



The Law Society of
Upper Canada | Barreau
du Haut-Canada

The Professional Regulation Division

Quarterly Report
July – September 2013

The Quarterly Report

The Quarterly Report provides a summary of the Professional Regulation Division's activities and achievements during the past quarter, July 1 to September 30, 2013. The purpose of the Quarterly Report is to provide information on the production and work of the Division during the quarter, to explain the factors that may have influenced the Division's performance, and to provide a description of exceptional or unusual projects or events in the period.

The Professional Regulation Division

Professional Regulation is responsible for responding to complaints against licensees, including the resolution, investigation and prosecution of complaints which are within the jurisdiction provided under the *Law Society Act*. In addition the Professional Regulation provides trusteeship services for the practices of licensees who are incapacitated by legal or health reasons. Professional Regulation also includes the Compensation Fund which compensates clients for losses suffered as a result of the wrongful acts of licensees.

See Appendices for a case flow chart describing the complaints process as well as a description of the Professional Regulation division processes and organization.

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SECTION 1

REPORT HIGHLIGHTS

Highlights of Quarterly Performance

The Division

In 2013 the Law Society continues to experience an increase in the number of complaints when compared to 2011 or 2012. During the first three quarters of 2013, Professional Regulation received almost 7% more complaints than in 2011 and 8.5% more than was received in 2012. The division received a total of 3941 complaints during this period. It is worth noting that in 2012 the Law Society received fewer complaints than in 2011. Consequently the following analysis will refer to 2011 as a comparator as well as 2012 to demonstrate recent trends accurately.

During the first three quarters Professional Regulation closed a total of 4018 cases, reducing its inventory of cases marginally to 3,225 in total.

Complaints Resolution

Complaints Resolution responds to complaints that, if there was evidence to support the allegations, would be unlikely to attract a formal response such as a discipline. During the first three quarters of 2013, the department received a significantly higher number of complaint cases (1516) than in 2011 or 2012. The 2013 input was 9% higher than in 2011 and 18% higher than in 2012.

During the third quarter the department closed more cases than it received, with the result that its inventory reduced to 1055 cases by September 30th. During the first three quarters of 2013 the department completed 1404 complaint cases with the result that it is carrying a small backlog of cases. The department continues to have a number of older cases in its inventory, with 7% of cases older than 12 months. These cases are monitored closely. Generally they consist of cases which have taken longer to complete due to factors beyond the control of the Law Society.

Investigations

This department also experienced an increase in the number of new cases in the first three quarters of 2013. When compared with 2011, which was the most recent year in which higher numbers of cases were received, the increase was 3% (1102 cases in 2013 compared with 1072 cases in 2011). By the end of the third quarter, the department completed 1022 cases. As a result, the department's inventory has increased by 80 cases since the beginning of the year. The department continues to have a number of older cases in its inventory which are being closely managed. At the end of the third quarter 14% of the cases in the inventory were older than 18 months. The timing on many of these cases is not within the Law Society's control. To the extent that the cases can proceed, they are the subject of special focus by staff and managers.

The mortgage fraud caseload aging decreased significantly during this period. At the beginning of 2013 27% of the case inventory was older than 18 months. This has now reduced to 7%, and these cases are expected to complete within a short time period.

Unauthorized Practice (UAP)

During 2011 and 2012 the Law Society received approximately 250 UAP complaints. In 2013 to date, the intake of new complaints alleging unauthorized practice has increased by 14% when compared with the same period in 2012. Case completions have exceeded the input of new cases with the result that the inventory of cases declined during the period.

