



TAAAC - Tribiwnlys Anghenion Addysgol Arbennig Cymru

SENTW - Special Educational Needs Tribunal for Wales

Annual Report 2010-2011

November 2011

SENTW is committed to providing an equal service in the Welsh and English languages. We will also do our best to provide services in other languages where there is a need.

Copies of this publication are available in Welsh and English languages. Copies can be downloaded from the SENTW website or obtained by contacting the secretariat.

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Special Educational Needs Tribunal for Wales Annual Report 2010 - 2011

To: Leighton Andrews AM
Minister for Education & Skills
National Assembly for Wales

November 2011

I am pleased to submit my eighth Annual Report as President of the Special Educational Needs Tribunal for Wales. The report details the Tribunal's activities for the year 1 September 2010 to 31 August 2011.

A handwritten signature in dark ink, appearing to read 'R. Walker', with a long horizontal stroke extending to the right below the name.

Rhiannon Ellis Walker OBE
President, SENTW

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An electronic version of this report is available on the Tribunal's website
www.sentw.gov.uk

1. The year in review

This is my eighth annual report as President of the Special Educational Needs Tribunal for Wales (SENTW). The report covers the period September 2010 – August 2011. I hope you find the report informative and user friendly, questions and comments are most welcome and can be made by getting in touch with the Tribunal Secretariat.

SEN Appeals

Appeals continue to make up the bulk of the Tribunals workload. The total number of appeals received over this period was 126, of those 112 were registered. The upward trend in the number of appeals registered has continued with 112 registered this year, 106 during 2009/10 and 92 during 2008/09.

In addition to the 126 appeals received, we also dealt with a further 33 appeals that were carried over from the previous year.

Of the 14 appeals that we were unable to register during the period of this report, 8 were received late in August and carried over at the pre-registration stage to the current reporting year.

We have seen a notable reduction in the number of appeals that are about a refusal to statement. These appeals made up 9% of all appeals registered over the period of this report, down from 22% of all appeals registered during 2009/10. Most other types of appeals have in comparison seen a slight increase on figures from last year. Appeals about refusal to assess have increased to 37 % this year, up from 34% in 2009/10. Appeals about the content of statements have increased to 52% of all appeals registered, up from 43% in 2009/10.

Most Local Authorities have either remained static or seen a decrease in the number of appeals registered. Fewer than half of all Local Authorities have seen an increase and for those that have the actual numbers continue to be relatively small. However, it is with some concern that I note the upward trend in appeals registered against some Local Authorities that have previously been successful in reducing high appeal numbers.

These figures are all the more interesting in the light of the latest Welsh Government's National Statistics for Wales¹. The statistics show a steady decrease in the number of pupils with a statement, from 14,009 in 2010

¹ Statistical Directorate, Welsh Government, SDR 100/2011, 15 June 2011.

compared with 17,251 in 2003; a decrease in the number of pupils newly assessed as requiring a statement, from 1264 pupils during 2010, compared with 1340 in 2009 and a decrease in the total number of assessments undertaken, from 1,880 in 2010 compared with 1,947 in 2009.

In terms of outcomes we discharged a total of 121 appeals over the period of the report. Of those 27 appeals were decided, 47 withdrawn and 47 were not opposed.

Of the 27 appeals that were decided 24 were upheld by the Tribunal and 3 were dismissed.

It was with interest that I read the Administrative Justice and Tribunal's Council, (AJTC) Right First Time Report. The report highlights the benefits of getting decisions made by public bodies right first time. It offers practical steps to help public bodies adopt a right first time culture within their organisations. This year we have seen an unprecedented high of 65% withdrawal/concede rate of all appeals registered and an 89% upheld rate of appeals that went to a hearing. It is with these statistics in mind that I commend the report to Local Authorities.

Over the coming year I shall be exploring opportunities as to how the Tribunal can identify and provide feed back to Local Authorities in cases where there is a serious and systematic problem which the Tribunal considers that the Local Authority should address.

Education (Wales) Measure 2009

The above Measure makes provision for children themselves to be able to make their own special educational needs appeal and claim of disability discrimination.

The Measure is an important step towards increasing the participation of children in processes and matters that affect them. Existing parental rights are not affected by the new provision. A parent can still make an appeal and claim whether or not their child makes one.

The rights will first be tested in two pilot Local Authority areas, Carmarthenshire and Wrexham, after which it is anticipated that it will be rolled out to all children in Wales. Children in the pilot areas will be able to make their own appeal and claim once amended Procedural Regulations for the Tribunal have been made.

The Tribunal secretariat and members have been incredibly busy over the course of this year reviewing the Tribunal's processes, publications and website content, consulting with individuals and organisations on the design and content of information and providing training. I am delighted with the outcome, which is a comprehensive and user friendly Information Pack and Forms for Children, Parents and Case Friends. Please do get in touch with the tribunal secretariat if you would like a copy.

Tribunal Amended Procedural Regulations

We have continued over the course of the year to work closely with Welsh Government officers to update and amend the Tribunal's Procedural Regulations. The consultation exercise for the amended regulations has now closed. It is now for the Welsh Government to finalise the regulations and to confirm the legislative time-table for laying the regulations before the National Assembly for Wales. My thanks goes to Llion Hughes, from the Welsh Government, for the valued work completed in respect of this matter.

User Group Meetings

The Tribunal held regional User Group Meetings earlier this year on the 16, 30 and 31 March. The meetings were well attended by Local Authority officers, parents, parent partnership support groups, voluntary sector organisations and legal representatives.

Papers and items discussed included; tribunal statistics, the Equality Act and claims of disability discrimination in schools, amended tribunal procedural regulations and children's pilots, Welsh Government policy update on the reform of the statutory assessment and statementing process, tribunal reform in Wales.

Information about User Group Meetings is available on the Tribunals website, please do contact the secretariat if you are interested in attending meetings.

Meeting with Minister

At the start of the year I met with Leighton Andrews AM, Minister for Education and Skills. The meeting was a useful opportunity to discuss the business of the Tribunal.

I reported that there has been a small rise in appeal numbers in comparison to the previous year and that there had been a marked increase in appeals about pre-statement matters, that is refusal to assess and refusal to statement. I also explained that the majority of these types of cases were conceded by the Local Authority. I suggested that there is a need to encourage the use of Disagreement Resolution Services particularly for these types of cases where it may be possible to reach an agreement before an appeal is made to the Tribunal.

I updated the Minister on the work the Tribunal is undertaking to prepare for amended procedural regulations and the new provision for children's appeals and claims. He recognised that this is a very important piece of work to address gaps in the Tribunal's existing regulations and to ensure that children and young people can be involved in decisions and matters that affect them.

The next meeting with the Minister has been arranged to take place in January 2012.

Administrative Justice and Tribunal's Council (AJTC) – Welsh Committee

The AJTC Welsh Committee has a statutory responsibility to keep the administrative justice system in Wales under review. To enable this function there is provision within regulations for committee members to observe Tribunal hearings. Over the period of this report members of the Welsh Committee observed two of SENTW's hearings. I am pleased to report very positive feedback from the Welsh Committee confirming that SENTW's hearings are well managed and conducted to a high standard. Welsh Government, Administrative Justice and Tribunals Unit

An Administrative Justice and Tribunals Unit (AJTU) has been established within the Welsh Government. This follows recommendations made by the AJTC Welsh Committee² that there should be a single focal point for administrative justice within the Welsh Government covering matters of general policy, practice guidelines and overall responsibility of Tribunals.

The administrative functions for SENTW transferred into the AJTU on 1 April 2011. The SENTW secretariat is assisting by sharing best practice and developing and implementing standard operating models and

² Administrative Justice and Tribunals Council, Welsh Committee, Review of Tribunals Operating in Wales

business processes across the AJTU. I have also been involved, attending meetings of the Welsh Tribunal Contact Group, a forum for discussing issues that affect Welsh tribunals and non devolved tribunals which operate in Wales.

Members and secretariat

It is with great pleasure that I congratulate our following members:

- Meleri Tudur, SENTW Chairperson, on her appointment as Lead Judge within Her Majesty's Courts and Tribunals Service, Health, Education and Social Care Chamber.
- Dr Sian Wyn Siencyn, SENTW education Panel Member, on the achievement of her doctorate.

I would also like to extend my thanks and best wishes to Pam Hawkes, who has taken early retirement from the secretariat team. Pam has been a valuable team member and will be greatly missed. I wish her, on behalf of members, secretariat and our users, a very happy retirement.

I would also like to extend a warm welcome to Adrian Evans who has recently been appointed as regional manager within the secretariat team.

Finally

This year has again been exceptionally busy. We have seen a 9% increase in the numbers of appeals and in readiness for the legislative changes outlined above we have produced a new set of publications and updated our website, which will be launched as soon as the new regulations come into force.

Whilst the Secretariat have always given of their best, I believe that this year they have been exceptional. The commitment and dedication given by Sian Mills and the team to the new publications has been beyond the call of duty and I believe that this hard work is amply demonstrated in the new publications. I have also been supported by the chairs and members of the Tribunal, who have given very helpful input into all the changes.

I am extremely proud and grateful to have such an excellent professional team to go forward to what I am sure will prove to be an exciting year for us as a Tribunal.

