



# Special Educational Needs Tribunal for Wales Annual Report 2018 – 2019



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

# Foreword



This is my 16th Annual Report as President of the Special Educational Needs Tribunal for Wales. The report covers the period from September 2018 to August 2019.

During the year, the Tribunal has been preparing for the implementation of the Additional Needs legislation, with consideration being given to further relevant and necessary training for our members. In relation to the new Act, the Tribunal has been busy compiling its consultation response to the draft Additional Learning Needs Code and proposed related regulations.

I have to thank our Chair Jacqueline Blackmore for her work in compiling all the Tribunal members' views into a comprehensive document, which was submitted in March 2019. We are anxious to ensure that we are involved in the drafting of these important documents and will continue to keep a dialogue with the Welsh Government in relation to this.

During the year, we had 135 appeals and 19 claims. This is an increase for both appeals and claims. Again, as we have seen in previous years, a major proportion of the appeals relate to refusal to Assess and refusal to Statement. The claims numbers have risen steadily over the years and I believe that this is because of more people becoming aware of their rights under the Equality Act 2010. I have been concerned to note the increase of appeals withdrawn during the year; up from 24 in 2017-2018 to 49 this year. I have no explanation for this, but will be considering this further in the coming twelve months.

Having successfully recruited new Chairs from the cross-ticketing exercise last year, it has become clear that we do require further members to sit on the Tribunal. A request has been made for this to be set in motion and I hope to be able to report next year that this recruitment process has been successful.

We were all extremely sad to learn of the death of our member Gareth Roberts on the 22nd September 2018. Gareth had been one of our original members since the Tribunal's inception in 2003 and had been the Head teacher of a special school for many years. He was a much respected, knowledgeable and well-liked colleague who was devoted to the needs of children generally. He will be missed and our condolences were sent to his family.

I have also to report of the retirement of our member Andrew Wilson on the 21st August 2019. Andrew was again one of the original members since the inception of the Tribunal. His expertise, wealth of knowledge as an educational psychologist and his willingness to assist the Tribunal will be greatly missed by us all. We wish him a happy retirement.

As ever, all the work of the Tribunal would be impossible without the support of the Secretariat staff, who with the increased numbers of appeals and claims and staff training have had an extremely busy year. It is a pleasure to have the opportunity to thank them for their continued support of the Tribunal and their hard work over the year. They and the Chairs and members of the Tribunal are a tremendous support to me and are much valued. I know that I can, with their continued support face the challenges of the coming months with confidence.

**Rhianon 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. The Welsh Government provides funding for the SENTW and its administrative support.

Since January 2015, children and young people have been able to make their own appeal or claim to SENTW, a new right that 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.

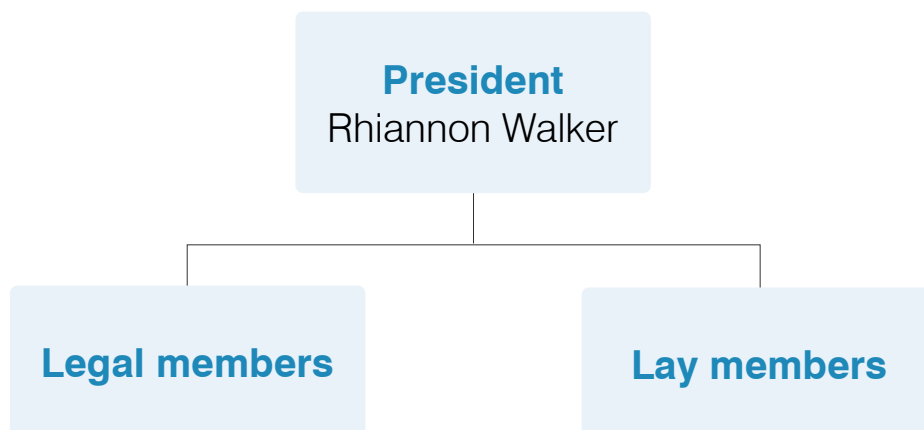
At a SENTW hearing, the panel is composed of a legally qualified Chairperson and two Education Panel Members. Education Panel Members are appointed for their general expertise and knowledge in the field of education.

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. A recruitment event for Lay Members is planned for 2019-2020 year.

## Training

Induction training for the legal members cross-ticketed to the tribunal was held in November 2018.

