



TAAAC - Tribiwnlys Anghenion Addysgol Arbennig Cymru

SENTW - Special Educational Needs Tribunal for Wales

Annual Report 2011-2012

March 2013

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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ISBN 978-0-7504-9199-0

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Special Educational Needs Tribunal for Wales Annual Report 2011 - 2012

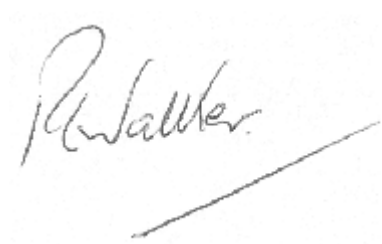
To: Leighton Andrews AM
Minister for Education & Skills
National Assembly for Wales

March 2013

This annual report covers the ninth year of the Tribunal's existence and provides details of the number, type and outcomes of Special Educational Needs appeals and claims under the Disability Discrimination Act.

As usual it has been a very busy year with all the preparation for the introduction of the pilot scheme in Wrexham and Carmarthenshire for the right of appeal for children in March 2012. However, we have noted a decrease in the number of SEN appeals. We are finding that the majority of the appeals which go to a full hearing are those of a complex nature. The figures also show that a large amount of appeals relate to refusal to assess and that a large percentage of these are conceded by the Local Authority. This is something that we will continue to monitor.

We have also had our new procedural regulations come into effect, which we are delighted with. We have taken the opportunity to start case management on certain cases and I will report further on the progress on this in the future.

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

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 ninth annual report as President of the Special Educational Needs Tribunal for Wales (SENTW). The report covers the period September 2011 – August 2012. 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 during 2011-12 was 84 with an additional eight appeals carried over at the pre-registration stage from 2010-11. Of these, 5 appeals were withdrawn prior to being registered and 1 remained unregistered at the 31 August 2012. This gives a total of 86 appeals being registered by the Tribunal during 2011-12.

In addition to the 84 appeals received during 2011-12, we also dealt with a further 31 appeals that were carried over from the previous year. This figure includes the 8 appeals carried over at pre-registration stage.

This year saw the tribunal registering the lowest number of appeals, 86, since the tribunal was set up in 2003/04 and it is the first time since the 2008/09 tribunal year that the number of appeals registered has fallen.

When looking at appeals about refusal to assess, we have seen a notable reduction of 33% in the number of appeals received, down by 14 cases from 42 in 2010/11 to 28 in 2011/12, whereas the number of cases for refusal to statement has increased slightly from 10 in 2010/11 to 12 in 2011/12. Whilst it is pleasing to note the reduction for refusal to assess, these figures still raise concern due to the fact that the 64% percent of appeals received were conceded by Local Authorities within the Tribunal year. In order to bring into effect the recommendations made within the 'Right First Time' report it might be useful if the Local Authorities could look at the reasons behind the high concession levels.

As expected, due to fewer appeals being registered in 2011/12, the number of appeals received about the statement has reduced by 22%, from 58 in 2010/11 to 45 in 2011/12 a reduction of 13.

The table below gives the split of statement appeals by part and a comparison of numbers received by Tribunal year:

Tribunal Year	2011/12	2010/11
Parts 2 &3	24	20
Part 3	6	8
Parts 2, 3 & 4	11	23
Parts 3 & 4	2	1
Part 4	2	6
Total	45	52

It is interesting to note, that although the number of appeals have reduced, the percentage split between refusal to assess or statement and appeals about the statement itself has stayed the same at 46% and 52% respectively.

When looking at the number of appeals by school age i.e. primary, primary transition, secondary, there is a noticeable drop of 17 appeals for children of primary school age. This is a reduction of 30% from 2010/11. There has also been a drop of 6 appeals for primary transition, a reduction of 38% from 2010/11. The numbers of secondary school appeals have stayed comparatively stable; however when looking at the percentage share of appeals, secondary school appeals have increased by 8% from 34% in 2010/11 to 42% in 2011/12.

For pupils with special educational needs the latest figures from the Welsh Government National Statistics for Wales¹ show:

- a decrease in the total number of pupils with statements, from 14,009 in 2010/11 to 13,591 in 2011/12; and
- an increase in the number of pupils that were newly assessed as requiring a statement from 1,264 in 2010/11 to 1,333 in 2011/12.

In terms of outcomes we discharged a total of 80 appeals during the 2011/12 tribunal year. This is a decrease of 34% from the previous year.

Of the 80 appeals:

- 17 were decided at a hearing
- 39 were withdrawn by the parent; and
- 24 were conceded by the Local Authority.

¹ Welsh Government, Statistics for Wales, SDR 88/2012 Pupils with Statements of Special Educational Needs: January 2012

Special Educational Needs Tribunal for Wales Regulations 2012

On the 6th March 2012 the new Regulations for the Tribunal came into force. The Tribunal worked closely with Welsh Government officers who laid the regulations before the National Assembly for Wales.

The new Regulations introduce the Tribunal's overriding objective and obligation to co-operate, which is to deal with cases fairly and justly. These sets out the Tribunal's expectation that parents, representatives, Local Authority officers and responsible bodies, will help further the overriding objective by co-operating with each other and the Tribunal for the purposes of progressing the appeal or claim.

Children's Pilot [Education (Wales) Measure 2009]

The Special Educational Needs Tribunal for Wales Regulations 2012 also makes provision for the rights of Children to make their own special educational needs appeal or claim of disability discrimination in education.

The rights are currently being tested in the Carmarthenshire and Wrexham Local Authority areas, after which it is anticipated that it will rolled out to all children in Wales. Children in the pilot area are able to make their own appeal and claim application, but the existing parental right are not affected by the new provision. A parent can still make an appeal and claim whether or not their child makes one.

Since the rights for children to make an appeal or claim came into being in March, the Tribunal has received 1 claim using the new rights. The outcome of the hearing will be reported on in next year's annual report.

If you would like to find out more about how children can make their own appeals or claims, please ask us for a copy of our information Pack and Forms for Children, Parents and Case Friends.

Meeting with the Minister of Education and Skills

I had my annual meeting with Mr Leighton Andrews Assembly Member for Education and Skills in January of this year. I reported on the work of

the Tribunal and gave details of the information pack which the Tribunal had prepared for children, parents and case friends, dealing with the new regulations. I also reported on the fact that the Tribunal were producing a new DVD and website (now completed) which would underpin the new publications and that we had completed our training for our members for the new system. The Minister's response was positive and the Minister stated that he wished every Assembly Member to receive a copy of the information pack and DVD. The Minister stated that once he had received the bilingual copies he would issue an accompanying letter asking Assembly Members to pass the copies on to their case workers.

I expressed my concern about the high numbers (33%) of appeals which were conceded by the Local Authority. Appeals against refusal to assess had a particularly high concession rate, in that 38 of the 42 appeals received were conceded. I explained that these matters were discussed at the Tribunals user group meetings. The Minister expressed concern regarding these figures and agreed that the AJTC's paper "Right First Time" was very relevant and it would be brought to the Local Authority's attention in a number of routes, including the Association of Directors of Education Wales (ADEW) Inclusion Group.

I am grateful to the Minister for taking time out of his busy schedule to discuss these matters. It is an indication of the importance that the Welsh Government credits Special Educational Needs in Wales.

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

As you will be aware the AJTC has been under threat of closure now for the last two years, as it has been listed as a body to be abolished as part of the changes enacted under the Public Bodies Bill. This would mean that we could also lose the Welsh arm of the AJTC. We consider that the loss of the Welsh Committee would be a step backwards for all the devolved Tribunals, especially with the devolved tribunals moving into the Administrative Justice and Tribunals Unit of the Welsh Government. Their role at this time is crucial and I have found that their research into topics such as their recent excellent paper "Right First Time" extremely helpful and I commend it to all our users.

Members and Secretariat


The Tribunal Secretariat has been incredibly busy making preparations for the new regulations and, in particular, for the Children's right to make an appeal or claim. Over the last Tribunal year:

- Events were organised to make members, stakeholders and the secretariat aware of the differences between the old and new regulations;
- Correspondence and processes were reviewed and revised;
- Publications produced to inform children how to make an appeal or claim went out for further consultations with individuals, organisations and other stakeholders;
- Existing publications were reviewed and revised in light of the new regulations;
- The web site was re-launched with a view to being more user friendly and accessible;
- A text messaging service was set up to make the Tribunal more accessible for Children; and
- A DVD was produced, initially targeted to inform a child about a SEN hearing, but when launched was found to be of such high quality that it has been rolled out for all cases.

The work of the secretariat was found to be of such high quality that it was nominated and won the Welsh Government Civil Service Award for Customer Service.

I was delighted that the hard work of the Secretariat was recognised in this way. The Secretariat completed all the publications, carried out the training for the new regulations within their existing budget and without any further staff. Their dedication and commitment deserved this accolade.

I would also like to extend my thanks and best wishes to Sarah Smith, who has been promoted to the position of Secretary / Business Manager for the Agricultural Land Tribunal (Wales), and to Sian Mills, who has moved on to become the Senior Operations Manager for the Administrative Justice and Tribunals Unit (AJTU). Although we will not be losing them completely, they will be missed as both have been valuable SENTW team members. On behalf of the members and secretariat, I wish them both well on their career paths.



A warm welcome is extended to Ann Owen who replaced Sian as Secretary for the Tribunal in January 2012 and to Danielle Cosgrave who joined the Tribunal as a Team Support in July 2012.

