

Special Educational Needs Tribunal for Wales Annual Report 2014 – 2015

October 2017



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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Foreword



This is my 12th Annual Report as President of the Special Educational Needs Tribunal for Wales and the report covers the period September 2014 to August 2015.

We aim to ensure that the Tribunal serves the interests of the people of Wales having a dispute falling within our jurisdiction, by dealing with any such dispute both efficiently and effectively. Specifically we make every effort to ensure that all those involved in the dispute ultimately feel that the dispute has been fairly resolved within as short a timescale as is reasonable.

As can be seen from the statistics set out in the Report, the number of overall appeals has increased for this period to 101 appeals, in comparison with 78 appeals last year. Approximately half of these appeals have been about the pre-statementing disputes and it is of concern that 55% of the Appeals relating to Refusal to Assess are withdrawn by the Local Authority before the hearing. This results in a great deal of stress and expense for parents and Local Authorities should be encouraged to look very carefully at requests from parents before refusal. Due to the increase in the numbers of Refusal to Assess appeals, we as a Tribunal felt that our systems could be improved. During the year, we ran a pilot to complete 'Refusal to Assess' Appeals within 10 weeks instead of 20. I am pleased to report that the pilot was a success and has now been adopted by the Tribunal, with all appeals of this nature in 2014/2015 meeting this target.

Our introduction of paper hearings for the less complicated appeals has also been welcomed by our users, with 11 request from parents in this year for this type of hearing. This resulted in five paper hearings being registered and one paper hearing concluded. We will continue to promote paper hearings as we believe that it can, in certain cases, be helpful and cost effective for all parties.

The Tribunal has also during the year, brought in case management for some of the more complex appeals and claims. We are hoping that by directing parties to produce relevant documentation that this will lead to all the information required by the Tribunal to be available at hearings and so avoid any adjournments or delays, which can be frustrating and expensive for all parties involved. As our appeals and claims continue to be complex, this is an important development.

In relation to children's right to appeal, the Tribunal received one appeal from a child. The child was a Looked After Child and the case was eventually resolved and the appeal not taken further. However, this case did highlight the important role that social workers have in the children's rights agenda. Despite that fact that we have only had one appeal from a child to date, I strongly believe that the very nature of the legislation around children's rights to appeal has improved the culture of listening to and hearing the voices of our children and young people.

In reviewing the year, I am reminded how hard our Chairs, Members and the Tribunal Secretariat have continued to work. We, as a Tribunal, along with most organisations, have budgetary limits and this backdrop only serves to highlight the excellent work and commitment of the Tribunal Chairs, Members and Secretariat. I am extremely grateful to them all and also for the support and enthusiasm that they unstintingly give me. With such support, I look forward to the challenges of the next year.

Rhiannon Walker

President of the Special Educational Needs Tribunal for Wales

Section 1 – About Us

In this section, our:

- Basis for the SENTW
- The SENTW's Function
- The SENTW Regulations
- The SENTW's Process
- Members of the SENTW
- Appointments
- Training
- Contacting the SENTW
- Accessing the SENTW

Basis for the SENTW

The Special Educational Needs Tribunal for Wales (SENTW) is an independent tribunal established in 2003, by Section 333 (1ZA) of the Education Act 1996. The SENTW, its tribunal members and decisions, are independent of the Welsh Government and local authority's (LAs) and our decisions are legally binding. Funding for the SENTW and its administrative support is provided by the Welsh Government.

Since 5 January 2015 children and young people have been able to make their own appeal or claim to SENTW, a new right which does not affect the existing rights for parents or guardians to make an appeal to SENTW. This new right was introduced by the Education (Wales) Measure 2009 which amended provisions under the Education Act 1996.

The SENTW's Function

The SENTW hears and decides appeals relating to children with special educational needs. Appeals are made by parents and are against certain decisions made by a LA about a child's education. The SENTW also hears claims of alleged disability discrimination in Welsh schools.

The SENTW's Regulations

The SENTW operates in accordance with its procedural regulations and other associated legislation. The regulations ensure that all cases heard by the SENTW are treated fairly, consistently, promptly and justly. They ensure that everyone who comes before the SENTW clearly understands the steps they must take so that the facts of the dispute and the relevant arguments can be presented effectively to the SENTW. They also ensure that every party to a case understands the arguments of the other party and can respond to them.

SENTW's procedures are governed by the following legislation:

- The Special Educational Needs Tribunal for Wales Regulations 2012
- Education Act 1996
- The Equality Act 2010
- The Education (Wales) Measure 2009.

SENTW's Process

Anyone wishing to make an appeal or claim to the SENTW must complete and send the relevant application form to the SENTW.

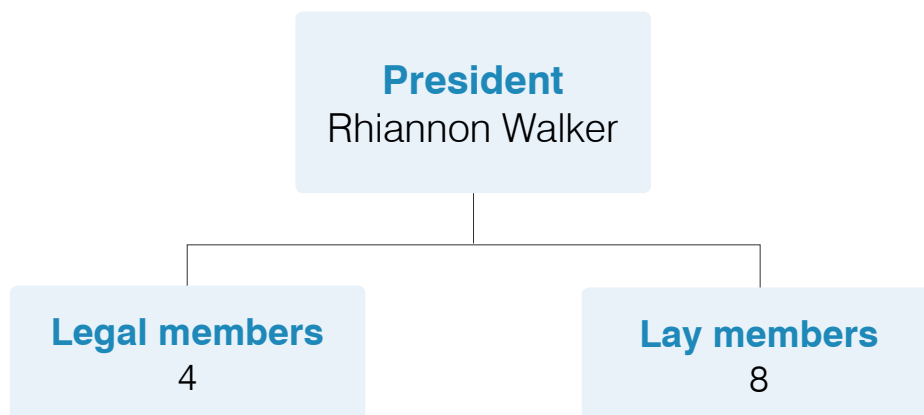
At a SENTW hearing the panel is composed of a legally qualified Chairperson and two Education Panel Members. Education Panel Members have been appointed for their general expertise and knowledge in the field of education.