## Contacting the SENTW

To contact the SENTW Secretariat:

**SENTW Address: Special Educational Needs Tribunal for Wales  
Government Buildings  
Spa Road East  
Llandrindod Wells  
Powys  
LD1 5HA**

**SENTW Helpline: 03000 259800**

**SENTW Fax: 03000 259801**

**SENTW E-mail: [tribunal.enquiries@gov.wales](mailto:tribunal.enquiries@gov.wales)**

## 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 2018-19, compared with 2017-18	Chart 2.1	Page 8
Types of appeals registered during 2018-19, compared with 2017-18	Table 2.2	Page 8
Appeals registered during 2018-19 by local authority, compared with 2017-18	Table 2.3	Page 9
Appeals registered during 2018-19 by local authority and type (Part 1)	Table 2.4	Page 10
Appeals registered during 2018-19 by local authority and type (Part 2)	Table 2.4	Page 11
Appeals registered during 2018-19 per 10,000 of school population in each local authority, compared with 2017-18	Chart 2.5	Page 12
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Claims of alleged disability discrimination by outcome 2018-19, compared with 2017-18	Chart 2.16	Page 21

Chart 2.1 Appeals received and discharged in 2018-19, compared with 2017-18

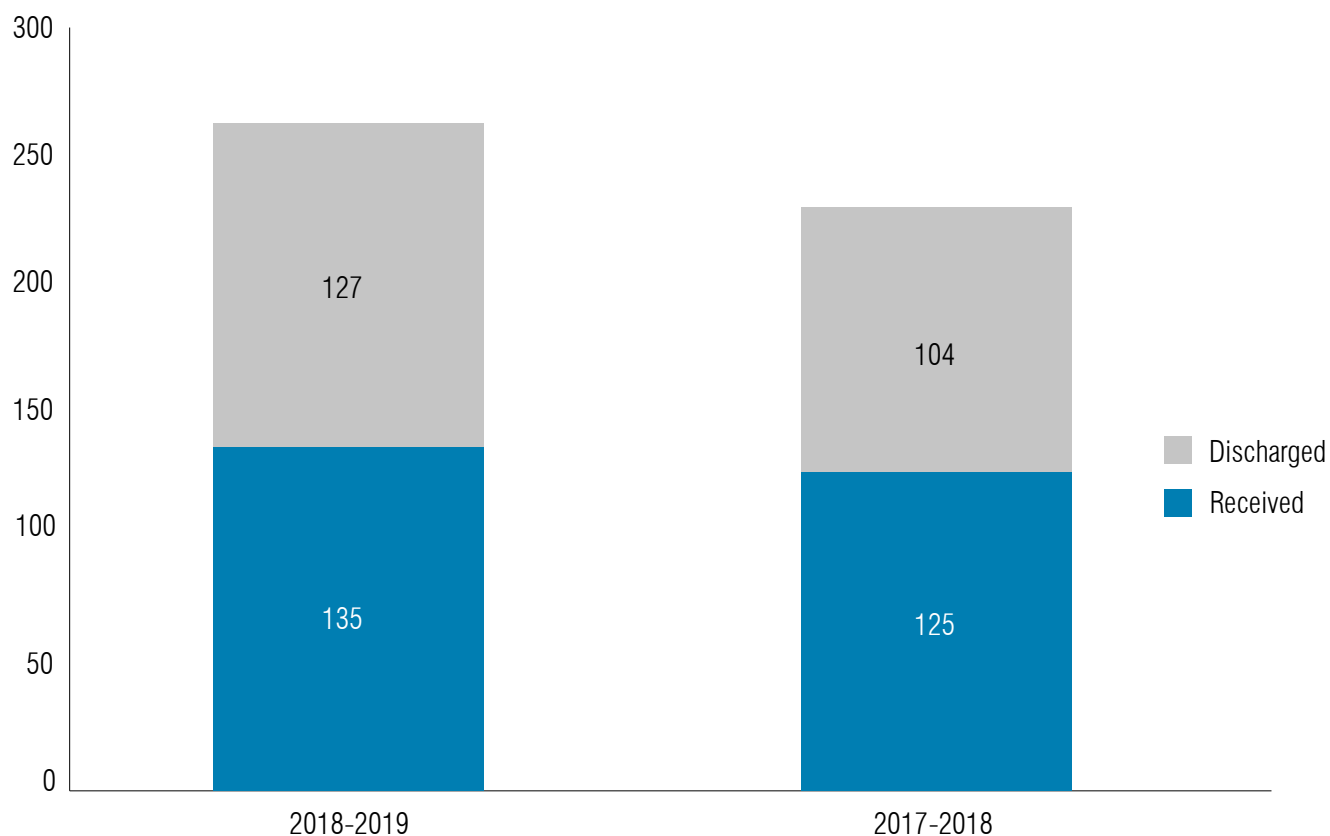


Table 2.2 Types of appeals registered during 2018-19, compared with 2017-18

Type of Appeal	2018-2019	2017-2018
Refusal to Assess	58	44
Refusal to Statement	25	19
Refusal to Re-assess	0	2
Contents of Statement Parts 2 & 3	9	11
Contents of Statement Parts 2, 3 & 4	22	16
Contents of Statement Part 3 only	5	12
Contents of Statement Parts 3 & 4	3	9
Contents of Statement Part 4 only	12	3
Cease to Maintain	1	1
<b>Total</b>	<b>135</b>	<b>117</b>