Finally

As ever, this has been a challenging year with all the changes that we have gone through. I am sure that the coming year will again be filled with challenges, especially in these difficult economic times. However, with the continued support and hard work of my excellent secretariat, chairs and members, I am confident that the Tribunal is well placed to meet these challenges. It is with pleasure that I acknowledge all the hard work and commitment of the team and thank them for their support.

2. Tribunal Secretariat and Members

Tribunal Members It is the role of members to hear and decide appeals and claims	Tribunal Secretariat 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
President Rhiannon Walker	Secretary/Business Manager Ann Owen
Legal Members Meleri Tudur Mark Allen Jacqueline Blackmore Gwyn Davies Lay Members Sandy Boyle Norman Donovan Gwyn Griffiths Gareth Roberts Sian Wyn Siencyn Susan Taylor Andrew Wilson Richard Ellis Owen Hilary Hayward Catrin Lewis	Secretariat Adrian Evans Leon Mills Tania Ryland Danielle Cosgrave

3. Numbers and statistics

Table 3.1 Headline numbers and statistics

Appeals by Outcome (including appeals carried over from 2010/11)

2011-2012	Actual	Percentage	2010-2011	Actual	Percentage
Decided	16	15%	Decided	27	18%
Withdrawn	39	37%	Withdrawn	47	33%
Conceded	24	23%	Conceded	47	33%
Struck Out	1	1%	Struck Out	0	0%
Pending	29	24%	Pending	23	16%
Total	109	100%	Total	144	100%

Outcome of Appeals registered in 2011/12 by type

Type of Appeal	Appeals 2011-2012		Appeals 2010-2011	
	Total Appeals 86		Total Appeals 112	
Refusal to Assess	28	33%	42	37%
Refusal to Statement	12	14%	10	9%
Refusal to Re-assess	1	1%	0	0%
Cease Statement	0	0%	2	2%
Contents of Statement Parts 2 & 3	24	28%	20	18%
Contents of Statement Parts 2, 3 & 4	11	13%	23	21%
Contents of Statement Part 3 only	6	7%	8	7%
Contents of Statement Part 4 only	2	2%	6	5%
Contents of Statement Parts 3 & 4	2	2%	1	1%

Table 3.2 Number of appeals received and discharged by Tribunal year

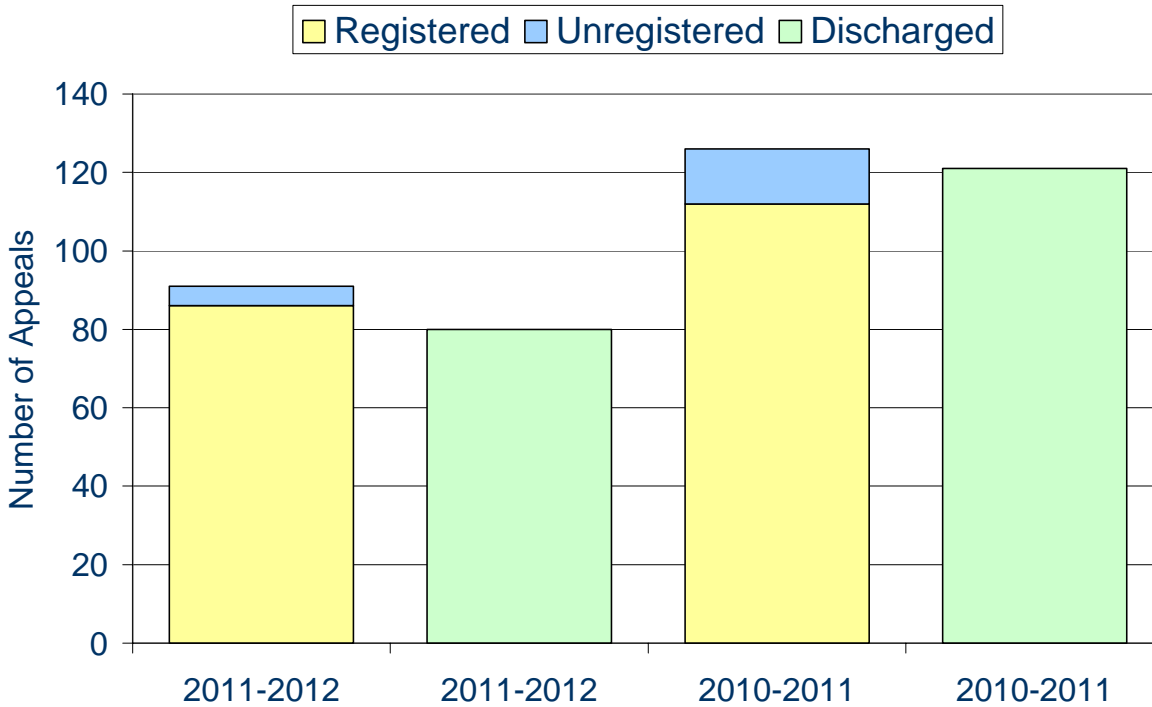
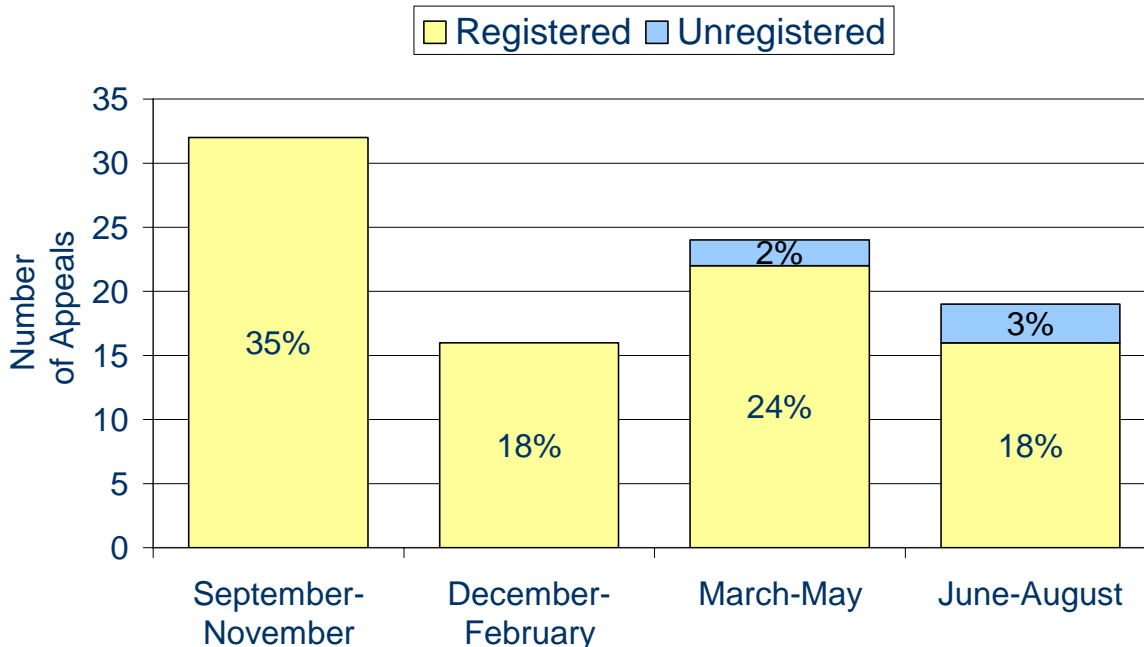
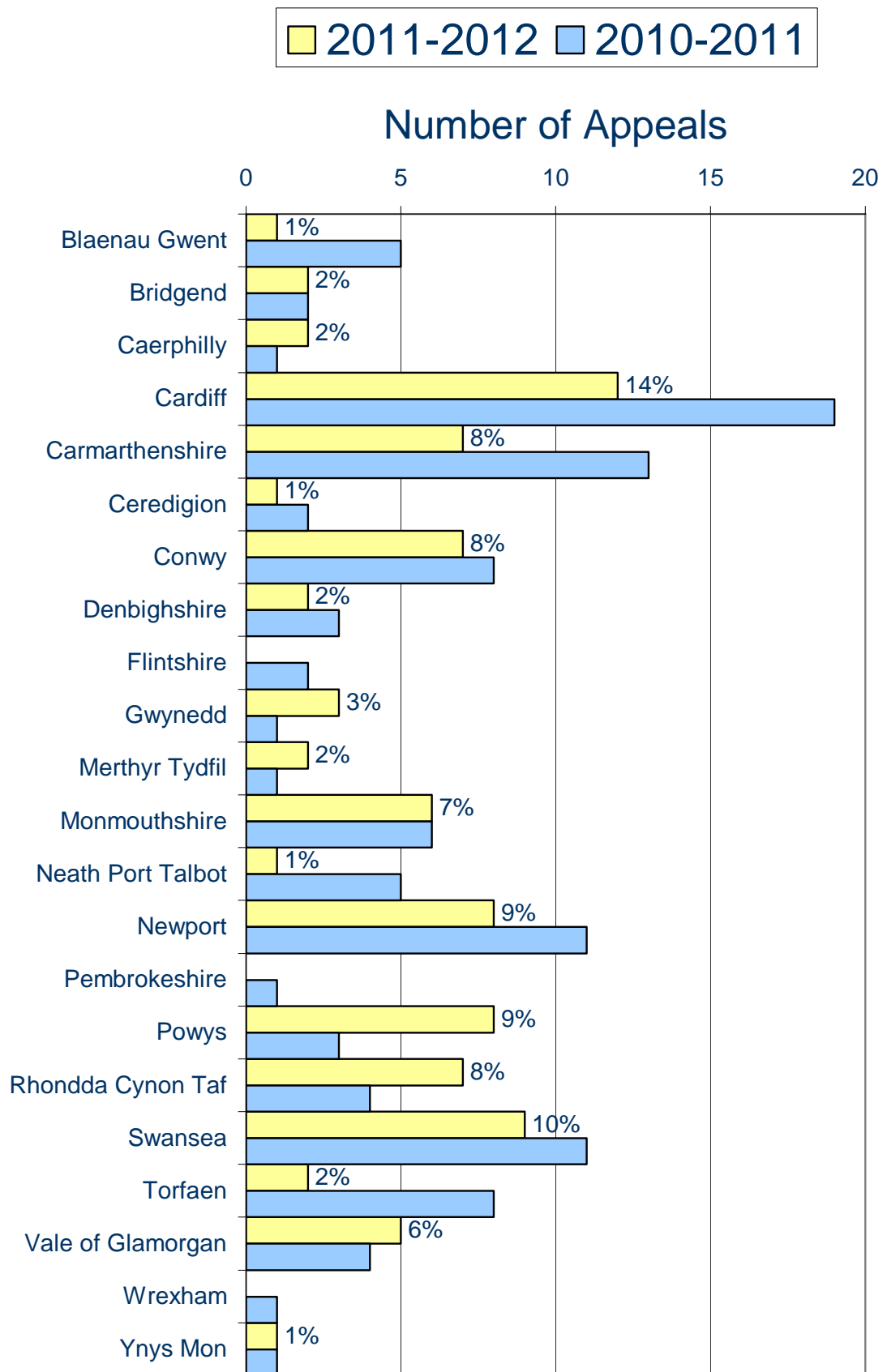