2. Tribunal Secretariat and Members

<p>Tribunal Members</p> <p>It is the role of members to hear and decide appeals and claims</p>	<p>Tribunal Secretariat</p> <p>It is the role of the secretariat to administer appeals and claims, provide a telephone helpline service for tribunal users and support services for Tribunal members</p>
<p>President</p> <p>Rhiannon Walker</p>	<p>Secretary/Business Manager</p> <p>Sian Mills</p>
<p>Legal Members</p> <p>Meleri Tudur Mark Allen Jacqueline Blackmore Gwyn Davies</p> <p>Lay Members</p> <p>Sandy Boyle Norman Donovan Gwyn Griffiths Gareth Roberts Sian Wyn Siencyn Susan Taylor Andrew Wilson Richard Ellis Owen Hilary Hayward Catrin Lewis</p>	<p>Secretariat</p> <p>Adrian Evans Leon Mills Sarah Smith Tania Ryland</p>

3. Numbers and statistics

Table 3.1 Headline numbers and statistics

A total of 126 appeals were received during 2010-11. Of those, 112 were registered. We also dealt with a further 33 appeals carried over from 2009-10.

2010-2011	Actual	Percentage	2009-2010	Actual	Percentage
Decided	27	18%	Decided	25	20%
Withdrawn	47	33%	Withdrawn	36	27%
Conceded	47	33%	Conceded	36	27%
Struck Out	0	0%	Struck Out	1	1%
Pending	23	16%	Pending	33	25%
Total	144	100%	Total	131	100%



Type of Appeal	Appeals 2010-2011		Appeals 2009-2010	
	Total Appeals 112		Total Appeals 106	
Refusal to Assess	42	37%	37	34%
Refusal to Statement	10	9%	23	22%
Refusal to Re-assess	0	0%	0	0%
Cease Statement	2	2%	1	1%
Contents of Statement Parts 2 & 3	20	18%	15	14%
Contents of Statement Parts 2, 3 & 4	23	21%	14	13%
Contents of Statement Part 3 only	8	7%	7	7%
Contents of Statement Part 4 only	6	5%	7	7%
Contents of Statement Parts 3 & 4	1	1%	2	2%

Table 3.2 Number of appeals received and discharged by Tribunal year

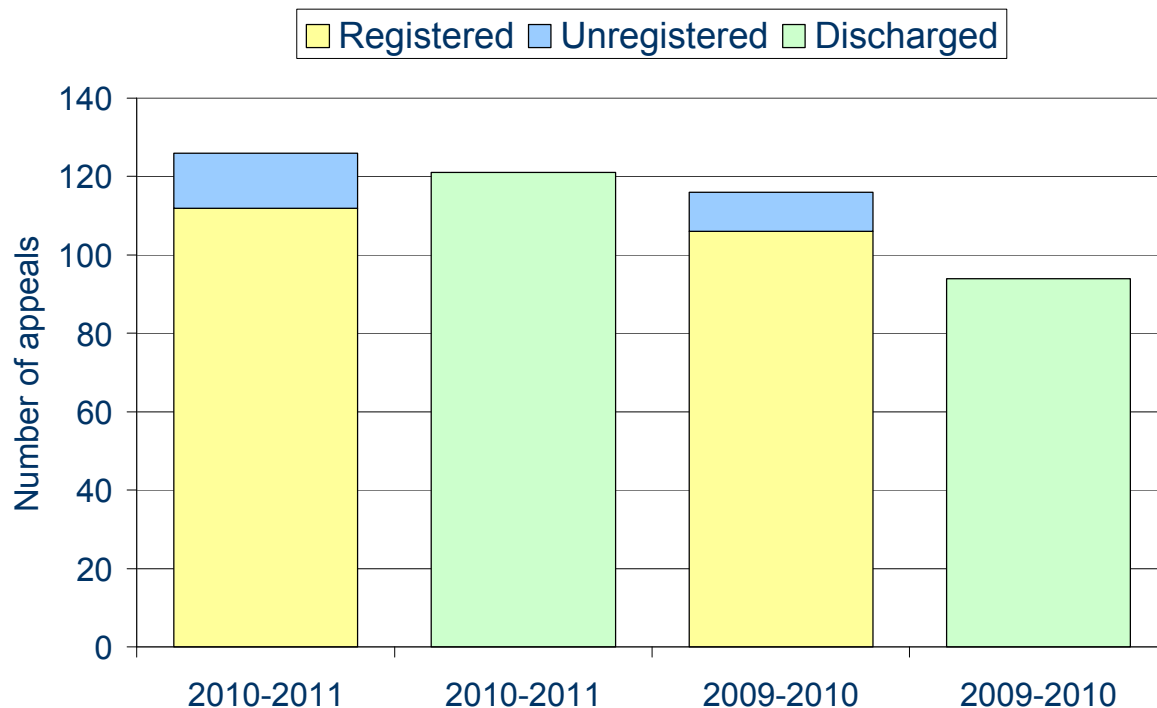
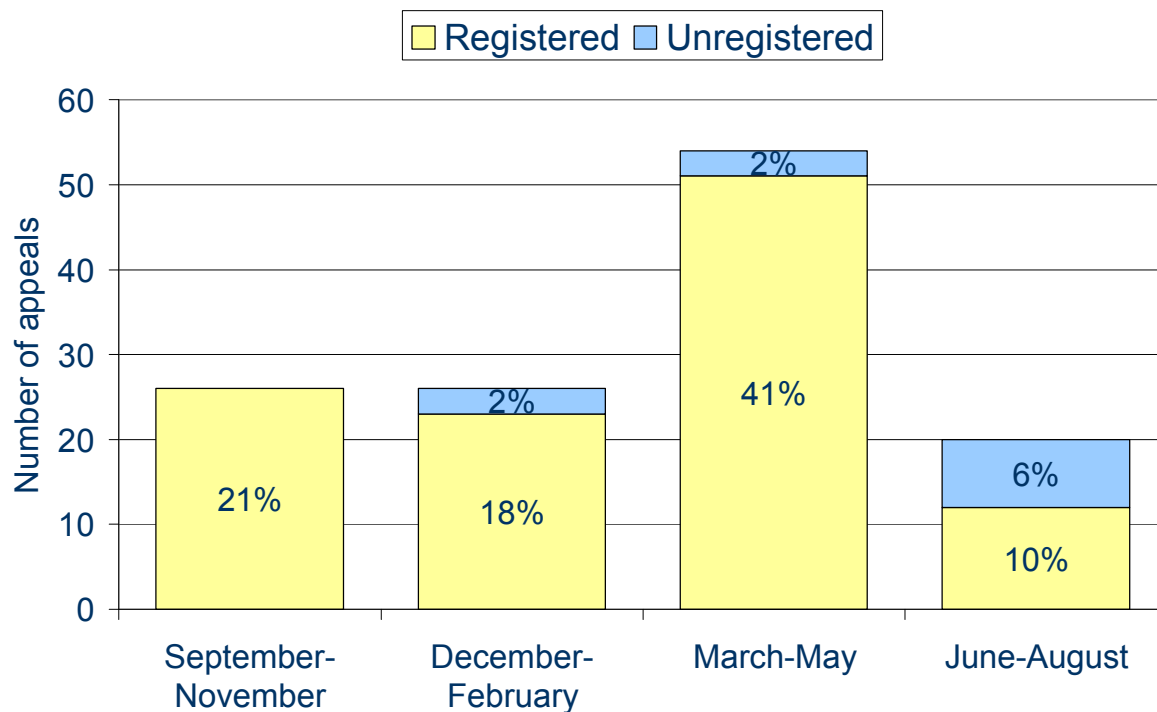
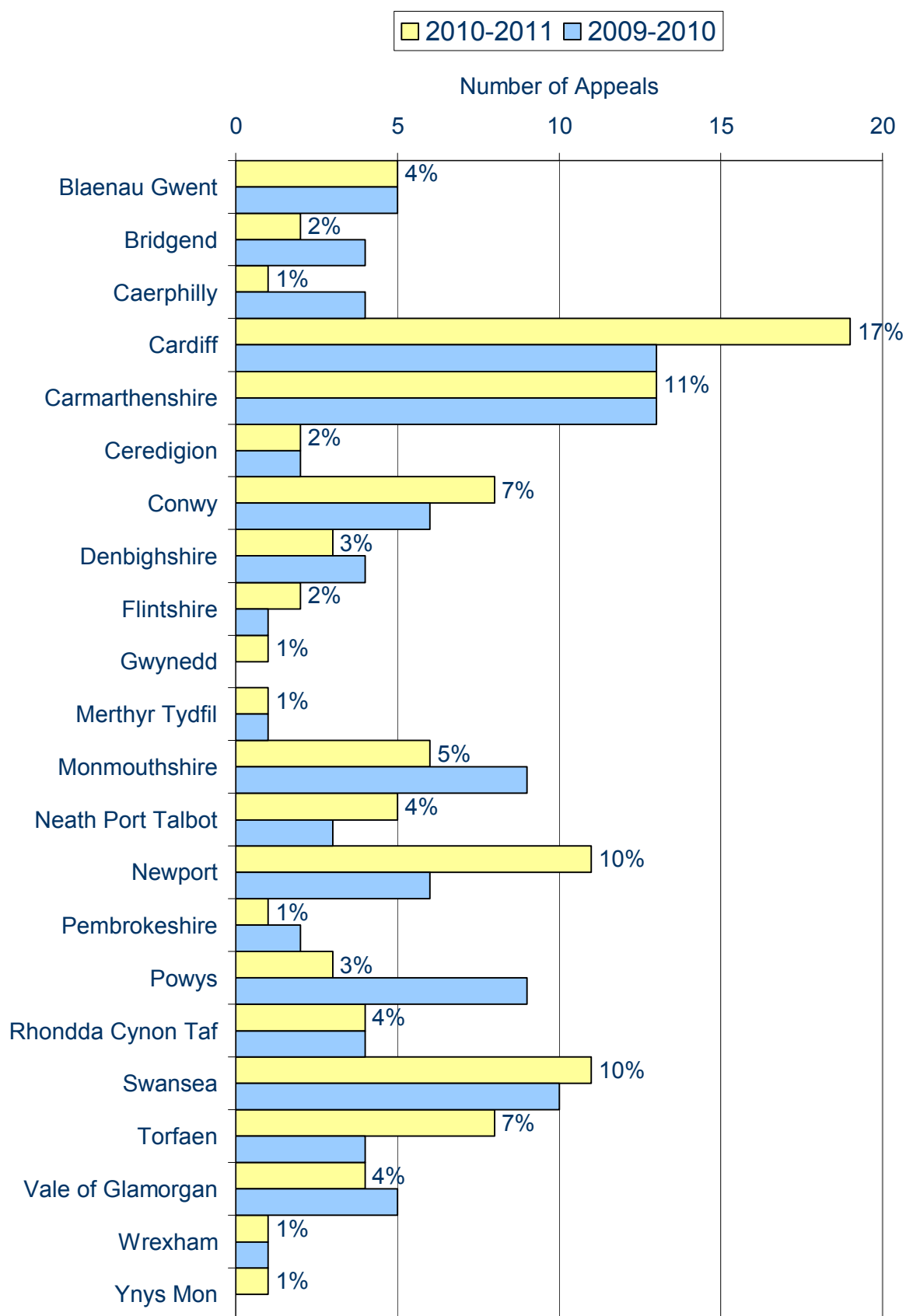


