



Additional Support Needs
Tribunals for Scotland

**Eighth Annual Report of the
Additional Support Needs Tribunals for Scotland**

2012/2013



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Alasdair Allan
Minister for Learning, Science and Scotland's Languages
The Scottish Parliament

June 2013

**To Alasdair Allan MSP, Minister for Learning, Science and
Scotland's Languages**

I have pleasure in submitting this, the eighth Annual Report of the Additional Support Needs Tribunals for Scotland, to the Scottish Ministers.

**Dr Joe Morrow
President**

Dr Joe Morrow
President of the Additional Support Needs Tribunals for Scotland
Europa Building
450 Argyle Street
Glasgow
G2 8LH

Contents

	Page
President's Foreword	2
2012/2013	4
Placing Requests	4
Co-ordinated Support Plans	5
Disability Discrimination Claims	5
Scottish Tribunals Service	6
Continuous Improvement	6
Training of ASNTS Members	6
Tribunal User Group	7
Appendices:	
Appendix One	8
Appendix Two	9
Appendix Three	16



President, Dr Joe Morrow

President's Foreword

In presenting this Annual Report – my second Annual Report as President and the eighth Annual Report of the Additional Support Needs Tribunals for Scotland (ASNTS) – I have the pleasure of reviewing the improvements and progress which have taken place during 2012/2013.

You will see from the information contained in the Report that there has been a reduction in the number of placing requests and co-ordinated support plan (CSP) references, and this is reflected in the number of tribunal hearings held during the year.

On the other hand, there has been an increase in the number of disability discrimination claims and an exploration of the complexities of such claims by parties at the Tribunal. I have encouraged considerable “pre-hearing” work to be carried out in relation to these claims, with the aim of focusing the issues to be dealt with. I am pleased to report that focusing on the points of dispute in disability discrimination claims has encouraged effective and efficient disposal of such cases.

During the past year, I have been actively looking at the end to end process relating to additional support for learning cases and how best this can be streamlined and assisted by the work of the Tribunal. One of the main areas I have focused on is encouraging “resolution” at Tribunal level and we are making some inroads in this area. Both early resolution and looking at the end to end

process are, in my view, essential to help maintain the good relationships required to achieve the best result for the child where there is a dispute. The Tribunal, as well as education authorities and parents, must focus on dispute resolution, in order to ensure that the best interests of the children or young people involved with the Tribunal are kept at the forefront of all that we do. This places our judicial work within the context of the “Getting It Right For Every Child” (GIRFEC) framework.

I will continue my efforts in relation to early resolution of disputes and have enhanced this approach within the Tribunal through further training of our Conveners and Members on issues around appropriate and proportionate dispute resolution.

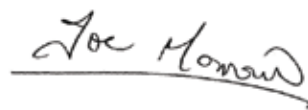
Together with colleagues from the mediation sector and Independent Adjudication, we held a joint training session in Glasgow, which enabled us to look at the different avenues available to parents and local authorities, with a view to obtaining a full picture of the dispute resolution process for additional support needs for learning cases. This was a highly successful event which led to further discussions and to further training for the Tribunal Conveners in the broad area of judicial mediation.

I would wish to express my thanks to all the staff of the Scottish Tribunals Service (STS) who have supported the Tribunal in a highly professional way in the last year. We

have worked as a team, focusing on strong communication and continuous improvement of our work. This approach has developed resilience in the Tribunal and has provided a platform for new efficiencies whilst at the same time securing the central position of the children and young people who are referred to the Tribunal.

In summary, the work of ASNTS as captured in this Annual Report is not only about facts and figures, but is centred on achieving the best outcome for the children and young people who come before the Tribunal. Our culture encourages engagement, and this is particularly linked to the aim of seeking early resolution of disputes.

My thanks go to all who assist in this process, particularly the administrative staff of STS and the Conveners and Members of the Tribunal.

A handwritten signature in black ink that reads "Joe Morrow". The signature is written in a cursive style and is positioned above a horizontal line.

Dr Joe Morrow
President
May 2013

Eighth Annual Report of the Additional Support Needs Tribunals for Scotland

2012/2013

The Additional Support Needs Tribunals for Scotland (“the Tribunal”) collects information on cases received by the Tribunal. Some information on the cases received by the Tribunal during the period covered by this Annual Report is presented below. Further statistics on the cases received by the Tribunal during this period can be found in Appendix Two.

Placing Requests

This year has seen a significant reduction in the number of Placing Request references (25) to the Tribunal compared to the previous year (56). Twelve Local Authorities were the subject of these references.

Of the references received, only four were considered at an oral hearing before a Tribunal. One of those references was withdrawn at the hearing itself and the other three references were refused by the Tribunal. One of those refused is currently the subject of an appeal to the Court of Session.

Two references were dismissed as not competent and two were dismissed under rule 18 of the Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006 (power of Convener to dismiss reference). One reference was the subject of an agreed settlement between Parties prior to a hearing.

Eleven references were withdrawn during the case statement period or prior to the Oral Hearing. It is encouraging to note however, that an agreement was reached between Parties in nine of the references which were withdrawn.

Five references received during the period of this Annual Report have not yet been concluded.

Of the twenty five references received, sixteen related to Independent Special Schools. The remaining nine related to Authority run Special Schools, or Bases/ Units within Mainstream Schools.

Co-ordinated Support Plans

As with Placing Requests, this year has seen a significant reduction in the number of references received relating to issues surrounding Co-ordinated Support Plans (CSPs).

In total, fourteen references were made to the Tribunal regarding CSPs. Twelve Local Authorities were the subject of these references with only two authorities having more than one reference relating to CSPs.