Table 3.3 Number of appeals received by quarter 2011 - 2012



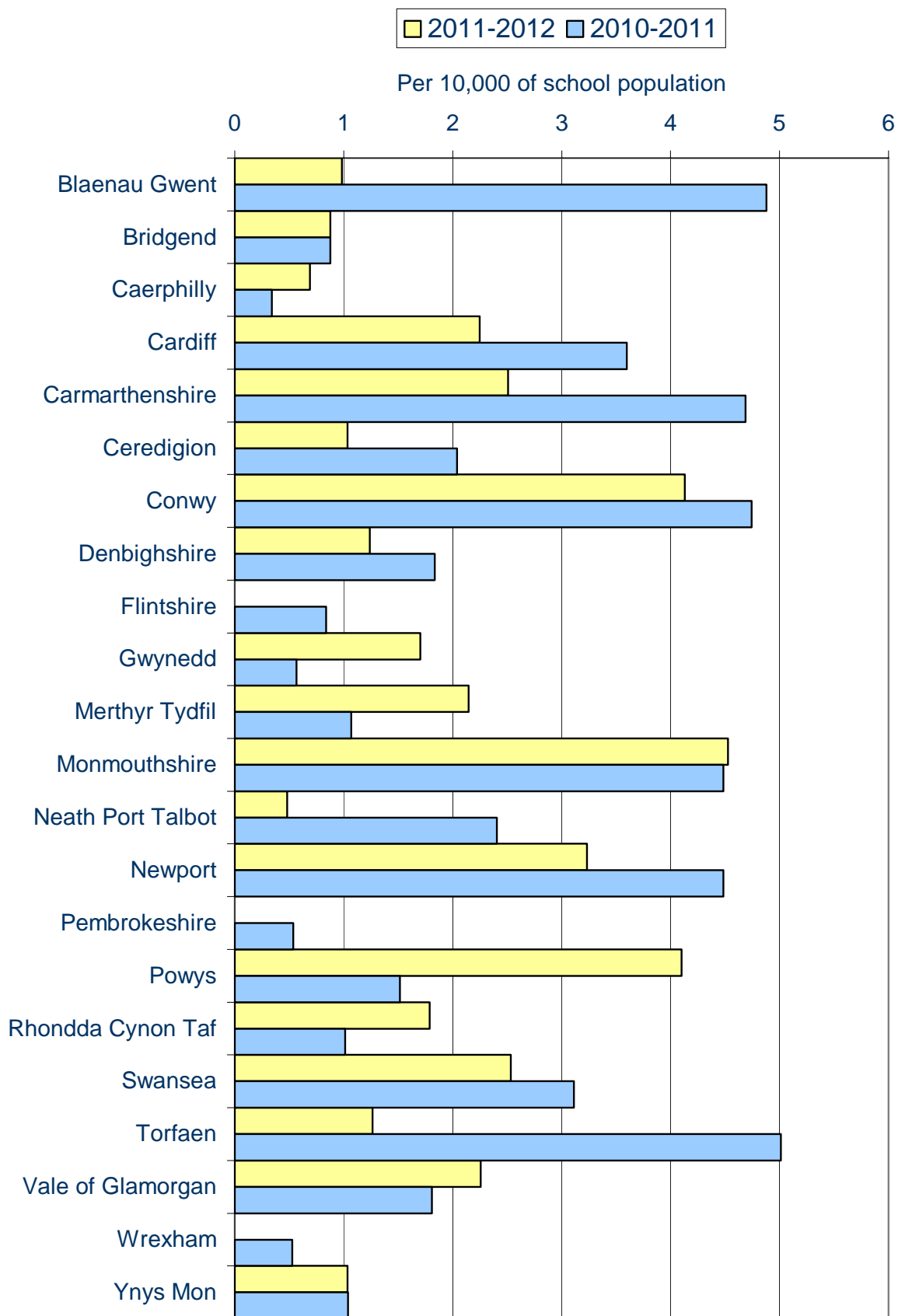
Actual number and percentage (%) of appeals received in 2011-2012

Table 3.4 Registered appeals by local authority



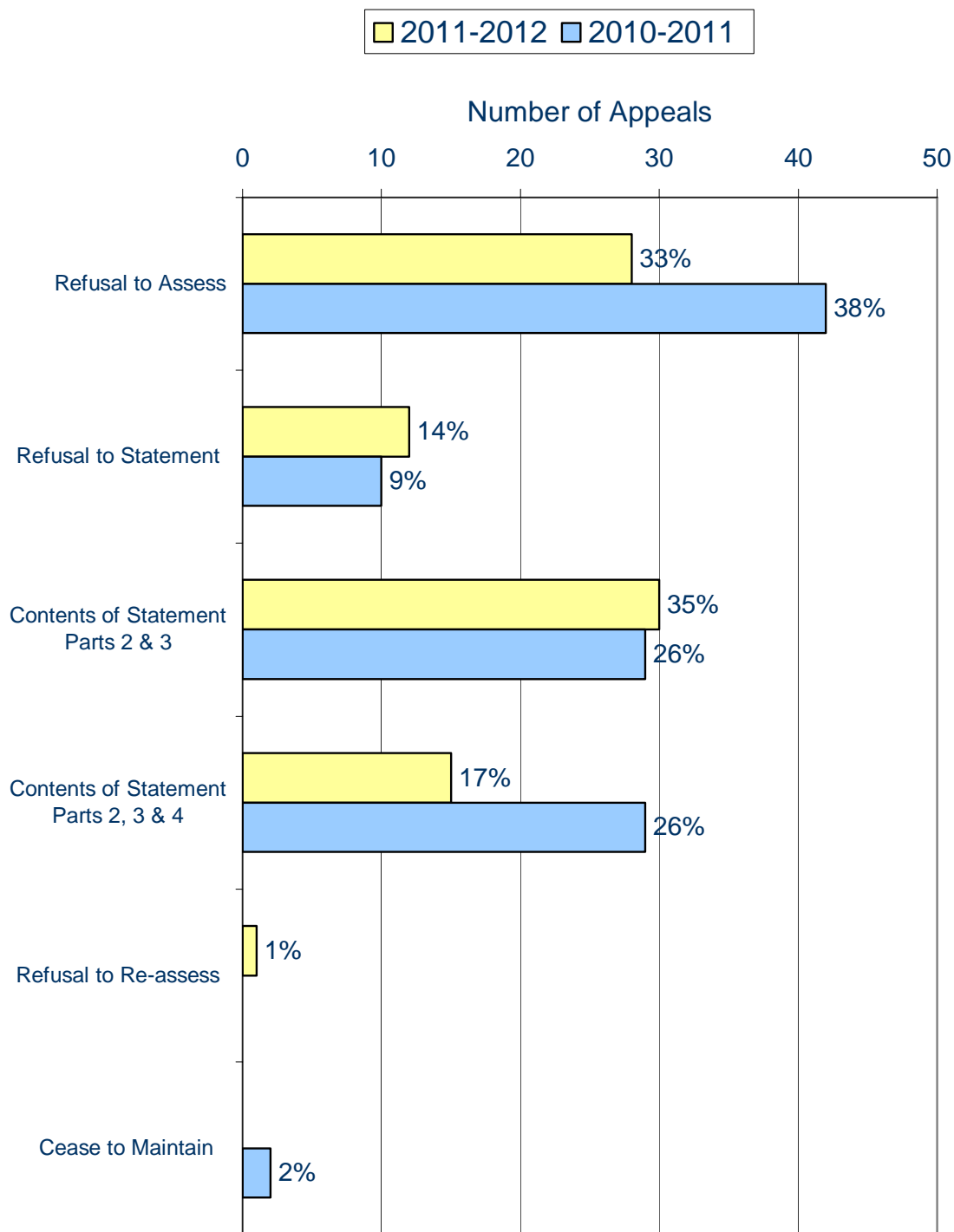
Percentage (%) of appeals registered in 2011-2012

