



Additional Support Needs
Tribunals for Scotland

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

2013/2014



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

June 2014

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

I have pleasure in submitting this, the ninth 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
2013/2014	4
Placing Requests	4
Co-ordinated Support Plans	5
Disability Discrimination Claims	5
Scottish Tribunals Service	6
Continuous Improvement	6
Training of Tribunal Members	6
Tribunal User Group (TUG)	7
Appendices:	
Appendix 1	8
Appendix 2	9
Appendix 3	16



President, Dr Joe Morrow

President's Foreword

In presenting this Annual Report – my third and final Annual Report as President and the ninth Annual Report of the Additional Support Needs Tribunals for Scotland ('the Tribunal') – I have the pleasure of reviewing the improvements and progress which have taken place during 2013/2014.

You will see from the information contained in the Report that there has been a rise in the number of placing request and co-ordinated support plan (CSP) references, with a decrease in the number of disability discrimination claims. The number of references and claims proceeding to an oral hearing remain low, with 6 oral hearings held in the reporting year. Five references were considered and decided by a convener, on the agreement of the parties without an oral hearing, under rule 26 (Power to decide a reference without a hearing) of The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006, as amended. Two claims were considered and decided by a convener, on the agreement of the parties without an oral hearing, under rule 27 of The Additional Support Needs Tribunals for Scotland (Disability Claims Procedure) Rules 2011.

I have continued to encourage considerable 'pre-hearing' work by conveners during this reporting year, to focus the minds of parties

on the areas of shared agreement and on the areas of dispute. This focus on early resolution remains, in my view, essential to helping maintain the relationships required to achieve the best outcomes for the child or young person. It is essential that the child or young person remains at the forefront of our work.

The impact of legislative change will be felt by the Tribunal, in the next reporting year and beyond, with the new *Children and Young People Act 2014*, which introduces the concept of 'wellbeing' and refocuses the child's plan; and the *Tribunals (Scotland) Bill*, which has passed the stage 3 parliamentary process and will shortly receive Royal Assent. In time, this will result in the transfer in of the Tribunal to a designated chamber within the First-tier Tribunal. I have also responded positively to the consultation in March 2014 to extend the rights of children with capacity under the Education (Additional Support for Learning) (Scotland) Act 2004, as amended ('the 2004 Act'). At the moment, only young people who continue in education may make a reference under the 2004 Act. The proposal to extend this right to children with capacity would bring the 2004 Act in line with the Equality Act 2010.

As the reporting year comes to an end, I welcome the new advocacy providers, a

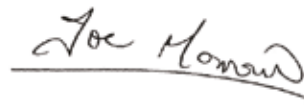
joint initiative of Govan Law Centre and Kindred Advocacy to be known as 'Let's Talk ASN', who will provide services from 1 April 2014. Let's Talk ASN can be used by anyone who has the right to make a reference to the Tribunal. Further details can be found on the Tribunal's website.

I wish to express my thanks to the staff of the Scottish Tribunals Service (STS) who have continued to support the Tribunal in a highly professional way in the last reporting year. We have worked as a team, focusing on strong communication and continuous improvement of our work, which has continued to secure 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 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.

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

Dr Joe Morrow
President

Ninth Annual Report of the Additional Support Needs Tribunals for Scotland

2013/2014

The Additional Support Needs Tribunals for Scotland ('the Tribunal') collects information on cases received by the Tribunal. Information about the cases during the period covered by this Annual Report is presented below. Further statistics on the cases received during this period can be found in Appendix 2 with related expenditure costs for the Tribunals found in Appendix 1. Appendix 3 provides convener and member details for the reporting year.

Placing Requests

This reporting year there have been 33 placing request references to the Tribunal. This is an increase of 8 compared to the previous year (25). Fourteen local authorities were the subject of these references.

- Of these, 3 references were considered at an oral hearing before a Tribunal, each of which confirmed the decision of the local authority to refuse the placing request.
- One reference was decided by a convener without an oral hearing, under rule 26 (Power to decide reference without hearing) of The Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006 ('the Practice and Procedure Rules'), as amended, and the decision of the authority to refuse the placing request was overturned.
- One reference was dismissed as not competent under rule 18 (Power to dismiss) of the Practice and Procedure Rules.
- Twenty three references were withdrawn during the case statement period or prior to an oral hearing, following parties reaching agreement. One was withdrawn following a change of mind and 1 following a change of circumstances.
- Five references received during the period of this Annual Report have not yet been concluded.

Of the references received, 17 related to independent special schools and the remaining 16 related to authority run special schools or bases/units within mainstream schools.

Co-ordinated Support Plans

Eighteen references were made to the Tribunal regarding co-ordinated support plans (CSPs). This is an increase of 4 compared to the previous year (14). Nine local authorities were the subject of these references.

- *Contents of the CSP* accounted for 8 references. Of these, 1 was decided by a convener sitting alone under rule 26 of the Practice and Procedure Rules and the education authority were required to amend the information in the CSP. Two of the references were withdrawn following agreement between parties. Five of the references remain to be concluded.
- *Implementation of the CSP* accounted for 4 references. Of these, 1 was considered before a Tribunal at an oral hearing. One was decided by a convener sitting alone under rule 26 of the Practice and Procedure Rules and the education authority were required to take action to rectify the failure. Two of the references remain to be concluded.
- *A decision that a CSP was not required* accounted for 3 references. Of these, 1 was decided by a convener sitting alone under rule 26 of the Practice and Procedure Rules and the decision of the education authority was overturned. Two of the references remain to be concluded.
- *A deemed refusal of a CSP* accounted for 1 reference. This was withdrawn following agreement between parties.
- *Timescale in issuing a CSP* accounted for 1 reference. This was withdrawn following agreement between parties.
- *A review of a CSP* accounted for 1 reference. This was decided by a convener sitting alone under rule 26 of the Practice and Procedure Rules and the education authority were required to take action to rectify the failure.