Discipline and Hearings

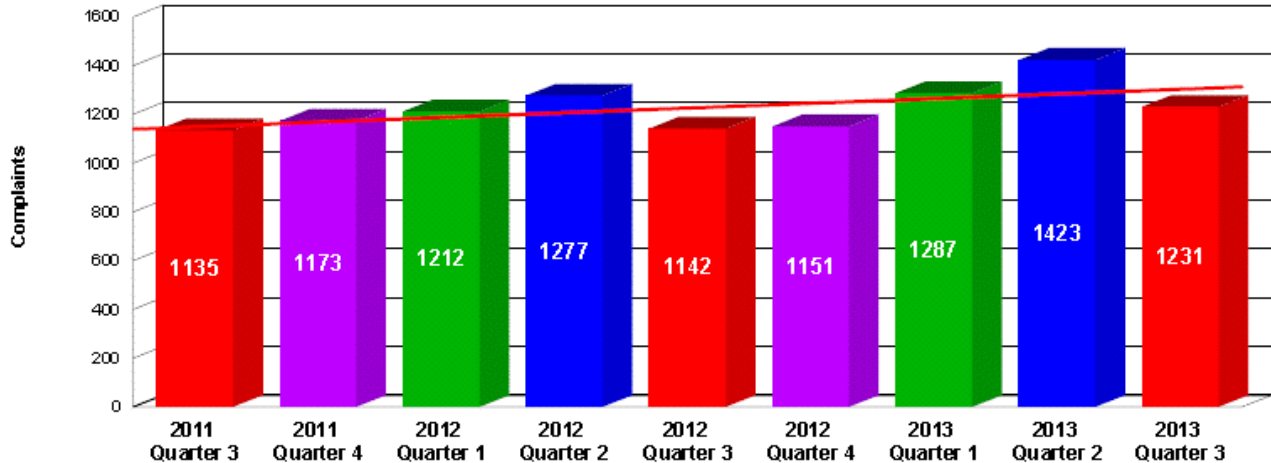
More Notices of Hearing were issued in 2013 than the comparable periods in 2011 and 2012. 118 Notices were issued in the first three quarters compared with 93 in 2012 and 92 in 2011. Similarly, more hearings were completed, with 91 decisions and orders by Hearing Panels compared to 84 in 2012. During 2013 a total of 15 appeals have been commenced to the Appeal Panel, mirroring the experience in 2011 and 2012. The inventory of cases in the Discipline department continues to remain at around 200 during 2013.

SECTION 2

DIVISIONAL PERFORMANCE DURING THE QUARTER

PERFORMANCE IN THE PROFESSIONAL REGULATION DIVISION

Graph 2A: Complaints¹ Received in the Division



The number of new complaints received in the third quarter of 2013 decreased by approximately 13% when compared to the number received in the second quarter of 2013. An analysis of new complaints received (below) shows that, in Q3 2013, complaints against lawyers, licensed paralegals, lawyer applicants and paralegal applicants decreased while the number of complaints against non-licensees/non-applicants increased slightly from the number received in Q2 2013.

Detailed Analysis of Complaints Received in the Division

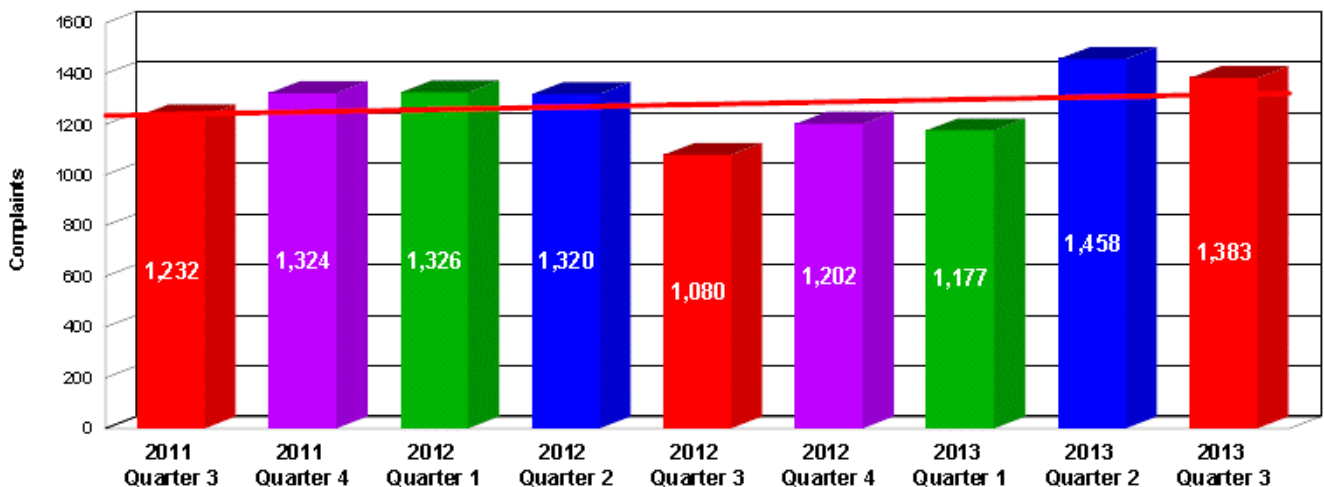
	Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Complaints against Lawyers	942	937	1015	1026	969
Lawyer Applicant Cases ★	27	8	18	67	21
Complaints against Licensed Paralegals	118	109	160	152	143
Paralegal Applicant Cases ★	20	26	29	121	34
Complaints against Non-Licensees/Non-Applicants*	35	71	65	57	64
TOTAL	1142	1151	1287	1423	1231

★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

¹ Includes all complaints received in PRD from Complaints Services.