Table 3.3 Number of appeals received by quarter 2010 - 2011



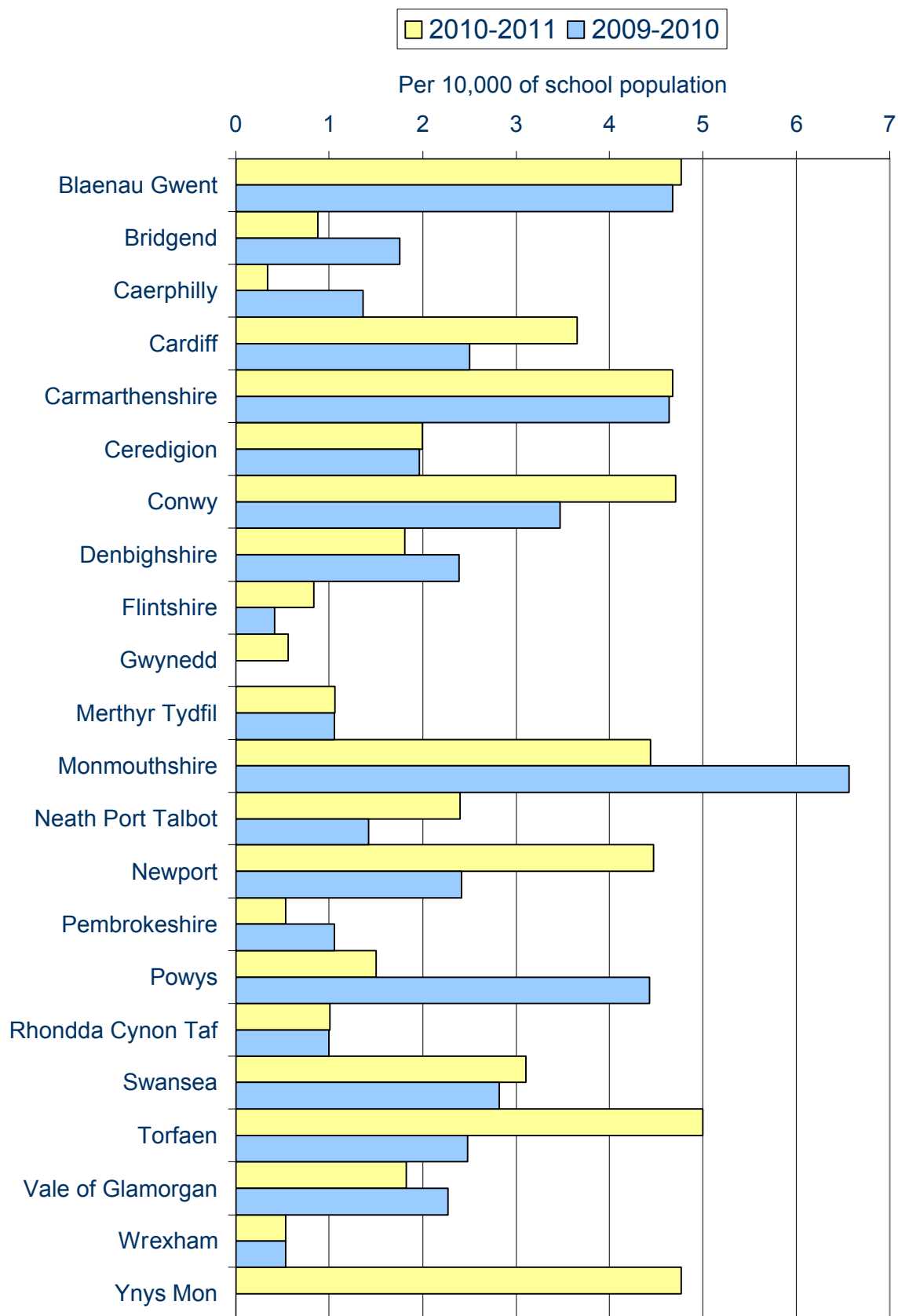
Actual number and percentage (%) of appeals received in 2010-2011

Table 3.4 Registered appeals by local authority



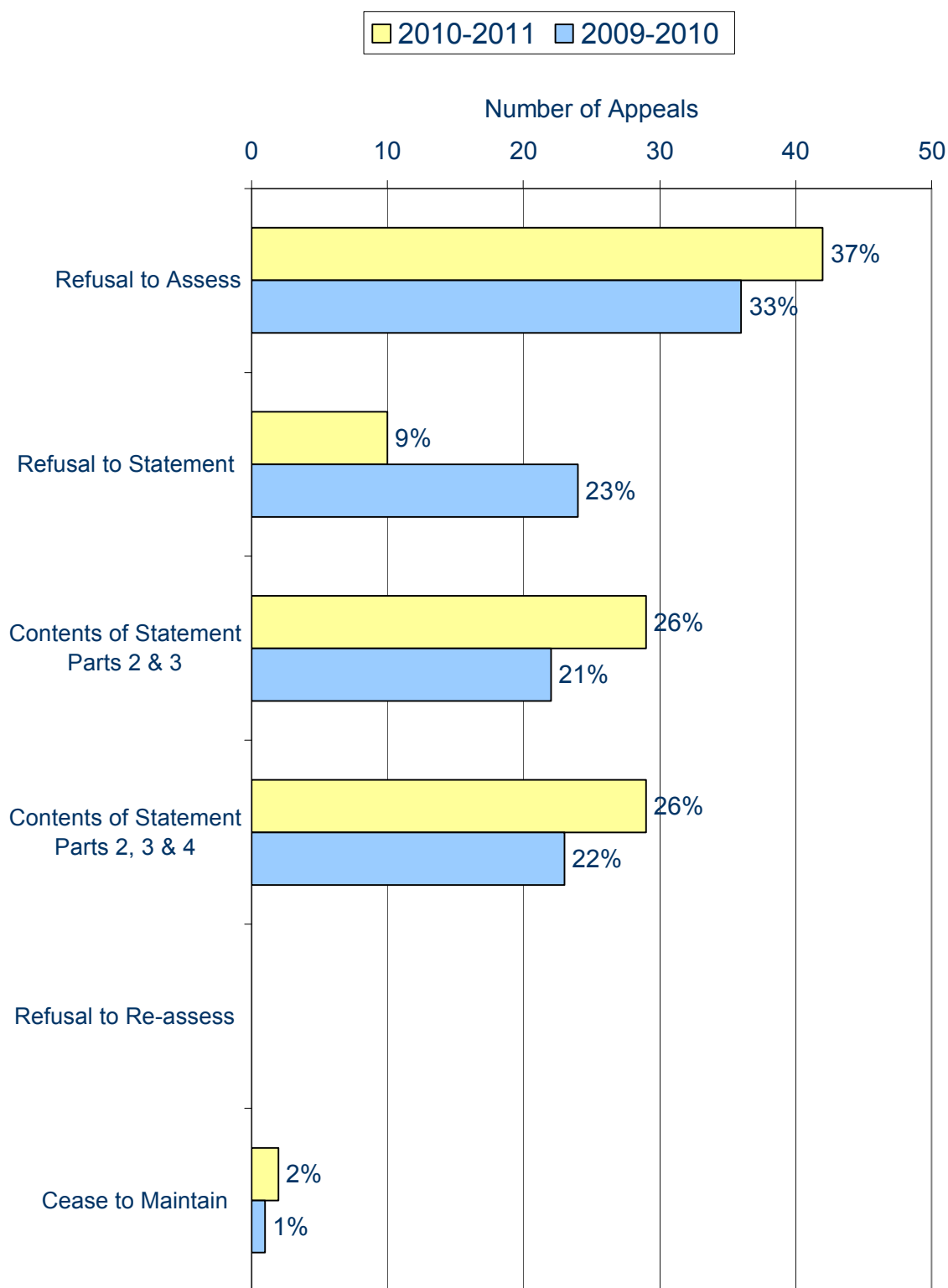
Percentage (%) of appeals registered in 2010-2011