SENTW hearings will normally be held in private and take place near to the applicant's home.

Members of the SENTW

The Lord Chancellor is responsible for the appointment and re appointment of the President and Chairpersons. Education Panel Members are appointed by the Welsh Ministers.

- President:** The President has responsibility for the overall judicial management of the Tribunal.
- Chairpersons:** Tribunal hearings are managed by a chairperson, who must have a legal qualification. They will write and sign decisions, advise of adjournments and set directions where necessary.
- Education Panel Members:** Education Panel Members have a wide range of relevant knowledge and experience which they bring to each Hearing. They sit on Special Educational Needs Appeals and on Disability Discrimination Claims.
- Secretariat:** The day-to-day administration is delegated to the Secretariat which deals with all the preliminary paperwork and the processing of applications to the Tribunal. The Secretariat consults the President on any legal points arising during appeals or claims processes and passes on the President's Directions in writing to the parties. The Secretariat is a point of contact for the President, Members and parties and a clerk attends hearings in order to ensure that proceedings run smoothly.



Appointments

There were no new appointments to the Special Educational Needs Tribunal for Wales during the reporting period. However the appointments of 3 members were renewed within the Tribunal year.

Training

A full members' training conference was held in October 2014. Three members of the SENTW were appraised during the reporting period. The other members were appraised during the previous reporting period.

Contacting the SENTW

To contact the SENTW Secretariat:

SENTW Address: Special Educational Needs Tribunal for Wales
Government Buildings
Spa Road East
Llandrindod Wells
Powys
LDI 5HA

SENTW Helpline: 03000 259800

SENTW Fax: 03000 259801

SENTW E-mail: tribunalenquiries@wales.gsi.gov.uk

Accessing the SENTW

The SENTW is happy to communicate with you in English or Welsh. If a Welsh speaker is not immediately available then we will arrange for a Welsh-speaking member of staff to phone you back.

You can choose to have your hearing conducted in Welsh or English. If your first language is not Welsh or English and you wish to speak in your first language during the hearing, we can arrange for an interpreter to be present. If you need a sign language interpreter to attend the hearing we will arrange this.

If you or anyone you are bringing to the hearing has any other access requirements that may affect our arrangements for the hearing, provision will be made.

To enable arrangements for interpreters or to make provision for any additional needs of attendees, sufficient notice must be given to the secretariat.

Section 2 – Performance and Progress

In this section:

- Numbers and statistics
- Hearings Data
- Reviews and onward appeals
- Achievement against key performance indicators
- Complaints

Numbers and statistics

A Tribunal year runs from September to August. The following statistics are collated:

Appeals received and discharged in 2014-15, compared with 2013-14	Chart 2.1	Page 8
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Chart 2.1 Appeals received and discharged in 2014-15, compared with 2013-14