- Contents of the CSP accounted for seven references. Only two went to an Oral Hearing before a Tribunal. A decision by a Convener sitting alone disposing of the case was issued in one reference after agreement was reached between Parties. Three references were withdrawn following agreement between Parties and one reference remains outstanding.
- Two references were on the Implementation of the CSP, one was considered at an Oral Hearing and one was withdrawn.
- Two references received related to a Deemed Refusal of a CSP, both were withdrawn following an agreement between Parties.
- Two references related to a decision that a CSP was not required, again both were withdrawn following an agreement between Parties.
- One reference related to Timescales in issuing the CSP. The Authority did not oppose the reference and a decision by a Convener sitting alone was issued disposing of the case.

Disability Discrimination Claims

As opposed to Additional Support Needs (ASN) references, this year has seen a significant increase in the number of Disability Discrimination Claims submitted to the Tribunal. The Tribunal received eighteen claims in the period covered by this Report. This represents a dramatic increase from last year's total of six claims and is well in excess of the anticipated number of three claims per year suggested when the legislation was introduced in 2010.

In all but two of the claims the Responsible Body was named as the Local Authority and these sixteen claims were spread amongst six Local Authorities. The remaining two claims relate to Independent Schools.

The claims themselves were made on the issues of Admission (1), Exclusion (2) and Another Issue relating to education specified in section 85 or 86 of the Equality Act 2010 (15).

Only two claims were considered at an oral hearing before a Tribunal. In one case the claim was withdrawn on the morning of the hearing before any evidence was heard after an agreement was reached between the Parties. In the other case the claim was upheld.

Eleven claims were withdrawn, three of these after an agreement was reached between the Parties. Five claims received during the period of this Report have not yet been concluded.

The complexities of Disability Discrimination Cases have seen the Tribunal move to hold pre-hearing meetings rather than conference calls and the feedback received thus far has been positive. This position will also apply to the more complex ASN references in the future.

Scottish Tribunals Service

The bringing together of the administration for ASNTS, the Mental Health Tribunal for Scotland, the Private Rented Housing Panel (prhp), the Lands Tribunal for Scotland, the Scottish Charity Appeals Panel and the Pensions Appeal Tribunals for Scotland has been ongoing since the creation of the Scottish Tribunals Service (STS) in December 2010. A new Tribunal, the Homeowner Housing Panel (hohp) was established in October 2012 and is co-located alongside ASNTS and prhp in Europa Building, Glasgow. This allows for multi-skilling and cross jurisdictional working within the administration which supports the Tribunals giving greater resilience within the STS in Glasgow.

Continuous Improvement

This is an ongoing effort from our Secretariat to improve our processes and services to Tribunal users.

Following on from the value stream mapping process which took place in February 2012 (an exercise looking at the administrative functions and processes that the Secretariat carry out in relation to references and claims submitted to the Tribunal), a new case management system was introduced in February 2013. This has seen a significant reduction in administrative time; previously registering a case could take up to 2 hours, however this time has been reduced to 20 minutes.

There is a continuing commitment by the STS to more multi-functional working and this will sustain a better informed and skilled workforce, improving the clarity and quality of information provided to Tribunal users and the administrative support provided to the Tribunal.

Training of ASNTS Members

In November, members of ASNTS were provided with training at the annual one day training event, which took place in Glasgow. This was joint training along with Independent Adjudicators, Mediators and Enquire staff and focussed on dispute resolution systems in Scottish education. This event was very successful and further joint training will be considered in the future.

A further day of training was provided to Conveners which focused on promoting early resolution of Tribunal cases.

Tribunal User Group

This Group meets annually and provides a formal opportunity for the President of the Tribunal and the Secretariat to meet users. The latest meeting took place in April 2013 in Glasgow and twenty-two users attended. The President provided users with his views on the ASNTS and how he is guiding the Tribunals towards earlier resolution through evaluative mediation and proactive case management and he also gave an update on current issues within ASNTS. The Secretary delivered a presentation on ASNTS activity in the past year. The presentations were followed by a very useful question and answer session. The report from the latest Tribunal User Group along with reports from previous meetings are available on the ASNTS website.

Appendix One

Additional Support Needs Tribunals for Scotland: Expenditure

Expenditure from 1 April 2012 to 31 March 2013

Expenditure	Amount
Tribunal Member Fees (Training, including costs)	£7,341.50
Tribunal Member Fees (Hearings) (including Presidents' Fees)	£73,763.80
Tribunal Member Expenses	£8,228.10
Tribunal Secretariat Hearing Costs*	£10,819.39
Tribunal Secretariat Staff Salaries	£79,637.86
Tribunal Secretariat Staff Expenses	£2,411.75
Tribunal Secretariat Office Costs**	£10,337.44
Tribunal Secretariat Specialist Costs***	£5,495.66

* This expenditure includes costs for venue hire, cancellation fees, catering and conference calls.

** This expenditure includes costs for meetings such as the Tribunal User Group, stationery, postage, minor purchases, office machinery and ICT.

*** This expenditure includes costs involved in the hosting of ASNTS website and decisions database. It also includes the cost involved in the production of the President's Annual Report.

Part 3 of the Public Services Reform (Scotland) Act 2010 imposes new duties on Scottish Ministers and the public bodies listed in Schedule 8 to the Act to publish as soon as practicable after the end of the financial year a statement of any expenditure incurred on certain matters including:

