



Additional Support Needs
Tribunals for Scotland

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

2011/2012



Additional Support Needs
Tribunals for Scotland

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

2011/2012



Additional Support Needs
Tribunals for Scotland

Michael Russell MSP
Cabinet Secretary for Education and Lifelong Learning
The Scottish Parliament

June 2012

To Michael Russell MSP, Cabinet Secretary for Education and Lifelong Learning

I have pleasure in submitting this, the seventh 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
Scottish Tribunal Service	3
Placing Requests	3
Co-ordinated Support Plans	4
Disability Discrimination Claims	4
Lean	5
Training of ASNTS Members	5
Tribunal User Group	5
Appendices:	
Appendix One	6
Appendix Two	7
Appendix Three	13



President, Dr Joe Morrow

President's Foreword

I have the pleasure of presenting my first Annual Report as President and the seventh Annual Report on the work of the Additional Support Needs Tribunals for Scotland (ASNTS). This Report covers the year 2011/2012 and the first six months of this period were under the leadership of Jessica Burns, the first President of ASNTS. This Report affords me the opportunity of recording my thanks for the commitment, energy and professionalism Jessica put into the development of ASNTS and the system as a whole.

There will be many opportunities ahead for ASNTS, and I am particularly focused on the needs of the children and young people whose cases come before the Tribunals. Central to my approach is ensuring that the views of individual children and young people are heard by the Tribunals.

I have worked and will continue working towards a system which promotes early resolution of disputes, such as placing requests, and I am committed to enhancing the use of mediation and other dispute resolution processes in the work of ASNTS.

The work of ASNTS needs to be placed firmly in the context of "Getting it Right for Every Child" (GIRFEC), and ASNTS plays and will continue to play its part in making the aspirations and approach set out in GIRFEC a reality for children and young people with additional support needs.

The culture of improvement in Scottish public life leads to initiatives such as the Scottish Government's proposals on tribunal reform. The benefits of such reforms will best be realised if users of services such as ASNTS make their views known to the Scottish Government. To this end, there was a consultation in Spring 2012 which contributed to these discussions. The reforms need to remain focused on the child and young person and promote improvements in our system.

In summary, the work of ASNTS and the Administration are captured in this Annual Report and not only reflect the activities of the Tribunals, but also our culture, which focuses on the best outcomes for children and young people and on continually developing the improvement model which is embedded in our organisation. It is my view that these approaches will create a system of justice in ASNTS which continues to promote positive outcomes for those involved in proceedings before the Tribunals.

My thanks go to all those who assist in this process, particularly the administrative staff of the Scottish Tribunals Service and the Conveners and Members of the Tribunals.

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

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. ASNTS returned to Europa Building in November 2011 with the aim of co-locating with prhp creating a Glasgow office of the STS. Prhp moved to Europa Building in January 2012 and the area is now successfully used as a hearing venue for both Tribunals along with other tribunals supported by the STS.

Placing Requests

Appendix 2 sets out in tabular form some statistics relating to the caseload of ASNTS during the period of this report. Since the 2009 Act came into force in November 2010 there has been a marked change in the type of placing request references that are received by ASNTS. For the reporting year 2010/2011, 78% of placing requests were for independent special schools whereas, in 2011/2012 this figure was only 37%. The percentage of placing request references for local authority special schools has increased in comparison with 61% relating to local authority special schools in 2011/2012 compared to 13% in 2010/2011.

Prior to the 2009 Act coming into force, all placing request references received by ASNTS required there to be a co-ordinated support plan (CSP) in place, confirmation from the authority that a CSP is required or a reference made to ASNTS on a decision made by the authority that a CSP is not required. The amending legislation changed this so that all placing requests regarding special schools come to ASNTS regardless of the existence or status of a CSP. Of the 56 placing request references received during 2011/2012, 55 of these have been for special schools and only 12 have either had a CSP in place, confirmation from the authority that a CSP will be prepared, an undertaking from the authority that an assessment will take place to establish whether a CSP is required or a reference to ASNTS on the refusal of a CSP.

The number of placing request references for mainstream schools has remained low with 9% in 2010/2011 and 2% in 2011/2012.

Co-ordinated Support Plans

Of the 75 new references received during 2011/2012, 20 had CSPs submitted with the papers. This is a very small sample coming from only 11 authorities. As reported last year, consistency of CSPs has appeared to improve with all CSPs in this year's sample providing detailed information in the 'Profile' and 'Factors giving rise to additional support needs' sections.

Two education authorities in the sample have adapted the layout of the CSP to include, in one case, the 'Factors giving rise to additional support needs' as a column in the 'Learning plan'. Another authority has added a monitoring column to the 'Learning plan'. This perhaps demonstrates authorities' willingness to look at how the information contained in the CSP can be used to best advantage. Another CSP also gave a note of who had been involved in compiling the CSP rather than just the name of the CSP co-ordinator.