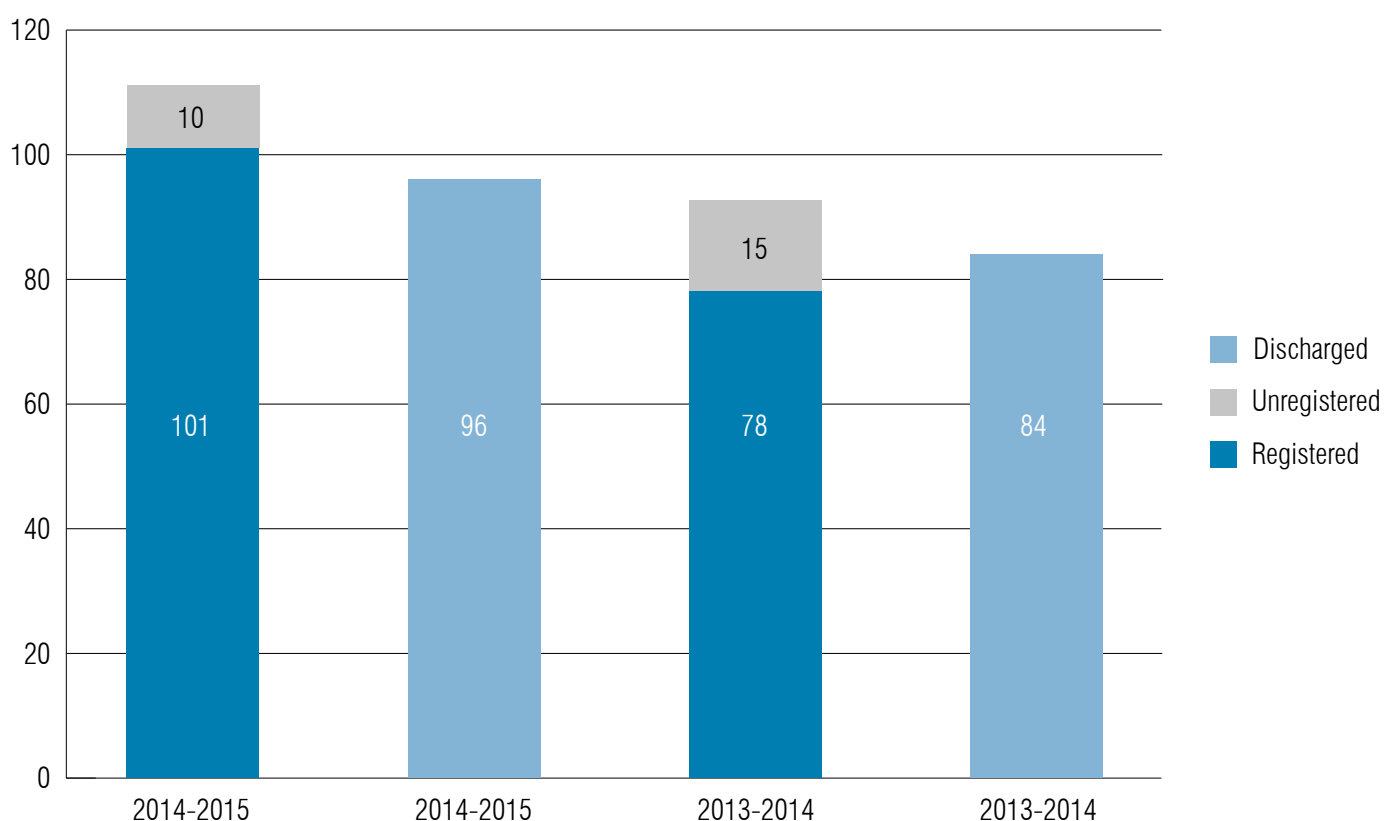


Table 2.2 Types of appeals registered during 2014-15, compared with 2013-14

Type of Appeal	2014-2015		2013-2014	
	Total Appeals 101		Total Appeals 78	
Refusal to Assess	40	39%	26	33%
Refusal to Statement	14	14%	10	13%
Refusal to Re-assess	0	0%	1	1%
Cease Statement	0	0%	2	3%
Contents of Statement Parts 2 & 3	11	11%	10	13%
Contents of Statement Parts 2, 3 & 4	18	18%	18	23%
Contents of Statement Part 3 only	8	8%	4	5%
Contents of Statement Part 4 only	8	8%	5	6%
Contents of Statement Parts 3 & 4	2	2%	2	3%

Table 2.3 Appeals registered during 2014-15 by local authority, compared with 2013-14

	2014-2015		2013-2014	
	Number of Appeals	Percentage of Appeals	Number of Appeals	Percentage of Appeals
Blaenau Gwent	0	0%	2	3%
Bridgend	5	5%	1	1%
Caerphilly	6	6%	3	5%
Cardiff	10	10%	7	9%
Carmarthenshire	1	1%	0	0%
Ceredigion	3	3%	4	5%
Conwy	11	11%	4	5%
Denbighshire	3	3%	0	0%
Flintshire	3	3%	1	1%
Gwynedd	1	1%	1	1%
Merthyr Tydfil	2	2%	1	1%
Monmouthshire	4	4%	4	5%
Neath Port Talbot	6	6%	3	4%
Newport	10	10%	11	14%
Pembrokeshire	5	5%	3	4%
Powys	11	11%	4	5%
Rhondda Cynon Taf	2	2%	8	10%
Swansea	10	10%	10	13%
Torfaen	6	6%	4	5%
Vale of Glamorgan	2	2%	5	6%
Wrexham	0	0%	0	0%
Ynys Mon	0	0%	2	3%

Table 2.4 Appeals registered during 2014-15 by local authority and type (Part 1)

	Refusal to Assess	Refusal to Statement	Refusal to Re-assess	Cease to Maintain
Blaenau Gwent	0	0	0	0
Bridgend	2	0	0	0
Caerphilly	1	0	0	0
Cardiff	3	4	0	0
Carmarthenshire	1	0	0	0
Ceredigion	1	2	0	0
Conwy	3	2	0	0
Denbighshire	0	0	0	0
Flintshire	0	0	0	0
Gwynedd	1	0	0	0
Merthyr Tydfil	1	0	0	0
Monmouthshire	1	1	0	0
Neath Port Talbot	2	2	0	0
Newport	6	1	0	0
Pembrokeshire	1	0	0	0
Powys	6	2	0	0
Rhondda Cynnon Taf	0	1	0	0
Swansea	5	1	0	0
Torfaen	4	0	0	0
Vale of Glamorgan	0	0	0	0
Wrexham	0	0	0	0
Ynys Mon	0	0	0	0

Table 2.4 Appeals registered during 2014-15 by local authority and type (Part 2)

	Contents of Statement Parts 2 & 3	Contents of Statement Parts 2, 3 & 4	Contents of Statement Part 3	Contents of Statement Parts 3 & 4	Contents of Statement Part 4
Blaenau Gwent	0	0	0	0	0
Bridgend	1	1	1	0	0
Caerphilly	0	2	2	0	1
Cardiff	2	1	0	0	0
Carmarthenshire	0	0	0	0	0
Ceredigion	0	0	0	0	0
Conwy	1	4	1	0	0
Denbighshire	0	1	0	1	1
Flintshire	1	1	0	0	1
Gwynedd	0	0	0	0	0
Merthyr Tydfil	0	0	0	0	1
Monmouthshire	0	0	1	0	1
Neath Port Talbot	2	0	0	0	0
Newport	2	0	1	0	0
Pembrokeshire	1	2	1	0	0
Powys	0	2	0	0	1
Rhondda Cynnon Taf	0	0	1	0	0
Swansea	0	2	0	0	2
Torfaen	1	1	0	0	0
Vale of Glamorgan	0	1	0	1	0
Wrexham	0	0	0	0	0
Ynys Mon	0	0	0	0	0

Chart 2.5 Appeals registered during 2014-15 per 10,000 of school population in each local authority, compared with 2013-14