Table 3.5 Registered appeals by local authority and school population



Actual number of appeals registered in 2011-2012 and 2010-2011

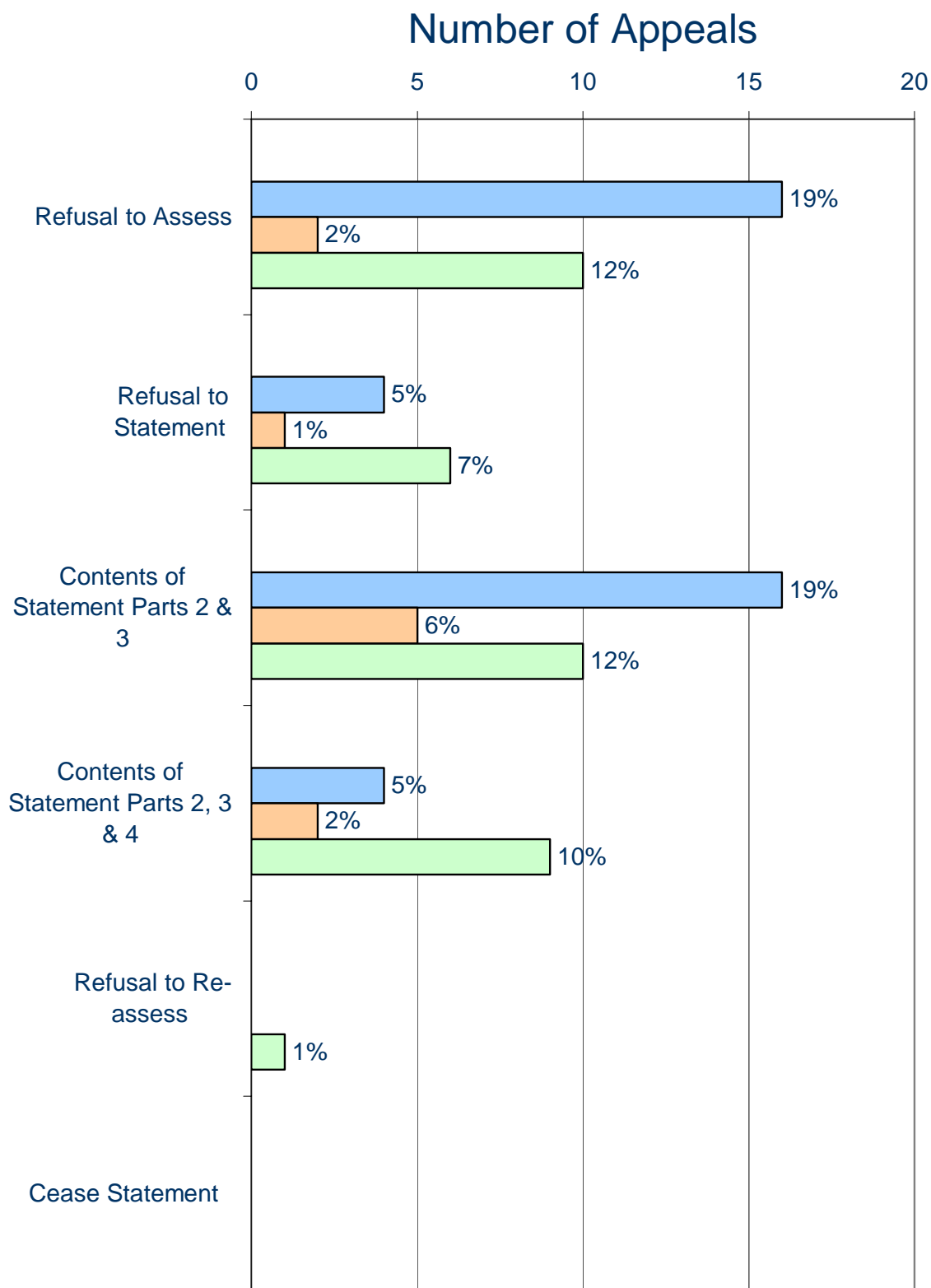
Table 3.6 Registered appeals by type of appeal



Actual number and percentage (%) of appeals registered in 2011-2012 and 2010-2011

Table 3.7 Registered appeals by school age and type of appeal 2011 – 2012

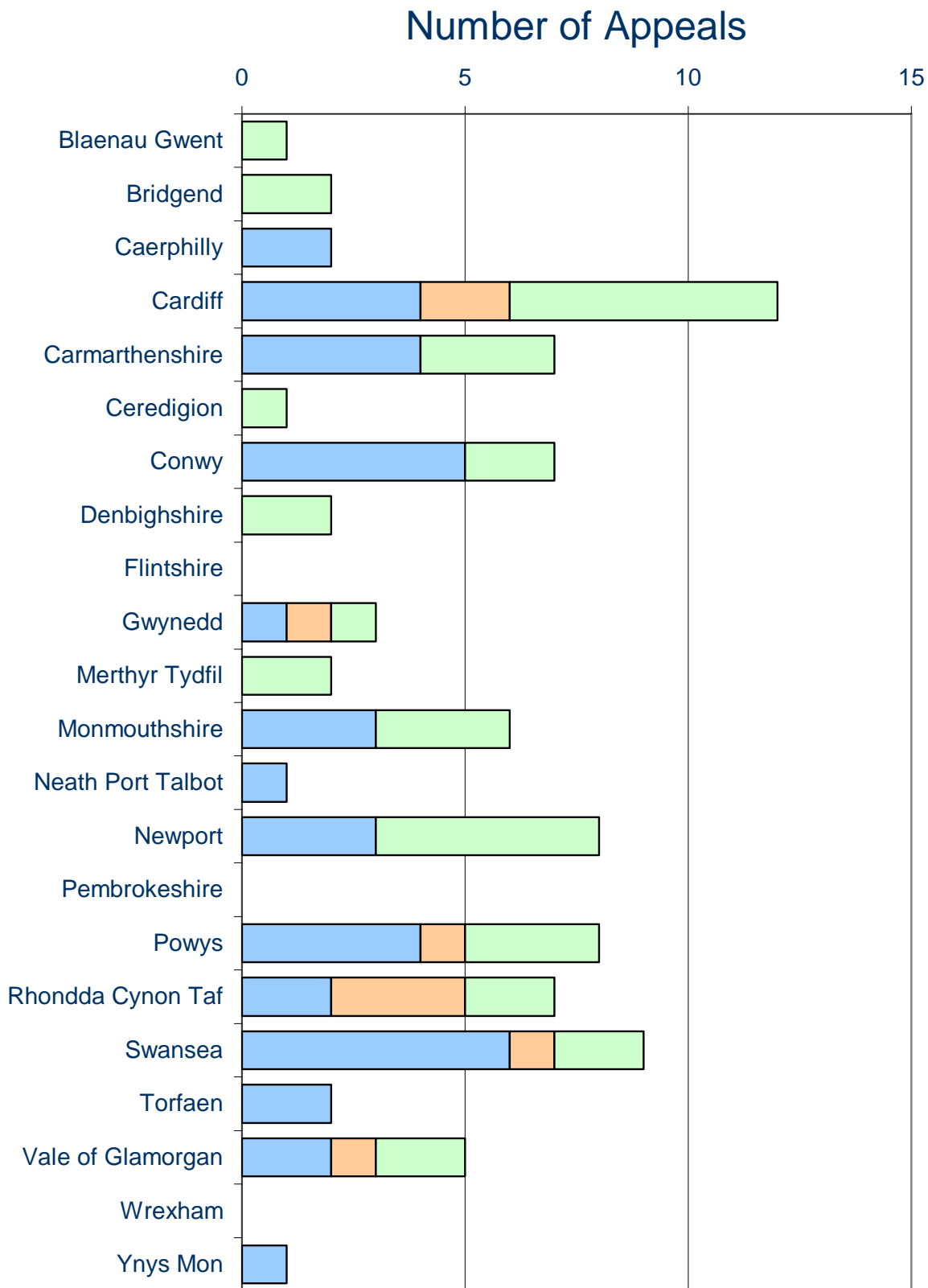
Nursery
 Primary
 Primary Transition
 Secondary