Graph 2B: Complaints Closed² in the Division (by Quarters)



The number of cases closed in the Division in Q2 2013 decreased by 5% from the number of cases closed in Q2 2012.

Detailed Analysis of Complaints Closed in the Division

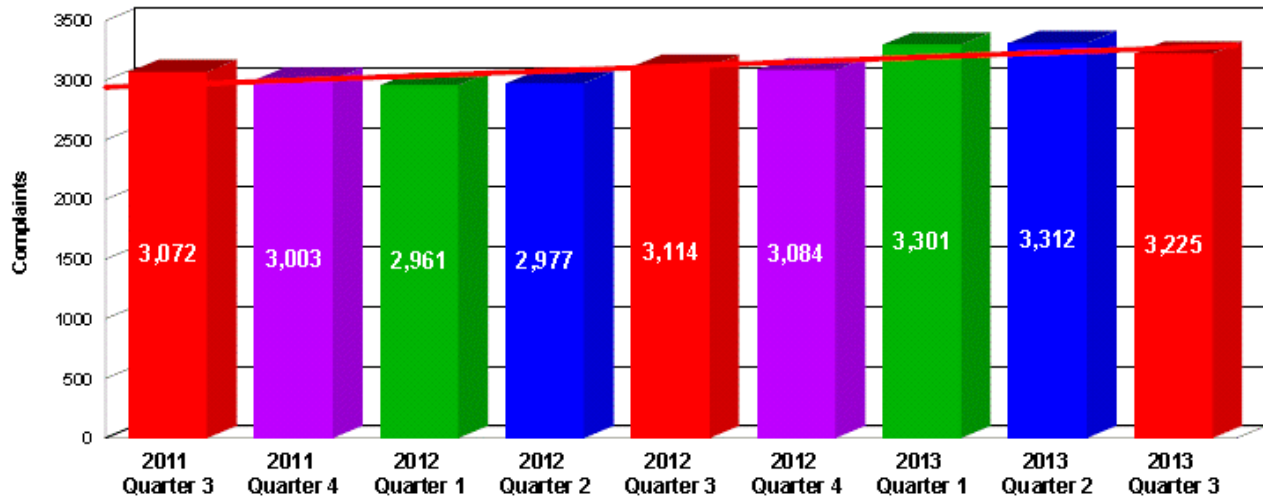
	Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Complaints against Lawyers	827	981	946	1118	1101
Lawyer Applicant Cases ★	16	11	13	64	31
Complaints against Licensed Paralegals	139	116	105	127	124
Paralegal Applicant Cases ★	39	32	37	83	53
Complaints against Non-Licensees/Non-Applicants*	59	62	76	66	74
TOTAL	1080	1202	1177	1458	1383

★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

² This graph includes all complaints closed in Intake, Complaints Resolution, Investigations and Discipline.

Graph 2C: Total Inventory³



The value in each bar represents the inventory at the end of the period

The inventory in the Division at the end of Q3 2013 was lower than the inventory at the end of Q1 and Q2 2013 (by approximately 2.5%). The breakdown of the inventory in the chart below demonstrates that during the last quarter, the inventory of complaints against all groups except licensed paralegals decreased.

Detailed Analysis of Division Inventory

	Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Complaints against Lawyers	2571	2546	2711	2656	2575
Lawyer Applicant Cases ★	34	31	37	39	29
Complaints against Licensed Paralegals	331	322	378	404	427
Paralegal Applicant Cases ★	66	60	55	91	77
Complaints against Non-Licensees/Non-Applicants*	112	125	120	122	117
TOTAL	3114	3084	3301	3312	3225