Disability Discrimination Claims

The Tribunal received 12 claims in the period covered by this Report. This represents a decrease of 6 compared to the previous year (18).

In all but 2 of the claims the responsible body was named as the local authority and these were spread amongst 8 local authorities. Two claims related to independent schools.

The claims fell into the following categories: *Another Issue relating to education specified in section 85 or 86 of the Equality Act 2010* ('Another Issue') (7), *Exclusion and Another Issue* (3), *Exclusion* (1) and *Admission and Another Issue* (1). Two claims were considered at an oral hearing before a Tribunal. In one case the claim was withdrawn at the hearing. In the other case the claim was refused.

- Two claims were decided by a convener sitting alone under rule 27 (Power to decide claim without hearing) of The Additional Support Needs Tribunals for Scotland (Disability Claims Procedure) Rules 2011 and were allowed.
- Three claims were withdrawn and 5 claims remain to be concluded.

Scottish Tribunals Service

The bringing together of the administrations for ASNTS, the Mental Health Tribunal for Scotland (MHTS), the Private Rented Housing Panel (PRHP), the Homeowner Housing Panel (HOHP), the Lands Tribunal for Scotland (LTS), the Scottish Charity Appeals Panel (SCAP) and the Pensions Appeal Tribunals for Scotland (PATS) has been ongoing since the creation of the Scottish Tribunals Service (STS) in December 2010. A new review panel, the Council Tax Reduction Review Panel (CTRRP), was established in October 2013 and is co located alongside ASNTS, PRHP and HOHP in Europa Building, Glasgow. This allows for staff multi-skilling and cross-jurisdictional working. In line with this a dedicated member of staff spends half his time with ASNTS and the other half with CTRRP.

The ASNTS (and CTRRP) Secretariat consists of 2 small teams of caseworkers. Training a number of caseworkers over both jurisdictions allows for greater resilience to cover peak periods and annual leave and brings a broader knowledge base to ASNTS (and CTRRP).

Continuous Improvement

There is an ongoing effort in the Tribunal's Secretariat to improve processes and the service provided to Tribunal users.

The case management system introduced in 2013 has provided significant improvements and efficiencies to the Tribunal's administration staff and new reports are continually being developed to allow staff to carry out their functions with greater ease. Staff are also being trained in new tools and techniques of continuous improvement, such as problem solving loops and benefits realisation, to further increase efficiency and the service provided to Tribunal users.

There is a continuing commitment by the STS to multi-functional working, which 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 Tribunal Members

In March 2014 conveners and members of the Tribunal were provided with training at the annual one day training event, which took place in Dunfermline. This was centred around autism and inclusion and included sessions provided by both Falkirk and Fife Councils.

Tribunal User Group (TUG)

This Group meets annually and provides an opportunity for the President of the Tribunal, and the Secretariat, to meet Tribunal users. The latest meeting took place in March 2014 in Glasgow and 12 Tribunal users attended.

The President explained how he is encouraging earlier resolution through evaluative mediation and proactive case management and how this approach appears to be producing favourable results. He also gave an update on current issues within the Tribunal. The Secretary to the Tribunal, who is responsible for all administrative matters relating to references and claims and for the case officers involved in the hearings, delivered a presentation on the Tribunal's activity in the past year. A Tribunal convener then gave a presentation on the importance of ensuring that the views of the child are taken fully into account in the Tribunal process.

The presentations were followed by a question and answer session. The report from the latest TUG, along with reports from previous meetings, is available on the Tribunal's website.

Appendix 1

Additional Support Needs Tribunals for Scotland: Expenditure

Expenditure from 1 April 2013 to 31 March 2014

Expenditure	Amount
Tribunal Member Fees (Training, including costs)	£1,000
Tribunal Member Fees (Hearings) (including Presidents' Fees)	£84,000
Tribunal Member Expenses	£4,000
Tribunal Secretariat Hearing Costs*	£2,000
Tribunal Secretariat Staff Salaries	£78,000
Tribunal Secretariat Staff Expenses	£9,000
Tribunal Secretariat Office Costs**	£27,000

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

** This expenditure includes venue hire and related expenses for meetings such as the TUG, stationery, postage, minor purchases, office machinery, the development of the case management system/computer services costs (ICT), hosting of the Tribunal's website and decisions database, the production of the President's Annual Report and legal costs.

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:

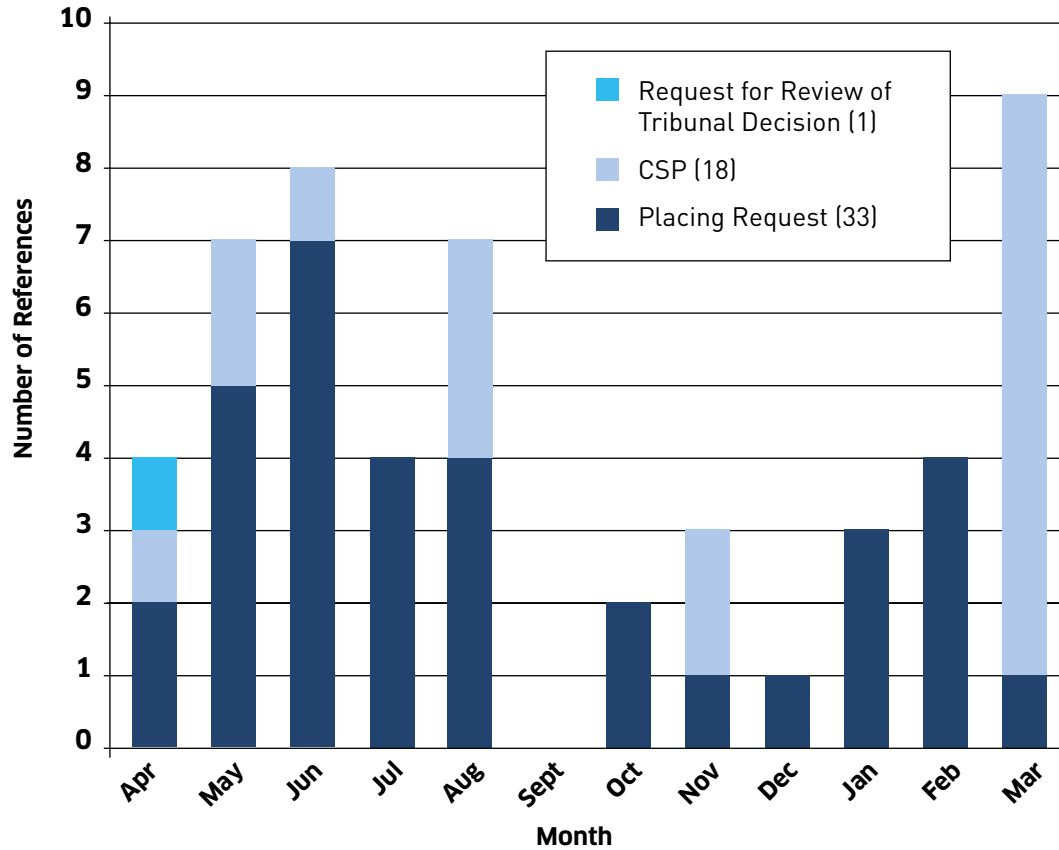
- Public relations;
- Overseas travel;
- Hospitality and entertainment;
- External consultancy;
- Payments with a value in excess of £25,000; and
- The number of members and staff who received remuneration in excess of £150,000.

The Tribunal has not made any payments which fall within any of the above categories during the period of this report.

