

REPORT ON SUMMARY HEARINGS FOR INFORMATION

SUMMARY

Issue under Consideration

1. The statistics reported in the attached memorandum focus on the summary hearing applications that have been issued and the summary hearings that have been held since the summary hearing process was initiated in 2006 until July 31, 2014.

Rationale

2. Summary hearings are streamlined hearings before a single member of the Hearings Division. The summary hearing process was created to permit the Law Society to more quickly address governance issues such as failing to respond to, or cooperate with, the Law society, or failing to maintain financial records. The list of issues which may proceed through the summary hearings process are set out in O. Reg. 167/07, section 2, and are referenced in Rule 11 of the Rules of Practice and Procedure.
3. The statistics reported in the attached memorandum focus on the summary hearing applications that have been issued and the summary hearings that have been held since the summary hearing process was initiated in 2006 until July 31, 2014.
4. This report updates the statistics reported to the Committee in October 2012.
5. The information in the report can be used to assess the effectiveness of the summary hearing process. The report also highlights ongoing issues; in particular, it notes that 34 licensees continue to be suspended two years or longer for failure to comply with the Order.



PROFESSIONAL REGULATION

Report: Summary Hearings

Prepared by: Zeynep Onen
Date: 11 September 2014

Summary Hearing Applications Issued

The first summary hearing application was issued on February 10, 2006. Since that date, a total of **283 summary hearing applications** have been issued, broken down by calendar year as follows:

Year	Applications Issued		
	Total	Lawyers	Paralegals
2006	20	20	0
2007	35	35	0
2008	34	34	0
2009	27	25	2
2010	40	36	4
2011	36	28	8
2012	33	25	8
2013	37	28	9
2014*	21	16	5
Total	283	247	36

*as at July 31st

Of the 283 applications issued

- 6 applications were abandoned prior to hearing;
- 1 application was closed prior to hearing, pursuant to PAC authorization; and
- 12 applications were still awaiting hearing as at July 31, 2014.

Hence, 264 applications have proceeded to hearing since the summary process was initiated until the end of July 2014.

Summary Hearings Completed

The 283 issued applications have resulted in a total of **257 summary hearings**¹ to date. The following chart sets out the number of hearings held in each of the 9 calendar years:

Year	Summary Hearings Completed
2006	15
2007	28
2008	27
2009	28
2010	35
2011	35
2012	34
2013	34
2014*	21
Total	257

* as at July 31st

The 257 hearings involved **183 lawyers and 32 paralegal licensees**: 34 lawyers and 2 paralegals have had 2 separate summary hearings; 3 lawyers have had 3 separate summary hearings.

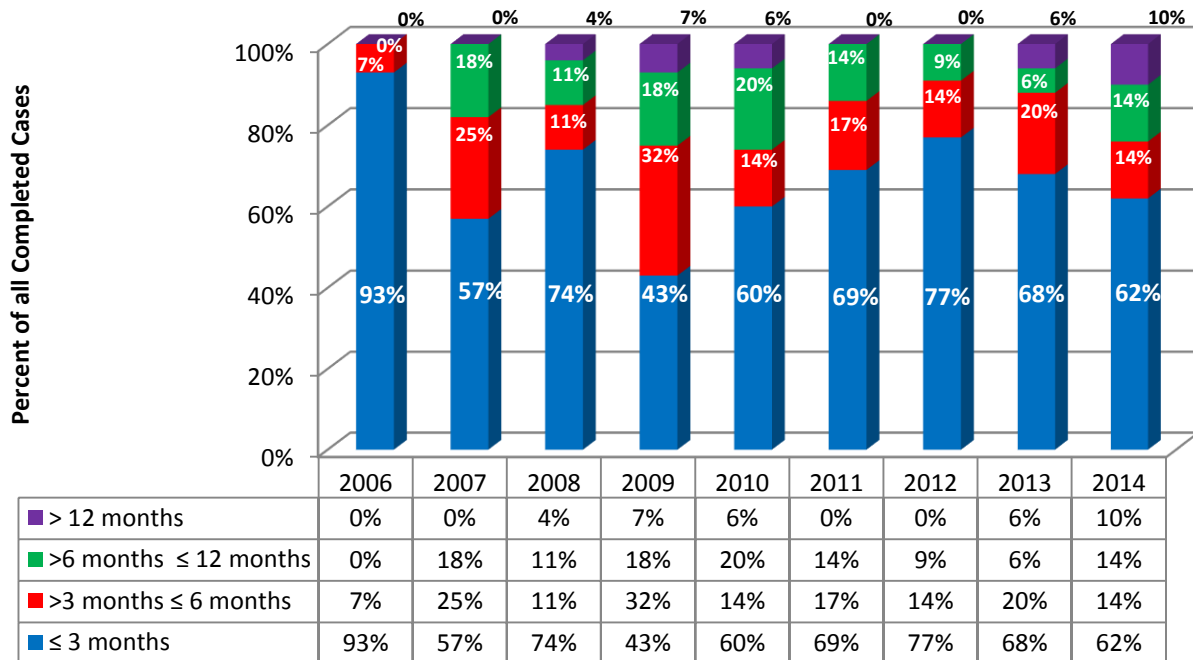
Of the 257 completed hearings, 169 hearings (66%) proceeded to hearing (and were completed) within 3 months of the date of issuance. The following chart sets out the number of hearings completed in each of the 9 calendar years, broken down by the length of time that elapsed between the date of issuance and the date the case was completed (i.e. the date of the Decision and Order of the Hearing Panel).