Table 3.5 Registered appeals by local authority and school population



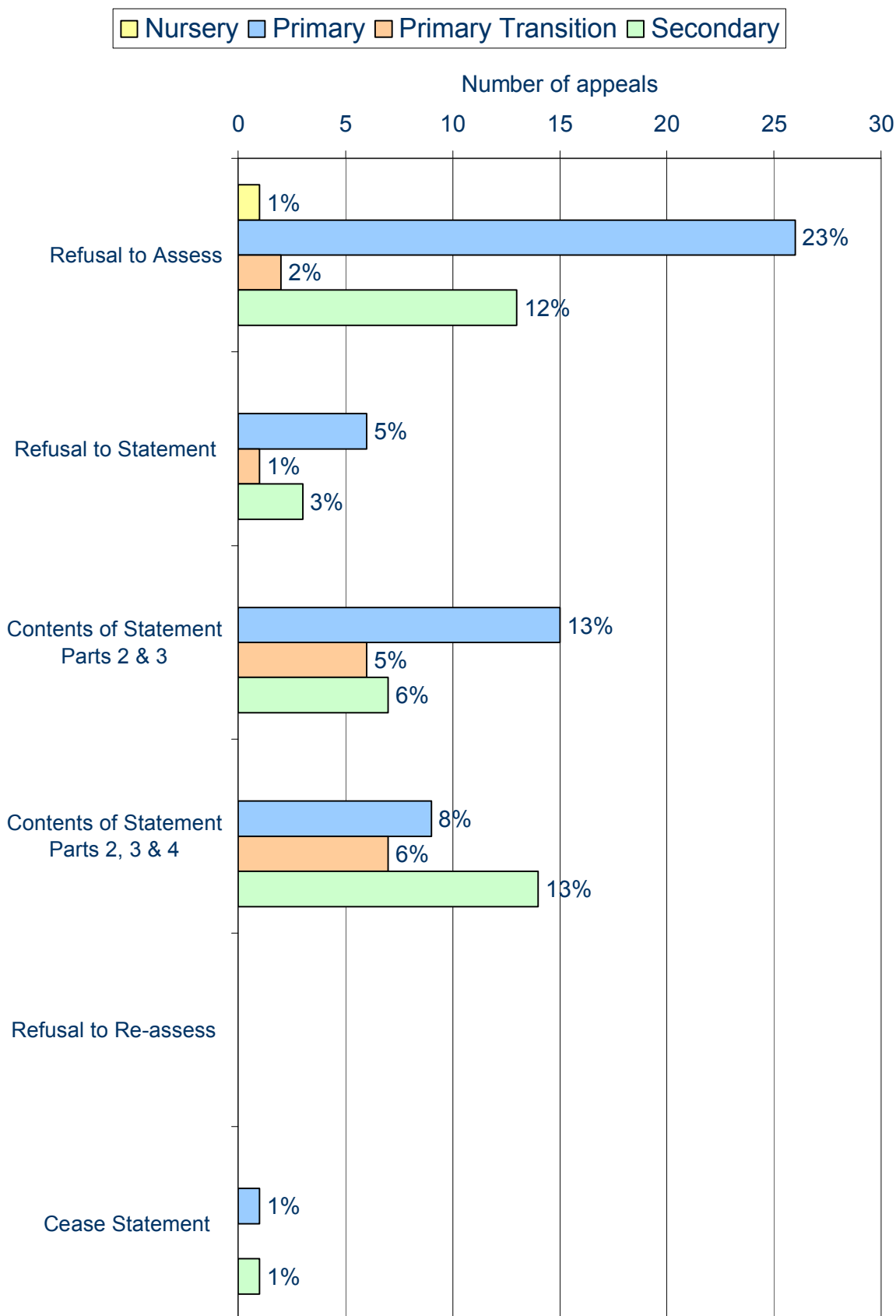
Actual number of appeals registered in 2010-2011 and 2009-2010

Table 3.6 Registered appeals by type of appeal



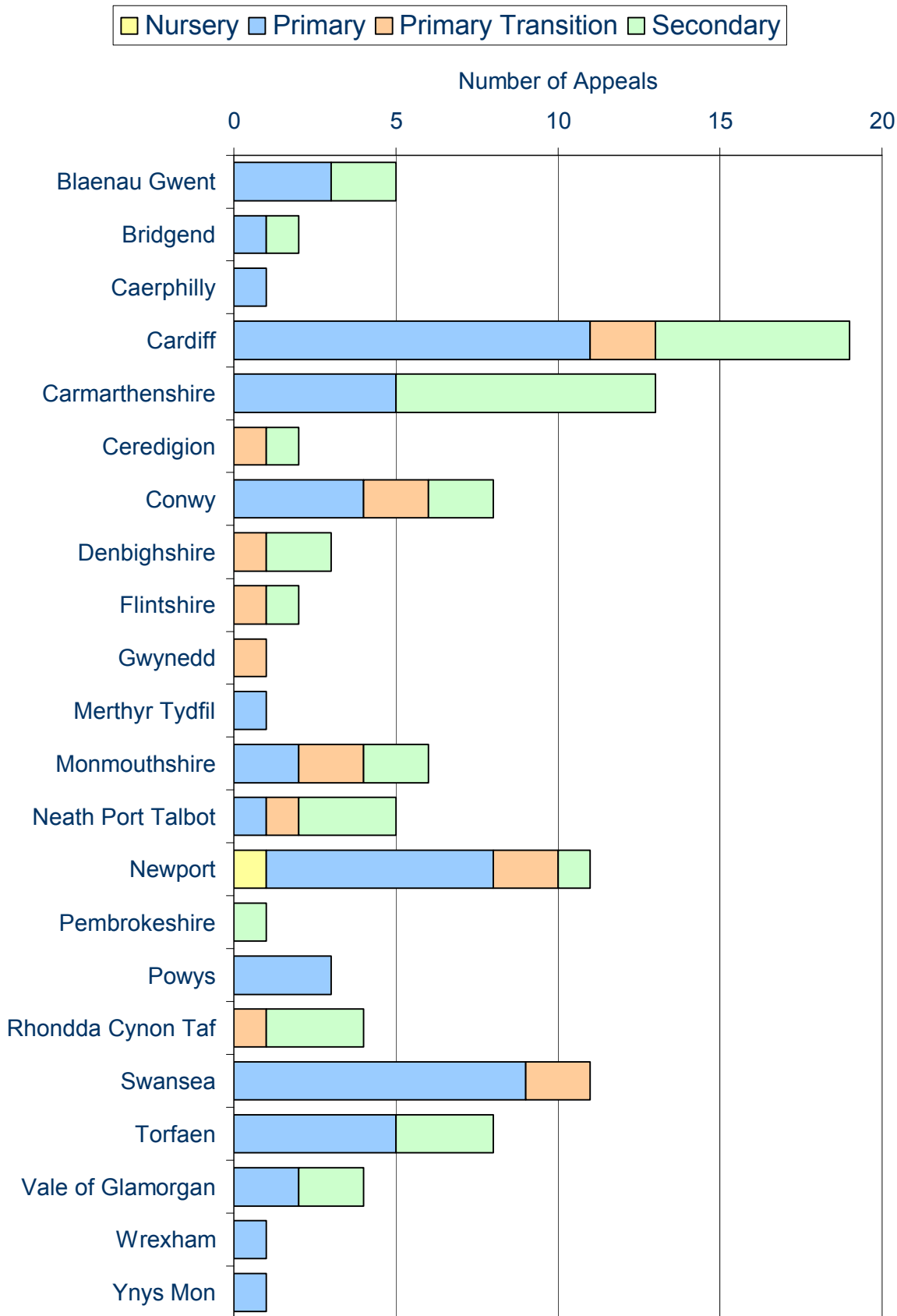
Actual number and percentage (%) of appeals registered in 2010-2011 and 2009-2010