A feature of the CSPs sampled this year is a lack of specification in the frequency of the additional support. Some CSPs referred to 'one hour per month', 'one visit per term' or 'six monthly' which gave a clear expectation of what was to be provided whereas, the majority of CSPs used terms such as 'continuing' or 'as required' or gave no specification of how often or for how long the support was to be provided. The majority of CSPs made clear whether the support provided would be direct or indirect, giving parents a clear indication of how the support will be provided.

Disability Discrimination Claims

During the reporting year 2011/2012, ASNTS has received six disability discrimination claims. Full statistics on the claims received have not been included in the appendices as numbers are still very limited however, an overview is provided below.

The six claims received have concerned four different responsible bodies. One of the claims related to an allegation of discrimination in the exclusion of a child from school and another related to an allegation of discrimination in refusing to admit a child to a school. The other four claims related to another issue relating to education specified in section 85 or section 86 of the Equality Act 2010. Only one claim received during 2011/2012 has been heard by a Tribunal and the decision is awaited. Another claim has hearing dates scheduled and four of the claims were withdrawn.

One claim was received before the end of the reporting year 2010/2011 just after the Equality Act 2010 came into force. This was heard during 2011/2012. This case related to a claim that the responsible body had failed to comply with the duty to make reasonable adjustments. The Tribunal decision was that the responsible body had not discriminated against the child who was the subject of the claim. The Tribunal's decision has been appealed to the Court of Session.

Before the legislation came into force, it was anticipated that ASNTS would receive approximately three claims a year based on the number of claims received by its English counterpart at that time. As time progresses it will become clearer how large a part of the ASNTS caseload disability discrimination claims will account for.

Lean

In February 2012, the Secretariat took part in a Value Stream Mapping exercise as part of the Lean strategy being implemented throughout the Scottish Tribunals Service. The purpose of the Lean event for ASNTS was to review the process from the point where a reference is received to the conclusion of the case, identifying aspects of waste and producing a 'future state' process map which eliminates waste and improves the service provided to Tribunal Users.

Whilst working towards the 'future state' process map, users may notice some changes for example, a move towards using electronic communication as much as possible. None of the changes that have already been implemented or are due to be implemented will have any effect on the decision making process. The Lean exercise has been used to look at the functions and processes that the Secretariat carry out rather than the judicial functions exercised by the individual Tribunals.

Training of ASNTS Members

In November members of ASNTS were provided with training at the annual one day training event, which took place in Edinburgh. The training delivered covered decision writing; placing requests; the power of the President to monitor implementation of Tribunal decisions (see paragraph 11A of Schedule 1 to the Education (Additional Support for Learning) (Scotland) Act 2004) and the power of ASNTS to review its own decisions (see paragraph 11 of Schedule 1 to the 2004 Act and rule 45A of the Additional Support Needs Tribunals for Scotland (Practice and Procedure) Rules 2006).

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 on 30 March 2012 in Glasgow and 35 users attended the meeting. The President provided users with his views on the ASNTS ethos and an update on current issues within ASNTS. The Secretary delivered a presentation on ASNTS activity. 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 2011 to 31 March 2012

Expenditure	Amount
Tribunal Member Fees (Training, including costs)	£10,880.80
Tribunal Member Fees (Hearings) (including Presidents' Fees)	£105,778.91
Tribunal Member Expenses	£13,774.68
Tribunal Secretariat Hearing Costs*	£22,271.78
Tribunal Secretariat Staff Salaries	£107,842.27
Tribunal Secretariat Staff Expenses	£2,120.34
Tribunal Secretariat Staff Training Costs	£1,400.00
Tribunal Secretariat Office Costs**	£9,339.59
Tribunal Secretariat Specialist Costs***	£16,105.52

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

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

*** This expenditure includes cost 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. This figure also includes the purchase of video conferencing equipment.

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:

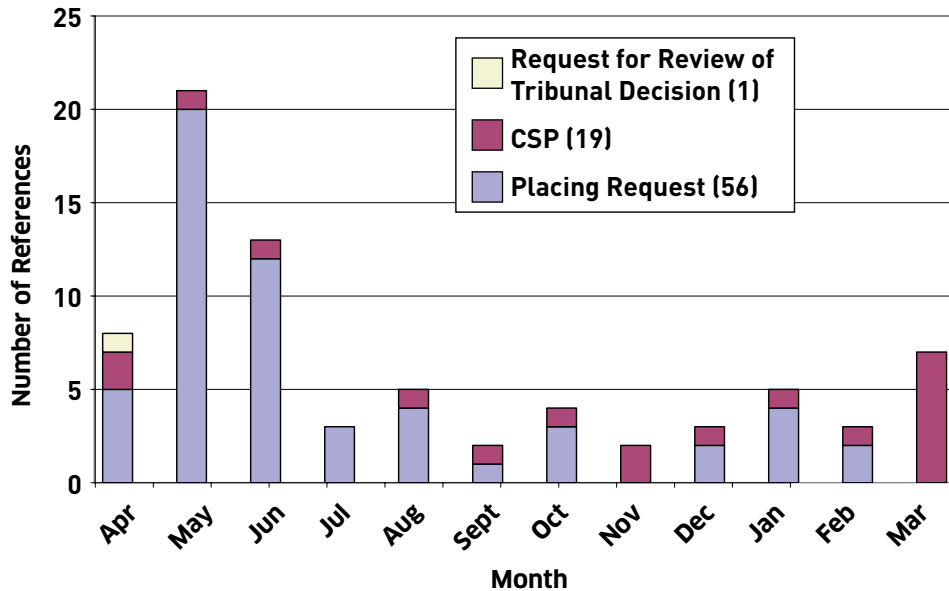
- Public relations;
- Overseas travel;
- Hospitality and entertainment;
- External consultancy;
- Payments with a value in excess of £25,000; and
- The number of members and staff who received remuneration in excess of £150,000.