¹ Two applications were dealt with in each of 8 hearings: in 2007 - Frederic Buckland (CN28/07 & CN57/07) and Michael Taylor (CN78/07 & CN95/07); in 2008 - Myles McLellan (CN23/07 & CN70/07) and Robert Wilson (CN21/08 & CN28/08); in 2009 - Walter Wysocky (LCN10/09 and LCN23/09); in 2011 – William Jeffery (LCN109/10 and LCN136/10) and Michael Webster (LCN04/11 and LCN11/11); and in 2014 - David Isaac (LCN104/11 and LNCCN103/12).

Age from issuance to completion	2006	2007	2008	2009	2010	2011	2012	2013	2014*
≤ 3 months	14	16	20	12	21	24	26	23	13
> 3 months ≤ 6 months	1	7	3	9	5	6	5	7	3
>6 months ≤ 12 months	0	5	3	5	7	5	3	2	3
>12 months	0	0	1	2	2	0	0	2	2
Total Hearings Completed	15	28	27	28	35	35	34	34	21

* as at July 31st

The following graph provides a break-down of the time between issuance of the application and the completion of the hearing by calendar year. The graph sets out the percentage of completed cases by length of time it took to complete the case. For example, in 2014, as at July 31st, 62% of cases were initiated and completed in less than or equal to 3 months.



* 2014 data, as at July 31st

The following chart breaks down the average time spent in the hearing stage (in days) into two portions: (1) the average time after the issuance of the Notice of Application but prior to the start of the hearing and (2) the average time after the hearing has commenced. For example, in 2014, as at July 31st, the average time for a summary hearing to start after the Notice was issued was 66 days while the average time for a hearing to be completed, once started was 96 days.

	2006	2007	2008	2009	2010	2011	2012	2013	2014*
Date Notice Issued to Start of Hearing	45 days	77 days	66 days	93 days	91 days	65 days	66 days	68 days	66 days
Start of Hearing to Date of Final Decision	8 days	33 days	24 days	42 days	54 days	25 days	14 days	44 days	96 days

* as at July 31st

Analysis of Summary Hearings that did not complete in expected time frame:

The following charts analyze the delays noted in summary hearings held between 2006 and July 31, 2014. A summary hearing was considered “delayed” if it took longer than 2 months between issuance of the Notice of Application and completion of the hearing. Based on this definition, some sort of delay was noted in:

- 4 of the 15 hearings completed in 2006;
- 13 of the 28 hearings completed in 2007;
- 9 of the 27 hearings completed in 2008;
- 16 of the 28 hearings completed in 2009;
- 16 of the 35 hearings completed in 2010;
- 14 of the 35 hearings completed in 2011;
- 10 of the 34 hearings completed in 2012;
- 15 of the 34 hearings completed in 2013; and
- 9 of the 21 hearings completed in 2014 as at July 31st.

The analysis was based on endorsements on the Notices of Application and reasons provided by the Hearing Panels, where available. Note that reasons for adjournments and other delays were not always provided in the endorsements and that, in some cases, the noted delay was caused by more than one reason.

(1) Delays in time period between Issuance and Start of Hearing

	2006	2007	2008	2009	2010	2011	2012	2013	2014
Counsel (retaining counsel; newly retained counsel’s need to review disclosure/prepare)	2	6	2	4	0	8	3	6	1
Medical Issues (including illness, medical evaluation; preparation of medical report)	0	1		5	3	3	3	1	1
Further time provided to comply with outstanding Law Society request	0	2	2	5	0			2	
Availability									
Availability of Hearing Panel					1			1	1
Availability of Licensee:									
In custody			1		1				
Involved in work				2			1	2	1
Other (e.g. travelling; witnesses, religious holidays)				1		1		5	2

Motions (e.g. to recuse, to join with other notice)							3		2	2
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(2) Delays in time period between start of hearing and completion (i.e. date of Decision and Order)