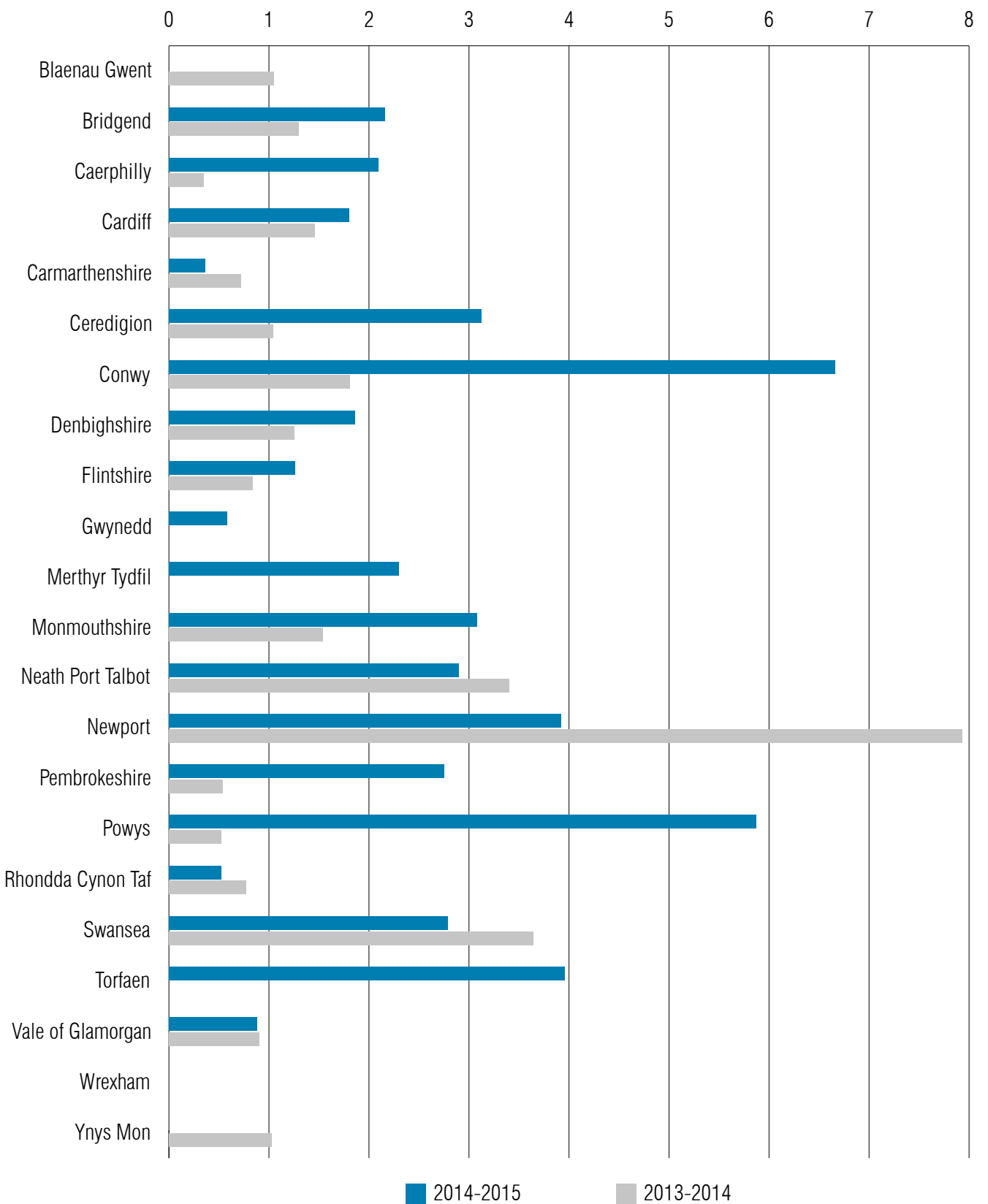


Table 2.6 Appeals registered during 2014-15 by school age and type of appeal

	Number of appeals			
	Nursery	Primary	Primary Transition ¹	Secondary
Refusal to Assess	0	27	0	13
Refusal to Statement	0	8	1	5
Contents of Statement Parts 2 & 3	0	5	3	3
Contents of Statement Parts 2, 3 & 4	0	5	4	9
Contents of Statement Part 3	0	5	0	3
Contents of Statement Parts 3 & 4	0	1	1	0
Contents of Statement Part 4	0	3	3	2
Refusal to Re-assess	0	0	0	0
Cease Statement	0	0	0	0
Total	0	54	12	35

¹ Primary transition – the final year of primary education before starting secondary school.

Table 2.7 Appeals registered during 2014-15 by school age and local authority

	Number of appeals			
	Nursery	Primary	Primary Transition	Secondary
Blaenau Gwent	0	0	0	0
Bridgend	0	4	1	0
Caerphilly	0	2	2	2
Cardiff	0	6	2	2
Carmarthenshire	0	1	0	0
Ceredigion	0	1	1	1
Conwy	0	5	1	5
Denbighshire	0	0	2	1
Flintshire	0	0	0	3
Gwynedd	0	1	0	0
Merthyr Tydfil	0	1	0	1
Monmouthshire	0	1	0	3
Neath Port Talbot	0	2	0	4
Newport	0	7	1	2
Pembrokeshire	0	3	0	2
Powys	0	5	0	6
Rhondda Cynon Taf	0	2	0	0
Swansea	0	9	1	0
Torfaen	0	3	1	2
Vale of Glamorgan	0	1	0	1
Wrexham	0	0	0	0
Ynys Mon	0	0	0	0
Total	0	54	12	35

Chart 2.8 Appeals registered during 2014-15 by special educational need, compared with 2013-14