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

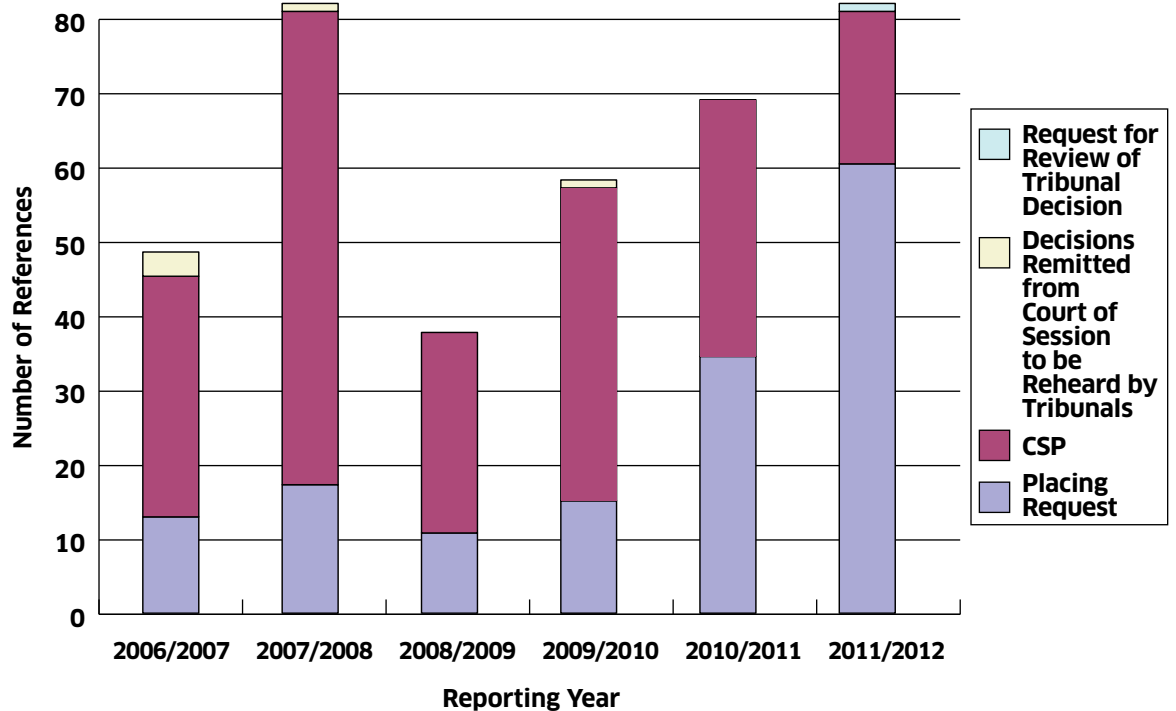
Appendix Two

Caseload Statistics – Reporting Year 2011/2012