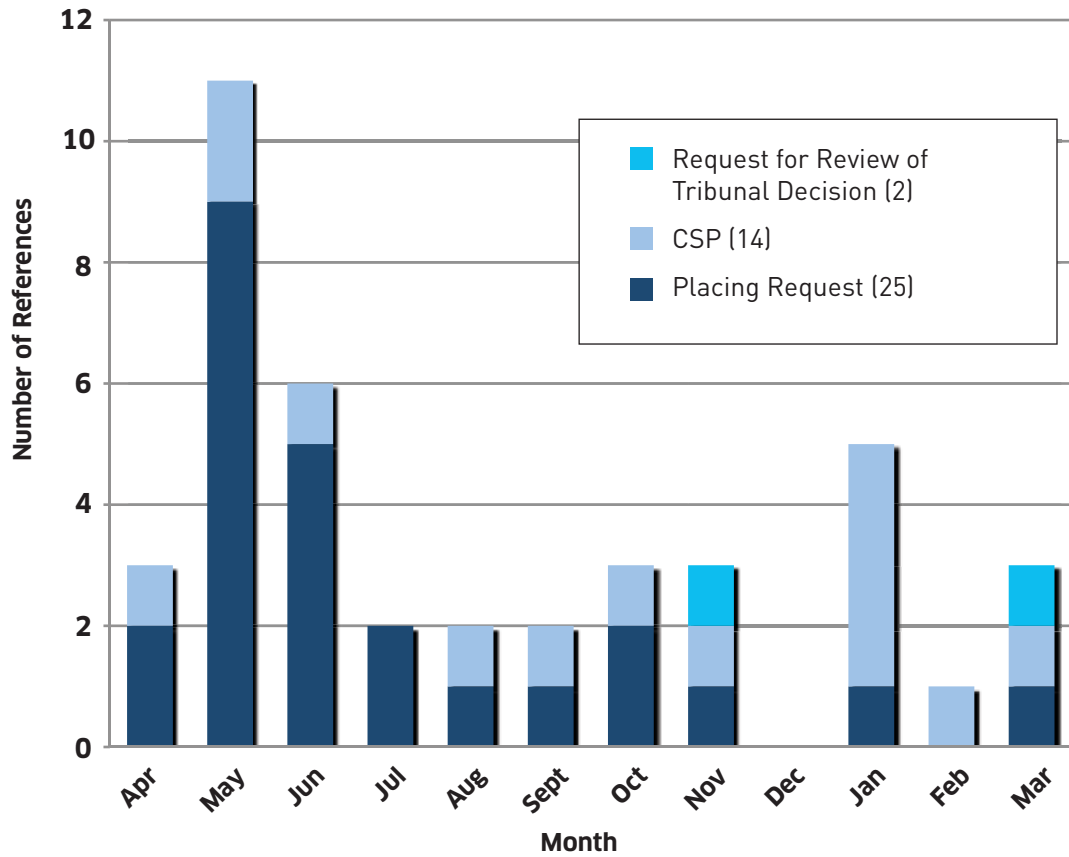
- Public relations;
- Overseas travel;
- Hospitality and entertainment;
- External consultancy;
- Payments with a value in excess of £25,000; and
- The number of members and staff who received remuneration in excess of £150,000.

The Additional Support Needs Tribunals for Scotland have made no payments in the above categories.