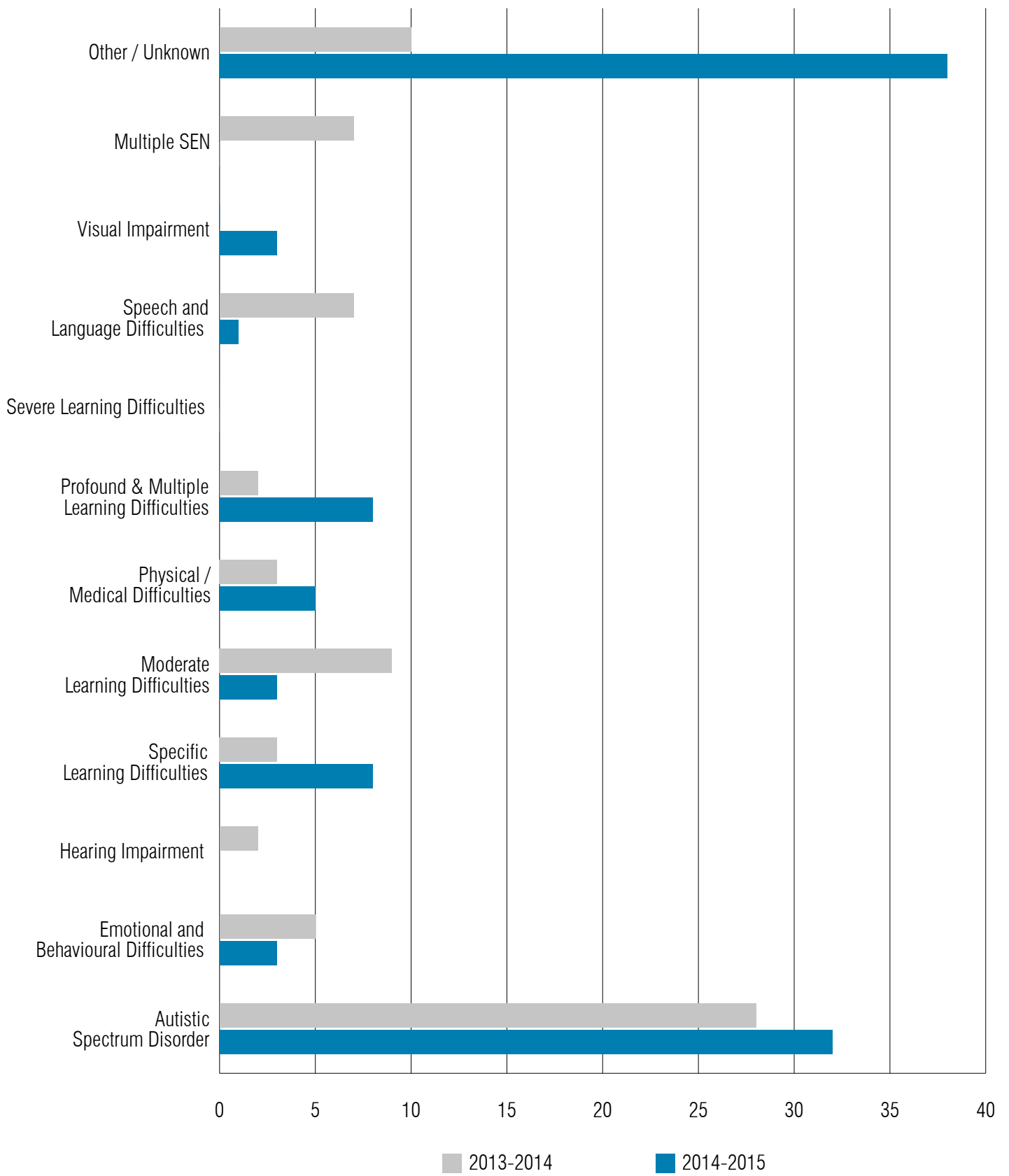


Chart 2.9 Appeals registered during 2014-15 by gender

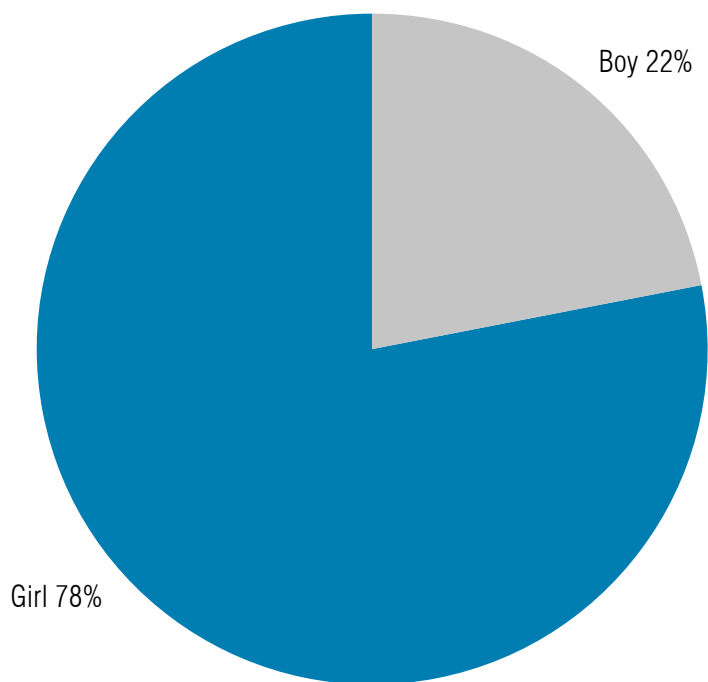


Chart 2.10 Appeals registered during 2014-15 by ethnic origin

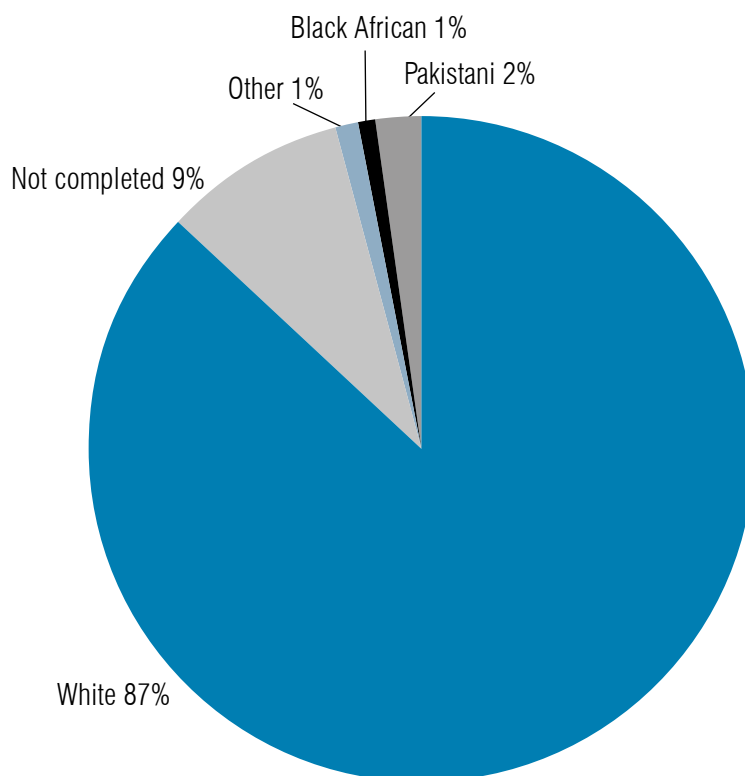


Table 2.11 Appeals by outcome 2014-15, compared with 2013-14

	2014-2015		2013-2014	
	Actual	Percentage	Actual	Percentage
Conceded ²	33	29%	29	30%
Withdrawn ³	41	36%	35	36%
Upheld in Full	10	9%	7	7%
Upheld in Part	4	4%	11	11%
Dismissed	5	4%	1	1%
Remitted ⁴	0	0%	1	1%
Struck Out ⁵	3	3%	0	0%
Pending ⁶	17	15%	13	14%
Total	113	100%	97	100%

² Conceded – a case is conceded when a LA notifies the Tribunal that they no longer oppose the appeal and have agreed to do what the appellant requested in their appeal.

³ Withdrawn – a case is withdrawn when the applicant no longer wishes to continue with their appeal.

⁴ Remitted – the tribunal decides that the appeal should be sent back to the LA for it to reconsider its original decision.

⁵ Struck Out – a case is struck out when it is not/or becomes no longer within the jurisdiction of the tribunal to consider it. This brings the appeal to a close.

⁶ Pending – a case is on going with the tribunal.

Table 2.12 Appeals by outcome and type 2014-15 (Part 1)

	Refusal to Assess	Refusal to Statement	Refusal to Re-assess	Cease to Maintain
Conceded	22	8	0	0
Withdrawn	10	2	0	1
Upheld in Full	1	1	0	0
Upheld in Part	0	0	0	0