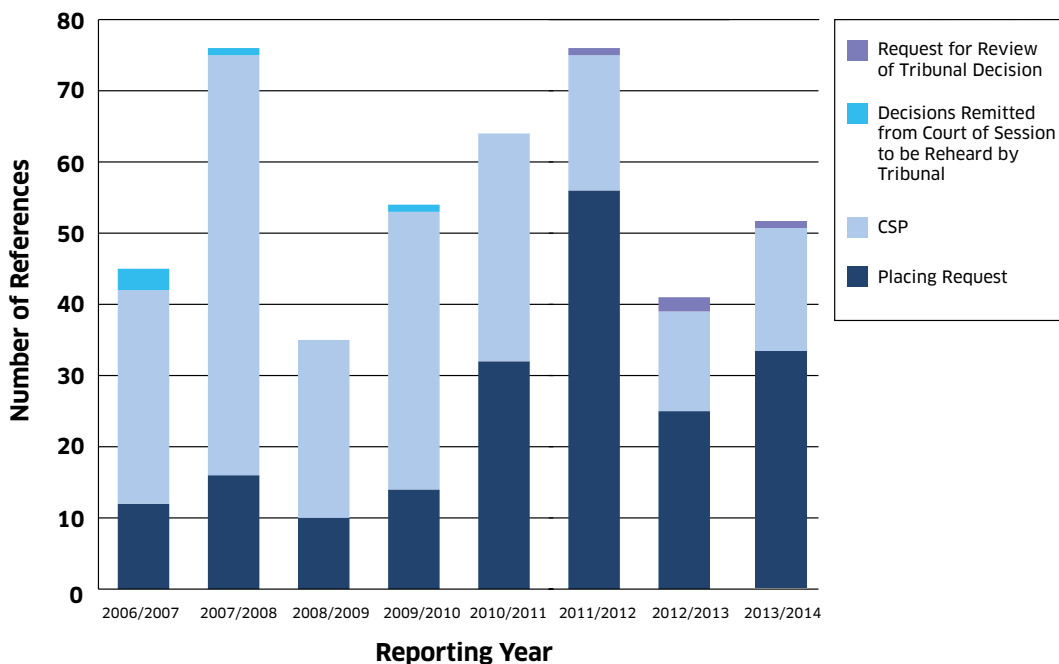
Appendix 2

Caseload Statistics – Reporting Year 2013/2014

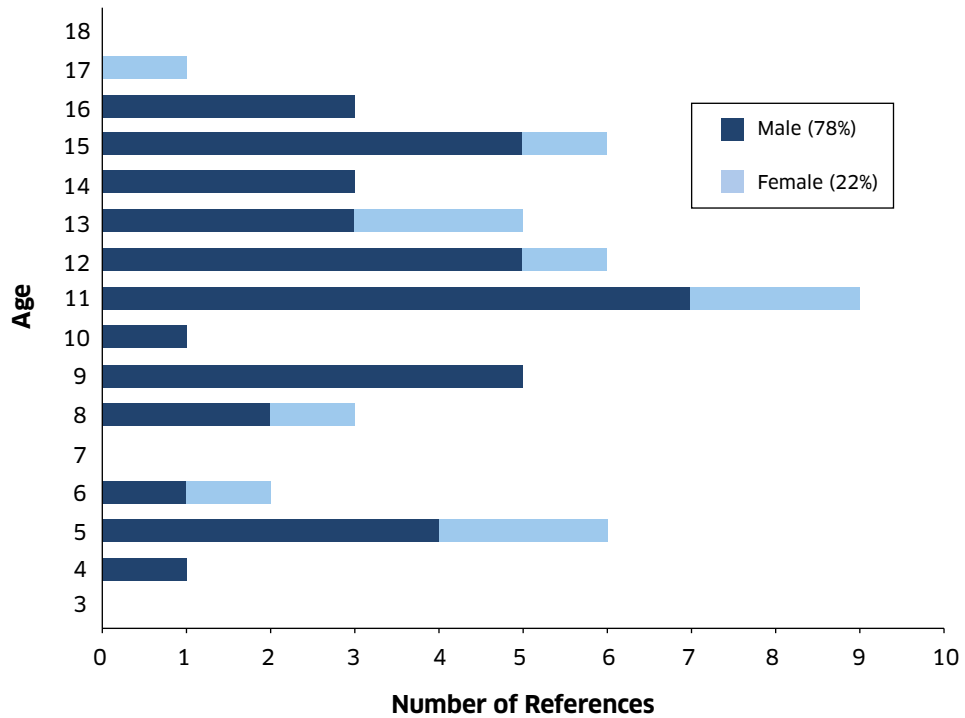
1. References Received 1 April 2013 – 31 March 2014



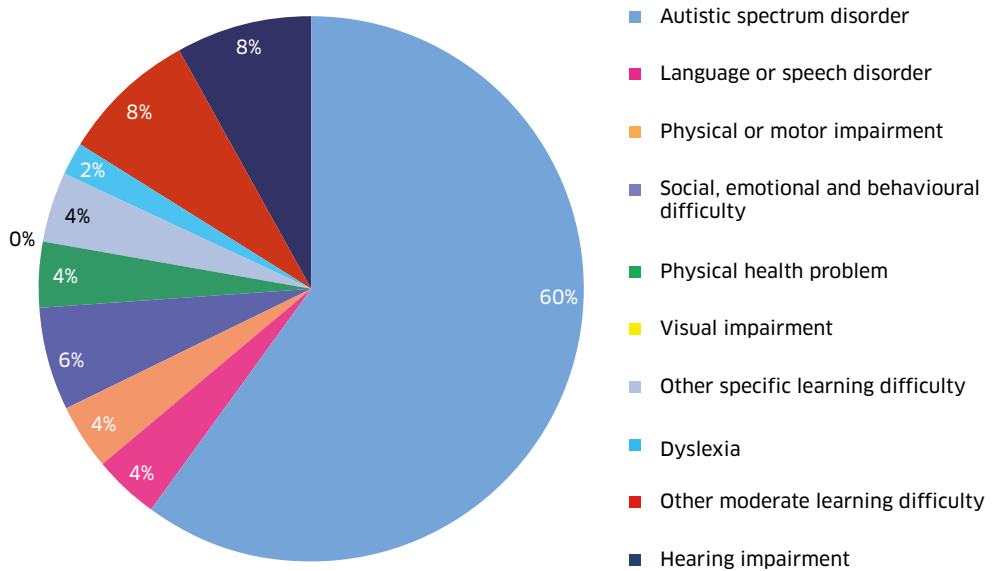
2. References Received by Reporting Year



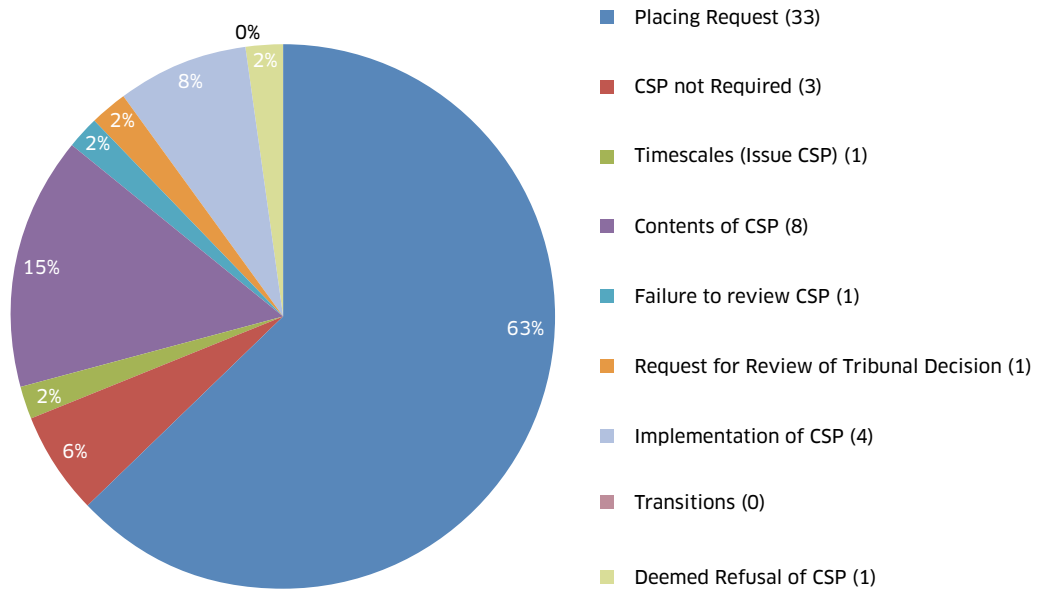
3. References Received by Age and Gender 1 April 2013 – 31 March 2014