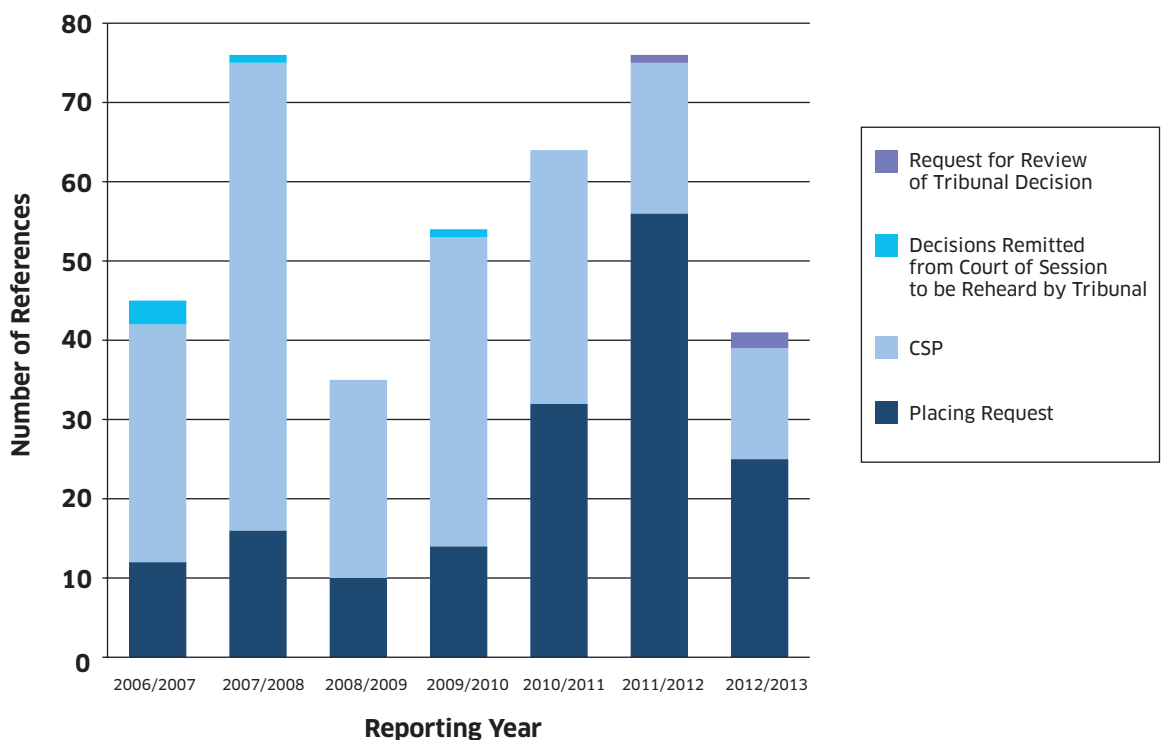
Appendix Two

Caseload Statistics – Reporting Year 2012/2013

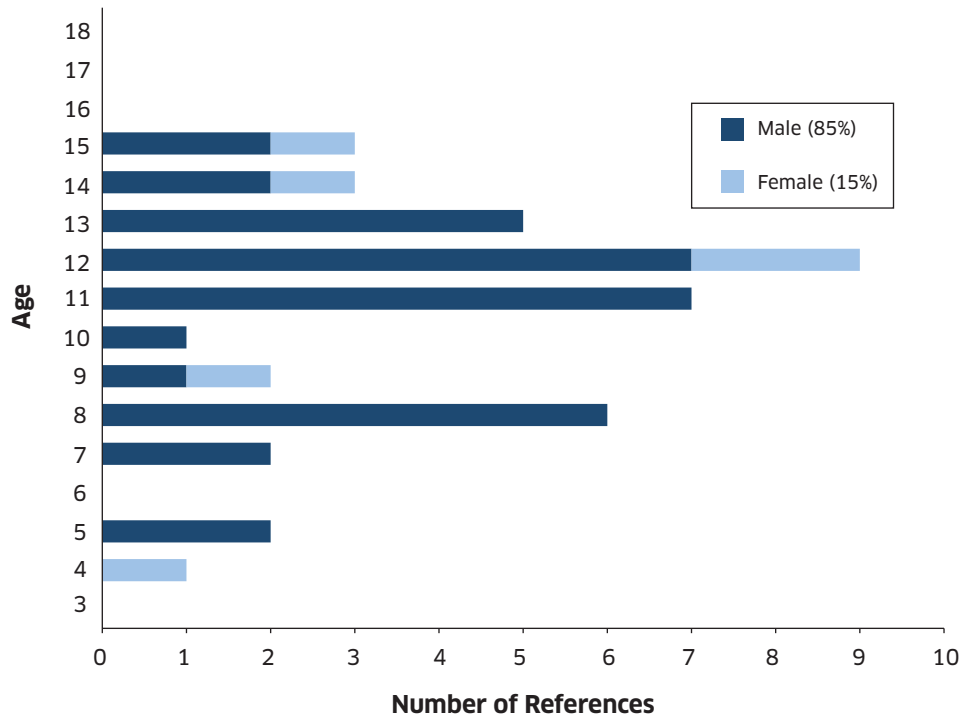
1. References Received per Month 1 April 2012 – 31 March 2013



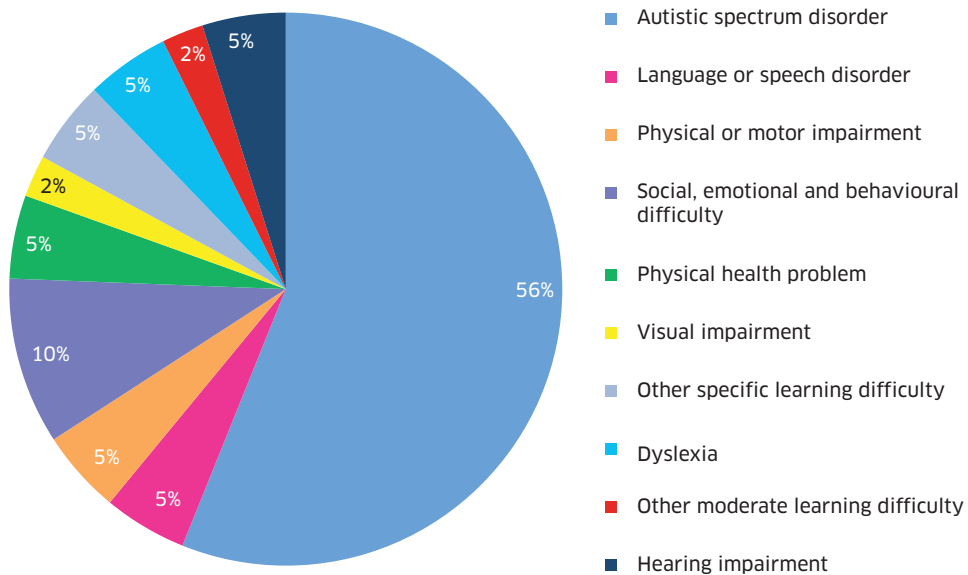
2. References Received by Reporting Year



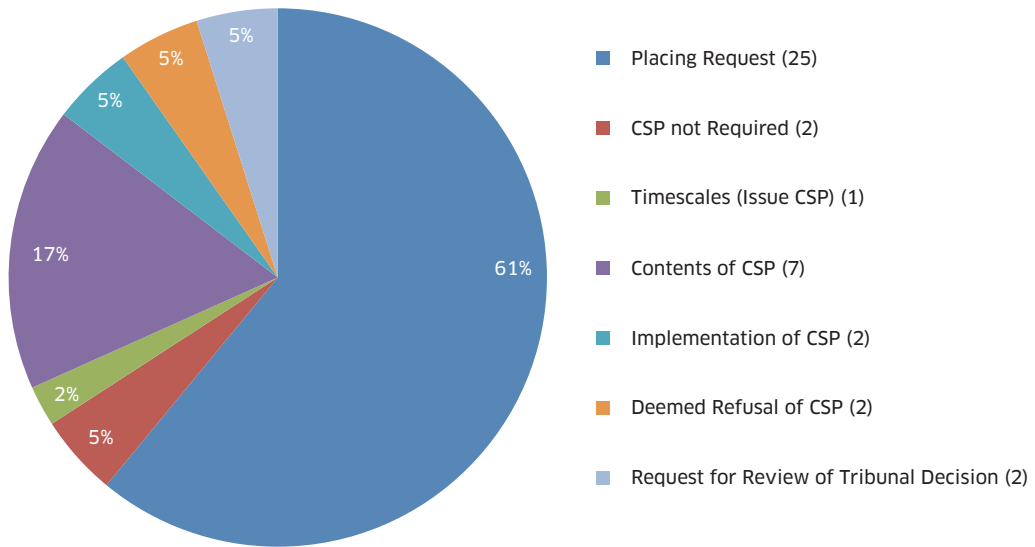
3. References Received by Age and Gender 1 April 2012 – 31 March 2013



