



Additional Support Needs  
Tribunals for Scotland

**Second Annual Report of the President of the  
Additional Support Needs Tribunals for Scotland**

**2006/2007**



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Tribunals for Scotland



Fiona Hyslop MSP  
Cabinet Secretary for Education and Lifelong Learning  
The Scottish Parliament  
Edinburgh  
EH99 1SP

**11 July 2007**

**To Fiona Hyslop MSP, Cabinet Secretary for Education and Lifelong Learning**

I have pleasure in submitting this, my second Annual Report, to Ministers of the Scottish Parliament.

Jessica M Burns

**Jessica Burns**  
**President of the Additional Support Needs Tribunals for Scotland**

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# President's Foreword

I am presenting this, my second Annual Report, under the terms of Paragraph 15(1) of Schedule 1 to the **Education (Additional Support for Learning) (Scotland) Act 2004** which provides that "the President must, in respect of each reporting year, prepare a written report as to the exercise of the Tribunal functions during that year".

The Act itself came into force on 14 November 2005 and I have been in post since 21 October 2005. Schedule 1 provides for a reporting year to be the period from 1 April ending with 31 March next. This Report therefore concerns the first full year of the Tribunals' existence which has proved to be exciting and challenging.

My first Report for the part year 2005/2006 set out the implementation process for the Tribunals but this second Report reflects the first fully operational year during which the case load, albeit still modest in comparison to original projections, gave an opportunity to assess the performance of the Tribunals and the legislation under which they operate. During the reporting year 2006/2007 the Tribunal received 42 references (with no references carried over from the previous year), issued 26 decisions, with 7 references withdrawn or not competent, and 9 references undecided at the end of the year. The appendices set out the relevant statistical information for the past year.

## The Legislation

No tribunal can operate outwith the statutory provisions under which it is established. On 27 March 2006 revised Tribunal (Procedure and Practice) Rules were laid to replace those originally laid prior to the commencement of the Act in November 2005. Despite the consultation and revisions effected by the revised rules, early indications are that the rules are not entirely successful in permitting the Tribunals to deliver the user-friendly procedures which were clearly intended and are enshrined in the overriding objective set out in Rule 2.

At the invitation of the Support for Learning Division of the Scottish Executive, I have contributed to a legislative sub group which is currently considering possible changes to the rules and the substantive legislation in order to better meet the needs of stakeholders. Although decisions of the Tribunals have highlighted some difficulties in implementing various aspects of the primary legislation, it is only proper that I confine my input to matters purely relating to the operation of the Tribunals with a view to better fulfilling my responsibilities as President under the legislation.

The fact that new legislation requires to be amended does not reflect adversely on the scoping carried out for the implementation but rather indicates the complex ambitions of the legislation with a view to enabling children with additional support needs to develop their full potential within the education system.

The main issues which I have identified as requiring procedural amendment are:

- powers to shorten the case statement periods in all types of case and not only those relating to placing request;
- the absence of any review powers whereby there is a clear error in law, a Tribunal decision can be set aside without the need for parties to incur cost, delay and anxiety by having to make an appeal to the Court of Session;
- the lack of any penalties which can be imposed on education authorities who fail to meet the prescribed timescales;
- absence of explicit powers to hear references concerning placing requests to a host authority where the ownership of the co-ordinated support plan is with the home authority; and
- inflexibility of setting case statement periods which would enable one party to provide documentation in advance of the other to avoid duplication of productions.

I have prepared a full and detailed submission for the assistance of the Support for Learning Division and in the event of any amendments being proposed I understand that there will be proper consultation. The Secretary of the Tribunals has contributed to a similar sub-group set up to consider communication issues relating to the legislation.

As President I may provide feedback through my Annual Report on how I perceive the legislation to be operating, specifically based on the evidence of the cases which come before the Tribunals.

It is still too early to predict how the Tribunals will develop and the extent to which they are able to give any accurate information as to the effectiveness of the current support for learning provisions. I have therefore tried to address a number of the key areas within this report.



# Education Authorities and the Implementation of the Education (Additional Support for Learning) Scotland Act 2004

It is not possible for me to comment with any accuracy on the extent to which Education Authorities have progressed the implementation of the primary legislation. It is the responsibility of Her Majesty's Inspectorate of Education to report on this as a result of their school inspections and they issued a preliminary report on 31 October 2006, highlighting the disappointing level of activity. It is possible that the slower than expected conversion of records of needs to the new system has had an impact on the number of references coming before the Tribunal.

I have sought to engage with those representing Education Authorities as part of my outreach work (see page 11) and I have had an opportunity to observe the procedures of the Education Authorities through the papers lodged in connection with references relating to 19 authorities. It is apparent that many authorities are apprehensive about the new legislation and many were not sufficiently prepared for implementation. In smaller authorities many implementation officers have other responsibilities and expertise is often quite dilute across the education officers. Larger authorities have sought to develop their own implementation tools and procedures with a view to streamlining the processes. It is not yet clear how helpful some of these procedures have been.

The Code of Practice sets out a framework under the legislation but lacks the detailed specificity which Education Authorities have been seeking in order to meet some of the more complex aspects of the legislation. Much of the Code had to be written before the regulations were finalised and a revision of the Code would greatly assist the smoother working of the legislation. It is understood that this is planned.

It is, of course, to be expected that Education Authorities with multiple statutory obligations to implement and a good many learning initiatives will require a period for the legislation to bed in and for them to acquire the appropriate level of expertise. For this reason I am highlighting two specific issues in this report where I would expect to see a marked improvement during the coming year. The first relates to the issue of the decision letter relating to co-ordinated support plans and any associated placing requests.

A review carried out by the Secretariat on the reference files for the reporting year discloses that no decision letter held in respect of any reference received manages to convey all the information to the parent which they are required to be informed of under the terms of the statutory provisions. It was also noted that the job title of the person issuing the decision letter was different in each local authority. In some authorities the decision letter was issued by different decision makers, for instance, one by a head teacher and another by an official from the Education department. For this reason I have included at Appendix 4, to my Report, an example of a decision letter which authorities may find useful to

consider as a template and to which parents and representatives may have regard in reviewing the information contained in any decision letter received. It is hoped that this will prove of assistance in addressing this fundamental aspect.