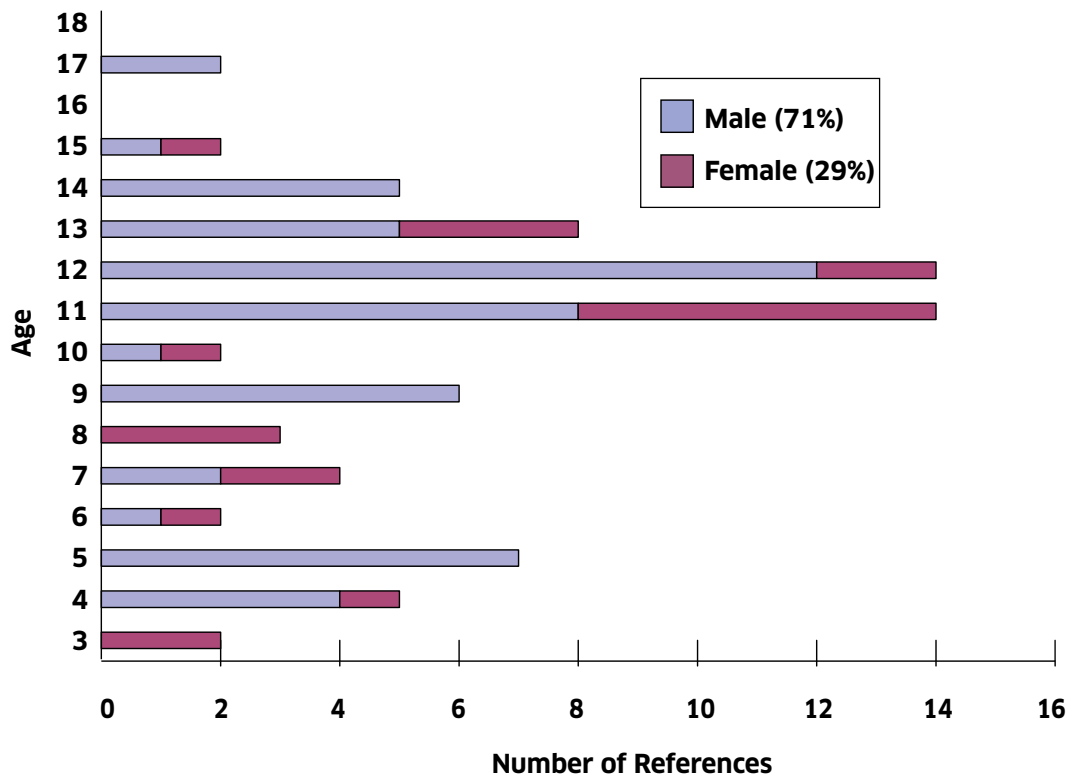
1. References Received per Month 1 April 2011 – 31 March 2012



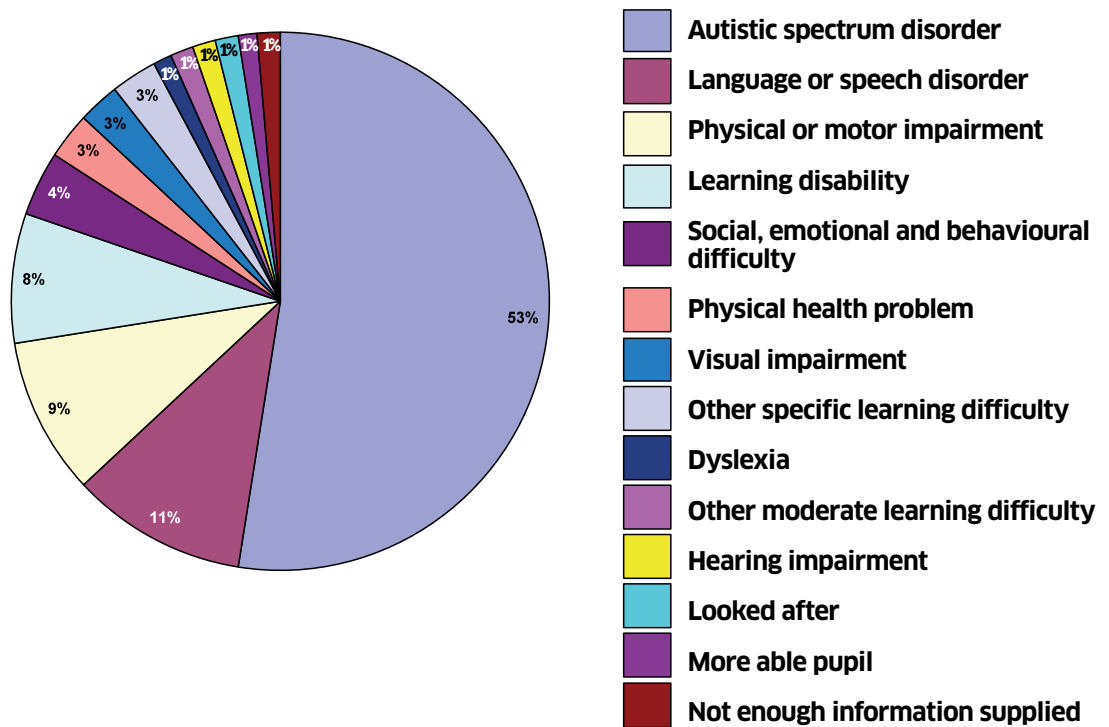
2. References Received by Reporting Year