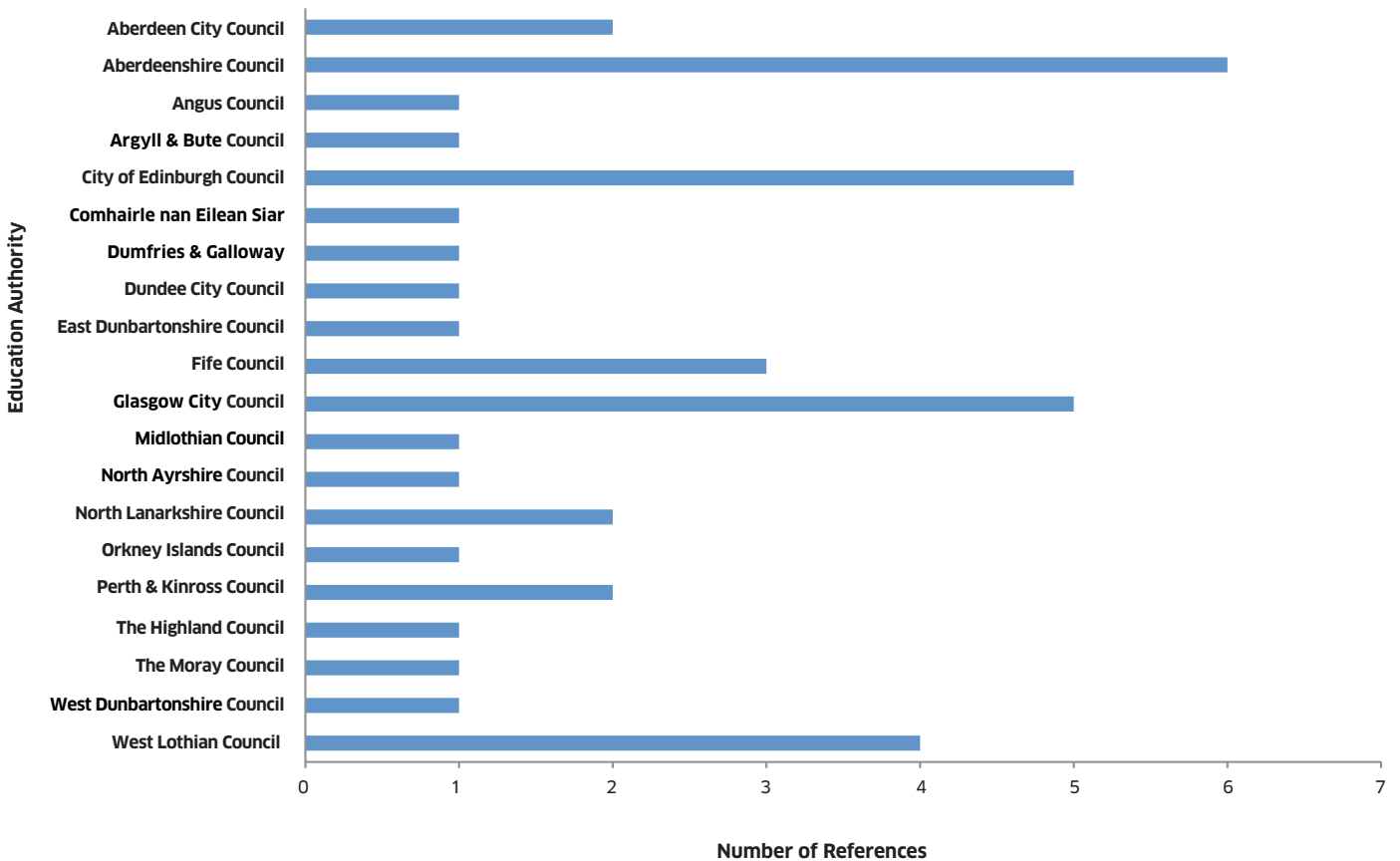
4. Nature of Additional Support Needs for References Received 1 April 2012 – 31 March 2013



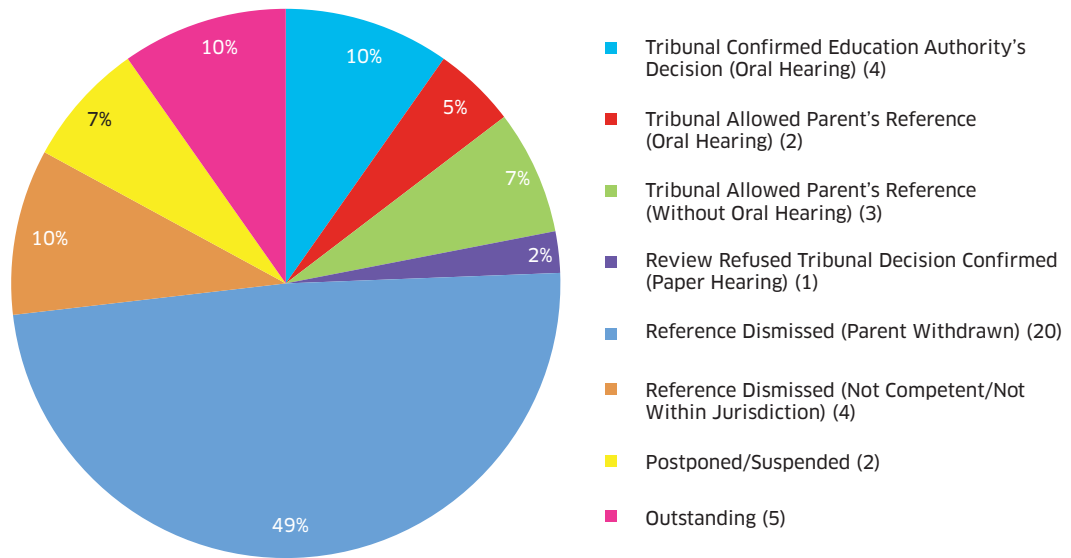
5. References Received by Type 1 April 2012 – 31 March 2013