The second issue concerns the number of references relating to the failure of the Education Authority to meet the prescribed time limits. It is not surprising that in implementing new legislation the time-scales may be breached on occasion but some references indicate that this is not due essentially to the tightness of the timescales or the availability of those required to produce reports, but to inertia or inefficiency in the process against which the parent has little redress. Although there is the right to bring a reference to the Tribunal where there is failure to meet the timescales provided, there is no sanction available to the Tribunals to encourage or to compel compliance. In view of the procedures which the Tribunals must follow these hearings cannot be accelerated and the bringing of a reference might even allow the authority an extension of time to assess or to prepare the CSP. The evidential sample is not sufficiently large to identify widespread abuse of timescales but it does disclose a pattern which might suggest that some form of financial penalty which can be levied by the Tribunals and paid by way of compensation to the parent might be an effective way of quantifying this problem and effectively addressing it. At present it is highly likely that there are many other cases where time limits are not met but since the result of bringing a reference is simply that the Tribunal upholds the reference (as opposition is invariably withdrawn by the Education Authority) and yet is powerless to compel compliance, the outstanding procedure may still not be concluded.

The two-year period allowed for transfer of existing Record of Needs to Co-ordinated Support Plans where the criteria are met under the Act is due to end on 14 November 2007, it should be possible to draw more accurate conclusions on implementation in my next report.

## Tribunal Performance

It has been apparent from the outset that the expectation that hearings would be straightforward and would last no more than half a day was inaccurate. Where evidence is heard every hearing has lasted at least a full day and some substantially more. The Tribunal is usually unaware if any attempt to mediate has taken place. Where the disputed issue relates to a placing request this type of dispute resolution is unlikely as there is no scope for negotiation and in some hearings the potential for an informal friendly approach is limited by considerable hostility between parties. These factors have, in turn, created unanticipated demands on the Secretariat, the Tribunal conveners and members.

The development of the Tribunals does not take place in isolation. I am grateful to those who have acted as representatives at Tribunals for parents or education authorities that they have felt able to feedback to me issues of concern or clarification. I have tried, where possible, to respond to their suggestions or address difficulties as they have arisen by providing guidance through direct contact with conveners and members, inserting guidance notes in the e-bulletin

or issuing practice directions. I have dealt with only one formal complaint during the reporting year which I investigated but did not uphold.

It should be noted that the practice of digitally recording proceedings in all cases is particularly helpful in the investigation of complaints.

I am conscious that in order to achieve the trust and confidence of users, particularly in a new system, the performance of each Tribunal should aim to achieve a hearing consistent with user expectations and the Tribunal competences which have underpinned training.

Shortly after the conclusion of the induction training I resolved that it was important to maintain meaningful and regular contact with conveners and members, regardless of the extent to which they were being called upon to sit. It is essential that knowledge is shared between those who sit on Tribunals not least to try and ensure that each Tribunal is as skilled as possible to deal with the reference before it. From April 2006 all those who sit on Tribunals have been issued with a monthly e-bulletin collated by the Secretariat and this is the main conduit of regular communication with conveners and members. It is envisaged that this communication will continue to be issued 11 months of the year (with the exception of July as the 'vacation' month for reference purposes provided for by the legislation). Feedback on this type of contact has been very positive and it provides a quick reference diary of the Tribunal activities over the year but e-mail contact with, and between, members and conveners has fostered good working practices.

It is a matter of regret that to date, I have been unable to implement performance appraisal of Tribunal members and conveners from January 2007 as I had intended. The reasons for this are threefold. Firstly, since I continue to fulfil the post of President on a one day per week secondment from my judicial post in the Ministry of Justice (Regional Chairman of Social Security and Child Support Appeal Tribunals, a non-devolved jurisdiction) and my existing responsibilities are already substantially in excess of the one day per week, it has not been possible for me to allocate the time required as I had hoped. Secondly, I have to balance the need for appraisal with the desirability to convene hearings myself, particularly where they are complex. Lastly, there are organisational difficulties posed by hearing dates being amended or the reference being withdrawn shortly before hearing.

Notwithstanding these obstacles, I am determined to embark on appraisal with a view to ensuring that all conveners and members have been appraised by the end of the next reporting year. It may be necessary for me to call on assistance from others in order to achieve this goal but where hearings are in private it is yet another means by which an element of transparency can be maintained. Through training and guidance I have encouraged Tribunals to reflect on their own learning experience after each hearing as we can learn much from each other but I recognise that it is important to facilitate this process through formal appraisal in order to give structured feedback and share examples of good practice more widely.

Some feedback has also been given following observations of Tribunals hearings by the Scottish Committee of the Council on Tribunals and this has already been helpful to the Tribunal.

# Appeals to the Court of Session

As anticipated, a relatively high number of hearings in this first operational year have resulted in the decision being subject to onward appeal to the Court of Session where they are considered by an Outer House judge. Of the judgments issued in the reporting year one highlighted the anomalies of having a placing request considered by the Tribunal where there is also a co-ordinated support plan issue and a further decision addressed the importance of the Tribunal's enabling role and the proper cost comparator to apply in the consideration of a placing request.

As at the end of this reporting year one Outer House opinion was being reclaimed (appealed) to the Inner House where the issues arising are considered by three judges. It is regrettable that where the error of the Tribunal is palpable that there is no cheaper, quicker and more user-friendly remedy available, particularly in view of the aim that the legislation be user friendly and informal. It may be desirable that appeals which do not raise complex points of law could be considered by way of a set aside procedure exercised by the President or nominated convener and this would enable a reference on a decision to be set aside and the matter to be considered by a differently constituted Tribunal as expeditiously as possible.

It is, of course, appropriate that where the issue under appeal raises a complex matter of interpretation that this be subject to guidance from the courts but even this process may be assisted by way of an appended note on the decision from the convener or President indicating why it has not been considered under an accelerated set aside procedure and specifically indicating the nature of the guidance sought in any opinion of the court, Reference is made to Appendix Two (Statistic 10) at page 20 of this report.

## The Tribunals and Administrative Justice

The past year has been one of significant developments in the wider world of Tribunals. As a devolved tribunal, the Additional Support Needs Tribunals for Scotland (ASNTS) sits within the sponsoring Division within the Scottish Executive as part of the Schools Directorate. There is a Scottish Tribunals' Forum chaired by an Inner House judge of the Court of Session at which the Tribunals are represented together with the heads of devolved and non-devolved tribunal systems in Scotland. Unlike the other Tribunals represented, the conveners and members of ASNTS are classed as public appointments rather than judicial appointments. The absence of an explicit strategy for the devolved Scottish Tribunals is an issue which may be explored during the current Parliament.

The Scottish Committee of the Council on Tribunals continues to play an important role in overseeing Tribunals within the Scottish jurisdiction and their continuing interest in the progress of ASNTS is greatly valued. Their new system of issuing a full report following tribunal visits is particularly helpful in identifying issues of good practice.