★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

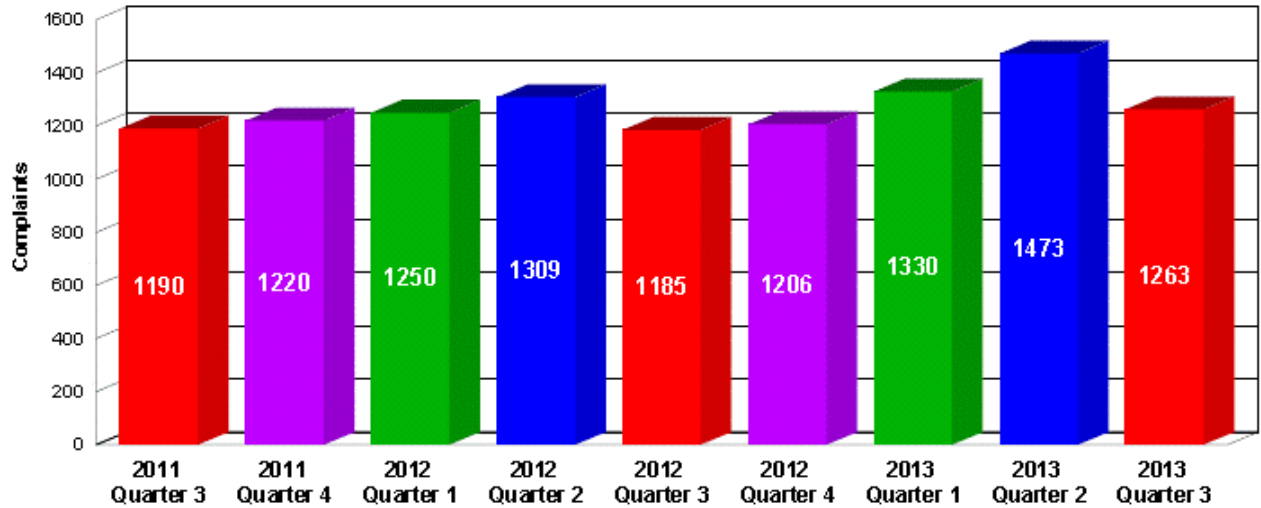
³ This graph does not include active complaints in the Monitoring & Enforcement Department.

SECTION 3

DEPARTMENTAL PERFORMANCE DURING THE QUARTER

3.1 – Intake

Graph 3.1A: Intake - Input⁴

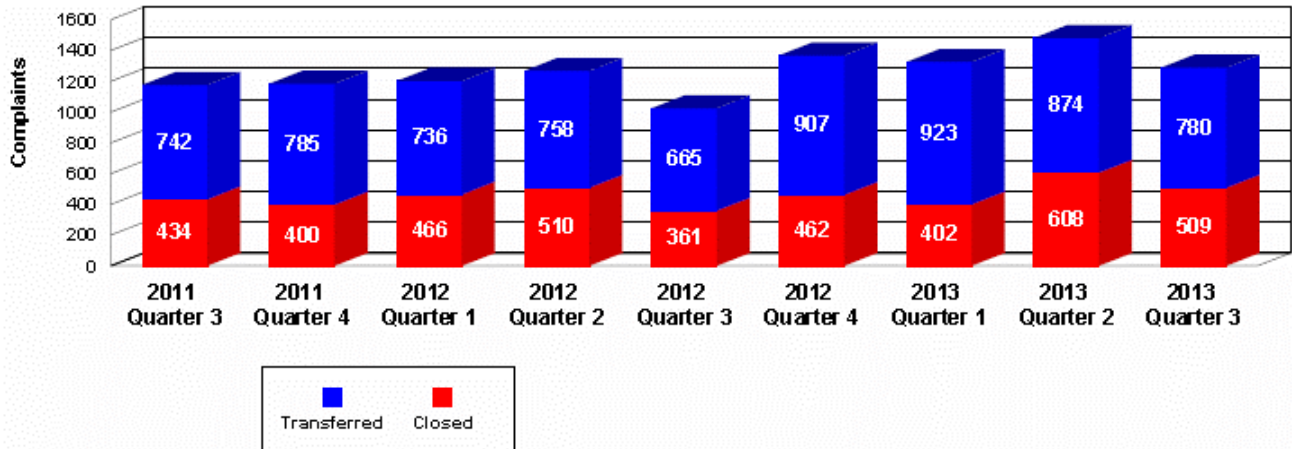


The Intake department processes all new regulatory complaints. In Q3 2013, in addition to the 1231 new cases, Intake re-opened 32 complaints which met the threshold for re-opening a closed matter.

⁴ Includes new complaints received and re-opened complaints

3.1 – Intake

Graph 3.1B: Intake - Complaints Closed and Transferred Out



In Q3 2013, Intake completed 1289 cases, which represents a 13% decrease over the number of cases completed by the department in Q2 2013 (1482) but a 26% increase over the number of cases completed by the department in the same period in 2012 (Q3 2012 – 1026) and a 9.6% increase over the number completed in the same period in 2011 (Q3 2011 – 1176).