Table 3.7 Registered appeals by school age and type of appeal 2010 – 2011



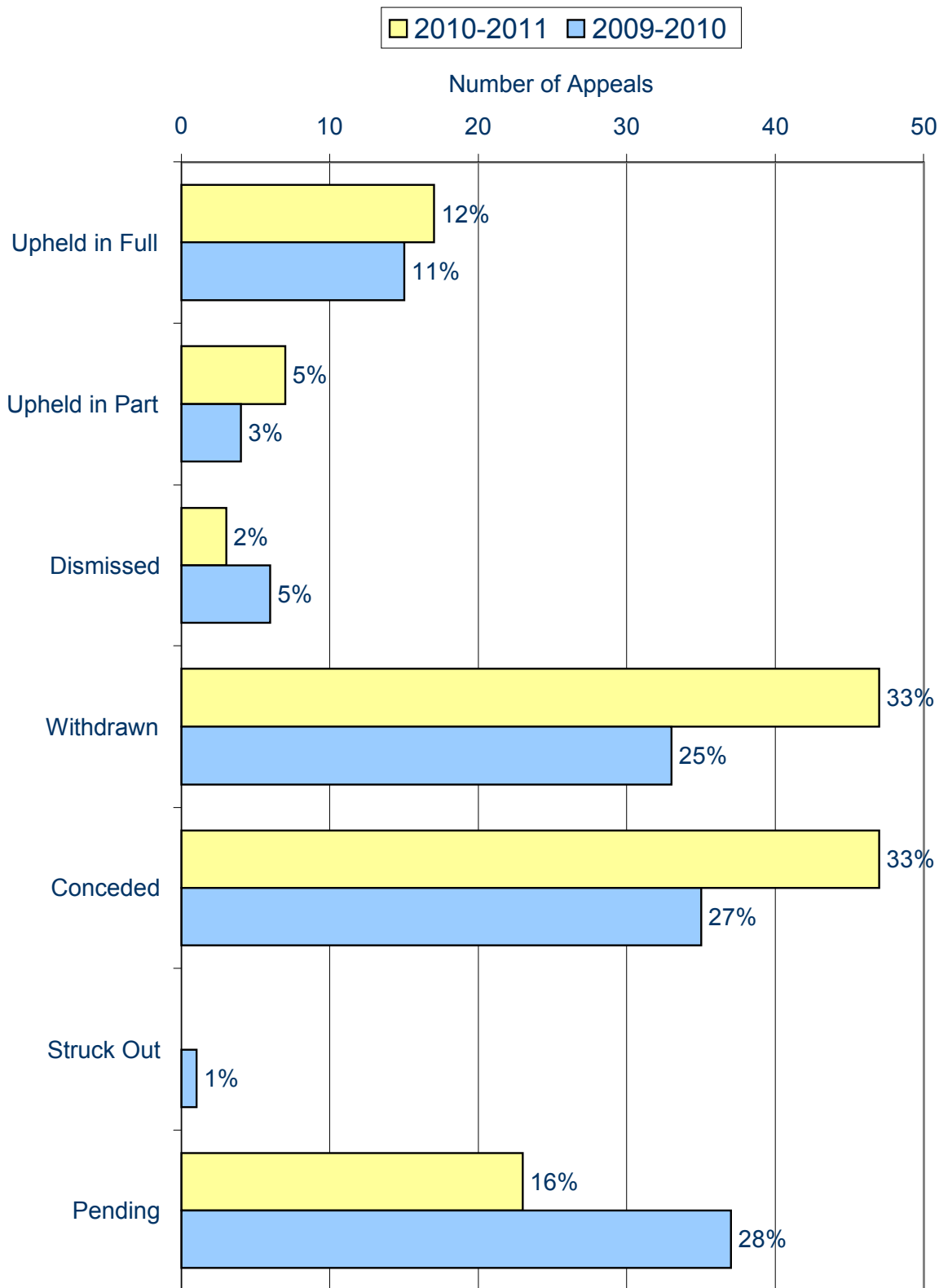
Actual number and percentage (%) of appeals registered in 2010-2011

Table 3.8 Registered appeals by school age and local authority 2010 - 2011



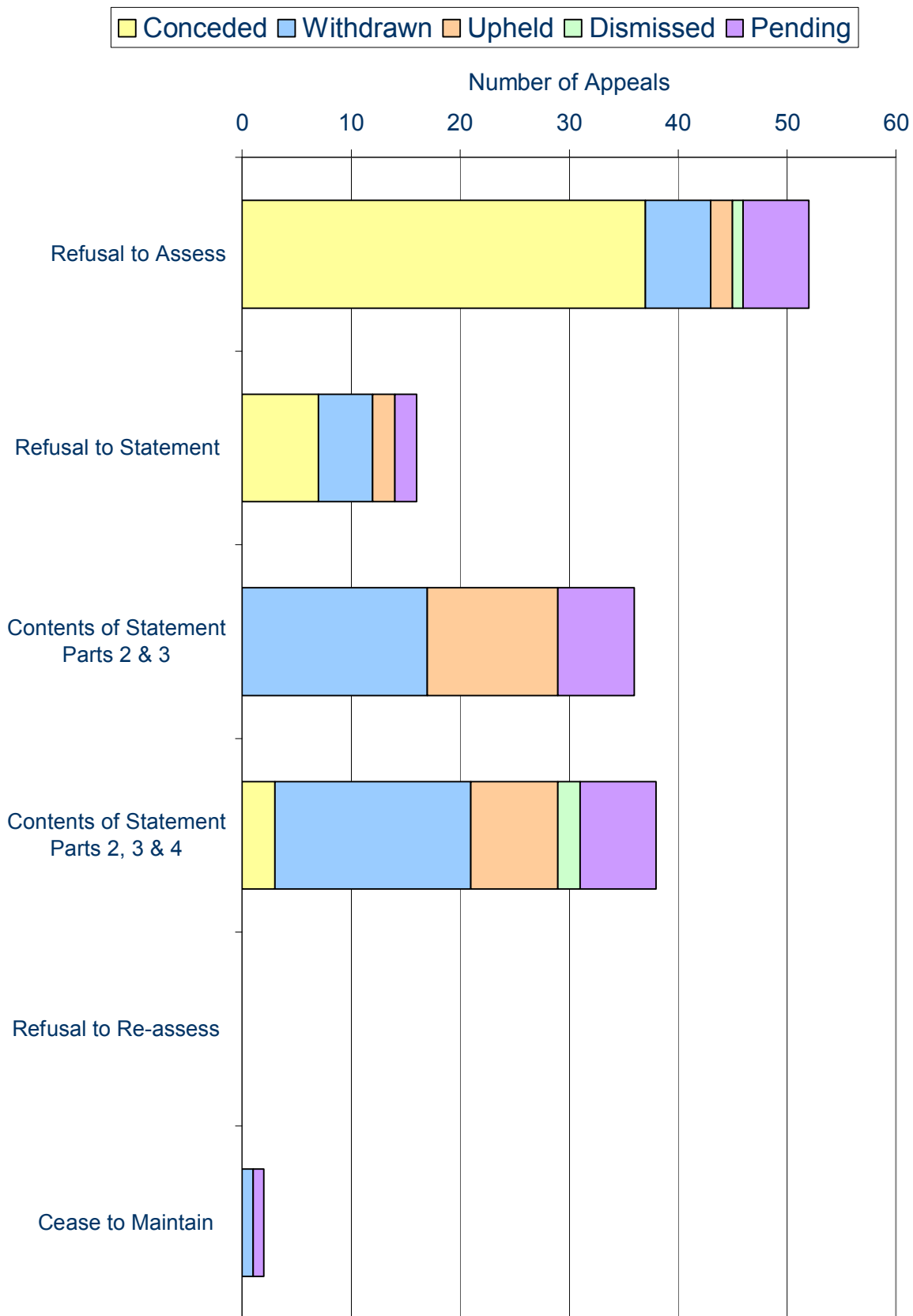
Actual number of appeals registered in 2010-2011

Table 3.9 Outcome of appeals



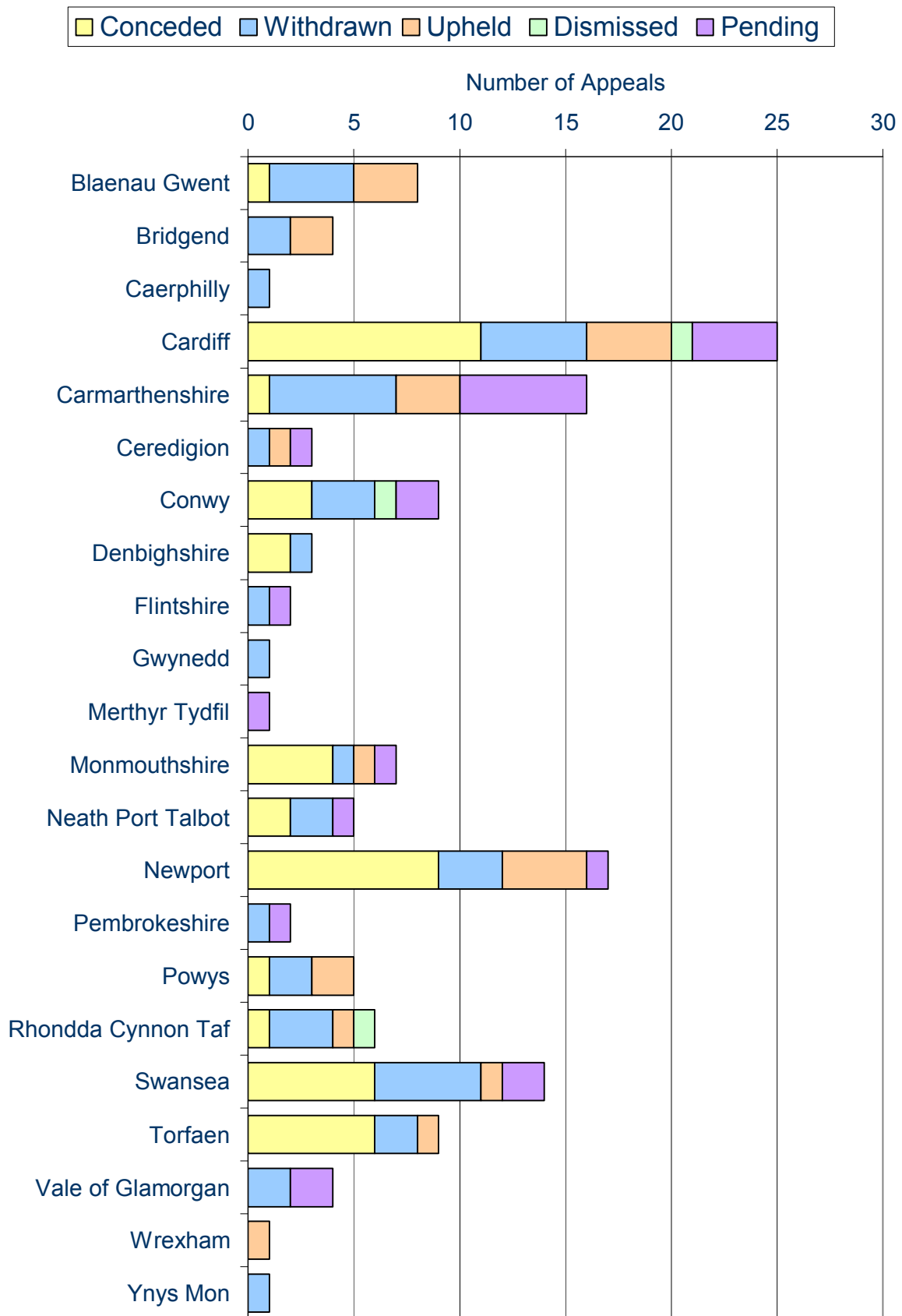
Actual number and percentage (%) of registered appeals dealt with in 2010-2011 and 2009-2010