Dismissed	4	1	0	0
Remitted	0	0	0	0
Struck Out	0	1	0	0
Pending	4	4	0	0
Total	41	17	0	1

Table 2.12 Appeals by outcome and type 2014-15 (Part 2)

	Contents of Statement Parts 2 & 3	Contents of Statement Parts 2, 3 & 4	Contents of Statement Part 3	Contents of Statement Parts 3 & 4	Contents of Statement Part 4
Conceded	0	0	0	0	3
Withdrawn	10	9	6	1	2
Upheld in Full	1	5	1	0	1
Upheld in Part	0	4	0	0	0
Dismissed	0	0	0	0	0
Remitted	0	0	0	0	0
Struck Out	1	1	0	0	0
Pending	1	2	3	1	2
Total	13	21	10	2	8

Table 2.13 Appeals by outcome and local authority 2014-15

	Number of appeals							
	Conceded	Withdrawn	Upheld in Full	Upheld in Part	Dismissed	Remitted	Struck Out	Pending
Blaenau Gwent	0	0	0	0	0	0	0	0
Bridgend	1	3	0	0	0	0	0	1
Caerphilly	1	2	3	0	0	0	0	0
Cardiff	4	3	0	0	1	0	0	3
Carmarthenshire	1	0	0	0	0	0	0	0
Ceredigion	2	1	0	0	0	0	0	1
Conwy	2	3	1	0	1	0	1	4
Denbighshire	0	0	0	1	0	0	0	2
Flintshire	0	2	1	0	0	0	0	0
Gwynedd	1	0	0	0	0	0	0	0
Merthyr Tydfil	1	0	0	0	1	0	0	0
Monmouthshire	2	1	1	0	0	0	0	0
Neath Port Talbot	2	4	2	0	0	0	0	0
Newport	4	5	0	0	1	0	0	1
Pembrokeshire	0	2	0	0	0	0	2	1
Powys	4	4	1	1	1	0	0	1
Rhondda Cynon Taf	1	1	0	1	0	0	0	0
Swansea	5	1	1	0	0	0	0	3
Torfaen	2	4	0	0	0	0	0	0
Vale of Glamorgan	0	3	0	1	0	0	0	0
Wrexham	0	0	0	0	0	0	0	0
Ynys Mon	0	2	0	0	0	0	0	0
Total	33	41	10	4	5	0	3	17

Chart 2.14 Claims of alleged disability discrimination registered and discharged in 2014-15, compared with 2013-14