Actual number and percentage (%) of appeals registered in 2011-2012

Table 3.8 Registered appeals by school age and local authority 2011-2012

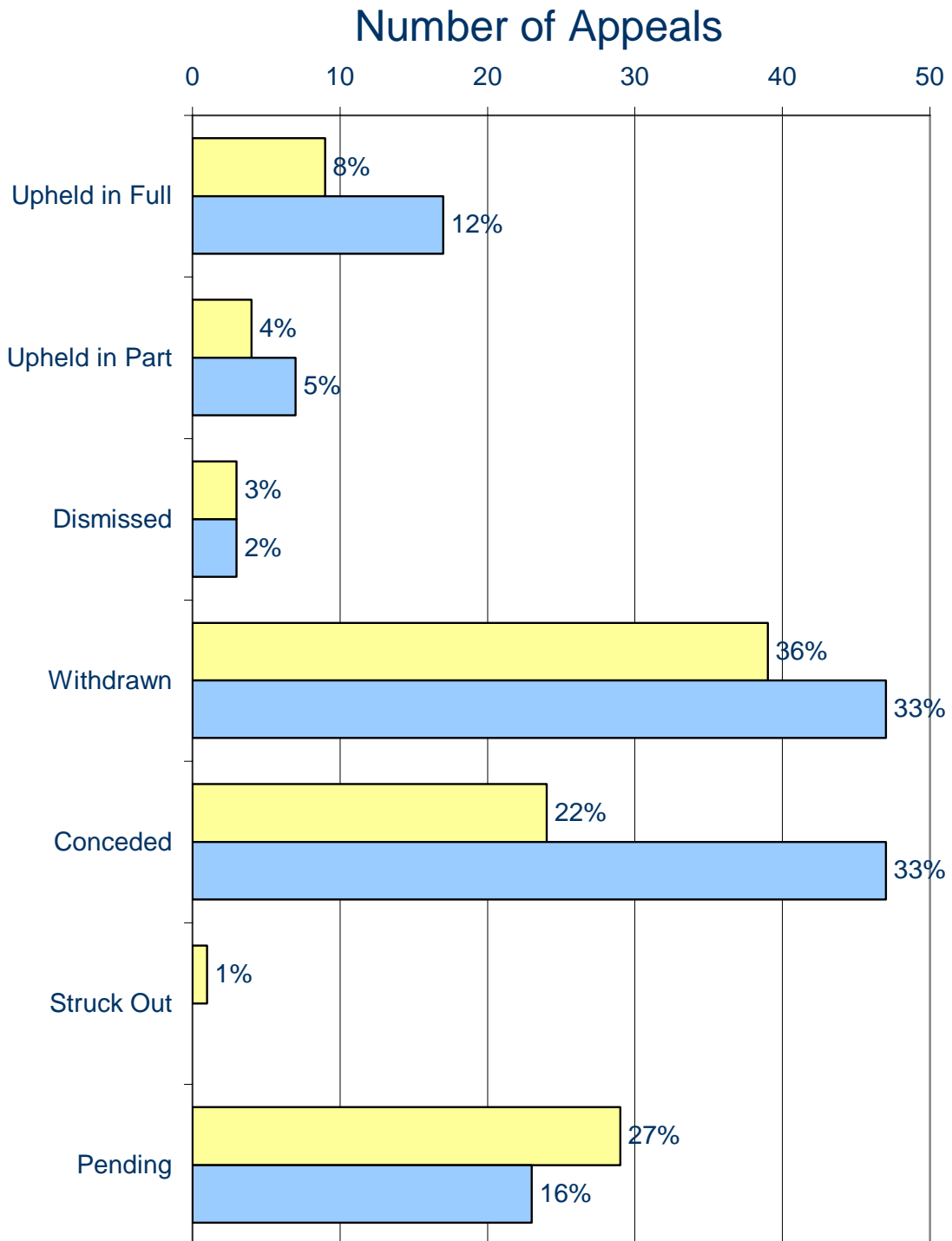
Nursery
 Primary
 Primary Transition
 Secondary



Actual number of appeals registered in 2011-2012

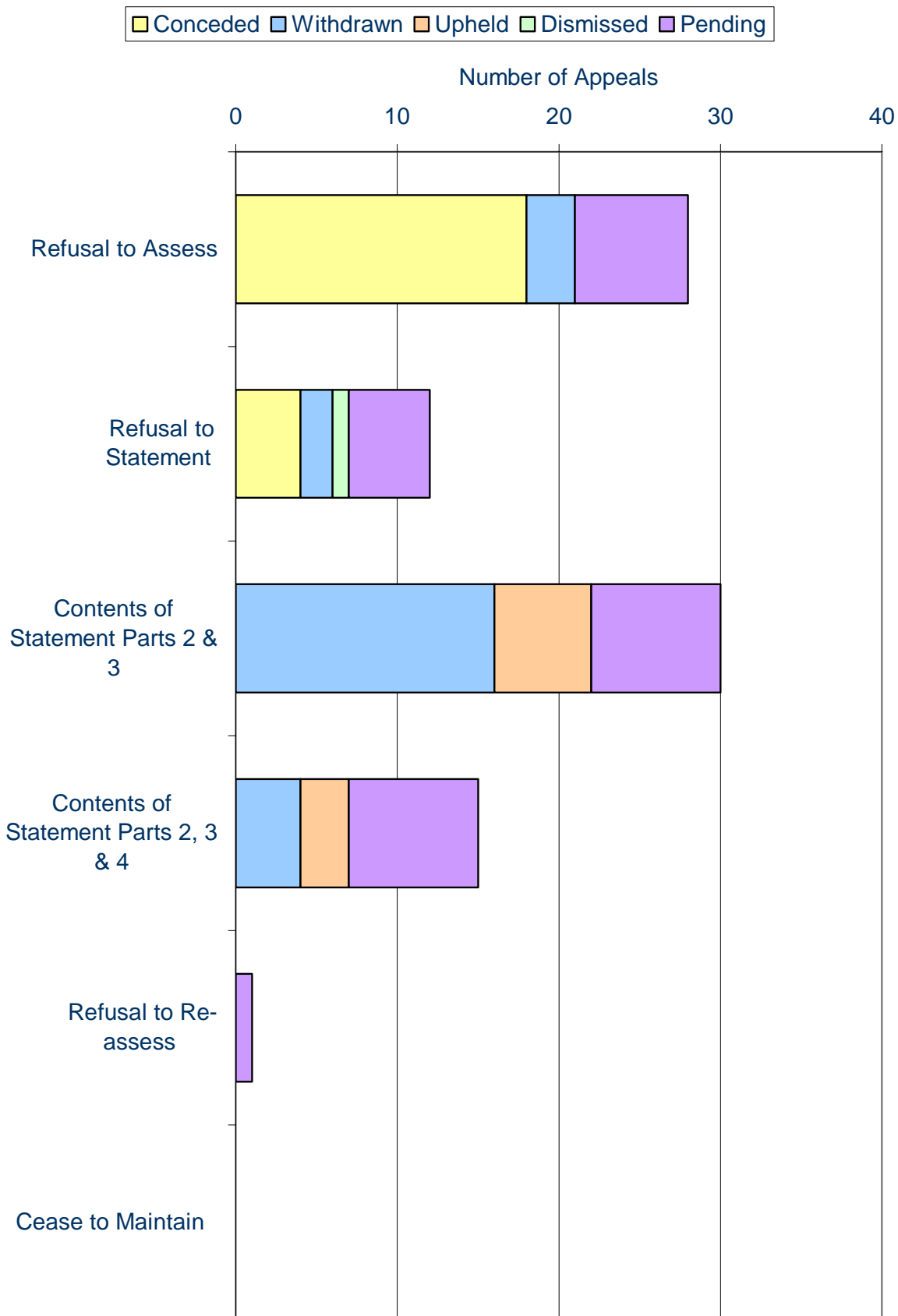
Table 3.9 Outcome of appeals

2011-2012 2010-2011



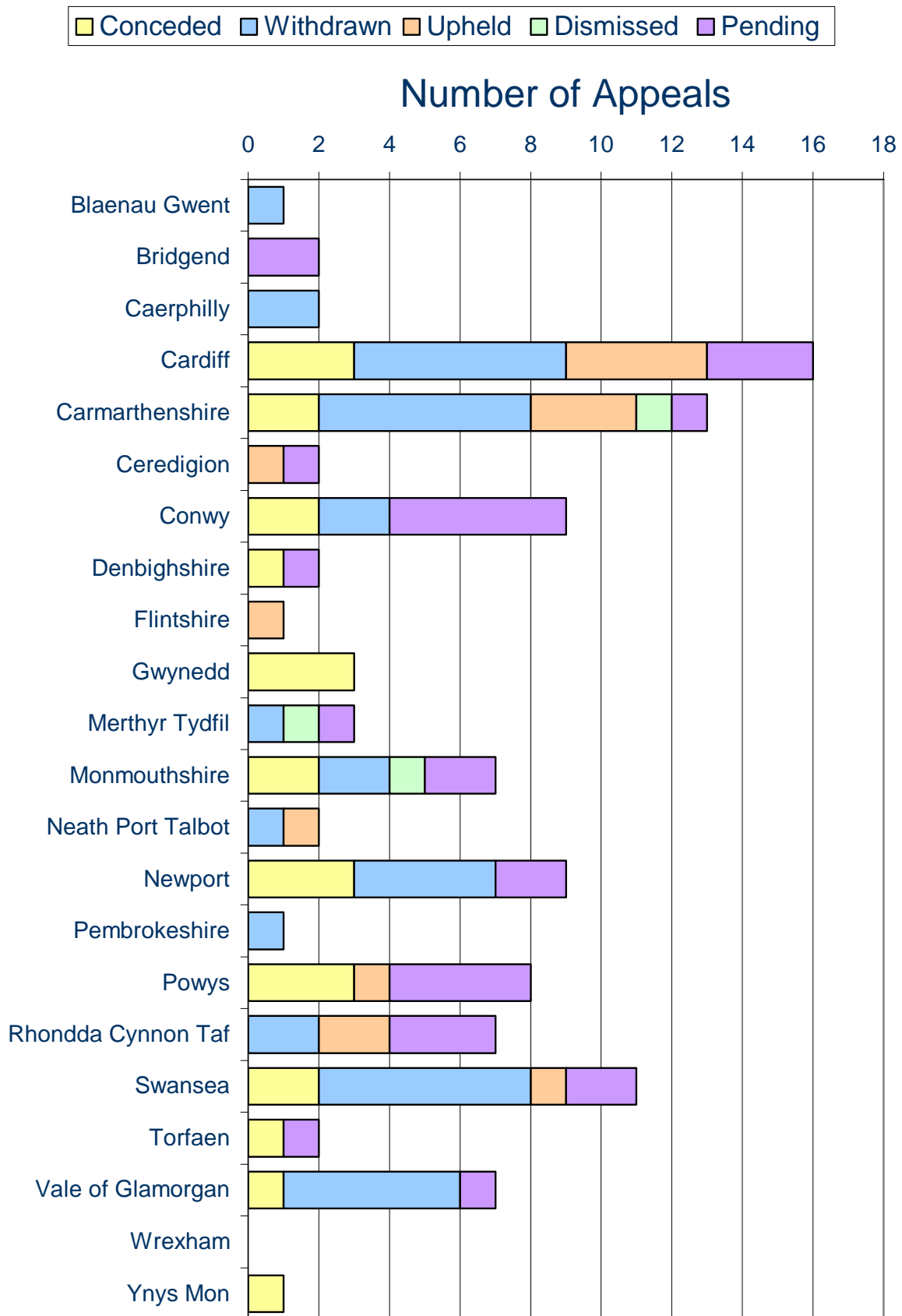
Actual number and percentage (%) of registered appeals dealt with in 2011-2012 and 2010-2011