Table 2.3 Appeals received during 2018-19 by local authority, compared with 2017-18

	2018-2019		2017-2018	
	Number of Appeals	Percentage of Appeals	Number of Appeals	Percentage of Appeals
Blaenau Gwent	2	1%	6	5%
Bridgend	5	4%	6	5%
Caerphilly	0	0%	3	3%
Cardiff	19	14%	9	8%
Carmarthenshire	6	4%	3	3%
Ceredigion	0	0%	2	2%
Conwy	12	9%	10	9%
Denbighshire	2	1%	5	4%
Flintshire	2	1%	2	2%
Gwynedd	2	1%	2	2%
Merthyr Tydfil	1	1%	4	3%
Monmouthshire	2	1%	1	1%
Neath Port Talbot	3	2%	2	2%
Newport	18	13%	10	9%
Pembrokeshire	6	4%	7	6%
Powys	12	9%	4	3%
Rhondda Cynon Taf	18	13%	15	13%
Swansea	12	9%	17	15%
Torfaen	4	2%	2	2%
Vale of Glamorgan	7	5%	6	5%
Wrexham	0	0%	0	0%
Ynys Mon	2	1%	1	1%
<b>Total</b>	<b>135</b>		<b>117</b>	

Table 2.4 Appeals registered during 2018-19 by local authority and type (Part 1)

	Refusal to Assess	Refusal to Statement	Refusal to Re-assess	Cease to Maintain
Blaenau Gwent	0	1	0	0
Bridgend	1	2	0	0
Caerphilly	0	0	0	0
Cardiff	9	4	1	0
Carmarthenshire	0	1	0	0
Ceredigion	0	0	0	0
Conwy	4	5	0	0
Denbighshire	1	0	0	0
Flintshire	0	0	0	0
Gwynedd	0	1	0	0
Merthyr Tydfil	0	1	0	0
Monmouthshire	0	1	0	0
Neath Port Talbot	0	1	0	0
Newport	10	2	0	0
Pembrokeshire	3	0	0	0
Powys	5	3	0	0
Rhondda Cynon Taf	9	3	0	0
Swansea	6	2	0	0
Torfaen	4	0	0	0
Vale of Glamorgan	2	0	0	0
Wrexham	0	0	0	0
Ynys Mon	0	0	0	1
<b>Total</b>	<b>54</b>	<b>27</b>	<b>1</b>	<b>1</b>

Table 2.4 Appeals registered during 2018-19 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	1	0	0	0
Bridgend	2	0	0	0	0
Caerphilly	0	0	0	0	0
Cardiff	1	2	2	0	0
Carmarthenshire	1	3	0	0	1
Ceredigion	0	0	0	0	0
Conwy	0	1	0	0	2
Denbighshire	1	0	0	0	0
Flintshire	0	1	0	0	1
Gwynedd	0	0	0	0	1
Merthyr Tydfil	0	0	0	0	0
Monmouthshire	0	2	0	0	0
Neath Port Talbot	0	0	0	1	0
Newport	1	3	0	0	2
Pembrokeshire	1	1	0	0	1
Powys	1	1	0	0	2
Rhondda Cynon Taf	1	2	2	0	1
Swansea	0	3	1	0	0
Torfaen	0	0	0	0	0
Vale of Glamorgan	0	3	0	1	1
Wrexham	0	0	0	0	0
Ynys Mon	0	0	0	1	0
<b>Total</b>	<b>9</b>	<b>23</b>	<b>5</b>	<b>3</b>	<b>12</b>

Chart 2.5 Appeals registered during 2018-19 per 10,000 of school population in each local authority, compared with 2017-18