Table 3.10 Outcome of appeals by type



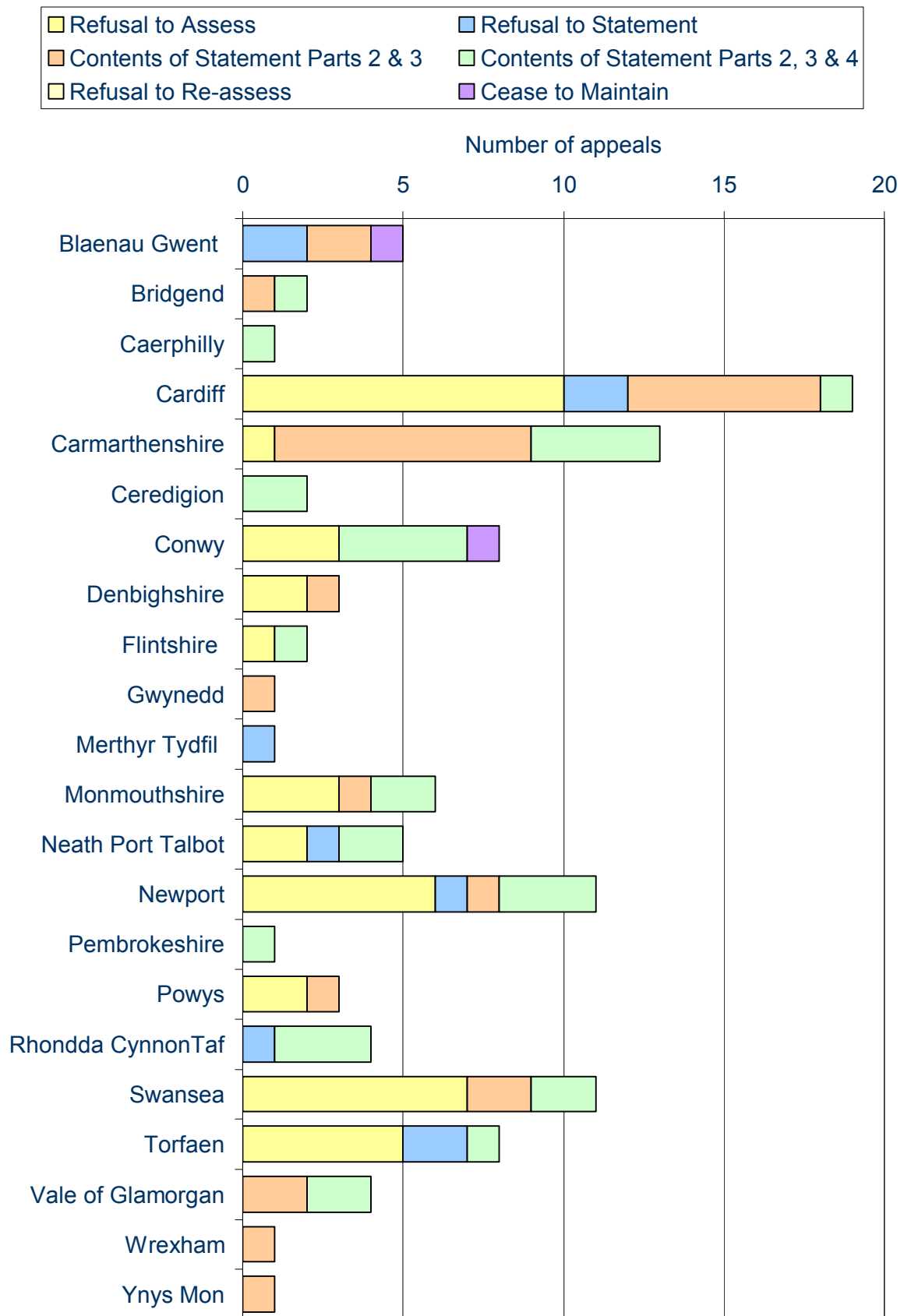
Actual number of appeals dealt with in 2010-2011

**Table 3.11 Outcome of appeals by local authority
2010 – 2011 including carried over**



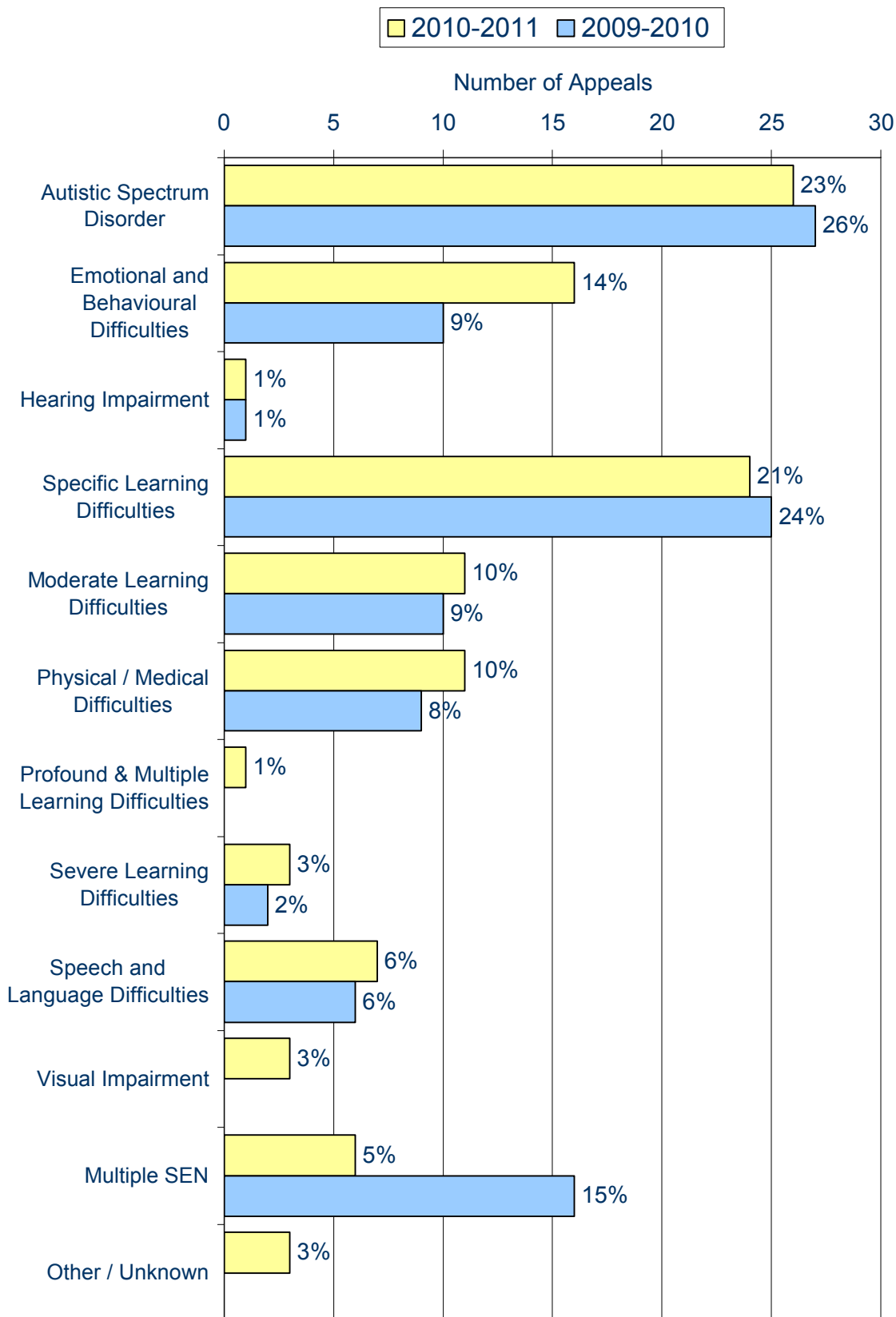
Actual number of appeals dealt with in 2010-2011