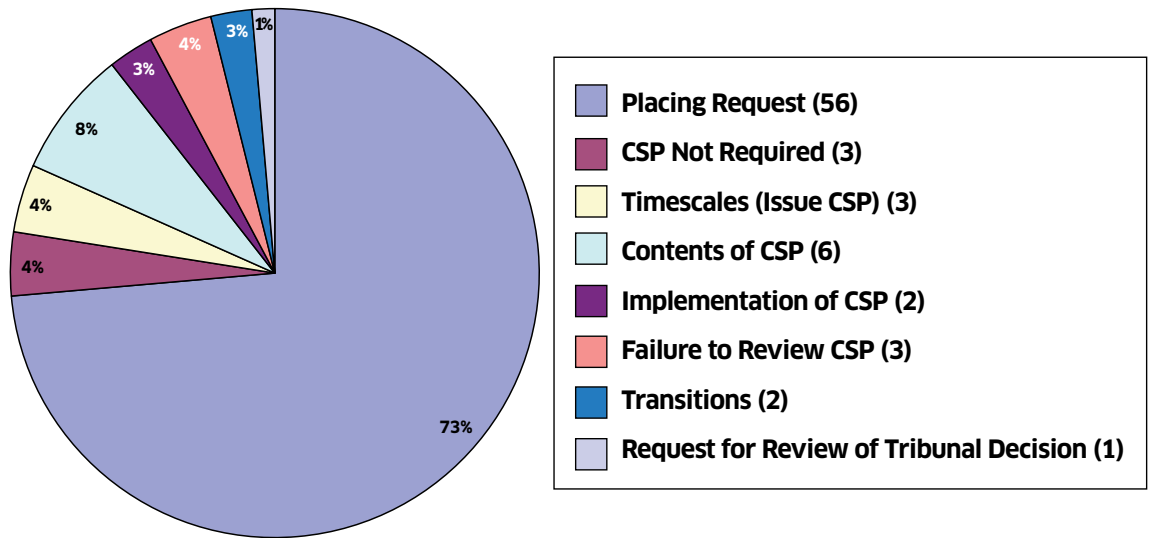
3. References Received by Age and Gender 1 April 2011 – 31 March 2012



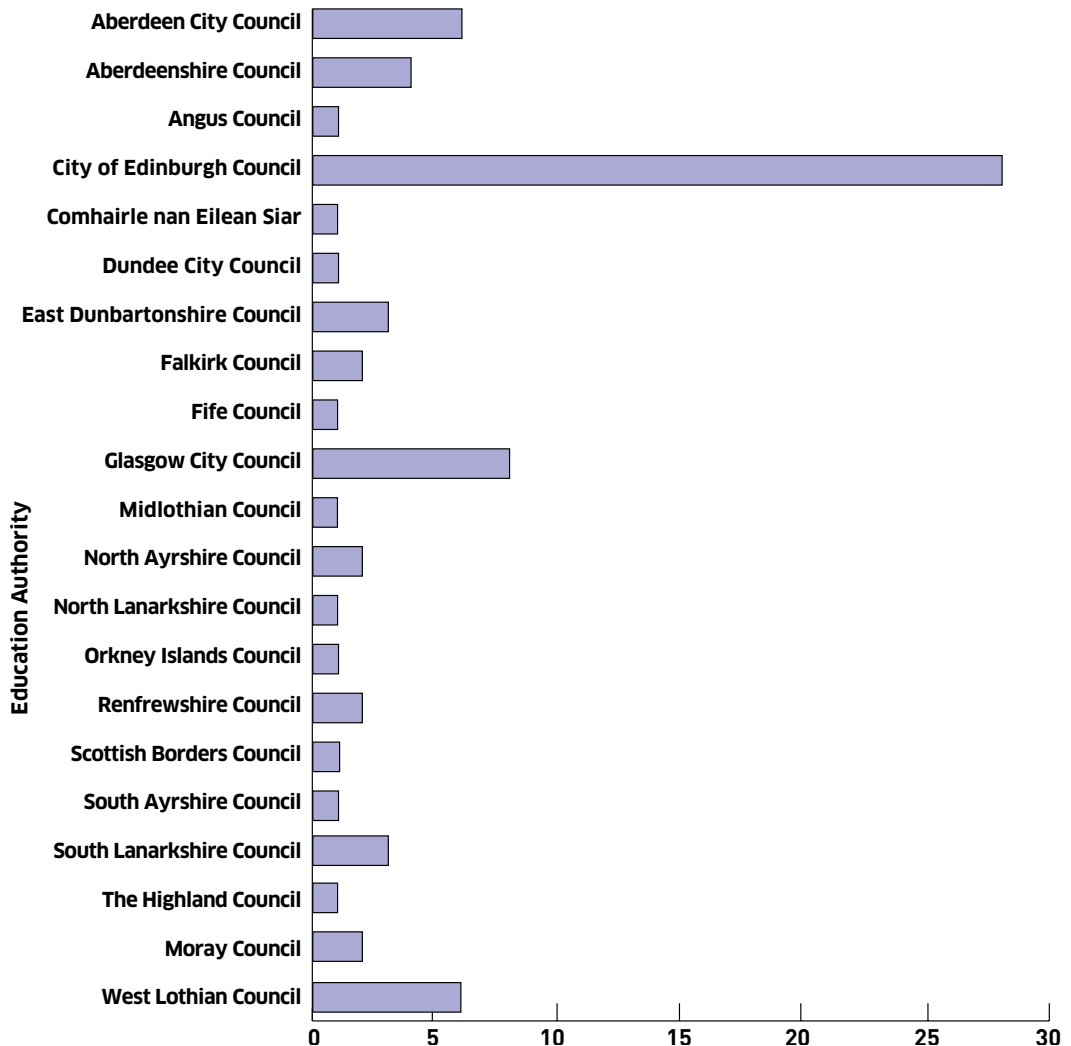
4. Nature of Additional Support Needs for References Received 1 April 2011 – 31 March 2012