Detailed Analysis of Complaints Closed and Transferred From Intake

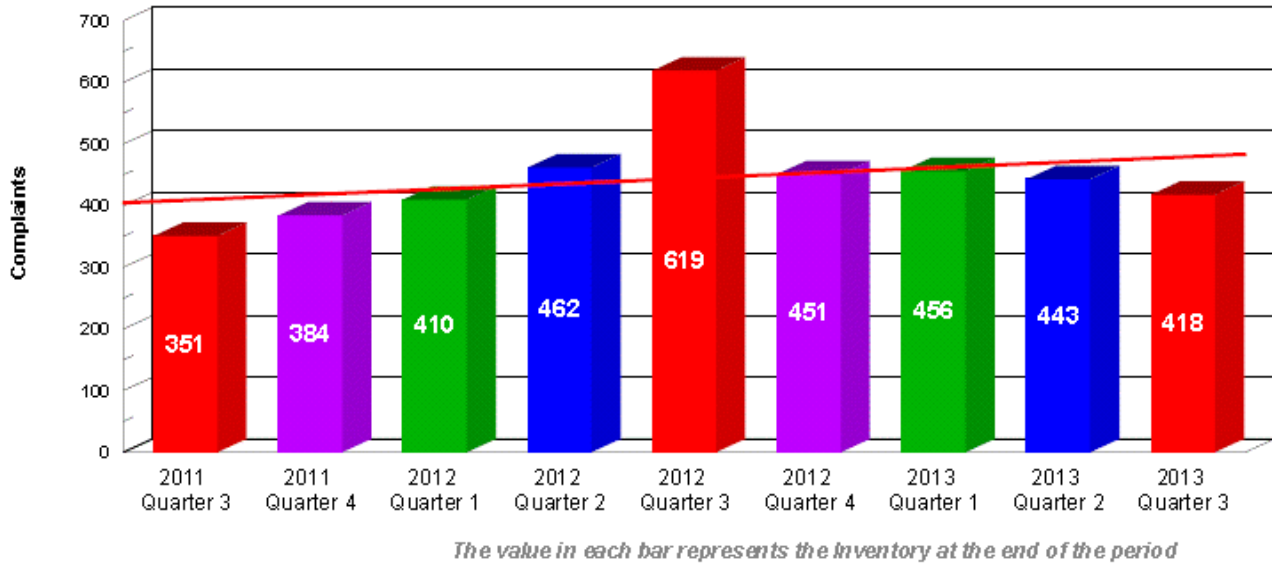
		Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Complaints against Lawyers	Closed	278	386	327	425	404
	Transferred	549	734	737	639	605
Lawyer Applicant Cases★	Closed	10	3	2	45	15
	Transferred	19	4	17	18	11
Complaints against Licensed Paralegals	Closed	42	32	28	39	40
	Transferred	62	116	108	127	111
Paralegal Applicant Cases★	Closed	14	8	13	69	22
	Transferred	19	18	15	45	18
Complaints against Non-Licensees/Non-Applicants*	Closed	17	33	32	30	28
	Transferred	16	35	46	45	35
TOTAL	Closed	361	462	402	608	509
	Transferred	665	907	923	874	780

★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

3.1 – Intake

Graph 3.1 C: Intake - Department Inventory



The department's inventory decreased by approximately 6% over the past quarter, however the graph demonstrates an increase in inventory over the past two years. As noted in the chart below, Intake's inventory at the end of the quarter consisted mostly of complaints against lawyers.