Table 3.12 Registered appeals by local authority and type



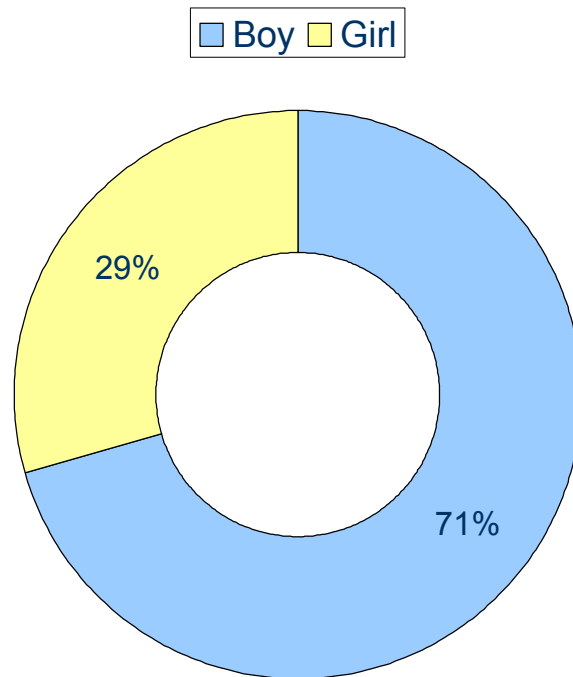
Actual number of appeals registered in 2010-2011

Table 3.13 Registered appeals by special educational need



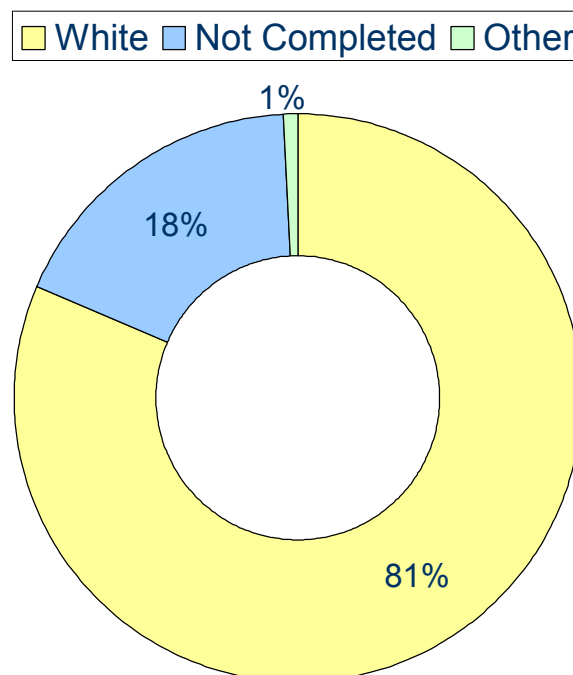
Actual number and percentage of appeals registered in 2010-2011 and 2009-2010

Table 3.14 Registered appeals by gender 2010 – 2011



Percentage (%) of appeals registered in 2010-2011

Table 3.15 Registered appeals by ethnicity 2010 – 2011



Percentage (%) of appeals registered in 2010-2011

Table 3.16 Disability discrimination claims registered and discharged by Tribunal year

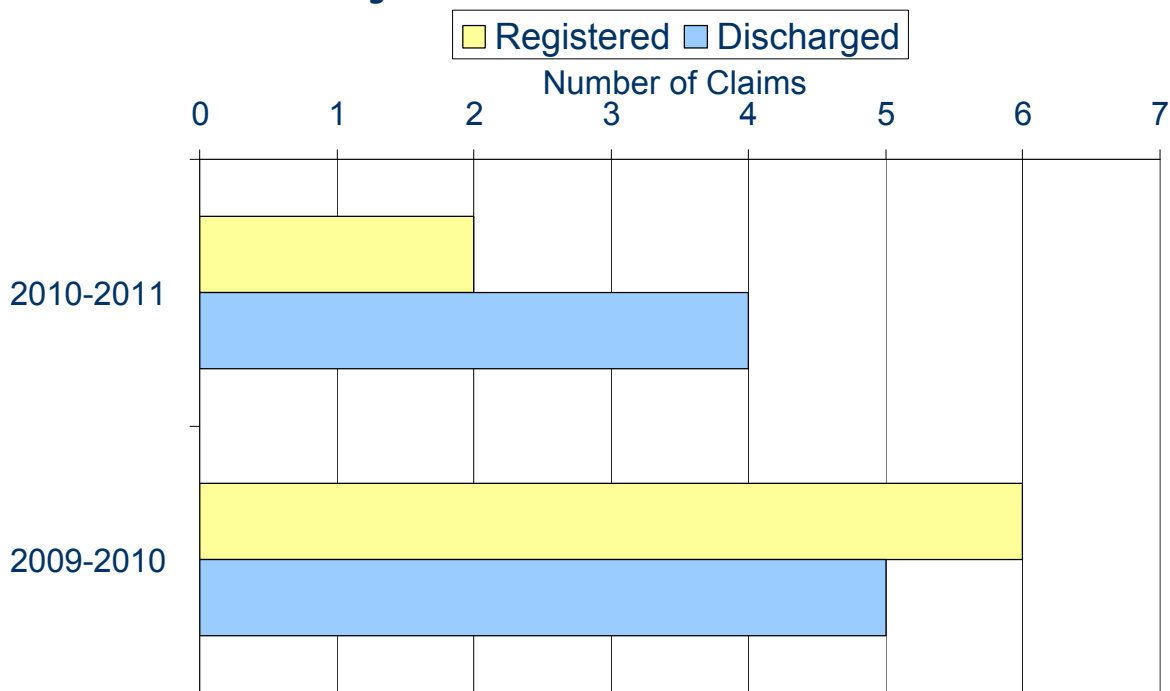
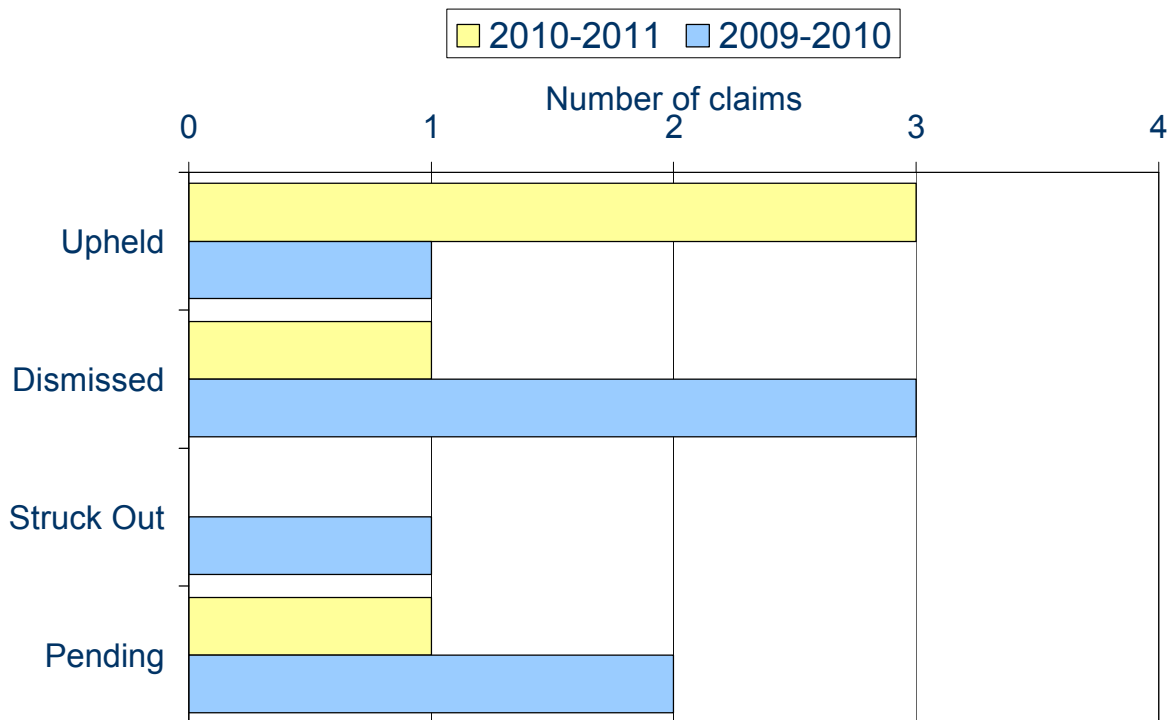
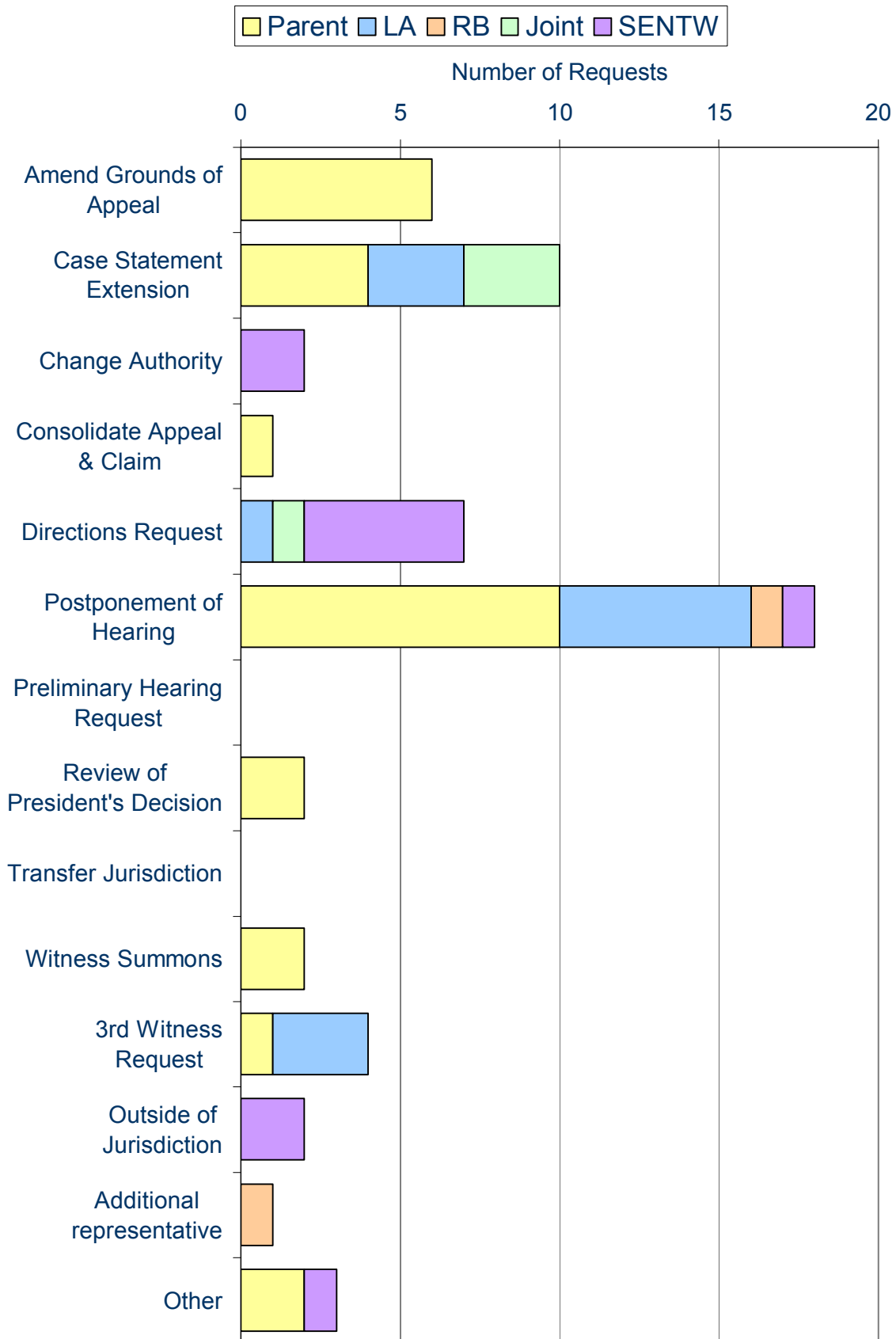