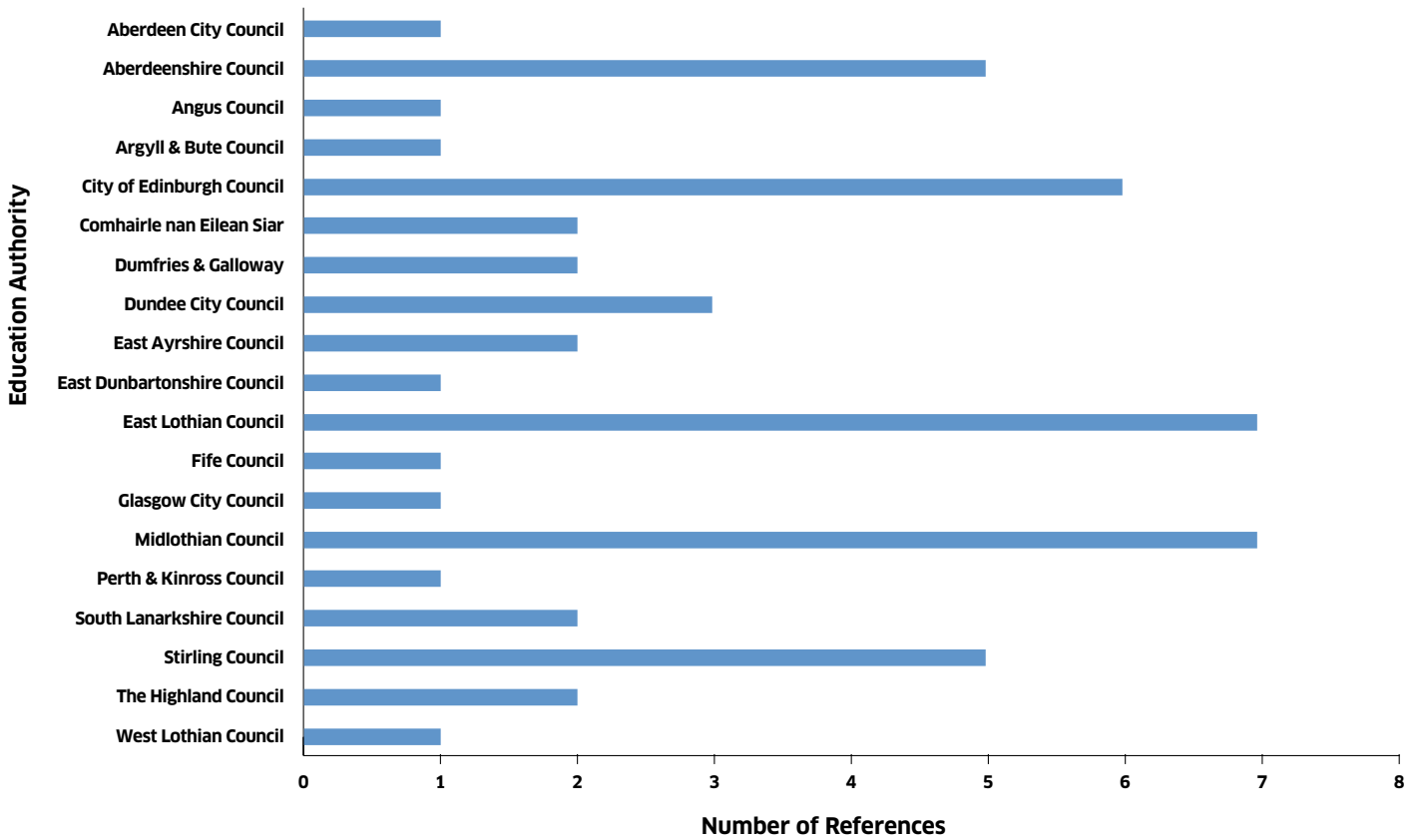
4. Nature of Additional Support Needs for References Received 1 April 2013 – 31 March 2014



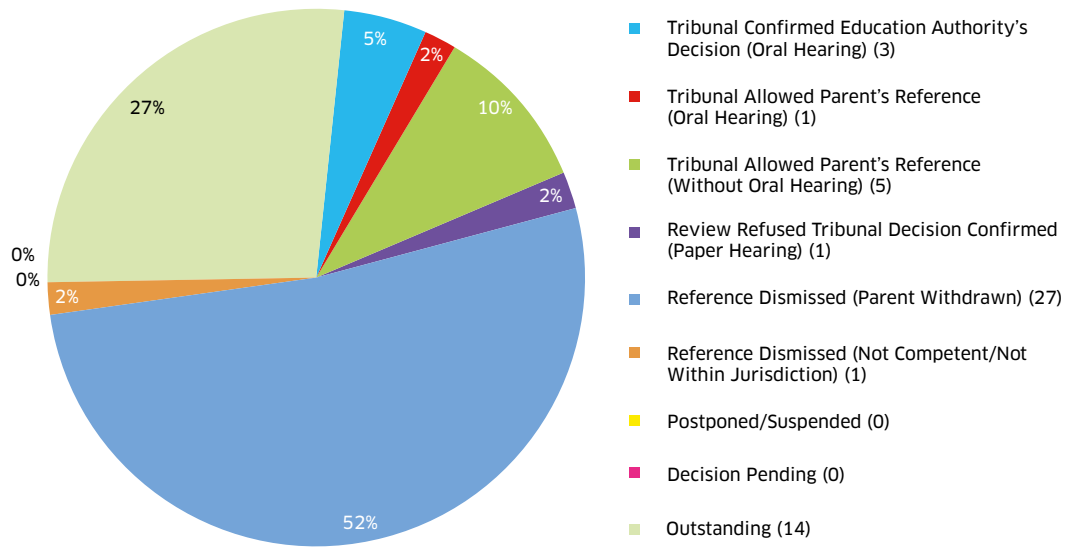
5. References Received by Type 1 April 2013 – 31 March 2014