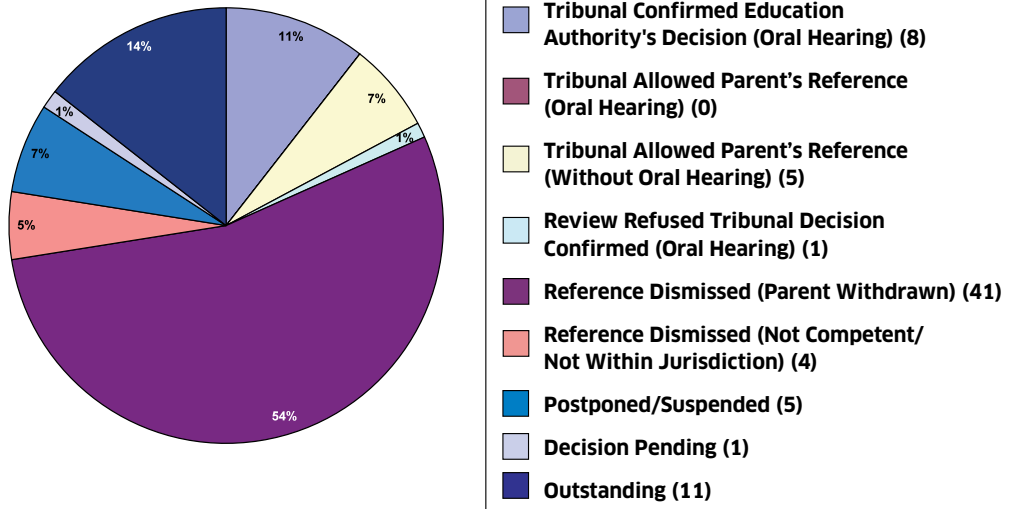
5. References Received by Type 1 April 2011 – 31 March 2012



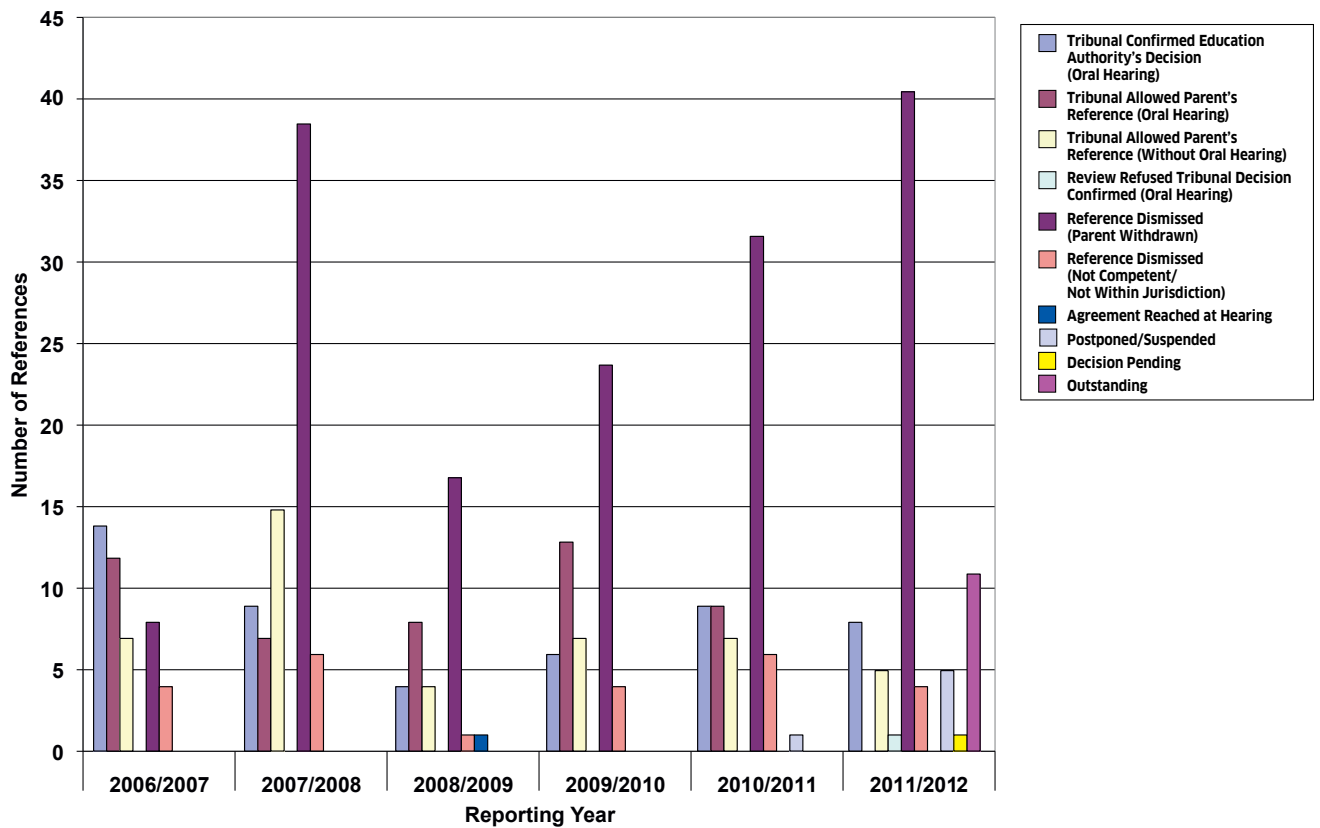
6. References Received by Education Authority 1 April 2011 – 31 March 2012