# Training

Training remains particularly important as a means of maintaining skills particularly where there are still relatively few hearings. Members and conveners undertook their first day of annual training for the financial year 2006/2007 in October 2006. The theme for the day was 'Backwards and Forwards' which concentrated on reflecting the Additional Support Needs Tribunals experience gained to date. Members and conveners also undertook modules on 'Presidential Guidance' with a view to establishing greater consistency at hearings and 'Meeting Expectations' which focused on delivering a user-friendly hearing. The Secretariat presented aspects of Tribunal business from the case officer perspective and there was a presentation from a representative of Her Majesty's Inspectorate of Education to give insight into their role in reporting on the implementation of the legislation. This training day was observed by a member of the Scottish Committee for the Council on Tribunals.

The second training day of the year took place in February 2007. This was themed around 'The Tribunal Ethos' and concentrated on developing the skills required to achieve a user-friendly hearing. Participants addressed various scenarios in a legal problems workshop. I provided a presentation on possible legislative changes to Tribunal provisions and an open-forum session for members and conveners addressed issues raised by participants.

Members and conveners always complete a training evaluation form at the end of each training day and the results of these questionnaires are compiled by the Secretariat to identify future training needs.

Two further days of training are planned for the next financial year and I am committed to ensuring that conveners and members continue to benefit fully from training opportunities.

## Presidential Guidance and Directions

In fulfilment of my statutory obligation to provide leadership of the Tribunals, I have issued guidance directions during the past year. A list of the Guidance and Directions is set out at Appendix Three at page 21 of this report.

The purpose of the Guidance is to assist Tribunal users in their understanding of the process and to help them prepare appropriately for the hearing. The key document was the issue of the Guidance for Witnesses. It soon became apparent that witnesses, particularly expert witnesses for the Education Authority, were not prepared for the depth of questioning and the challenges made to the robustness of their reports. It was also apparent that some parties were not necessarily calling the most relevant witnesses to appear. This guidance is normally sent to witnesses prior to the hearing so they are better informed as to how the hearing

may be conducted. This information has helped users gain a more realistic expectation of the process.

The aim of the Directions issued to conveners and members is to try and ensure that wherever possible there is an internal consistency in the way in which Tribunals approach their task and, in particular, to ensure that the enabling role of the Tribunals is fulfilled. For instance, the direction to the convener to hold, wherever possible, a pre-hearing case meeting by way of conference call with the parties' representatives about a week in advance of the hearing facilitated by the case officer, has ensured a more accurate allocation of time for the hearing, a more flexible approach to the ordering of witnesses and creative use of conference call facilities to take evidence from witnesses unable to attend the hearing in person. Perhaps most importantly it has ensured that most Tribunals can now proceed to hear evidence at the commencement of the hearing without the need for legal debates on preliminary issues which the parent can often find stressful as it appears to be unrelated to the relevant issues concerning their child.

The content of the Directions issued has, where possible, been addressed at training or subject to convener and member review. Further directions and guidance will be issued whenever appropriate.

## Representation

The graph, appearing at page 23 (Statistic 8) of Appendix 2, illustrates the incidence of representation at hearings during the past year. No unrepresented appellant has yet proceeded to an oral hearing. To date almost all appellants have sought at least initial advice from ISEA or from Govan Law Centre. This has meant a considerable concentration of expertise within two organisations and this has been of valuable assistance in ensuring a good quality of representation. The availability of representation of this standard in Scotland is welcomed. Both organisations are to be commended for the manner in which they have sought to participate in hearings and support their clients.

Although the ethos of the Tribunals is to be enabling, it is indisputable that the rules remain complex and the context is often highly stressful. There is no doubt that however enabling the Tribunal seeks to be, any appellant will benefit from the support and advice offered by skilled representation. The bar chart at page 18 (Statistic 6) of Appendix 2 shows that only one young person aged 17 was the subject of a reference and at no hearing during the reporting year did the Tribunals have an opportunity to hear directly from the child or young person.

In contrast to those representing appellants, most Education Authorities have had much less opportunity to gain the same level of expertise and some have had no references before the Tribunals to date. Despite some apprehension on the part of parents that the Education Authorities would almost invariably be represented by solicitors, the incidence of legal representation for the EA is not substantially greater than that for the appellants.

# Tribunal User Group (TUG)

It was my intention from the outset to establish a Tribunal User Group (TUG) to provide a forum for users to be updated on both judicial and administrative matters and to raise issues in relation to any aspects of the Additional Support Needs Tribunals. This is part of the commitment of the Tribunals to accountability and transparency. I also recognise that it is helpful for users to be able to meet me and each other on a regular basis.

In my initial report, I reported on the inaugural TUG events. The second TUG took place in Perth Concert Hall on Friday 9 February and was attended by 45 delegates including 6 members of the Secretariat and 5 members/conveners of ASNTS. It was decided that one TUG for the whole of Scotland would be sufficient having regard to the case load.

The meeting comprised short presentations covering recurrent themes from the last year and emerging themes from this, a statistical update, an overview of the work of the Secretariat and proposed new developments and initiatives.

Most of the meeting, however, was given over to a question and answer session which aimed to address the important issues from the stakeholder perspective. Many of the attendees had first hand experience of either representing at a Tribunal or attending as a witness. Issues raised reflected individual experience and a shared determination to foster best practice. Delegates were asked to submit questions in advance where possible so that these could be grouped around themes but time also allowed for questions from the floor. Areas covered included:

- judicial/interpretative matters;
- operational improvements;
- conduct at hearings;
- role of representation; and
- challenge of establishing and maintaining user-friendly flexible, proceedings.

Debate was both lively and constructive and a report of the proceedings has been published on our website. My intention is to maintain and develop this useful forum to the benefit of users, the Secretariat and Tribunals alike. A further TUG date has been identified for 9 November 2007.

# Outreach

I regard the maintenance of good relations with Tribunal users and those in the wider context in which the Tribunals operate as essential for the credibility of the Tribunals and consistent with the desire to maintain as transparent a process as possible, whilst safeguarding the privacy of the hearings. As a result I, conveners, members or the Secretariat have attended a number of meetings over the past year either to represent the Tribunals, give a presentation of the Tribunal's work or simply to audit the event with a view to increasing the Tribunal's collective knowledge, for example:

- Autism connections seminar September 2006
- Child and Youth Policy Network seminar on Inclusion for Children and Young People with Additional Support Needs October 2006
- Children in Scotland 'Sharing practice seminar' October and November 2006
- Central Law Training ASN conference – 'Making ASN Tribunals fit for purpose' January 2007
- 'Partners in Advocacy' meeting – February 2007
- ASLO conference 'Making the Tribunal fit for purpose' February 2007
- Enquire conference 'Making transitions work, supporting pupils learning during change' February 2007
- 'Speaking up in Secondary' March 2007

# Publication of Decisions

There is a target for the issue of decisions 10 working days after the hearing and this has been met in all but the most complex cases. There is also a duty on the President to publish decisions under Rule 45 but this could not be implemented until there was a sufficient volume of decisions available otherwise there would have been an unacceptable risk that the identity of the child could be compromised. At the end of the reporting year an area on the website was created which holds a database of anonymised decisions on references.