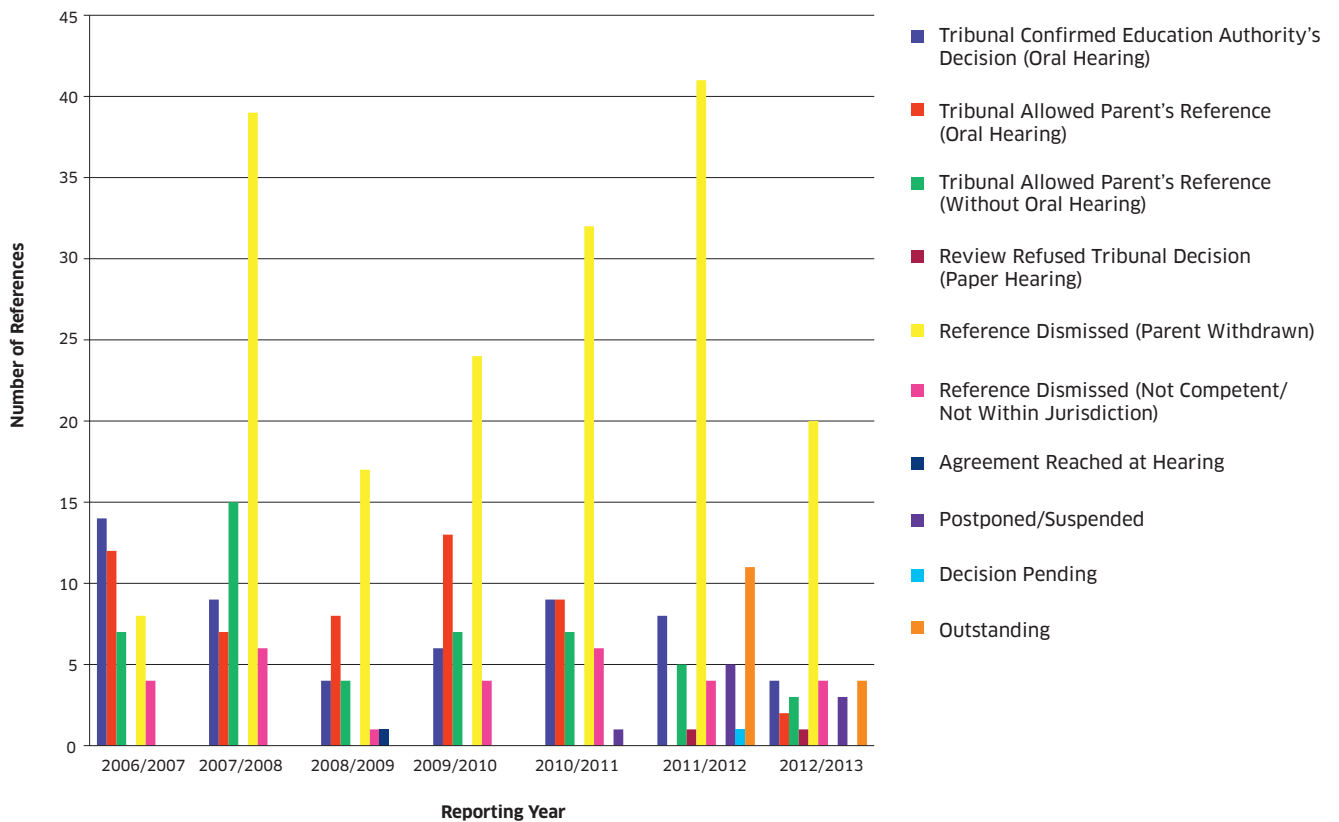
6. References Received by Education Authority 1 April 2012 – 31 March 2013



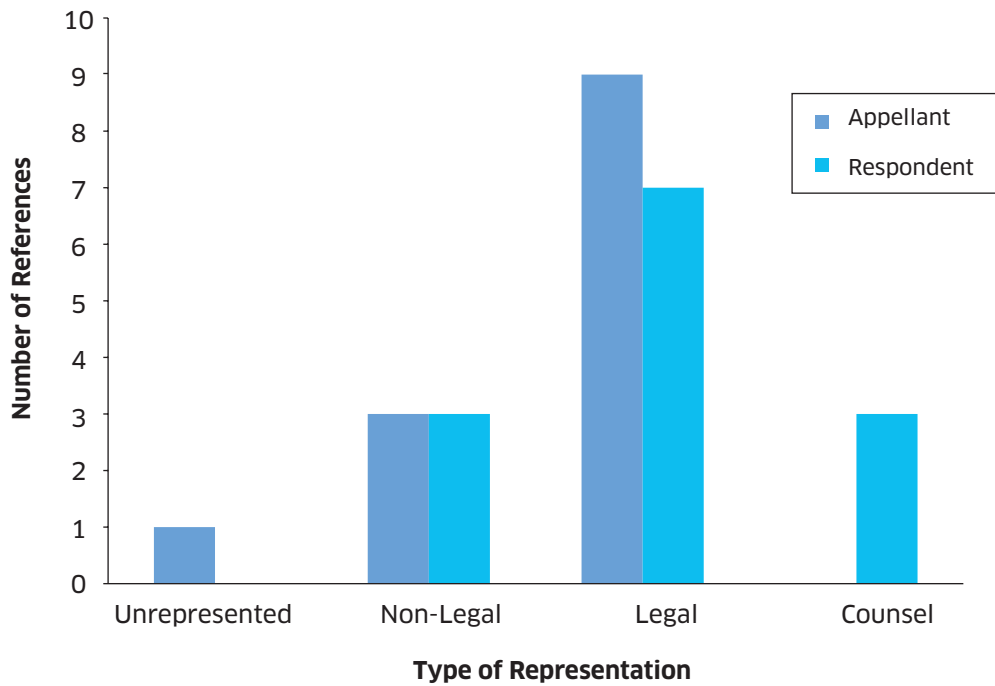
7. Outcomes from References Received 1 April 2012 – 31 March 2013