Table 3.17 Outcome of claims



Actual number of claims registered and dealt with during 2010-2011 and 2009-2010

Table 3.18 Presidential Requests



Actual number of presidential requests dealt with during 2010-2011

4. Reviews and onward appeals

Applications for a review of a Tribunal decision can be made by parents and LAs on limited grounds. Over the period of this report, 3 applications were made. Of those, 1 was refused and 2 were found to contain obvious errors which were amended by certificate.

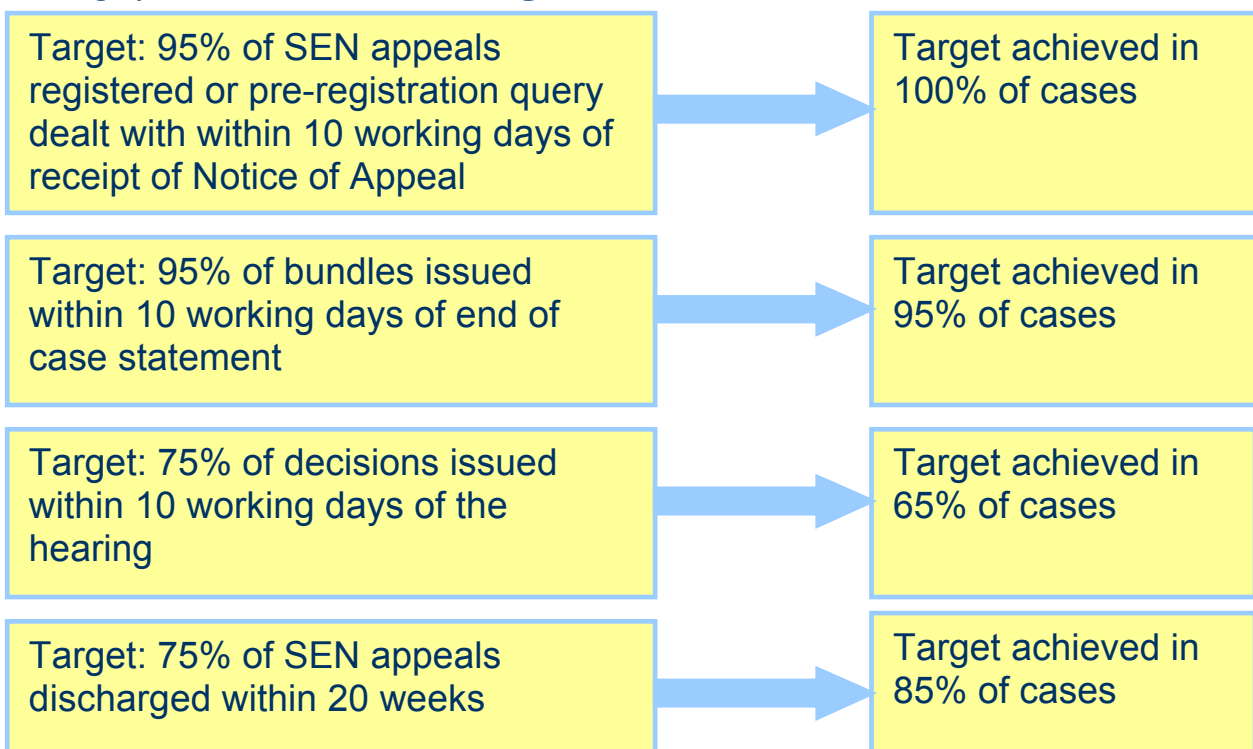
Appeals to the Upper Tier of the Tribunal's Service can be made by parents and LAs against Tribunal decisions where it is thought that the decision is wrong on a point of law. Permission to appeal to the Upper Tribunal must first be sought from SENTW. Over the period of this report 2 applications for permission to appeal were made to SENTW, both of which were refused. 1 application was renewed to the Upper Tribunal.

5. Our performance

This has been a busy year for the Tribunal. We have seen a 15% increase in the number of SEN appeals registered. We have however increased our output discharging 23% more appeals over the course of the report.

We measure our performance through key performance targets and customer satisfaction checks. This helps us to monitor the speed and quality of our service.

Key performance targets



Customer satisfaction checks

We received 16 completed forms over the period of the report, of those:

- 100% of customers said we were helpful when handling telephone enquiries, that we responded quickly and that they were satisfied with the information received;
- 100% of customers agreed that we processed their case efficiently

Complaints

We received no formal complaints during the course of the year.

6. Engagement with stakeholders and users

User Group Meetings

User group meetings provide an important opportunity for the Tribunal to hold open forum meetings with its users and stakeholders. Meetings at regional locations across Wales were held on 16, 30 and 31 March 2011. The meetings were well attended by Local Authority officers, parents, parent partnership support groups, voluntary sector organisations and legal representatives.

Papers and items discussed included; tribunal statistics, the Equality Act and claims of disability discrimination in schools, amended tribunal procedural regulations and children's pilots, Welsh Government policy update on the reform of the statutory assessment and statementing process, tribunal reform in Wales.

Information about User Group meetings, including past papers and notes, can be downloaded from the Tribunal's website.

7. Welsh language

The Tribunal has a Welsh language policy which has been approved by the Welsh Language Board. We are committed to providing an equally high quality equivalent service for both Welsh and English speakers who appeal or make a claim to the Tribunal. All of our publications and forms are bi-lingual and hearings for appeals and claims can be conducted in both languages.

Where Welsh or English is not the first language we will arrange for an interpreter to attend the hearing and do our best to meet all language needs.

1 appeal was made through the medium of Welsh during 2010-2011.

SENTW submits an annual monitoring report to the Welsh Language Board on the implementation of its scheme. A copy of the report is available on SENTW's website or can be obtained by contacting the Tribunal.

8. Expenditure

Expenditure: 1 April 2010 – 31 March 2011

Expenditure	2010 - 2011
Tribunal President and Members' Fees and Expenses	£125,000
Hearings, Cancellations and User Groups	£35,000
Children's rights Project	£30,000
Office Expenses	£4,000
Other Appeal Expenses (Witness Claims, Interpreting)	£2,000
Tribunal Training	£6,000
Total	£202,000

Additional costs such as staff salaries for the secretariat and the Tribunal's shared accommodation are met centrally by the Welsh Government. These costs are:

Staff salaries £144,000
Accommodation £20,000

* rounded to nearest £1,000

9. Contacting the Tribunal

Tribunal Address: Unit 32 Ddole Road Enterprise Park
 Llandrindod Wells
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 LD1 6DF

Tribunal Helpline: 01597 829800

Tribunal Fax: 01597 829801

Tribunal E-mail: sentw@wales.gsi.gov.uk

Tribunal Website: www.sentw.gov.uk