The decisions are in a form which protects the identity of the child and the parties but publication is in keeping with our commitment to openness and transparency. Under the terms of Rule 45 (3) (c) parties are given an opportunity to make representations which I consider before deciding whether publication should proceed. It is hoped that this database will prove a valuable resource to our users.



## Website

The Additional Support Needs Tribunals website ([www.asntscotland.gov.uk](http://www.asntscotland.gov.uk)) provides a range of information about the Tribunals and their operation. During the last financial year an additional area called 'Attending a hearing' has been created, this area is currently under development but will eventually store information in relation to venues used by the Additional Support Needs Tribunals, how to claim for expenses and Presidential guidance.

The website is currently being developed in a phased approach. During the financial year 2006/2007 Phase II of the website's development was completed. Phase II resulted in the creation of the following two resources:

- a secure area for members and conveners, where they are able to update their own personal electronic diary, find out contact details for one another and discuss relevant (non-reference related) topics on a private discussion board; and
- the decisions database stores **anonymised** decisions made by the Additional Support Needs Tribunals. This can be searched on a number of different criteria and users can view the decisions in a PDF document.

During the financial year 2007/2008, the final phase of the website's development will commence. This will see the introduction of an online reference form, allowing people to submit a reference to the Additional Support Needs Tribunals electronically and also of a secure area for conveners to upload their decisions electronically to the Secretariat.

The average number of visitors per month to the Additional Support Needs Tribunals over the last 6 months of financial year 2006/2007 was 263.

## Objective and Secretariat Developments

During the reporting year, the Tribunal administration commissioned, developed and implemented a sophisticated electronic case management system designed and built by the Objective Corporation Limited (OCL). In delivering this project the Secretariat played a key role to ensure that all the possible processes envisaged in the Rules of Practice and Procedure were covered and that statutory requirements were secured. The project was ground-breaking in that ASNTS was the first Non Departmental Public Body (NDPB) to be supported on the SCOTSlite electronic platform and the first to use OCL's workflow case management system. The SCOTSlite system largely shadows the SCOTS electronic platform used throughout the Scottish Executive but functions entirely independently. As a case management system, workflow has been designed to identify the key tasks and allocate them to groups of individuals within the Secretariat. As a safeguard, this

functionality ensures that tasks are not overlooked because the owner is not in the office.

It is proper to acknowledge the role played by Shared Services of the Scottish Executive in ensuring the successful completion of this project. Although the Tribunal administration is a comparatively small NDPB, the functionality offered by this system places the administration in an excellent position to expand its capacity and adapt to other statutory processes should this be required.

In order to continually improve the level of service offered to users, Case Officers issue a Secretariat Questionnaire, on the day of the hearing, to parties attending. This questionnaire gathers feedback on users' responses to the administrative process and their thoughts on the arrangements for the hearing (including refreshment and accommodation provisions).

Arrangements are to be made for the production of a simple DVD which will provide an overview of what users may expect at a hearing. This will be available to parents, young people, authorities and witnesses alike and it is hoped that this will remove some of the uncertainty for those who have not previously attended an ASNTS hearing.

## Research

Shortly after the inception of the Additional Support Needs Tribunals for Scotland, an approach was made by researchers in the Social Policy Department of Edinburgh University to ascertain whether the Tribunals would be prepared to participate in an independent study of the experiences of people who attend a range of tribunals in the UK. The project is funded by the Economic and Social Research Committee.

The research focuses on the experience of those who have recently attended a tribunal irrespective of satisfaction levels or outcome. It seeks to compare the experiences of those who sought advice before the hearing and those who did not; those who sought representation and those who did not. Additionally, it seeks to assess the impact of representation and the ways in which tribunal members and conveners relate to appellants who represent themselves. Finally it seeks to determine if the hearing was perceived as user-friendly and if not to identify what can be done to make it more user-friendly.

Since these aims and objectives are compatible with the overriding objective of the Additional Support Needs Tribunals for Scotland, I agreed to our participation. To date the take up to the invitation to be interviewed has been very low but this is not altogether surprising given the sensitive issues which these Tribunals address.

## Conveners and Members

My task would have been infinitely more daunting had it not been for the wisdom, good humour and encouragement of the conveners and members who have responded well to every challenge. The Tribunals are fortunate to be able to rely on their commitment in developing this jurisdiction over the coming years.

## Secretariat

I must also express my sincere thanks to the Secretary, Gareth Allen, and to all members of the Secretariat for their hard work and support during the past year. Almost all administrative targets have been achieved and the case officers attending the hearings have given excellent service to the Tribunal and users alike.

**Jessica M Burns**  
President

# Appendices

## Appendix One

### Additional Support Needs Tribunals Expenditure

From 1 April 2006 to 31 March 2007\*

<b>Expenditure</b>	<b>Amount</b>
Tribunals' members fees (training)	£11,452
Tribunals' members fees (hearings) (including Presidents fees)	£49,786
Tribunals' members expenses	£4,159
Tribunals' members training costs	£6,067
Tribunals' Secretariat headquarter costs	£74,121
Tribunals' Secretariat staff salaries**	£188,968
Tribunals' Secretariat staff expenses	£4,201
Tribunals' Secretariat staff training costs	£4,785
Tribunals' Secretariat office costs***	£28,667
Tribunals' Secretariat specialist project costs****	£117,402

\* Figures remain provisional pending formal audit accreditation.