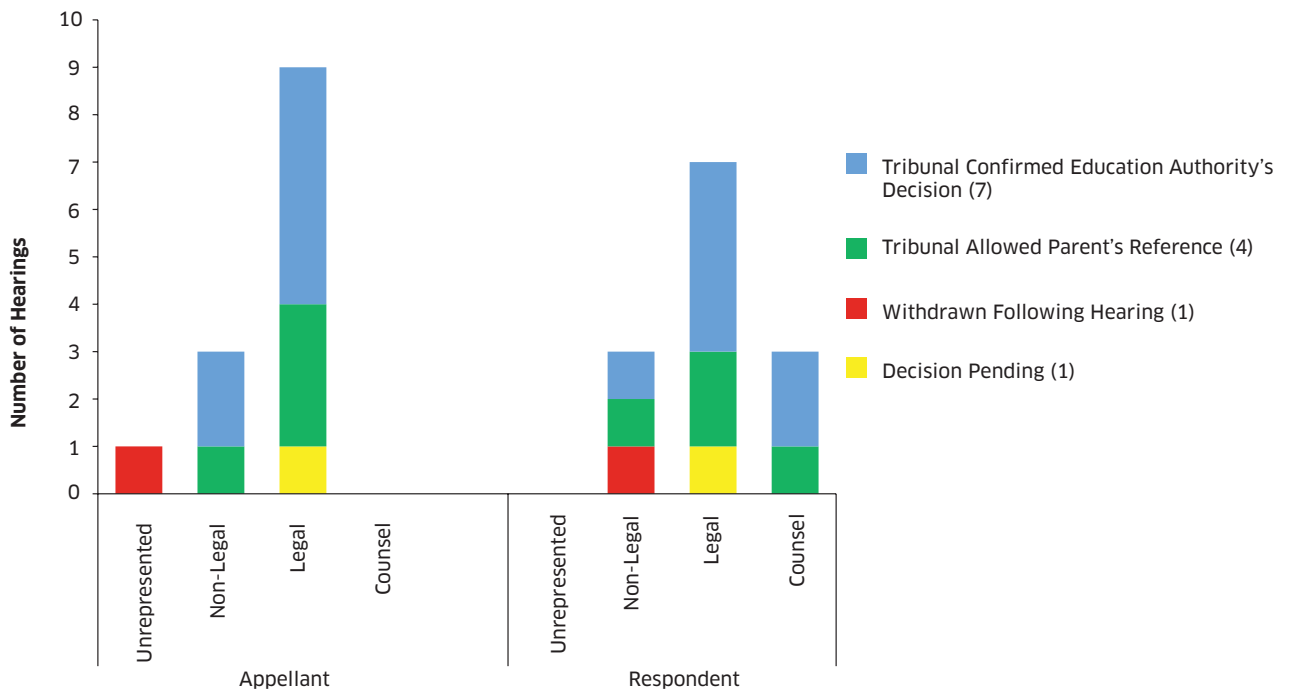
8. Outcomes from References Received by Reporting Year



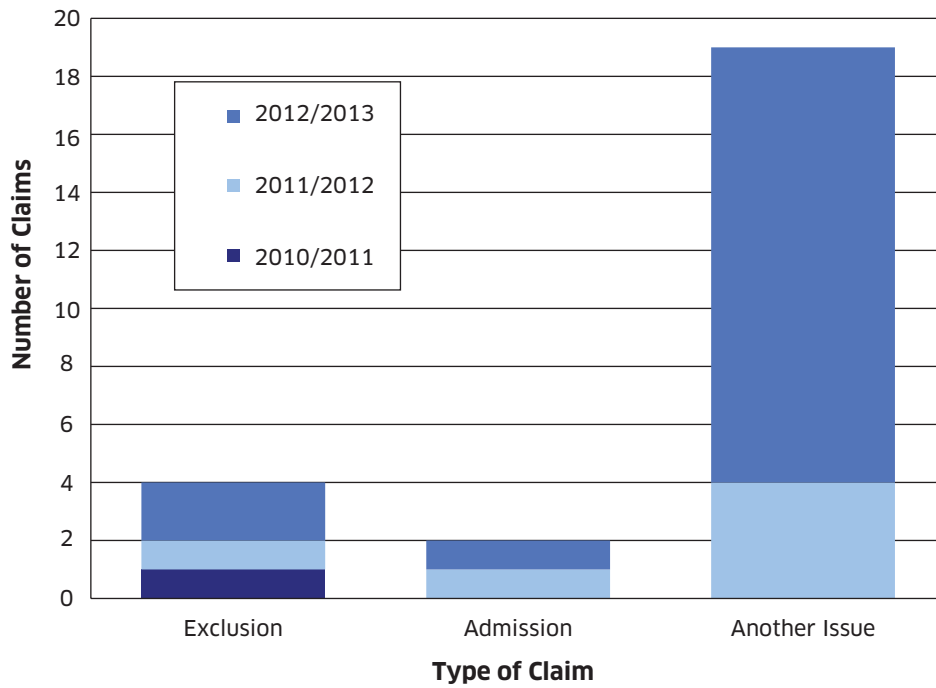
9. Representation at Oral Hearings Held 1 April 2012 – 31 March 2013 (including hearings in respect of references received during previous reporting year)