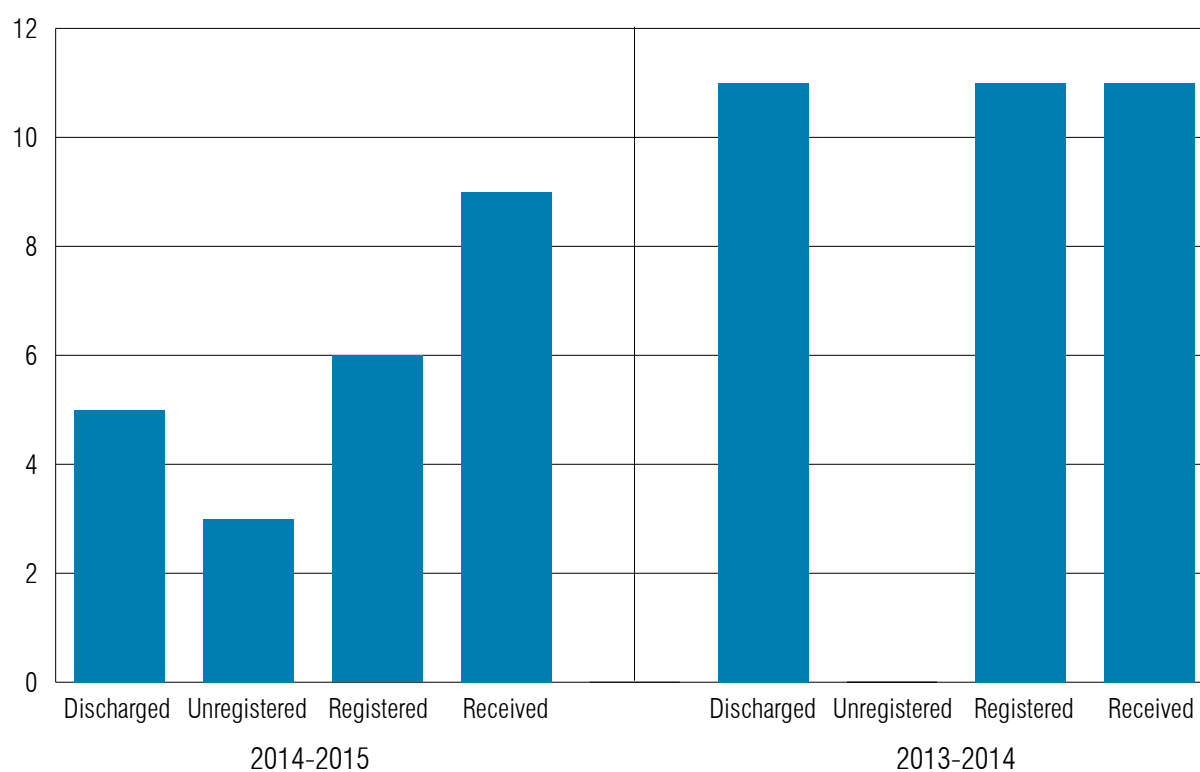


Table 2.15 Types of claims registered during 2014-15, compared with 2013-14

Type of Claim	2014-2015		2013-2014	
	Total Claims	Percentage	Total Claims	Percentage
Admissions	0	0%	1	10%
Education	4	67%	9	80%
Exclusions	2	33%	1	10%

Chart 2.16 Claims of alleged disability discrimination by outcome 2014-15, compared with 2013-14

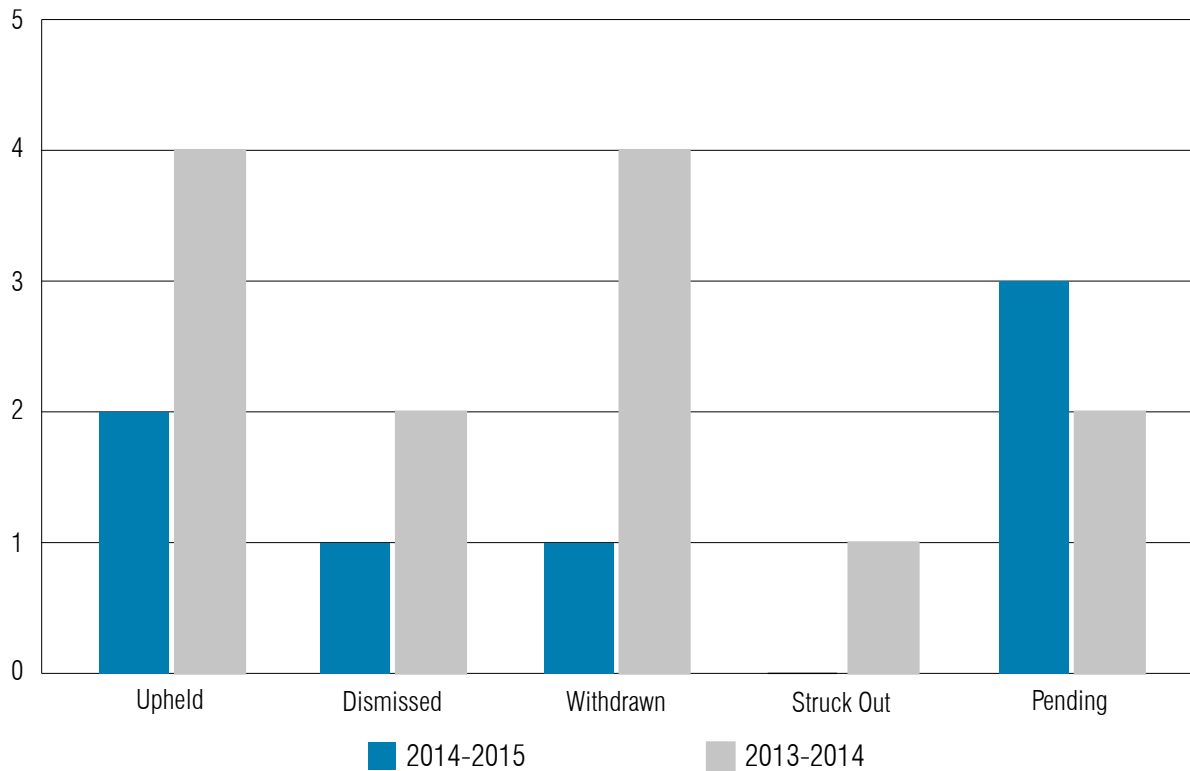
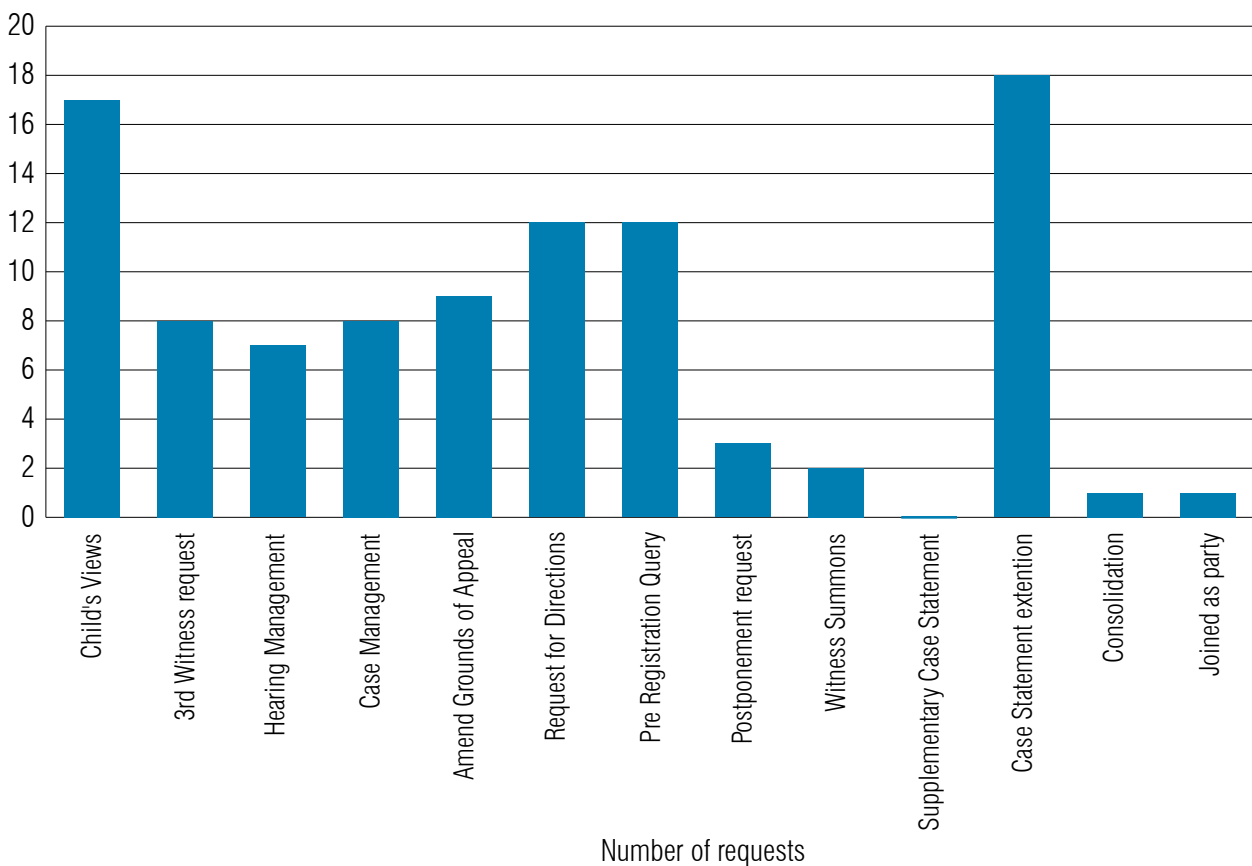