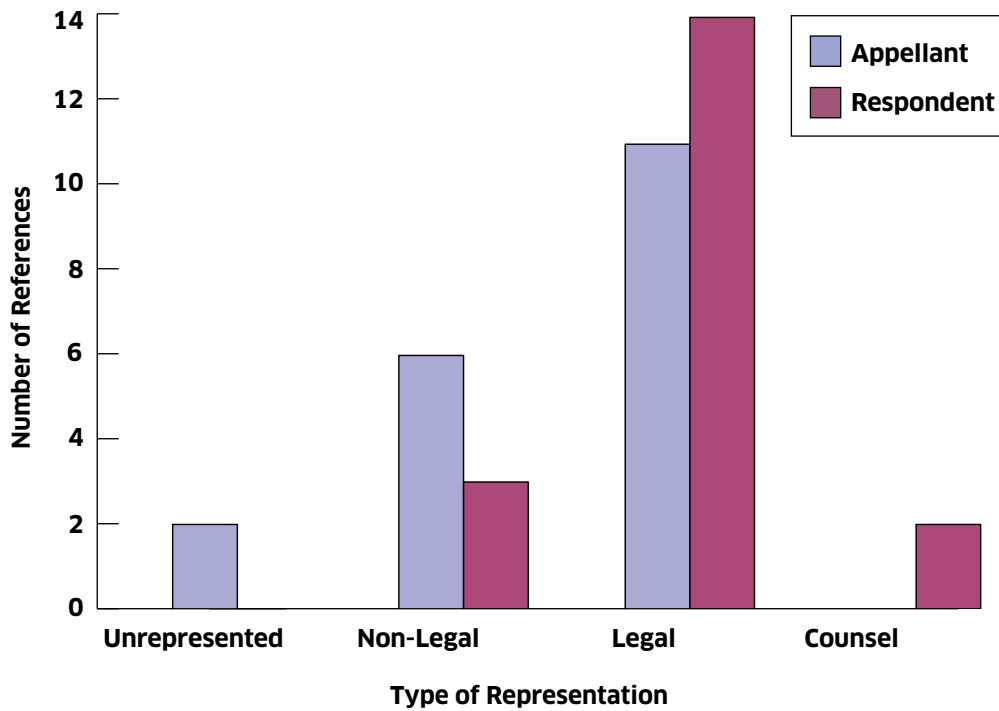
7. Outcomes from References Received 1 April 2011 – 31 March 2012