Detailed Analysis of Intake Inventory

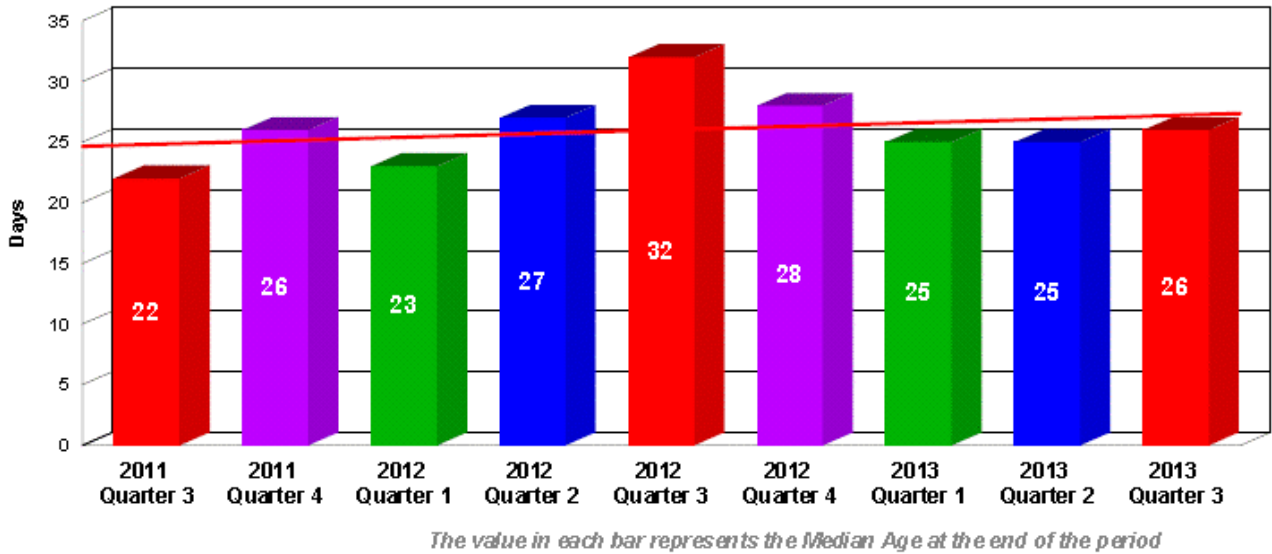
	Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Complaints against Lawyers	541	399	387	384	369
Lawyer Applicant Cases ★	1	2	1	5	0
Complaints against Licensed Paralegals	66	32	56	44	36
Paralegal Applicant Cases ★	0	0	1	6	2
Complaints against Non-Licensees/Non-Applicants*	11	18	11	4	11
TOTAL	619	451	456	443	418

★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

3.1 – Intake

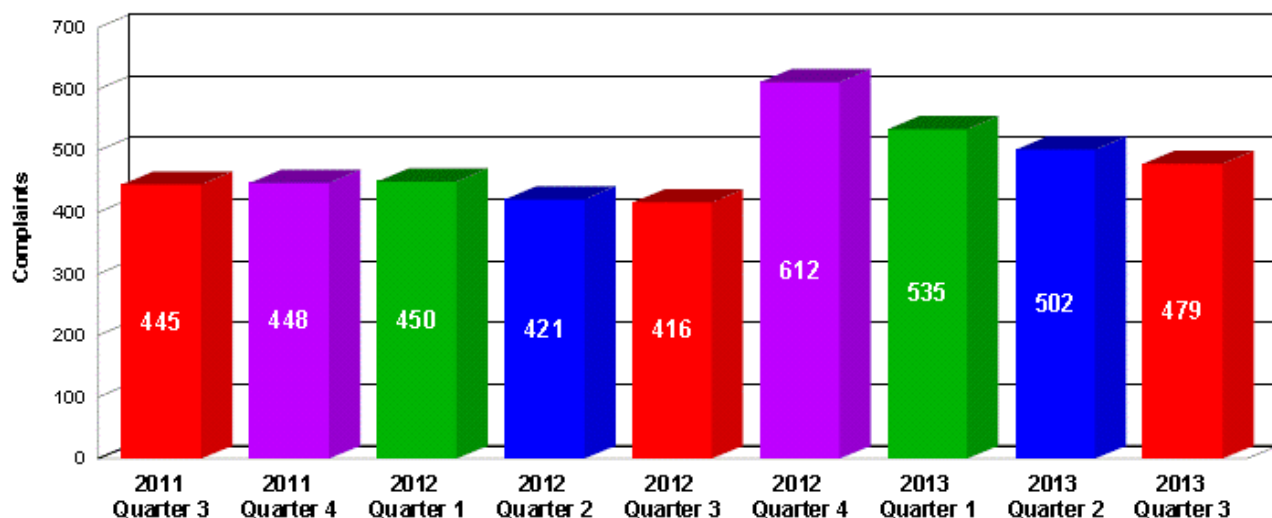
Graph 3.1D: Intake - Median Age of Complaints



Intake's median age is below the department's 30-day target, indicating a timely case process.

3.2 – Complaints Resolution

Graph 3.2A: Complaints Resolution – Input⁵



The input of cases into Complaints Resolution in Q3 2013 decreased by approximately 5% from the number received in Q2 2013 (502). When compared to the same period in the previous 2 years, the department's input in Q3 2013 increased by 13% compared to Q3 2012 and by 7% compared to Q3 2011.