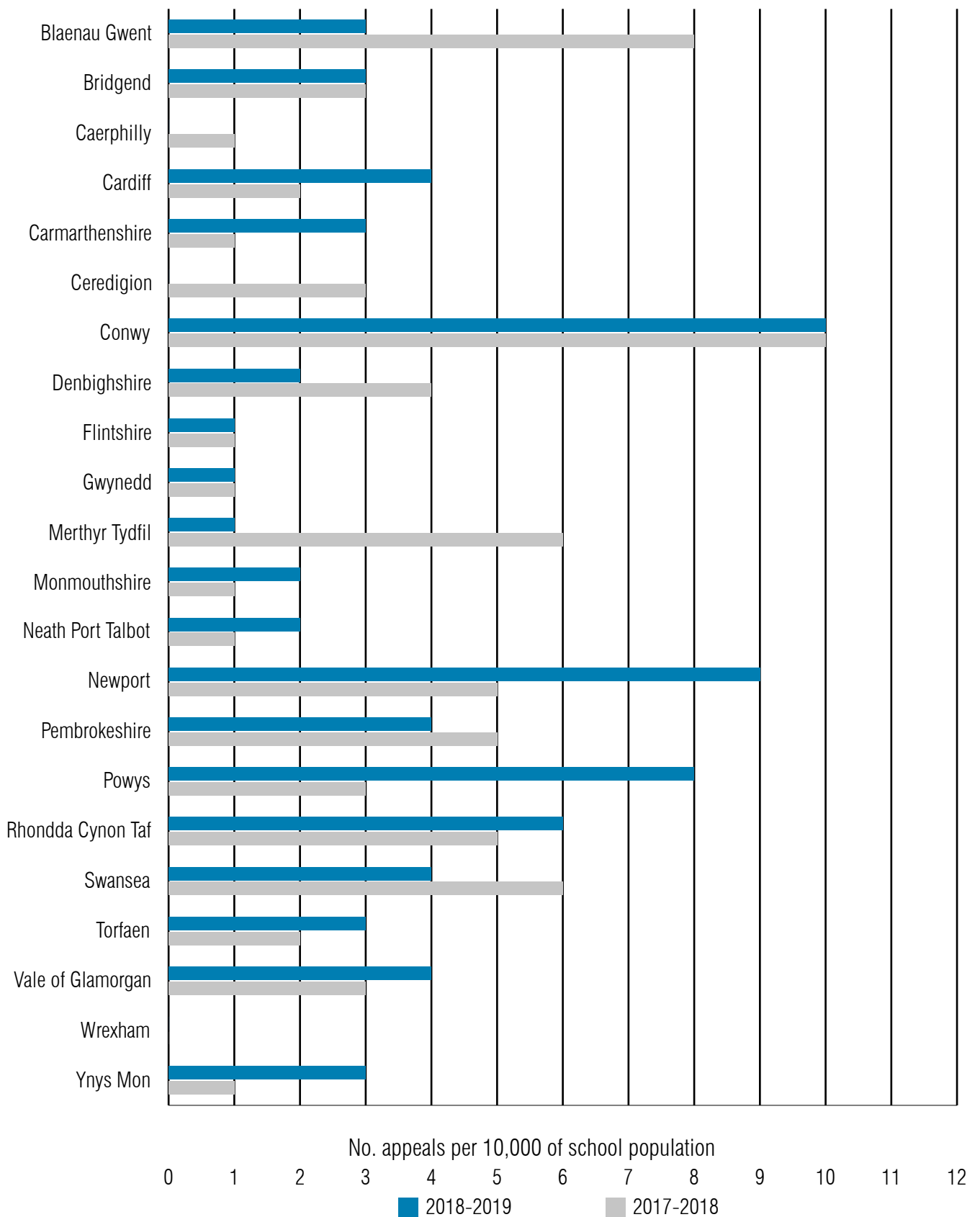


Table 2.6 Appeals registered during 2018-19 by school age and type of appeal

	Number of appeals			
	Nursery	Primary	Primary Transition <sup>1</sup>	Secondary
Refusal to Assess	1	35	5	17
Refusal to Statement	2	10	1	12
Contents of Statement Parts 2 & 3	0	5	1	3
Contents of Statement Parts 2, 3 & 4	1	7	3	11
Contents of Statement Part 3	0	3	1	1
Contents of Statement Parts 3 & 4	0	2	0	1
Contents of Statement Part 4	0	2	5	5
Refusal to Re-assess	0	0	0	0
Cease Statement	0	0	0	1
<b>Total</b>	<b>4</b>	<b>64</b>	<b>16</b>	<b>51</b>

<sup>1</sup> Primary transition – the final year of primary education before starting secondary school.

Table 2.7 Appeals registered during 2018-19 by school age and local authority

	Number of appeals			
	Nursery	Primary	Primary Transition	Secondary
Blaenau Gwent	0	0	0	2
Bridgend	0	0	1	4
Caerphilly	0	0	0	0
Cardiff	0	9	2	8
Carmarthenshire	0	4	0	2
Ceredigion	0	0	0	0
Conwy	0	5	0	7
Denbighshire	0	1	0	1
Flintshire	0	0	1	1
Gwynedd	0	1	1	0
Merthyr Tydfil	0	1	0	0
Monmouthshire	0	2	0	0
Neath Port Talbot	1	0	0	2
Newport	0	11	4	3
Pembrokeshire	0	2	1	3
Powys	0	6	1	5
Rhondda Cynon Taf	2	10	1	5
Swansea	1	4	2	5
Torfaen	0	3	1	0
Vale of Glamorgan	0	4	1	2
Wrexham	0	0	0	0
Ynys Mon	0	1	0	1
<b>Total</b>	<b>4</b>	<b>64</b>	<b>16</b>	<b>51</b>