Table 3.10 Outcome of appeals by type



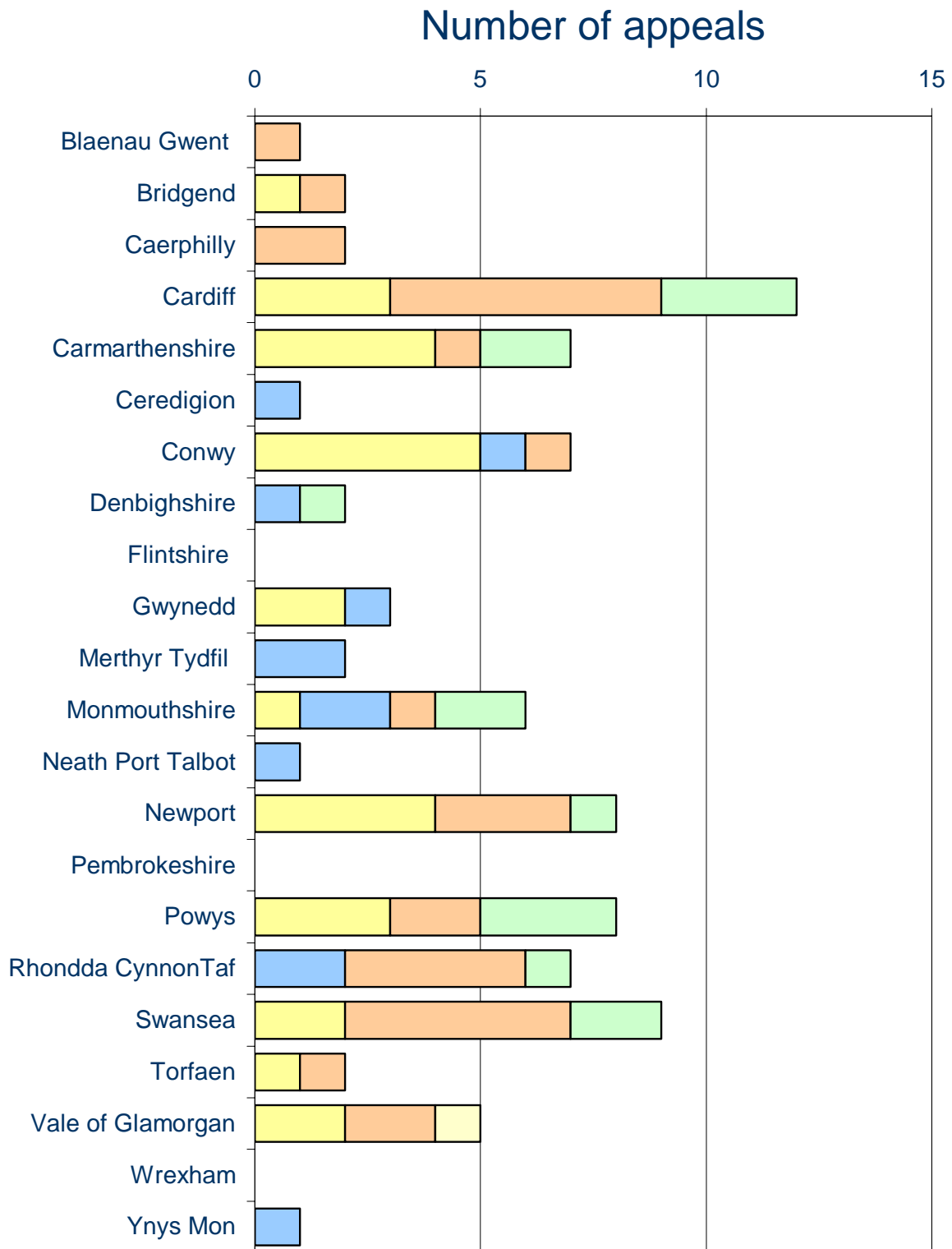
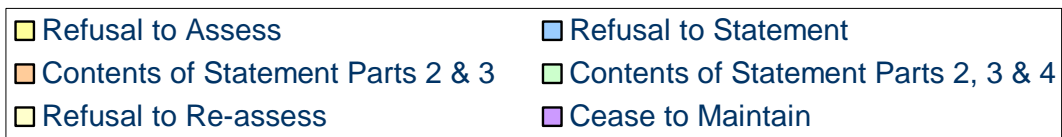
Actual number of appeals dealt with in 2011-2012

**Table 3.11 Outcome of appeals by local authority
2011 – 2012 including carried over**



Actual number of appeals registered in 2011-2012

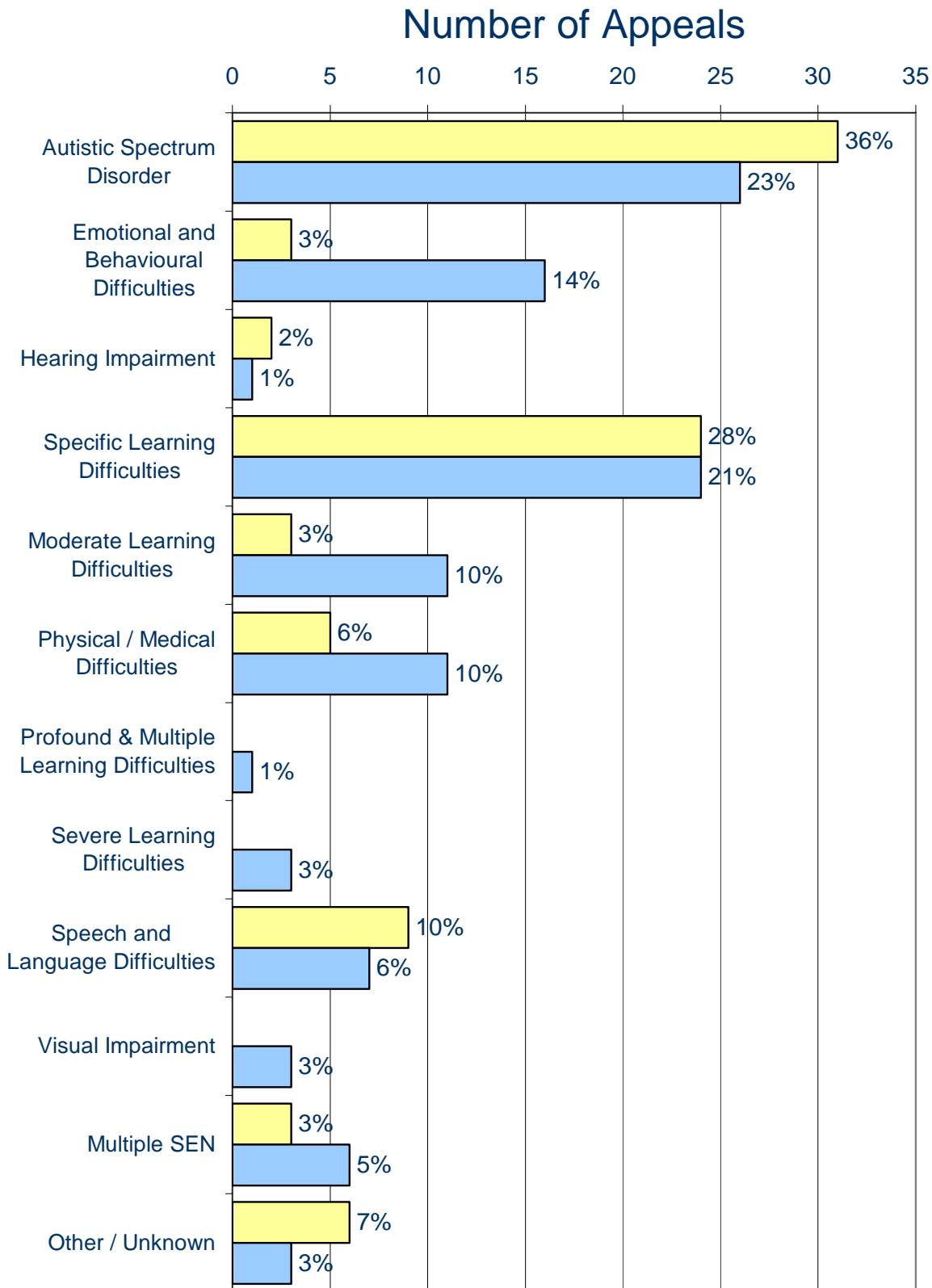
Table 3.12 Registered appeals by local authority and type