Detailed Analysis of New and Re-opened Complaints in Complaints Resolution

	Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Complaints against Lawyers	377	548	492	443	418
Lawyer Applicant Cases ★	0	0	0	0	0
Complaints against Licensed Paralegals	39	64	43	59	60
Paralegal Applicant Cases ★	0	0	0	0	0
Complaints against Non-Licensees/Non-Applicants*	0	0	0	0	1
TOTAL	416	612	535	502	479

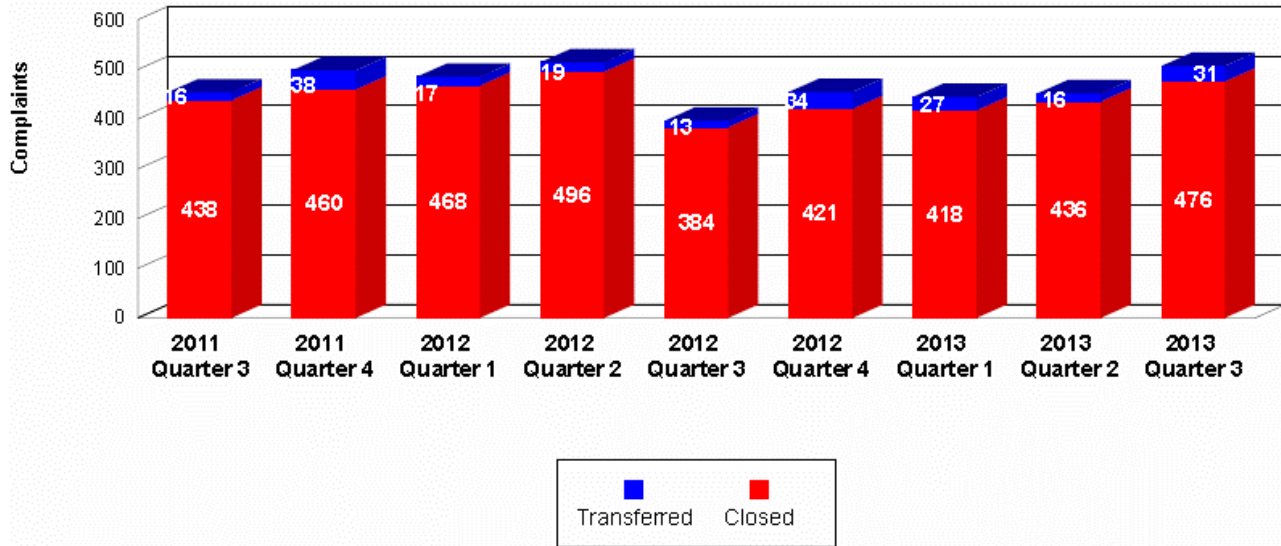
★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

⁵ Includes new complaints received into the department as well as complaints re-opened during the Quarter.

3.2 – Complaints Resolution

Graph 3.2B: Complaints Resolution - Complaints Closed and Transferred Out



The number of cases completed in Q3 2013 by Complaints Resolution (507) increased by 12% over the number of cases completed in Q2 2013 (452).

Detailed Analysis of Complaints Closed and Transferred From Complaints Resolution