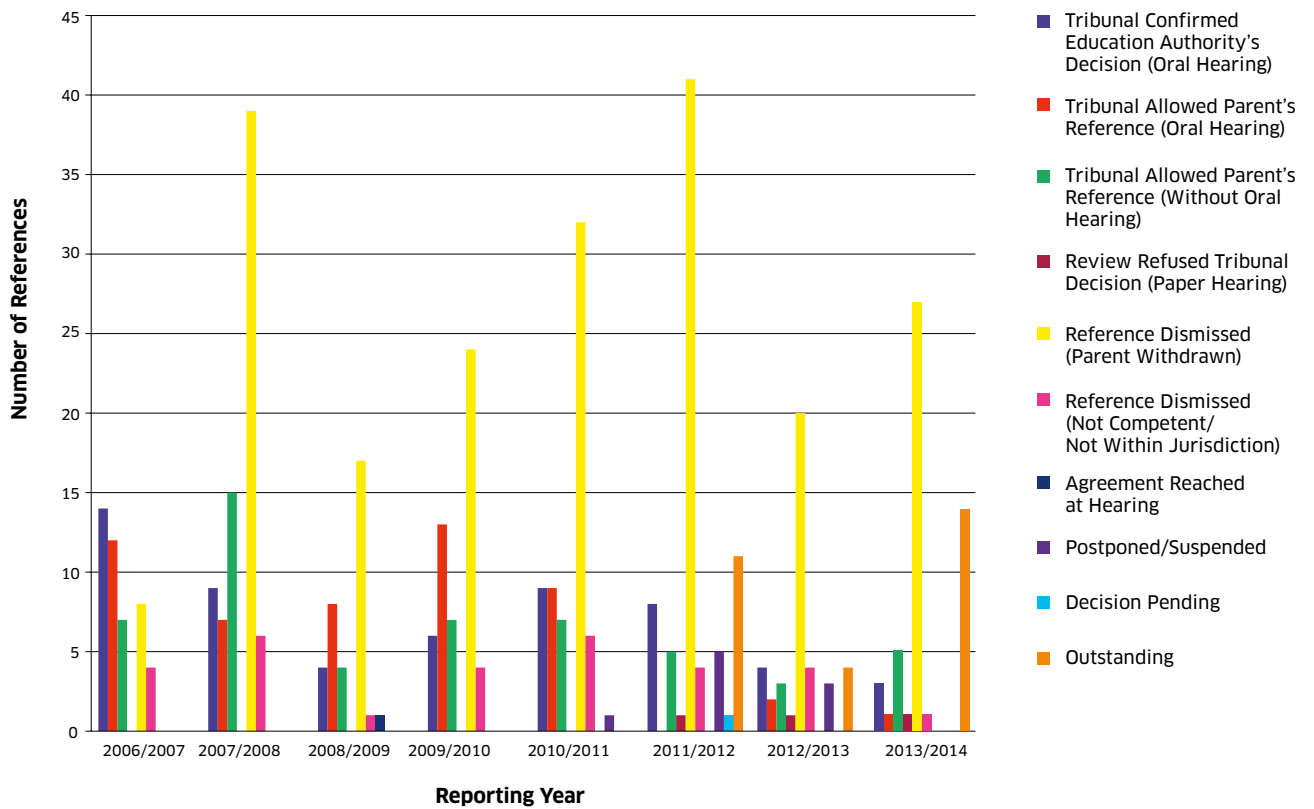
6. References Received by Education Authority 1 April 2013 – 31 March 2014



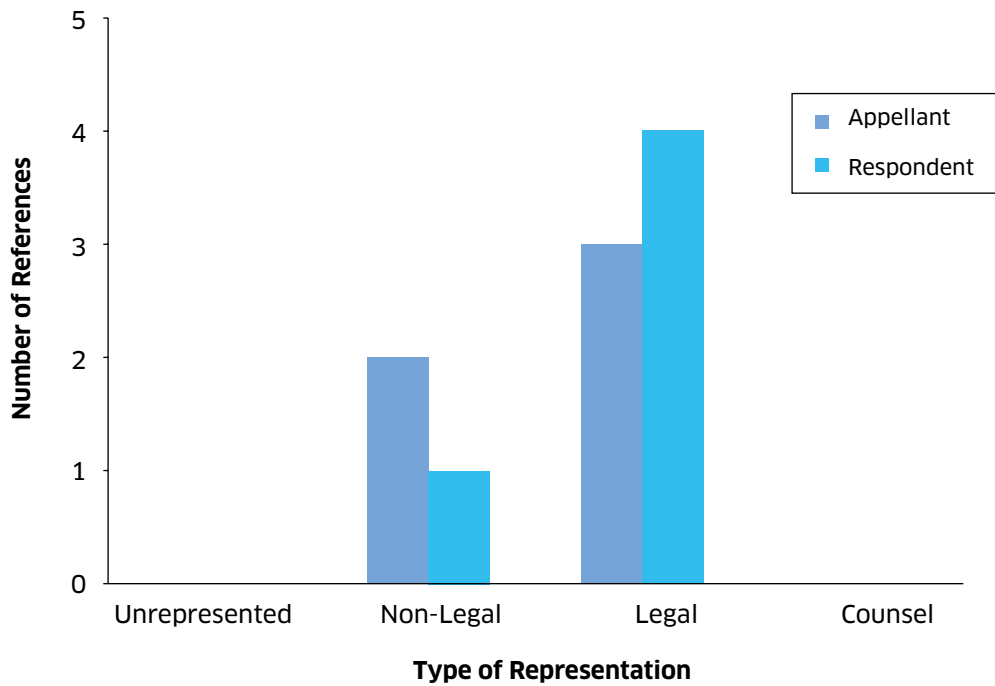
7. Outcomes from References Received 1 April 2013 – 31 March 2014