Chart 2.8 Appeals registered during 2018-19 by special educational need, compared with 2017-18

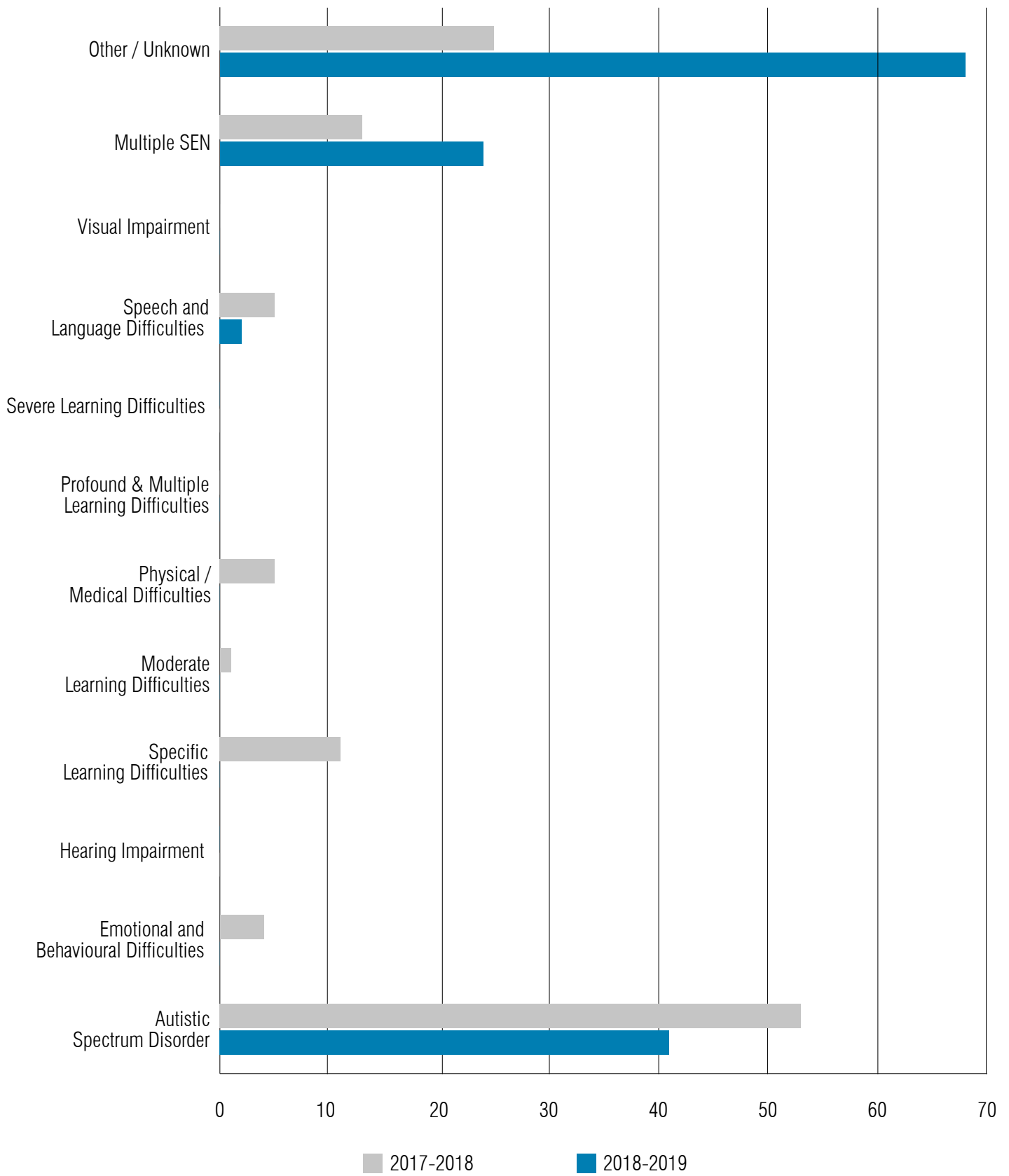


Chart 2.9 Appeals registered during 2018-19 by gender

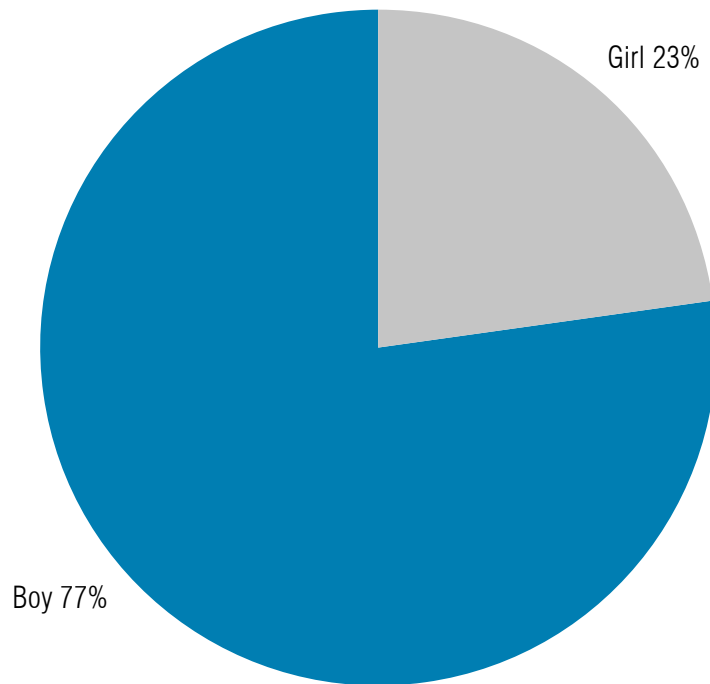


Chart 2.10 Appeals registered during 2018-19 by ethnic origin

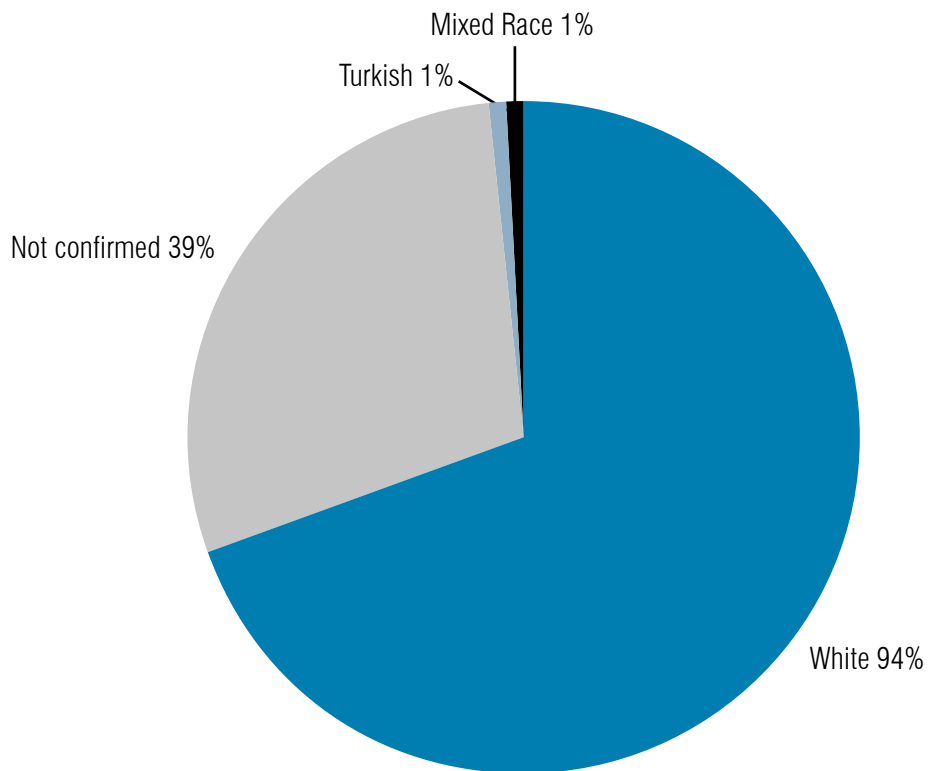




Table 2.11 Applications by outcome 2018-19 (including carried over appeals), compared with 2017-18

	2018-2019		2017-2018	
	Actual	Percentage	Actual	Percentage
Conceded <sup>2</sup>	44	26%	43	30%
Withdrawn <sup>3</sup>	49	26%	24	17%
Upheld in Full	15	6%	15	11%
Upheld in Part	6	3%	4	3%
Dismissed/struck out	13	6%	10	7%
Pending <sup>4</sup>	47	33%	35	25%
Total	174	100%	140	100%

<sup>2</sup> 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.

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

An appeal is withdrawn by consent when the parties have reached agreement and the parent agrees to withdraw their appeal on the basis of agreed amendments.

<sup>4</sup> Pending – a case is on-going with the tribunal.