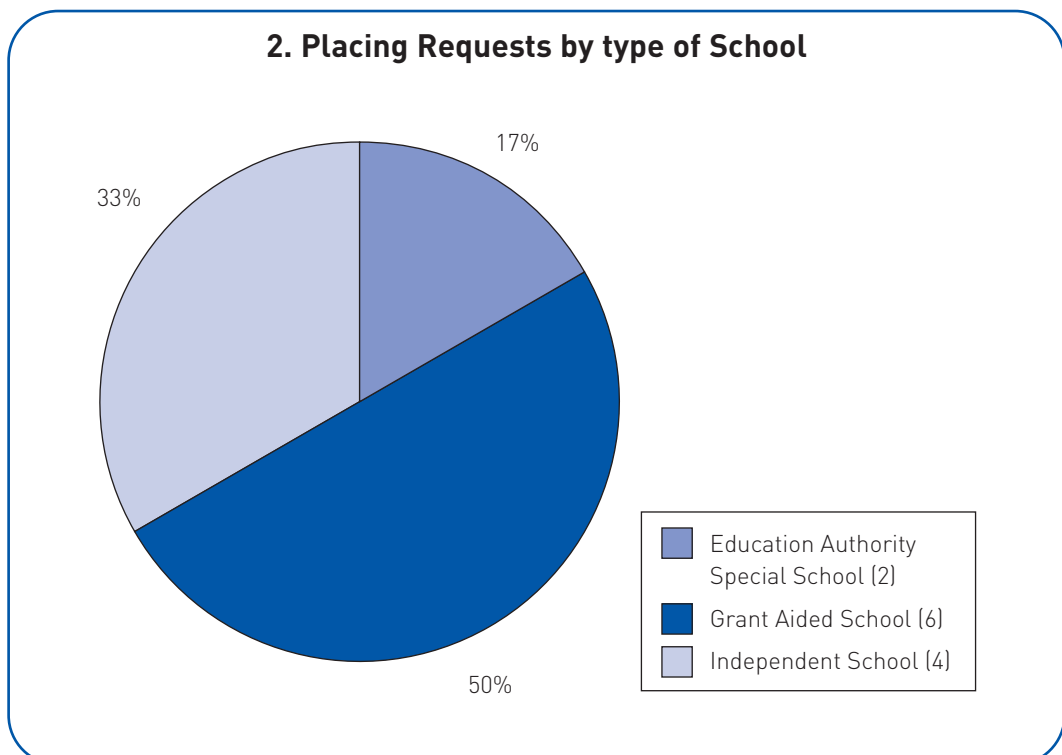
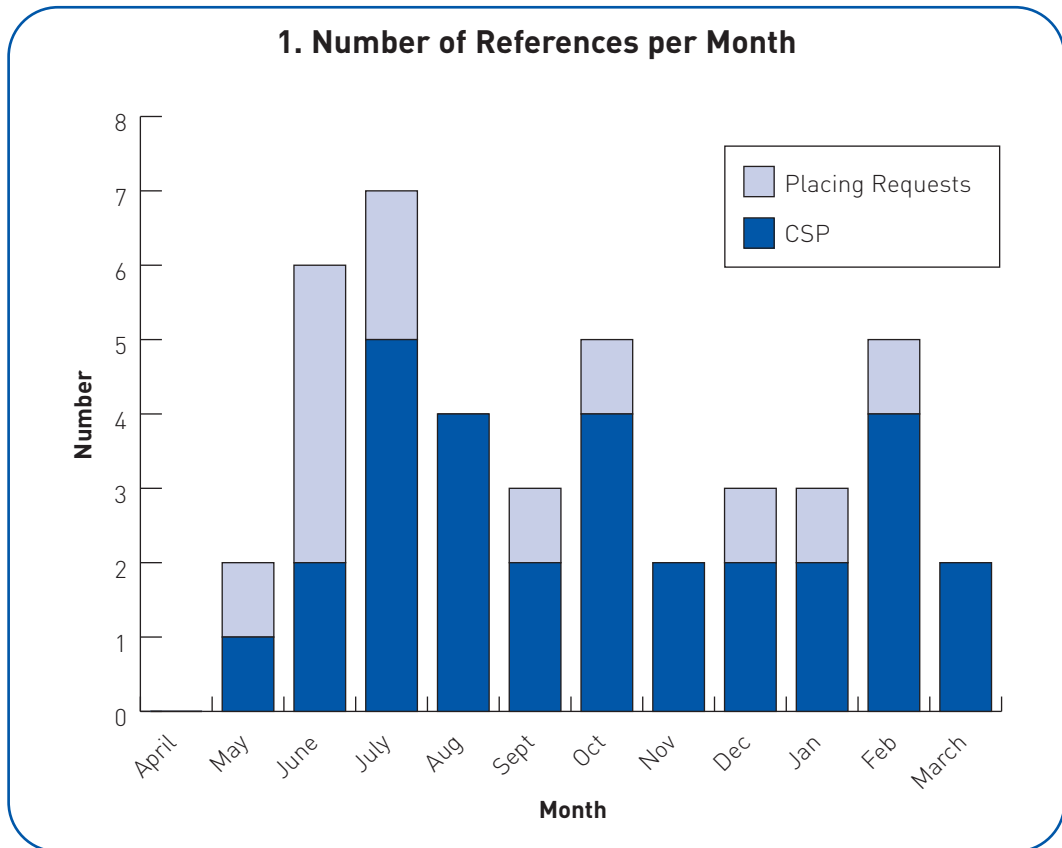
\*\* This figure also includes costs for a temporary, part-time member of staff.

\*\*\* This expenditure area includes costs for hospitality (including our TUG event), stationery, postage, minor purchases, office machinery and ICT.

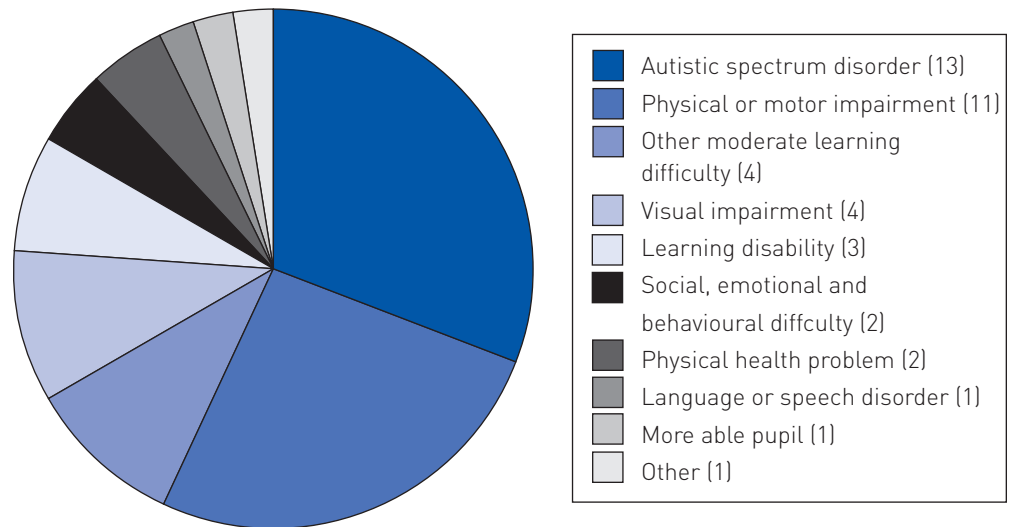
\*\*\*\* This expenditure area includes costs for the design, build and implementation of a case management system and the costs for further developing the ASNTS website.