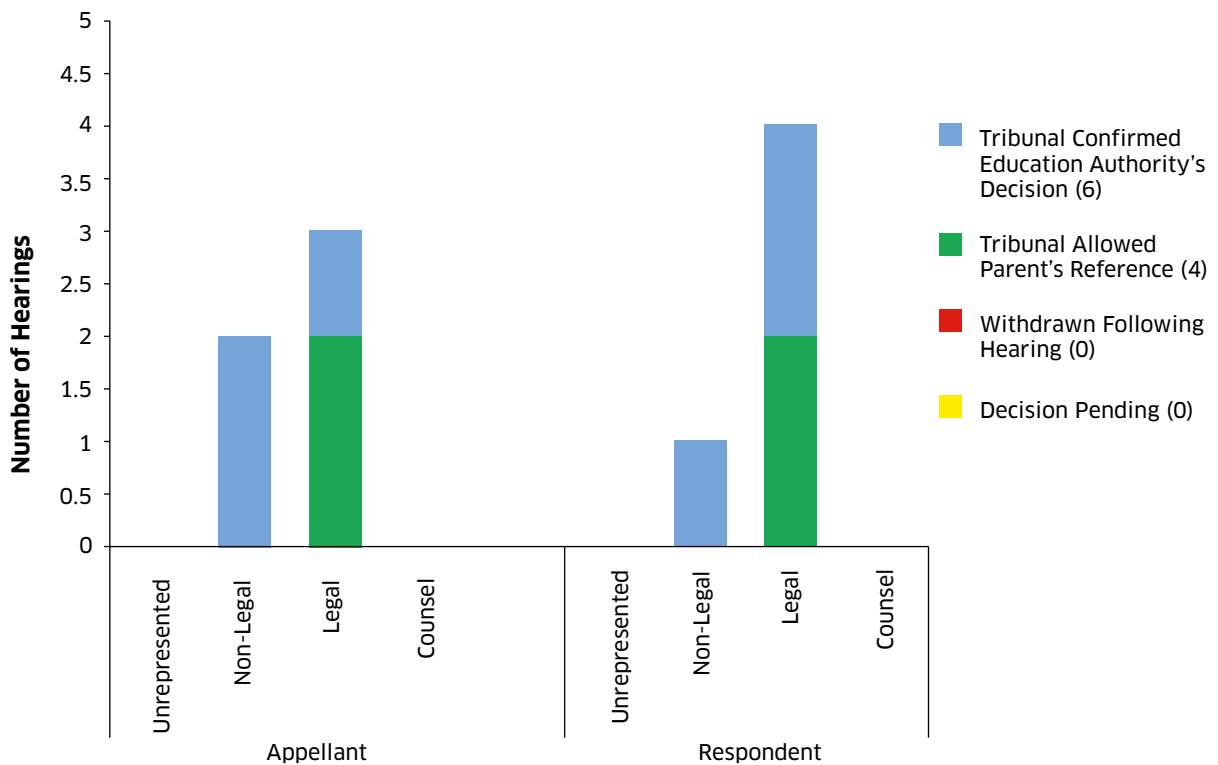
8. Outcomes from References Received by Reporting Year



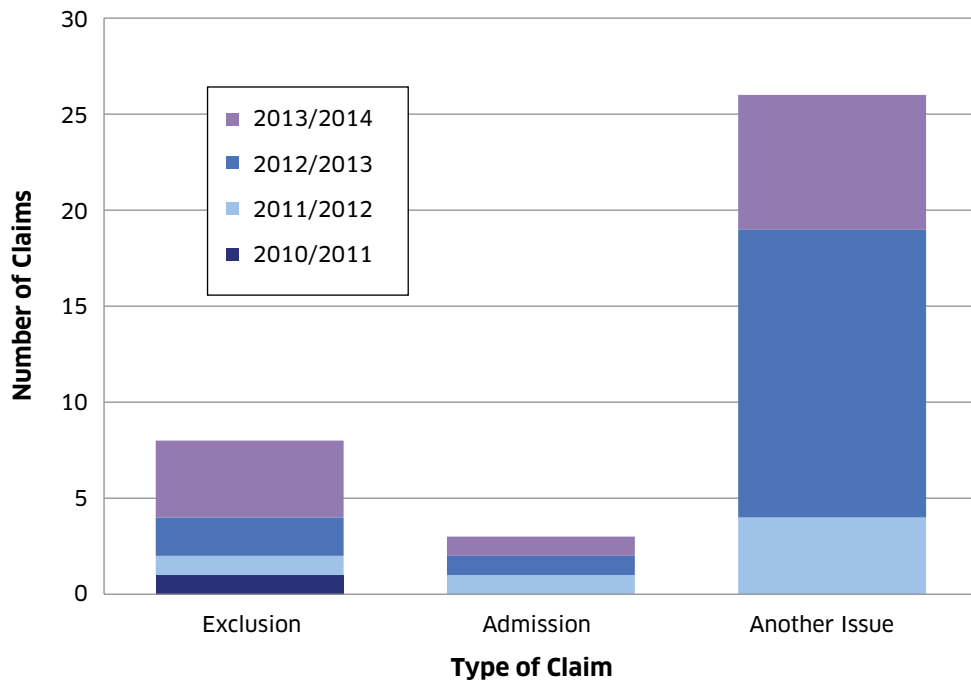
9. Representation at Oral Hearings Held 1 April 2013 – 31 March 2014 (including hearings in respect of references received during previous reporting year)