Actual number of appeals registered in 2011-2012

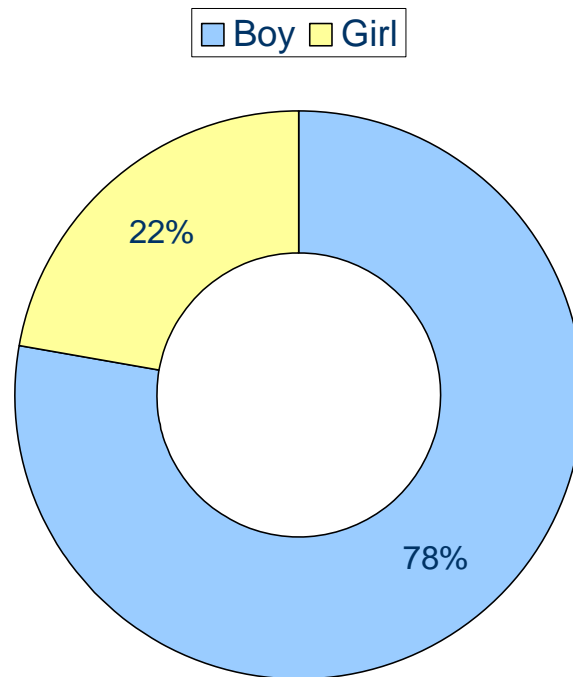
Table 3.13 Registered appeals by special educational need

Actual 2011-2012 Actual 2010-2011



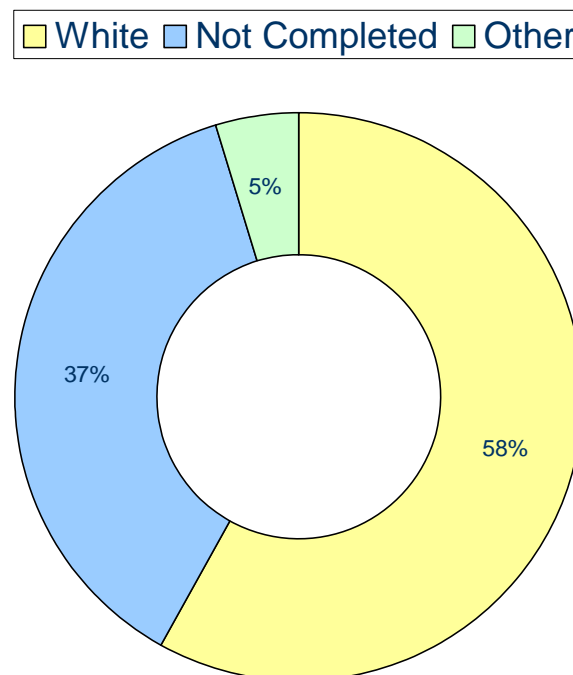
Actual number and percentage of appeals registered in 2011-2012 and 2010-2011

Table 3.14 Registered appeals by gender 2011 – 2012



Percentage (%) of appeals registered in 2011-2012

Table 3.15 Registered appeals by ethnicity 2010 – 2011



Percentage (%) of appeals registered in 2011-2012

Table 3.16 Disability discrimination claims registered and discharged by Tribunal year

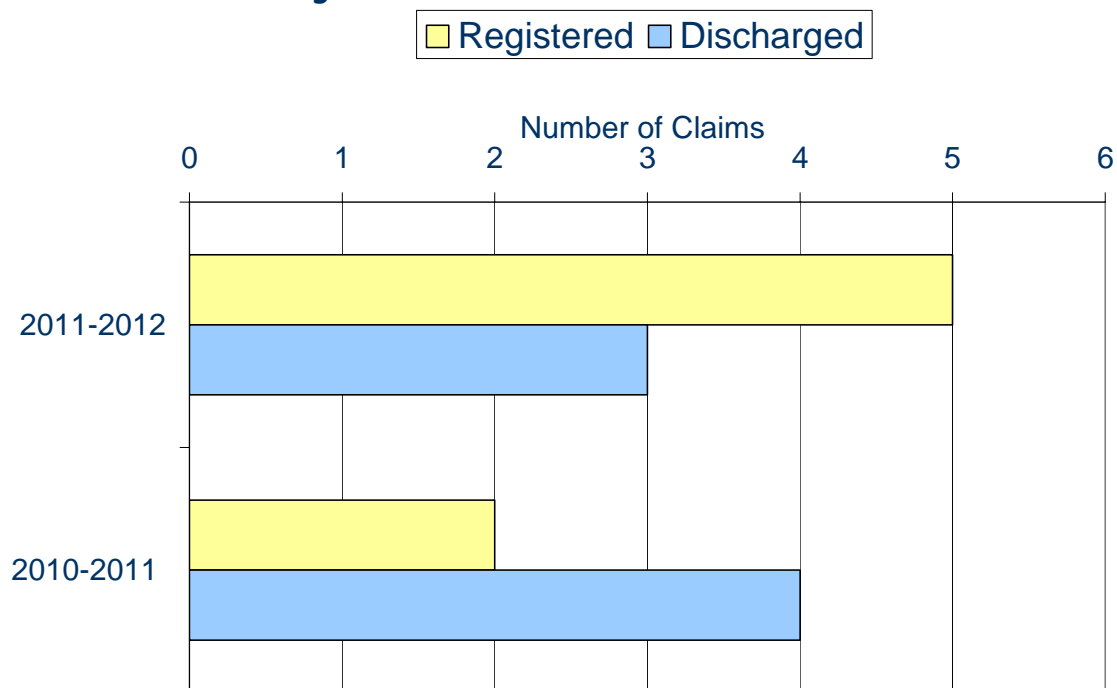
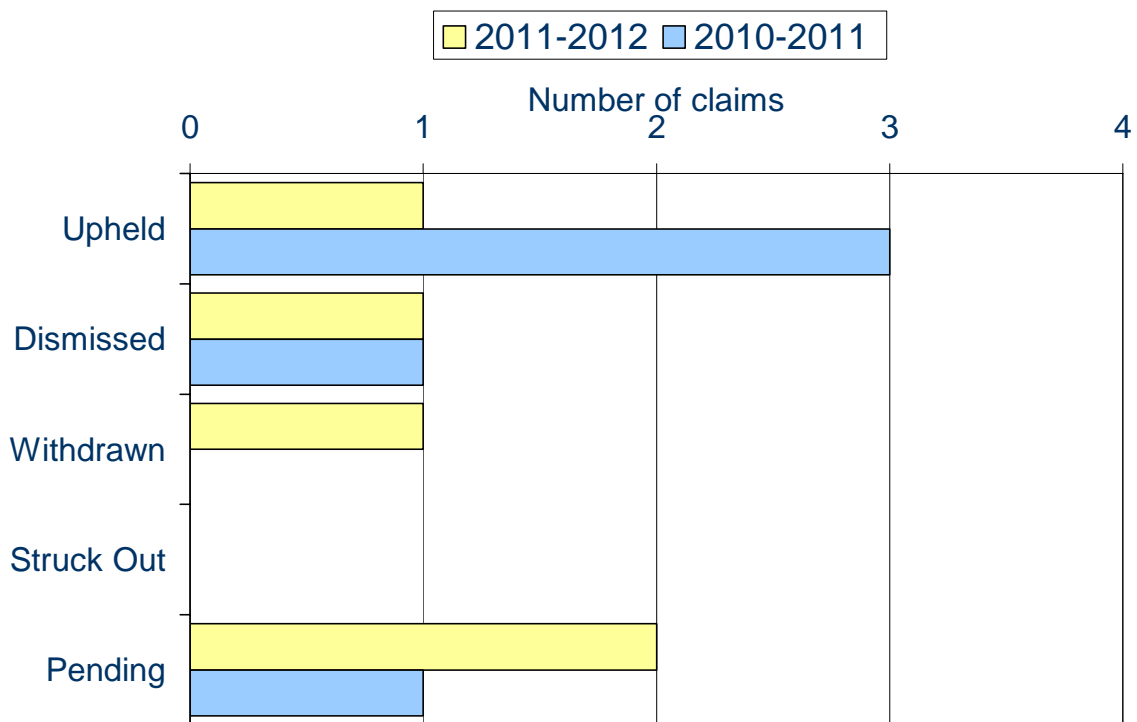
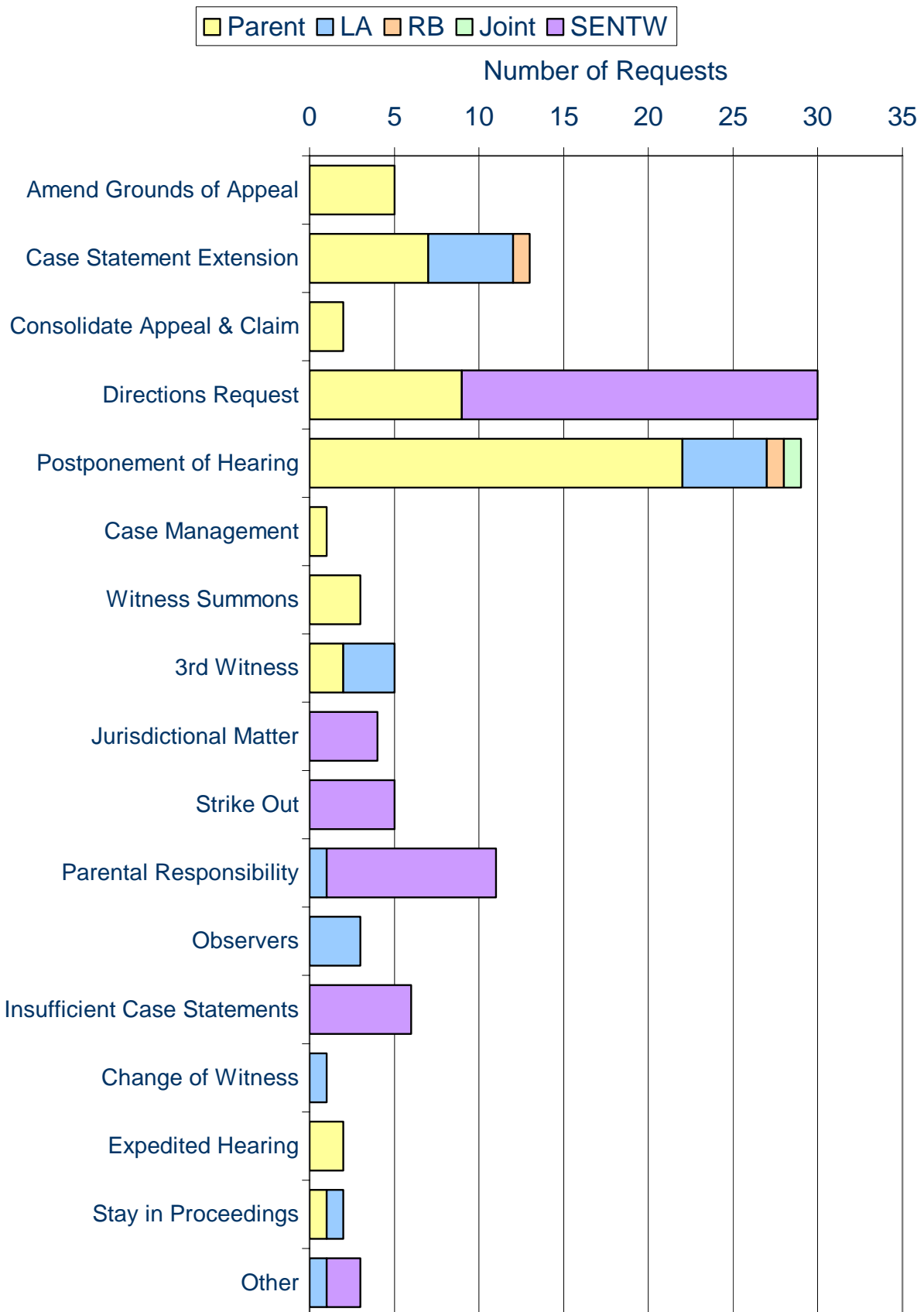