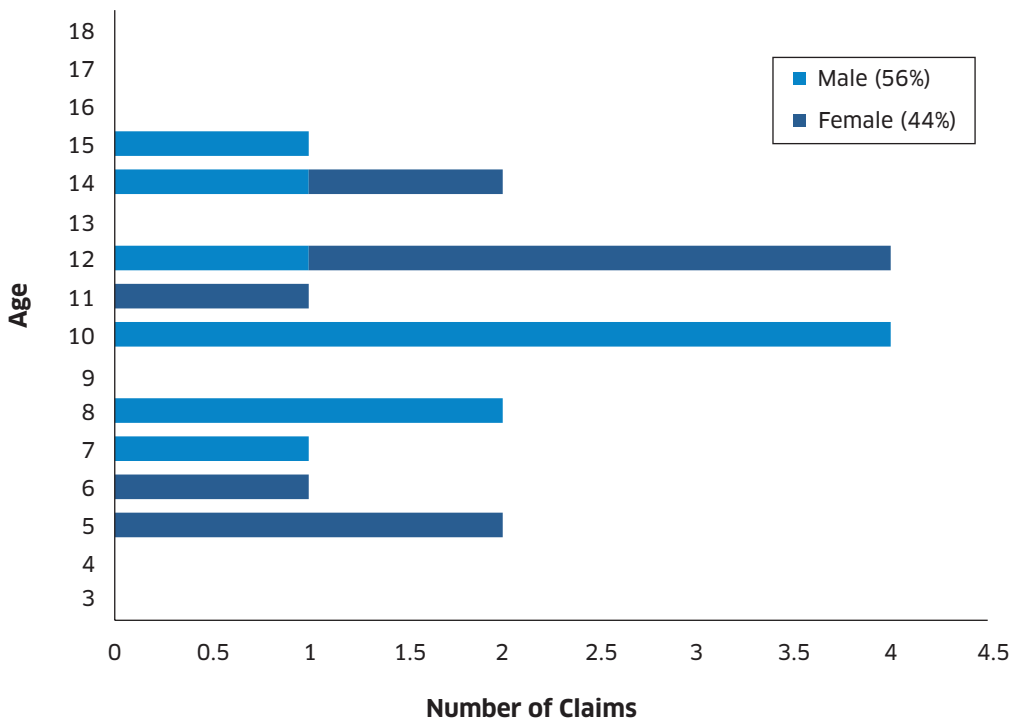
10. Outcomes of Oral Hearings Held 1 April 2012 – 31 March 2013 with Regard to Representation (including hearings in respect of references received during previous reporting year)



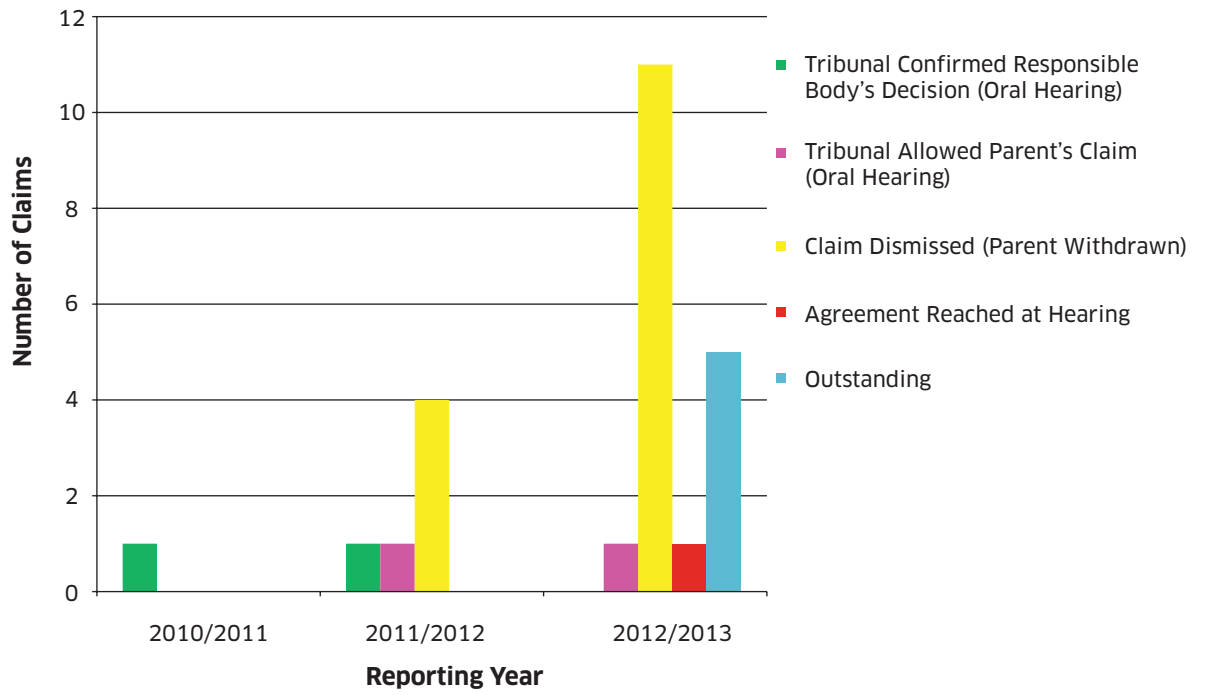
11. Disability Discrimination Claims Received by Reporting Year



12. Claims Received by Age and Gender 1 April 2012 – 31 March 2013



13. Outcomes from Claims Received by Reporting Year



Appendix Three

Tribunal Membership

President

Dr Joe Morrow

Conveners

Derek Auchie

May Dunsmuir

Peter Hessett

Joseph Hughes

Frances Konopka

David Logan

Sara Matheson

John McKendrick

Richard Mill

Isobel Wylie

Members

Stuart Beck

Terry Carr

Margaret Cooper

Janice Duguid

Jill Gorzkowska

James Hawthorn

Richard Hendry

Barbara Hookey

Linda Jones

Sandra Kerley

Jane Laverick

Christina Leitch

Maureen Lorimer

Kate MacKinnon

Dorothy McDonald

John McDonald

Hazel McKellar

Gillian McKelvie

Ian Morrison

Lio Moscardini

Elizabeth Munro

Barbara Peardon

Lesley Sargent

Irene Stevens

Nicola Whitfield