# Appendix Two

## Caseload Statistics – Reporting Year 2006/2007



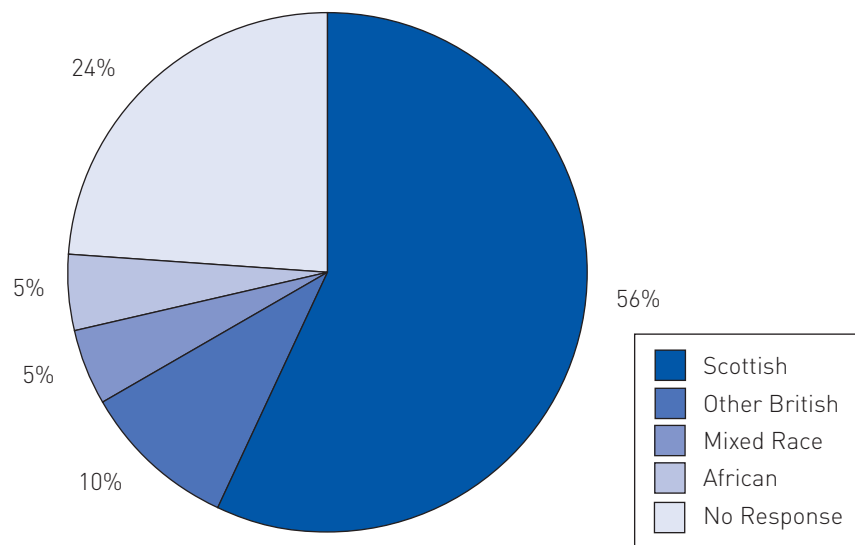
### 3. Nature of Additional Support



The following categories of Additional Support Need, all were a zero response:

- Dyslexia
- Other specific learning difficulty
- Hearing impairment
- Mental health problem
- Interrupted learning
- English as an additional language
- Looked after

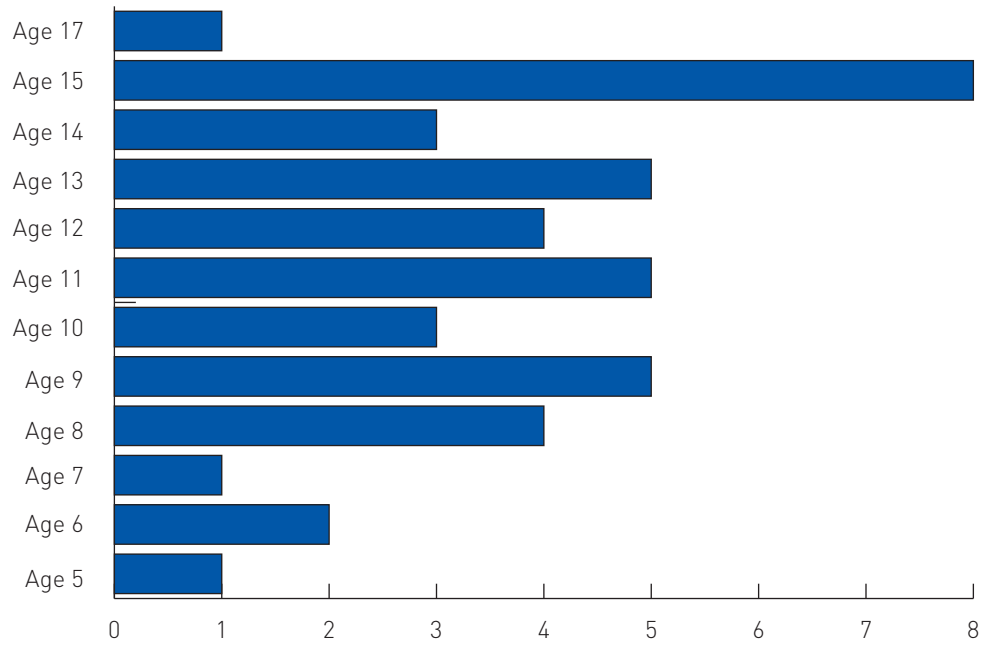
### 4. Ethnicity



### 5. Gender

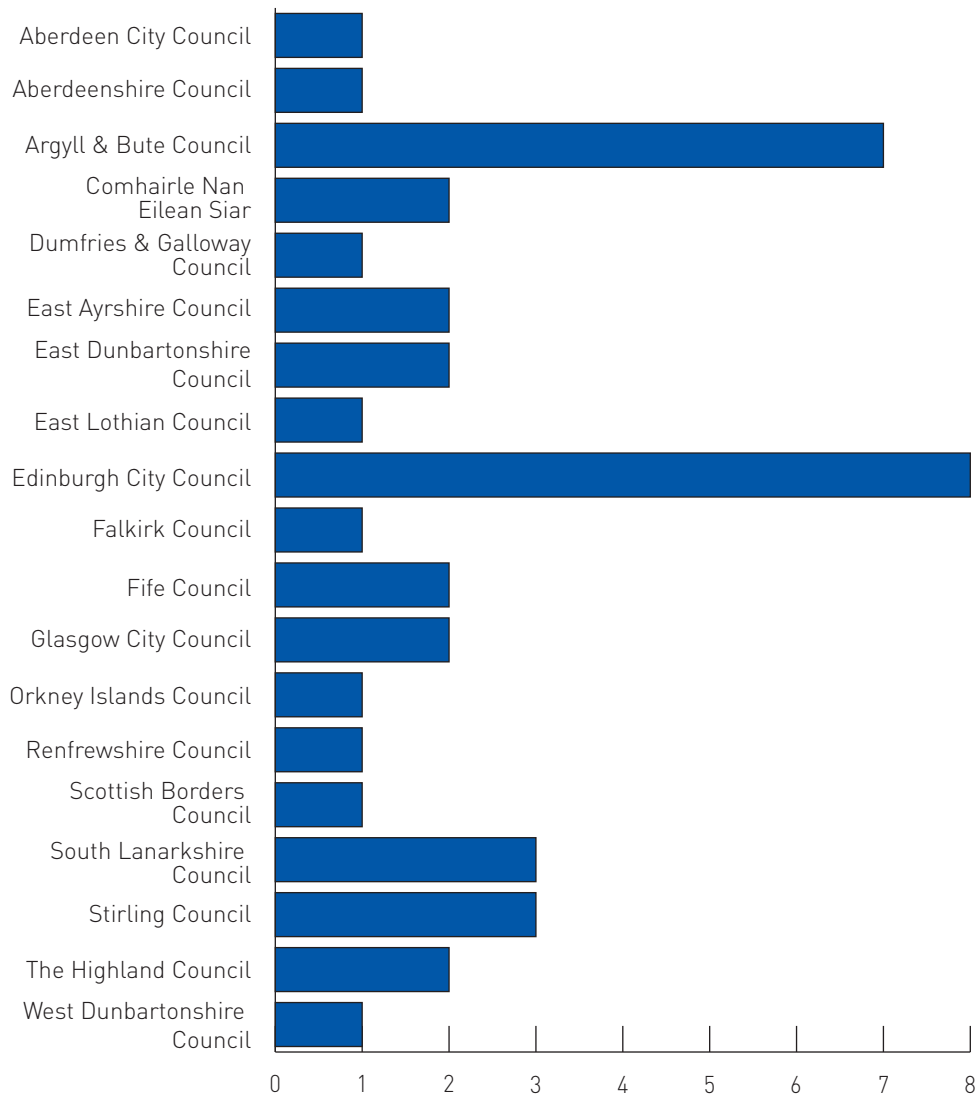
- Male (71%)
- Female (20%)