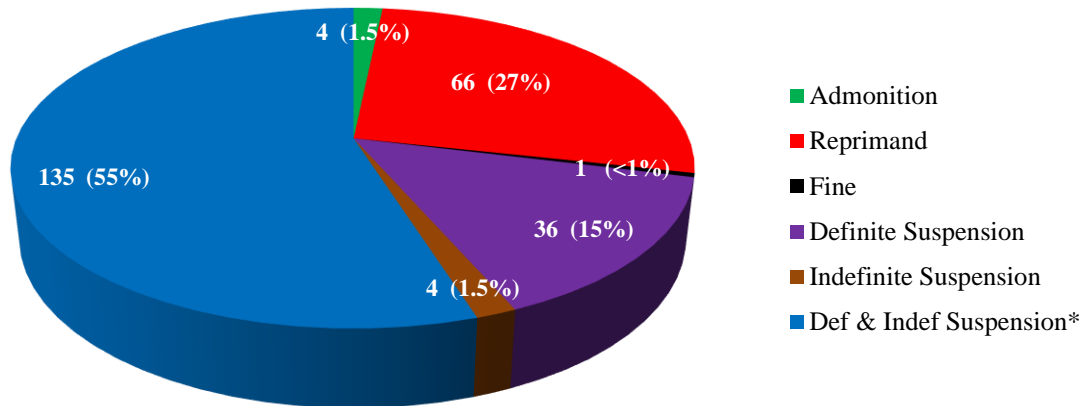
	2006	2007	2008	2009	2010	2011	2012	2013	2014
Multiple hearing days (on finding and/or penalty)		1	1		1	4		3	1
Written submissions required (on motion and/or finding and/or penalty)					2	3		1	5
Finding made; adjourned for penalty phase	2	2	4	1	4	1		2	3
Reserved on Finding		3	1	2	4	3	2	5	3
Reserved on Penalty		1	1	3	4	4	1	5	6
Medical Issues (including illness, medical evaluation; preparation of medical report)		1	1	1					1
Availability of Hearing Panel					1				
Availability of Licensee/Licensee's Counsel						2			

Findings Made and Penalties Imposed

Of the 257 summary hearings held to date, findings of professional misconduct have been made in 246 matters. Of the 11 remaining matters:

- 5 were dismissed by the Hearing Panel/Division;
- 4 were converted to invitations to attend; and
- 2 findings were overturned on appeal and sent back for a new hearing. The Law Society subsequently abandoned one application. The other application is currently being re-heard.

With respect to the penalties imposed, in 139 of the 246 hearings (57%), licensees were given either an indefinite period of suspension or a definite period of suspension which was to continue indefinitely until the licensees fully cooperated with the Law Society. The graph below sets out the various penalties imposed in the 246 hearings held to date where a finding of professional misconduct was made.



* In 10 of these hearings, fines were also imposed.

In addition to the penalties imposed above, costs were awarded against the licensee in 233 hearings (95% of the hearings held) and have ranged from \$100 to \$25,000.

Cooperation – Pre and Post Hearing

In 107 of the 246 hearings, licensees cooperated with the Law Society in the period after the application was issued but before the date of the summary hearing. In these situations, a lesser penalty was imposed at the hearing – usually a reprimand or a definite period of suspension.

In 57% of the hearings (139 hearings), licensees did not cooperate or only partially cooperated with the Law Society prior to hearing, resulting in a more severe penalty (usually a definite followed by an indefinite period of suspension as noted above). These 139 hearings relate to 129 licensees.

A review of the 129 licensees who had not cooperated at the time of the hearing (and, therefore, received an indefinite suspension as part or the entire penalty imposed) reveals that:

- 41 licensees (32%) had their licences revoked or were given permission to surrender their licences in subsequent discipline hearings or have died subsequent to the hearing without being reinstated (3 licensees).
- 32 licensees (25%) subsequently cooperated with the Law Society:
 - 13 of the licensees cooperated and were reinstated within 3 months of the summary hearing;
 - 7 of the licensees cooperated and were reinstated 3-6 months after the summary hearing;
 - 4 licensees cooperated and were reinstated 6-12 months following the summary hearing;
 - 5 licensees cooperated and were reinstated 12-24 months after the summary hearing; and
 - 3 licensees cooperated and were reinstated >24 months after the summary hearing.
- 56 licensees (43%) have not cooperated with the Law Society to date and remain suspended:
 - 7 licensees have been suspended for 3-6 months following the summary hearing;
 - 10 licensees have been suspended for 6- 12 months following the summary hearing;
 - 5 licensees have been suspended for 12 to 24 months following the summary hearing;
 - 10 licensees have been suspended for 2 to 3 years following the summary hearing;

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- 8 licensees have been suspended for 3 to 4 years following the summary hearing;
- 2 licensees have been suspended for 4 to 5 years following the summary hearing; and
- 14 licensees have been suspended for more than 5 years following the summary hearing.