Table 3.17 Outcome of claims



Actual number of claims registered and dealt with during 2011-2012 and 2010-2011

Table 3.18 Presidential Requests



Actual number of presidential requests dealt with during 2011-2012

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, 1 application was made, which was later withdrawn.

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 4 applications for permission to appeal were made to SENTW, 2 of which were withdrawn and 2 of which were refused. The two applications that were refused were renewed to the Upper Tribunal.

An appeal that had been refused permission to appeal by SENTW during the 2010/11 Tribunal year was renewed to the Upper Tribunal. This case was remitted back to SENTW to be heard again.

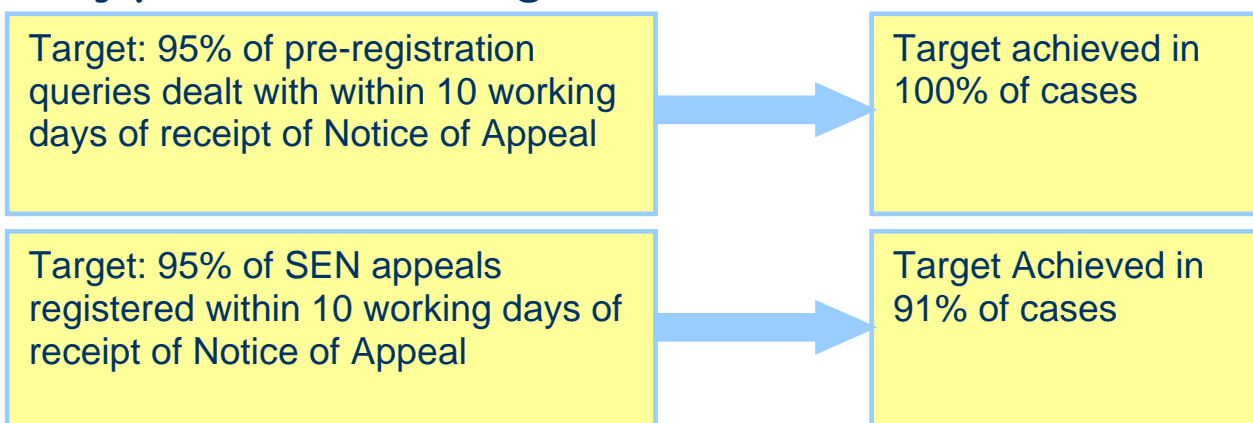
5. Our performance

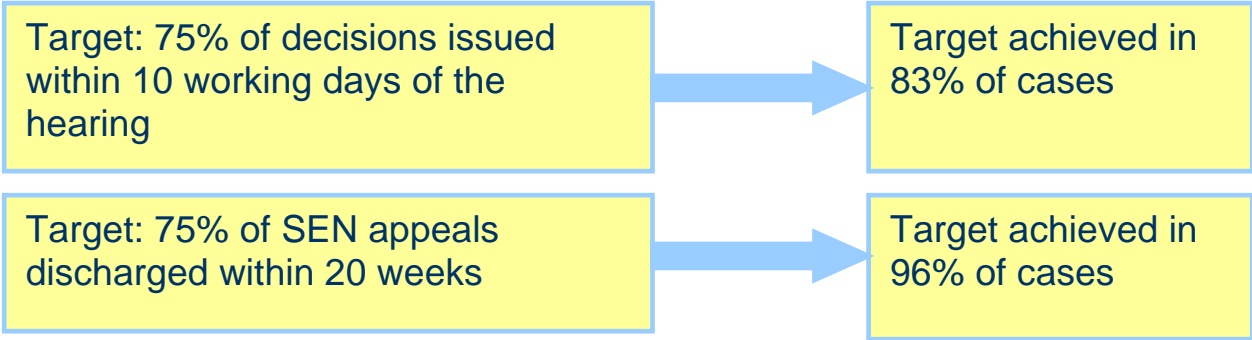
We measure our performance through key performance targets and customer satisfaction checks. This helps us to monitor the speed and quality of our service.

Although we have seen a 23% reduction in the number of SEN appeals registered, many of the cases have been very complicated. This is evidenced by the fact that our target achievement is slightly lower than last year.

We will monitor this over the next 12 month and if cases continue to be of a complex nature we will consider revising our targets.

Key performance targets





Customer satisfaction checks

We received 11 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 appeal / case effectively

Complaints

We received 1 formal complaint during the course of the year.

6. Engagement with stakeholders and users

User Group Meetings

The Tribunal held regional User Group Meetings on the 26th and 28th March 2012 and were well attended by our stakeholders who comprise of Local Authority officers, parents partnership support groups, voluntary sector organisations and legal representatives.

Papers and items discussed included the AJTC report Right First Time, The Annual report for 2010 / 11, key changes to the SENTW Regulations 2012, the new SENTW publications, website and DVD, update on the children's right to appeal / claim pilot and the recommendations regarding the reform of statutory assessments and statements.

Information about the Tribunal's User Group Meetings is available on our Website www.sentw.gov.uk. Please do contact the secretariat if you are interested in attending meetings.

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.

No appeals or claims were made through the medium of Welsh in 2011 / 12

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	2011-2012
Tribunal President & Members' Fees and Expenses	£106,000
Hearings, Cancellations & User Group	£25,000
Office Expenses	£13,000
Tribunal Training	£3,000
Other Appeal Expenses (Witness Claims, Interpreting)	£400
Total	£147,400

The expenditure level of Office Expenses increased by £8,000 from 2010/11 due to the cost of producing amended and new publications and the DVD in readiness for the introduction of The SENTW Regulations 2012 , which gave right to make an appeal or claim to children.

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	£169,000
Accommodation	£20,000

* rounded to nearest £1,000

9. Contacting the Tribunal

Please note: The Tribunal address has changed.

Tribunal Address: Government Buildings
Spa Rd East
Llandrindod Wells
Powys
LD1 5HA

Tribunal Helpline: 01597 829800

Tribunal Fax: 01597 829801

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

Tribunal Website: www.sentw.gov.uk