### 6. Age



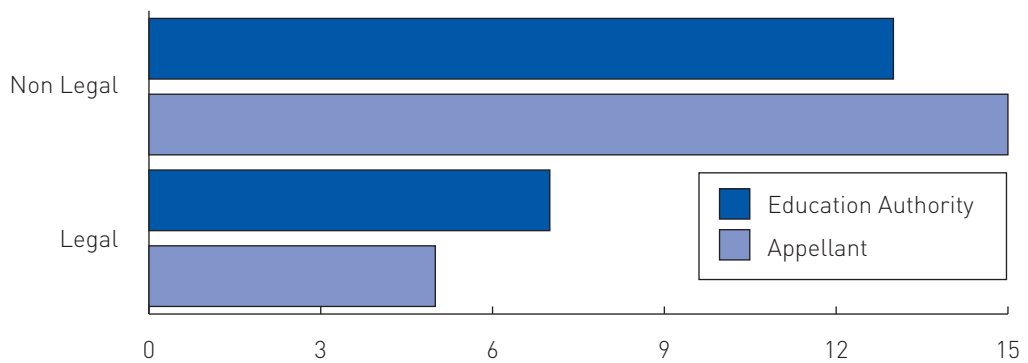
No references were received in relation to young people aged 16 years.

### 7. Breakdown of References by Local Authority



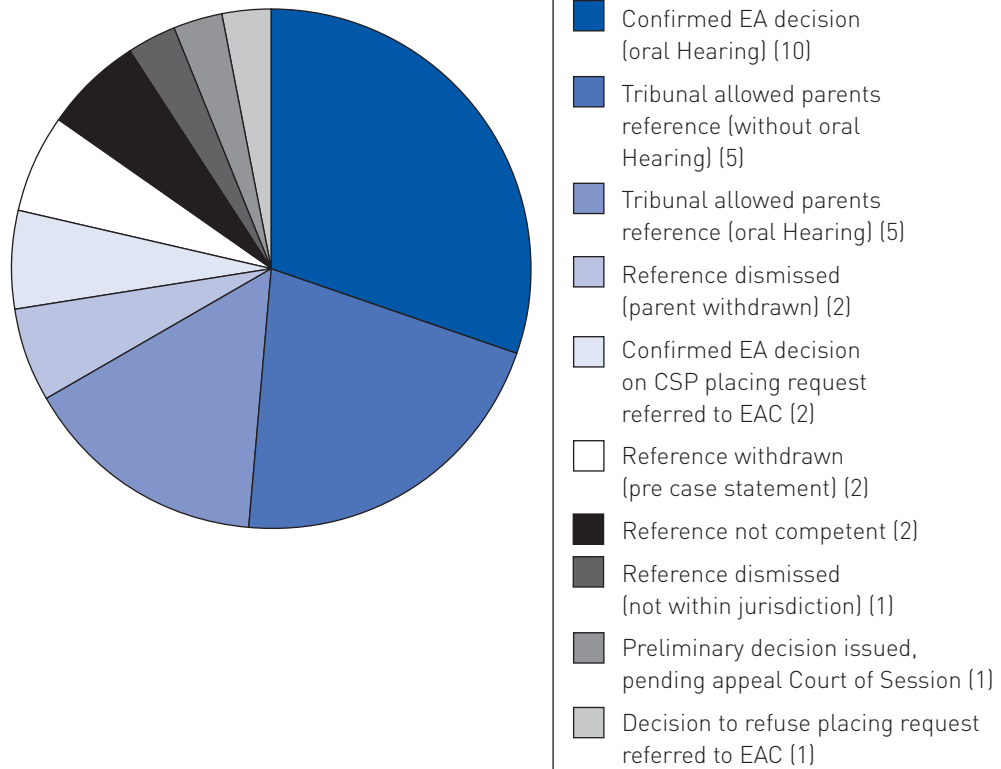
Of the 32 Local Authorities, 13 have not been the subject of a reference to the Tribunals during the last year.

### 8. Representation Status at a Hearing





## 9. Decisions



## 10. Court of Session

In 2006/2007 a total of 5 (19%) of the 26 Tribunal decisions were appealed to the Court of Session, and 4 opinions were issued by the Court:

- Two references remitted to a differently constituted Tribunal;
- One reference outside the jurisdiction of the Tribunal and the decision reduced;
- One reference remitted to the original Tribunal (Note: this was subsequently subject to a reclaiming motion, and the Inner House overturned the decision of the Lord Ordinary, leaving the original decision of the Tribunal standing).

# Appendix Three

## **Presidential Guidance and Directions Issued**

The following list details Guidance issued by the President during the Reporting year 2006/2007:

- Guidance for Witnesses
- Guidance for Supporters
- Guidance in relation to the issuing of CD-rom recordings of Tribunals
- Guidance to Conveners and Members on visits from the Scottish Committee of the Council on Tribunals

The following list details Directions issued by the President during the Reporting year 2006/2007:

- Standing Direction to Education Authorities on Information relating to the Child
- Direction under Rule 40 (3) of the Additional Support Needs Tribunals for Scotland (Practice and Procedures) Rules 2006 – authorising signature delegation for Deputy Secretary on behalf of the Secretary
- Practice Direction – Potential Conflict of Interest
- Practice Direction – Hearing from Children
- Practice Direction – Adjournments
- Practice Direction – Conference Calls for pre-hearing Directions
- Practice Direction – Mentoring and Appraisal (currently in draft)

# Appendix Four

## Example Education Authority Decision Letter

Date

Dear [parent's name]

### Request [for a co-ordinated support plan/for a review of your child's co-ordinated support plan]

Following your request of [date], [EA's name] has carefully considered all the relevant reports and other evidence and has reached the following decision in terms of the Education (Additional Support for Learning) (Scotland) Act 2004:

Insert decision

The reasons for this decision are as follows

1. Insert
2. Insert
3. Insert

[Insert explanation of what support will continue if no CSP to be issued, who will be responsible for that and how it will be arranged.]