Table 2.12 Appeals by outcome and type 2018-19 (Part 1)

	Refusal to Assess	Refusal to Statement	Refusal to Re-assess	Cease to Maintain
Conceded	33	9	0	0
Withdrawn	13	7	0	0
Upheld in Full	2	3	1	0
Upheld in Part	0	0	0	0
Dismissed/struck out	6	6	1	0
Pending	13	13	2	1

Table 2.12 Appeals by outcome and type 2018-19 (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	Not recorded
Conceded	0	0	0	0	2	
Withdrawn	7	7	9	3	3	
Upheld in Full	1	4	2	0	2	
Upheld in Part	2	4	0	0	0	
Remitted	0	0	0	0	0	
Consent	0	0	0	0	0	
Pending	3	15	1	1	6	1

Table 2.13 Appeals by outcome and local authority 2018-19

	Conceded	Withdrawn	Upheld in Full	Upheld in Part	Dismissed/ struck out	Pending
Blaenau Gwent	0	1	0	1	0	0
Bridgend	3	0	0	0	0	2
Caerphilly	0	0	0	0	0	0
Cardiff	5	3	3		3	5
Carmarthenshire	0	2	0	0	1	3
Ceredigion	0	0	0	0	0	0
Conwy	4	1	2	0	1	4
Denbighshire	0	1	0	0	0	1
Flintshire	0	0	0	0	0	2
Gwynedd	0	0	0	0	0	2
Merthyr Tydfil	0	1	0	0	0	0
Monmouthshire	0	0	0	0	0	2
Neath Port Talbot	0	3	0	0	0	0
Newport	3	6	1	0	2	6
Pembrokeshire	2	2	0	0	0	2
Powys	2	5	1	0	0	4
Rhondda Cynon Taf	6	4	1	2	1	4
Swansea	4	3	0	0	1	4
Torfaen	4	0	0	0	0	0
Vale of Glamorgan	2	1	0	1	1	2
Wrexham	0	0	0	0	0	0
Ynys Mon	0	1	0	0	0	1
<b>Total</b>	<b>35</b>	<b>34</b>	<b>8</b>	<b>4</b>	<b>10</b>	<b>44</b>

Chart 2.14 Claims of alleged disability discrimination registered and discharged in 2018-19, compared with 2017-18

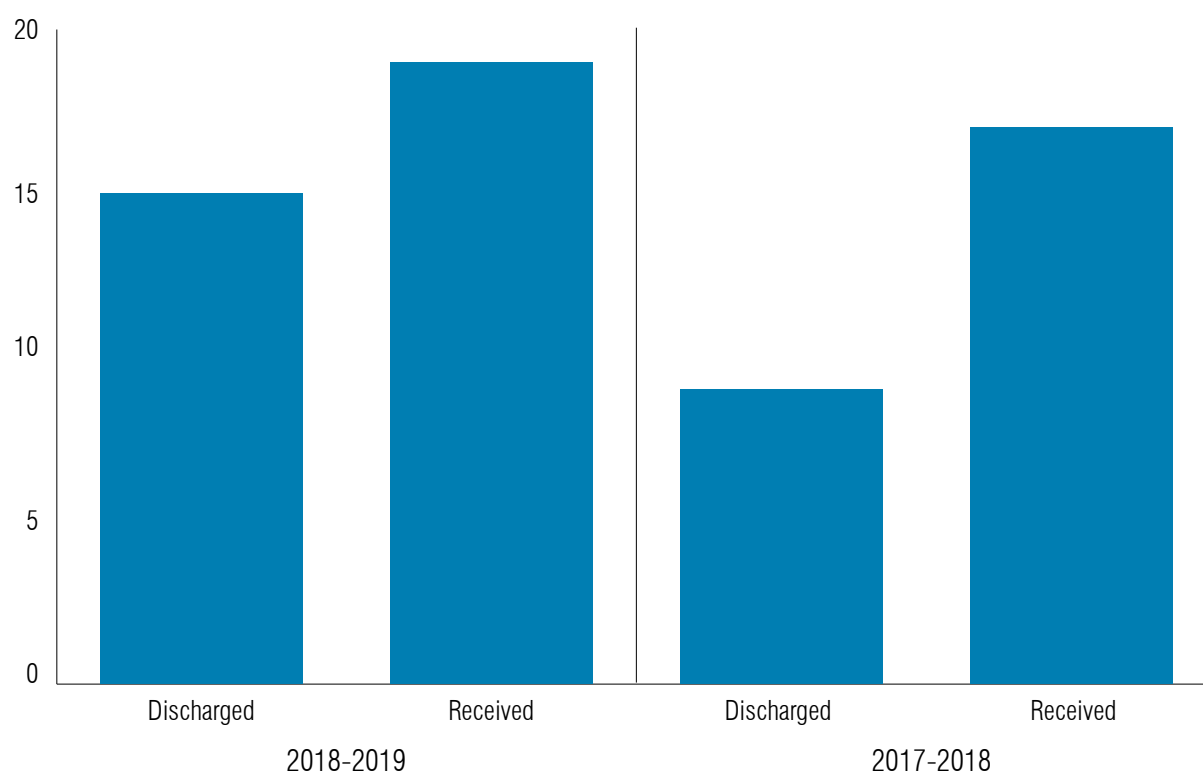
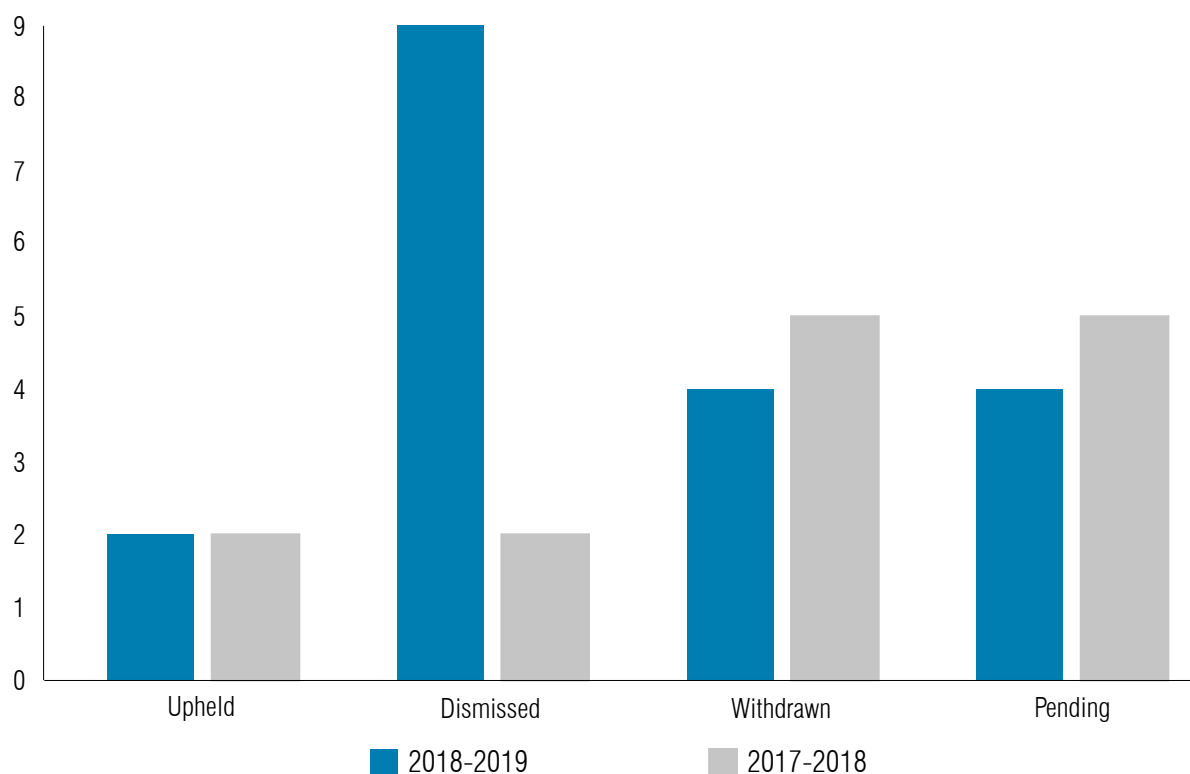