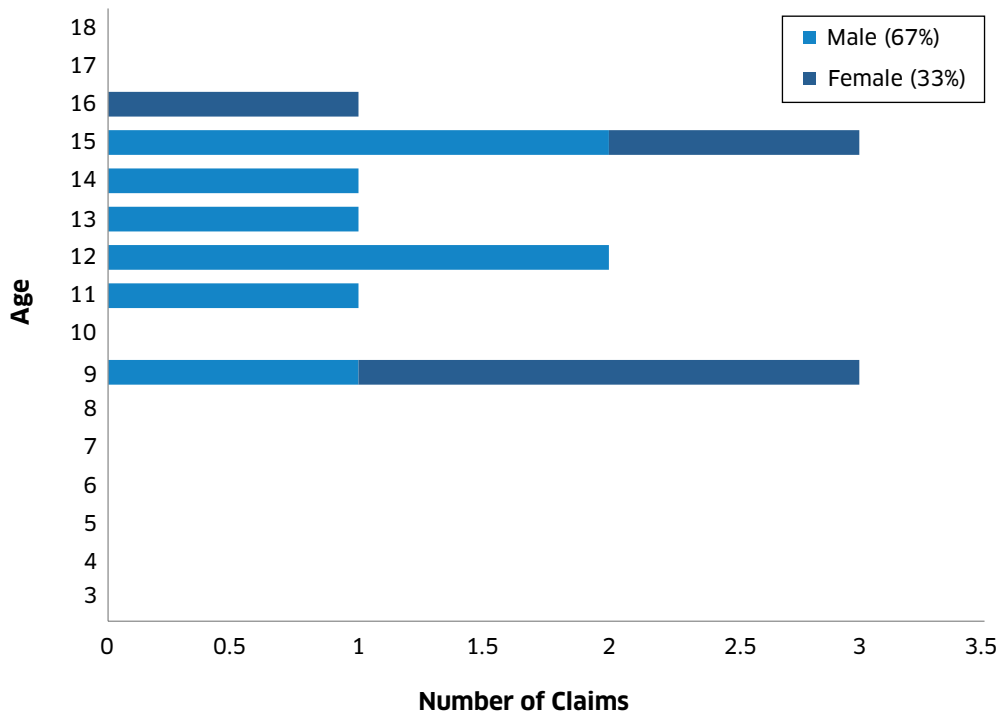
10. Outcomes of Oral Hearings Held 1 April 2013 – 31 March 2014 with Regard to Representation (including hearings in respect of references received during previous reporting year)



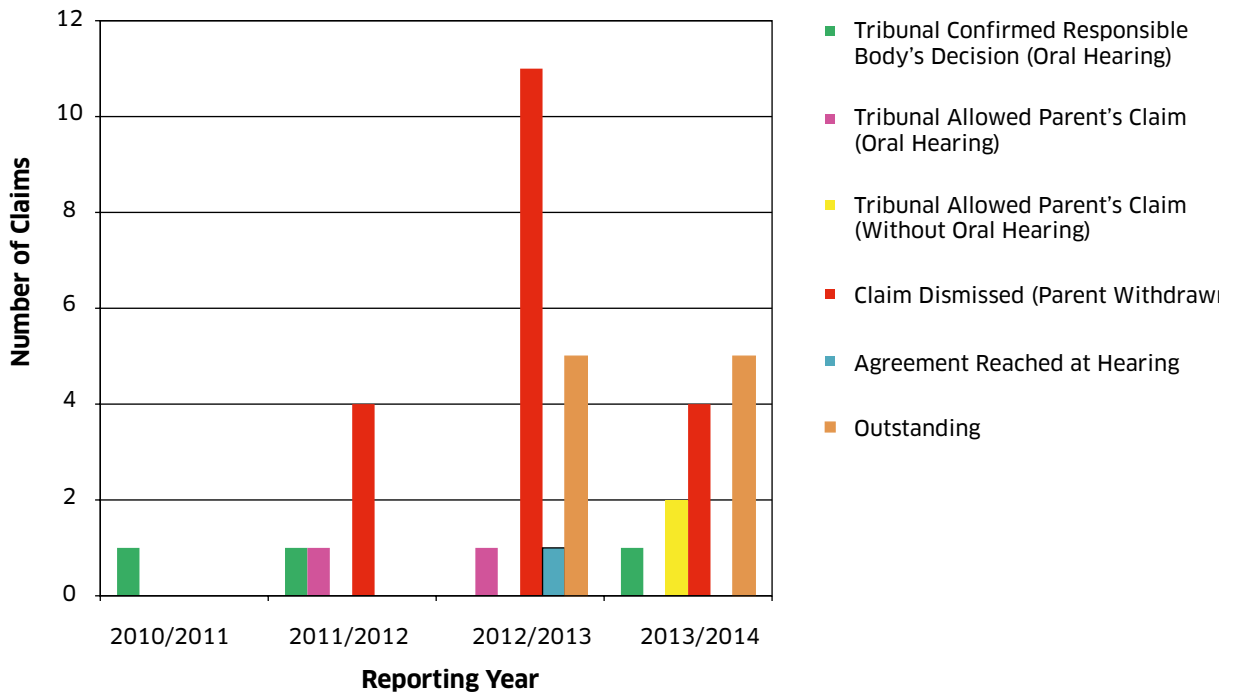
11. Disability Discrimination Claims Received by Reporting Year



12. Claims Received by Age and Gender 1 April 2013 – 31 March 2014



13. Outcomes from Claims Received by Reporting Year



Appendix 3

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

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