If you require clarification about this decision, please contact [lead EA officer's name] who knows about your child's circumstances.

If you disagree with this decision, you may wish to exercise your right to access mediation. This is entirely a voluntary process involving a neutral third party who acts as a mediator between those involved in a disagreement or dispute to work towards a mutually acceptable agreement. The EA will pay any costs involved. Should you require more information or want to speak to someone before deciding if mediation may help in your circumstances, please contact [mediator's name, address, telephone number and website/email details].

You should note that using mediation services **does not affect your right to proceed to refer this decision to the Additional Support Needs Tribunals for Scotland**. A reference will not be valid unless it is received by the Tribunals **no later than 2 months from the date at the top of this letter**. The Tribunals produce a guide for parents about what happens if you decide to make a reference. If you would like a copy of this guide or need further information, you should contact:

**Additional Support Needs Tribunals for Scotland**  
**450 Argyle Street**  
**Glasgow**  
**G2 8LG**

The Tribunals operate a telephone helpline from Monday to Friday from 9am to 4 pm: 0845 120 9026 (calls charged at local rate) and further information is also available on the website at [www.asntscotland.gov.uk](http://www.asntscotland.gov.uk). [A leaflet may also be enclosed.]

Yours sincerely

# Appendix Five

## **Tribunals' Membership**

### **Conveners**

Lynda Brabender  
Jessica Burns (President)  
Joseph Hughes  
Morag Jack  
George Jamieson  
Alan Miller  
Richard Scott  
Isobel Wylie

### **Members**

Stuart Beck  
Alison Closs  
Janice Duguid  
James Hawthorn  
Hilda Henderson  
Richard Hendry  
Carol Hewitt  
Barbara Hookey  
Morag Jenkinson  
Linda Jones  
Dorothy McDonald  
Elizabeth Murray  
Nicola Robinson  
Eleanor Spalding  
John Young

## **Average number of days sat during financial year 2006/2007**

### **Conveners:**

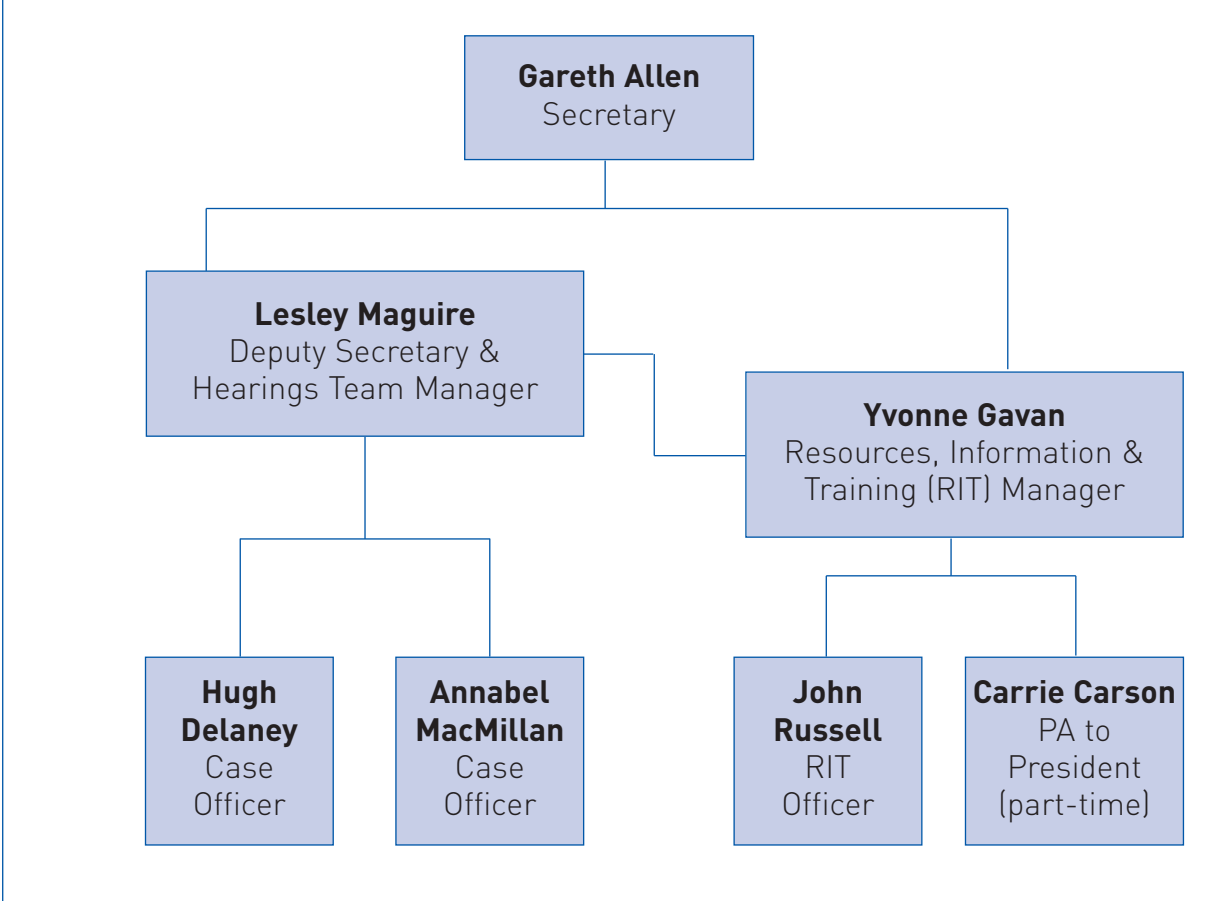
- the average number of days sat by conveners during financial year 2006/2007 was 4.1 days.

### **Members:**

- the average number of days sat by members during financial year 2006/2007 was 4.4 days.

# Appendix Six

## Tribunals' Secretariat



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Further copies are available from:  
Additional Support Needs Tribunals for Scotland  
Europa Building  
450 Argyle Street  
Glasgow G2 8LG

[inquiries@asntscotland.gov.uk](mailto:inquiries@asntscotland.gov.uk)  
[www.asntscotland.gov.uk](http://www.asntscotland.gov.uk)  
Helpline: 0845 120 2906

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