Chart 2.17 Presidential requests⁷ during 2014-15



⁷ Presidential requests – the secretariat sends requests to the President for consideration in relation to various legal aspects of case proceedings.

Hearings Data

During 2014-2015 27 cases proceeded to hearing, resulting in a total of 31 hearing days:

Type	Length (in days)
Appeal	28 hearing days
Claim	3 hearing days

There were also 5 telephone conferences which took place and 2 hearings were decided on the basis of the papers.

Reviews and onward appeals

Applications for a review of a Tribunal decision can be made by parties on limited grounds. Over the period of this report, no applications were made.

Parties may request permission of the Tribunal to make an application to the Upper Tribunal if they think that the Tribunal's decision is wrong on a point of law. Over the period of this report, 2 requests for permission were made. The Tribunal decided that one case should be considered as a review of a Tribunal decision, but it was subsequently withdrawn by the applicant. The other application was refused as it was received outside of the timeframe to make such application.

Achievement against key performance indicators

To monitor how effectively services are delivered, we have key performance indicators aimed at measuring two key aspects of our business; the speed of our service and the quality of service through customer satisfaction.

To measure the speed of our service, we have a series of primary performance indicators based on the time taken to process an application – from receipt to the hearing or disposal (see below). To measure customer satisfaction, we used an indicator that is derived from periodic customer surveys issued at the conclusion of a case (see section 3).

Speed of our service



Complaints

The Tribunal received 3 formal complaints relating to a single case during the course of the year.

Section 3 – Our Customers

In this section:

- Customer satisfaction survey

Customer satisfaction survey

The Tribunal strives to improve customer service delivery and aims to put our customers at the heart of everything we do.

Our customer satisfaction survey is issued at the conclusion of a case. The survey results enable us to gain a better understanding of our customers' needs and give us a valuable insight into what the Tribunal is doing well, as well as highlighting those areas where the Tribunal needs to improve.

We received 15 completed forms during 2014-2015 period. We collate information in respect of the following areas:

Communication

93% said we were prompt to respond. 92% said we were polite and helpful. 93% said the information we provided was accurate and clear.

Service

84% said they were able to understand the process with 78% saying that they found the guidance leaflets we provided useful. 92% said that we processed their application efficiently.

Hearing

83% said they were satisfied with the location of the hearing venue. 83% said that our staff were polite and helpful at the hearing.

Section 4 – Business Priorities

In this section:

- Business priorities for 2015- 2016

It is important that the SENTW continues to develop in order to deliver the best possible service for our customers. This section is about how the SENTW will build on its achievements through focusing on business priorities and our commitment to our users.

Business Priorities 2015-2016

- Plan and deliver an all-members training event
- Plan and deliver User Group meetings in North and South Wales
- Implement a new appraisal system for all members
- Continue to monitor and update the Special Educational need Tribunal for Wales' website
- Deliver an effective and efficient service, meeting key performance indicators and responding to feedback on customer satisfaction surveys.

Section 5 – Expenditure

In this section, our:

- Expenditure for 2014-2015 financial year

Expenditure for 2014-2015 financial year

Content	Amount
Members Fees and Expenses for tribunal proceedings	£55,000
Tribunal events (hearing costs)	£26,000
Total*	£81,000

* rounded to the nearest £1,000