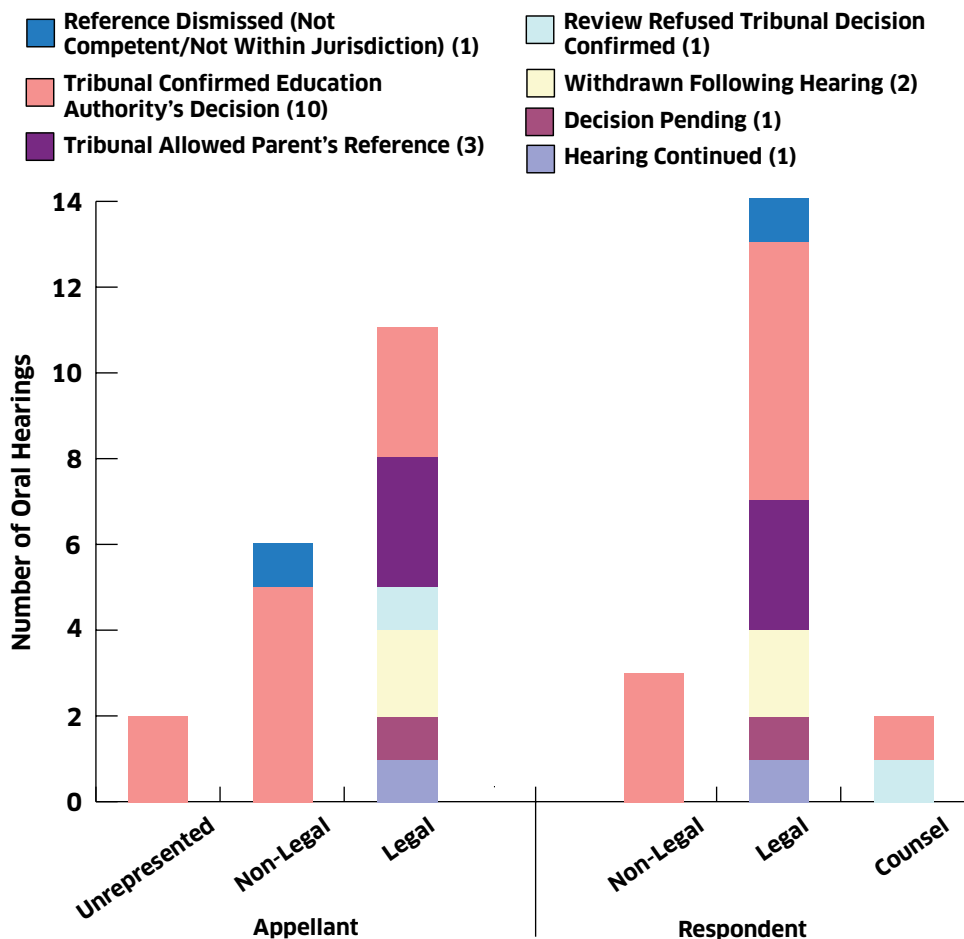
8. Outcomes from References Received by Reporting Year



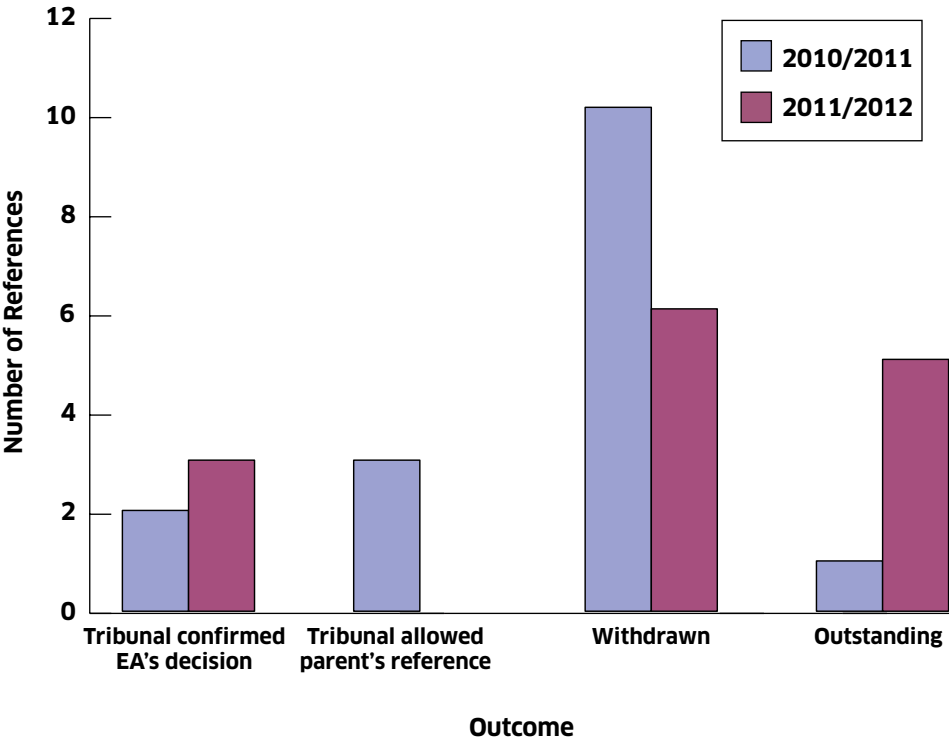
9. Representation at Oral Hearings Held 1 April 2011 – 31 March 2012 (including hearings in respect of references received during previous reporting year)



10. Outcomes of Oral Hearings Held 1 April 2011 – 31 March 2012 with Regard to Representation (including hearings in respect of references received during previous reporting year)



11. Outcome Following Postponement



Appendix Three

Tribunal Membership

President
Dr Joe Morrow

Conveners

Derek Auchie
Lyndy Boyd
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
Susan McCool
Dorothy McDonald
John McDonald
Hazel McKellar
Gillian McKelvie
Sharon McWilliam
Ian Morrison
Lio Moscardini
Elizabeth Munro
Barbara Peardon
Lesley Sargent
Irene Stevens
Nicola Whitfield

