, some or all of their grazings share for their exclusive use.

This year also saw the enlargement to **one** common grazings.



Grazings Committees are set up by the shareholders to carry out certain management responsibilities regarding the common grazings. To aid grazings committees, the Crofting Commission created a set of guidance for Common Grazings Committees. The Guidance assists Grazings Committees with their responsibilities to maintain and improve common grazings. The Guidance is distinct from Grazings Regulations; it provides an aide to Committees by advising on what must be in Regulations and what may also be considered best practice. www.crofting.scotland.gov.uk/common-grazings-regulations-template

Following a steady decline in the number of grazings committees over previous years, this was reversed this year with an increase of 77 grazings committees in office. Considerable effort was put in to maintaining contact with committees demitting office and also communicating with shareholders in grazings that no longer had grazings committees. In addition, training meetings were held for members of grazings committees over four days on the Isle of Lewis in October 2019. The training was a collaborative approach between the Crofting Commission and the Scottish Government's Farm Advisory Service. See our case study on page 21.

Number of Grazings Committees in Office

There are no common grazings in North Ayrshire or Moray

	No of Grazings Committees
Argyll & Bute	21
Highland	240
Orkney	1
Shetland	44
Na h-Eileanan Siar	189
Total 2019/20	495
2018/19	418
2017/18	463

Number of Common Grazings

	No of Common Grazings	Size of Common Grazings (hectares (ha))
Argyll & Bute	85	10,668ha
Highland	516	276,187ha
Orkney	9	343ha
Shetland	169	62,148ha
Na h-Eileanan Siar	295	200,545ha
Totals	1074	549,891ha

Common Grazings Census

The Crofting Reform (Scotland) Act 2010 imposed requirements on Grazings Committees to report every 5 years on the condition of the common grazings and the condition of every croft of tenant and owner-occupier crofters who share in that common grazings, and on any other matter affecting the common grazings or crofting in any township associated with the grazings.

During 2019/20 **3 census forms** were returned to the Commission by Grazings Committees (*4 forms returned in 2018/19, and 101 forms in 2017/18*).



The form was issued to Grazings Committees in March 2017 so the deadline for completing it is March 2022. The low numbers received in the 2nd and 3rd years of the 5-year period are therefore not necessarily a concern.

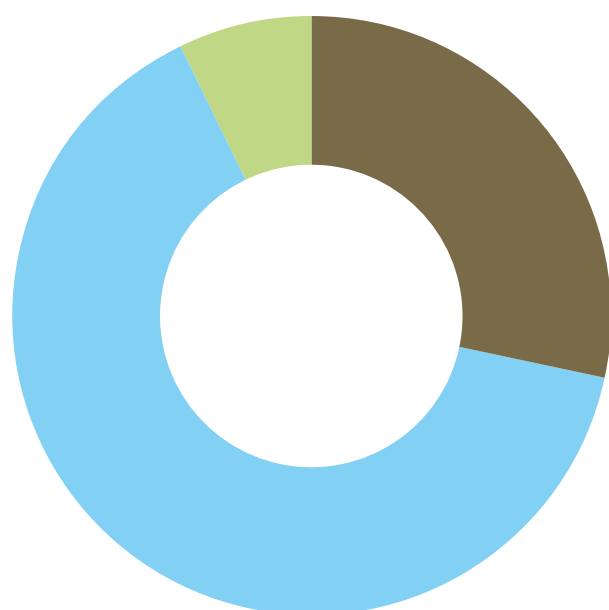
Freedom of Information

The Crofting Commission is committed to complying with legislation that gives members of the public the right to request information and for that information to be provided unless an exemption applies. This legislative requirement falls under the Freedom of Information (Scotland) Act 2002, Data Protection Act 2018, General Data Protection Regulation and the Environmental Information (Scotland) Regulations 2004.

The Commission makes as much information as possible publicly available through its website and social media channels.



The number of enquiries continued to fall over the course of 2019/20, with 28 enquiries for information received. This is a reduction of 15 since 2018/19. There was only 1 request for a review of the information issued.



Freedom of information (FOI)	8
Environmental Information Regulations (EIR)	18
Data Protection Act	2

TOTAL 28
2018/19 43
2017/18 65

Complaints

The Crofting Commission is committed to providing first-class customer service and we use feedback from customers who are dissatisfied to improve our services.

There were 24 complaints handled at frontline resolution stage over the year; the table below shows the outcome of these cases.

During 2019/20 we received **36 complaints**.
This was a reduction of 38 from last year



Frontline Resolution	2019/20	2018/19	2017/18
Upheld	4	16	10
Partially Upheld	3	0	1
Not Upheld	17	16	2
Escalated	0	23	7
Totals	24	55	20

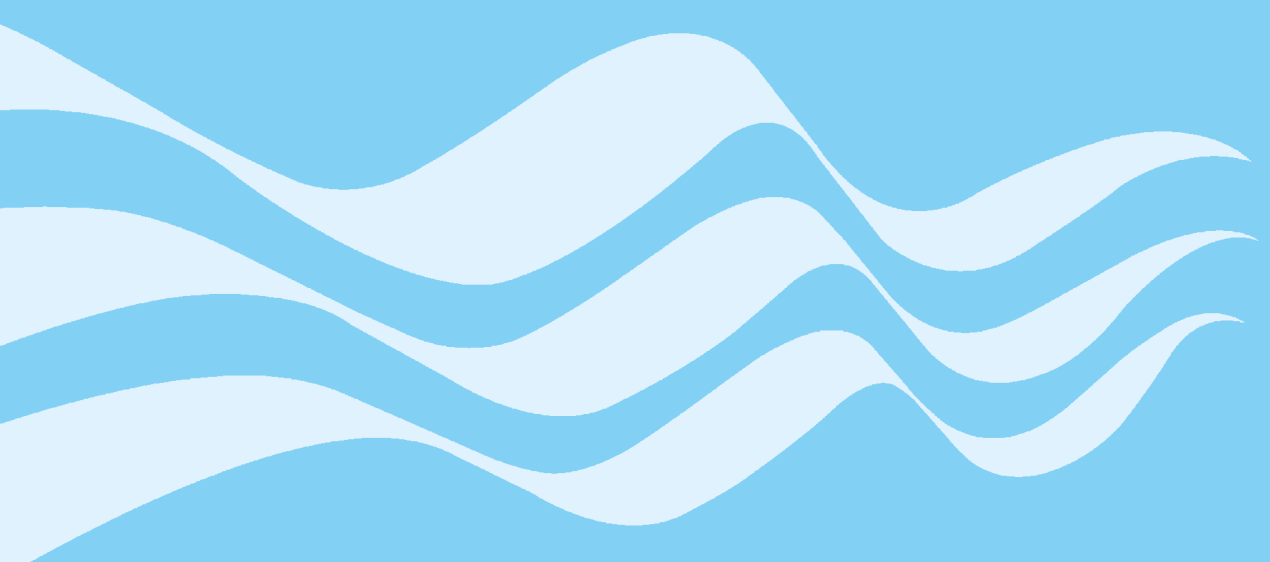
In addition to the Frontline Complaints we also considered **12 complaints** at Investigation Stage.

Investigation Stage	2019/20	2018/19	2017/18
Upheld	2	5	2
Partially Upheld	6	8	4
Not Upheld	3	4	5
Invalid	1	1	3
Investigation in Progress	0	1	0
Totals	12	19	14





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