Table 2.15 Types of claims registered during 2018-19, compared with 2017-18

Type of Claim	2017-2018		2016-2017	
	Total Claims		Total Claims	
Admissions	1	5%	0	0%
Education	12	63%	4	50%
Exclusions	3	16%	4	50%
Not recorded	3	16%		

Chart 2.16 Claims of alleged disability discrimination by outcome 2018-19, compared with 2017-18



## Hearings Data

During 2018-2019, 36 cases proceeded to hearing, 5 cases concluded as a paper only hearing and 40 oral hearings, resulting in 45 hearing days:

Check the figures

Type	Length (in days)
Appeal	32 hearing days
Claim	13 hearing days
Paper	5 paper only

## 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, one application for review was refused.

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, five requests for permission were made. The Tribunal refused permission in two cases and four applications were pending at the end of the reporting period.

## Achievement against key performance indicators

To monitor how effectively we deliver our services, 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 complaints relating to one 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.

Customer satisfaction surveys are 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 collate information in respect of communication and service, satisfaction with the hearing venue, staff assistance and the tribunal's website.

## Section 4 – Business Priorities

### **In this section:**

- Business priorities for 2018-2019

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.

- Plan and deliver an all-members training event
- Plan and deliver User Group meetings in North and South Wales
- Organise and conduct appraisals for all members
- Continue to monitor and update the Special Educational need Tribunal for Wales' website
- Continue to feed into the Welsh Government consultation on additional learning needs and education tribunal bill
- 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 the financial year April 2018 to March 2019

### Expenditure for financial year 2018-2019

Content	Amount
Members Fees and Expenses for tribunal proceedings	£193,009
Tribunal events and hearing venue costs	£29,051
Total*	£222,060

\* rounded to the nearest £1,000