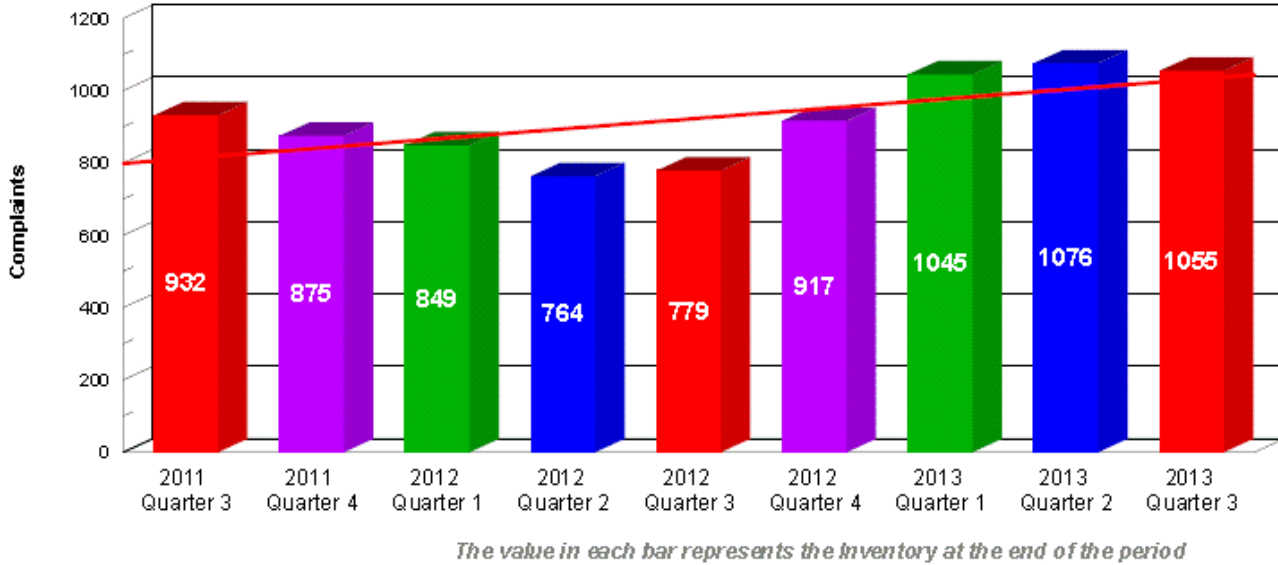
		Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Complaints against Lawyers	Closed	357	378	379	408	434
	Transferred	13	31	24	14	23
Lawyer Applicant Cases★	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
Complaints against Licensed Paralegals	Closed	27	43	39	28	42
	Transferred	0	3	3	2	7
Paralegal Applicant Cases★	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
Complaints against Non-Licensees/Non-Applicants*	Closed	0	0	0	0	0
	Transferred	0	0	0	0	1
TOTAL	Closed	384	421	418	436	476
	Transferred	13	34	27	16	31

★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

3.2 – Complaints Resolution

Graph 3.2C: Complaints Resolution – Department Inventory



As the number of completed cases exceeded the number of cases received in the department, Complaints Resolution’s inventory at the end of Q3 2013 decreased by 2% from inventory at the end of Q2 2013. However, it is approximately 13% higher than at the end of the same period in 2011 (932) and 36% higher than at the end of the same period in 2012 (779). The inventory continues to consist mostly of complaints against lawyers.

Detailed Analysis of Complaint Resolution’s Inventory

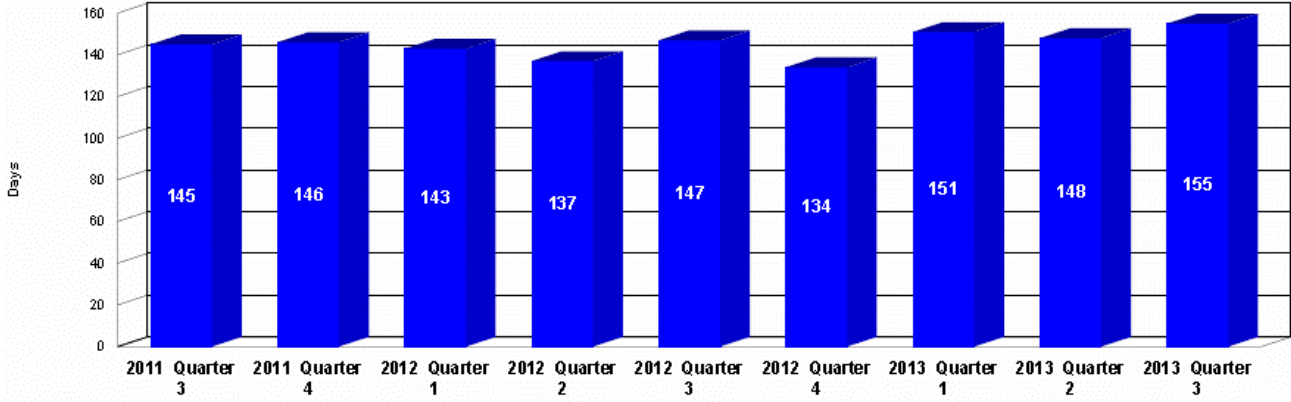
	Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Complaints against Lawyers	709	830	957	959	928
Lawyer Applicant Cases ★	0	0	0	0	0
Complaints against Licensed Paralegals	70	87	88	117	127
Paralegal Applicant Cases ★	0	0	0	0	0
Complaints against Non-Licensees/Non-Applicants*	0	0	0	0	0
TOTAL	779	917	1045	1076	1055

★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

3.2 – Complaints Resolution

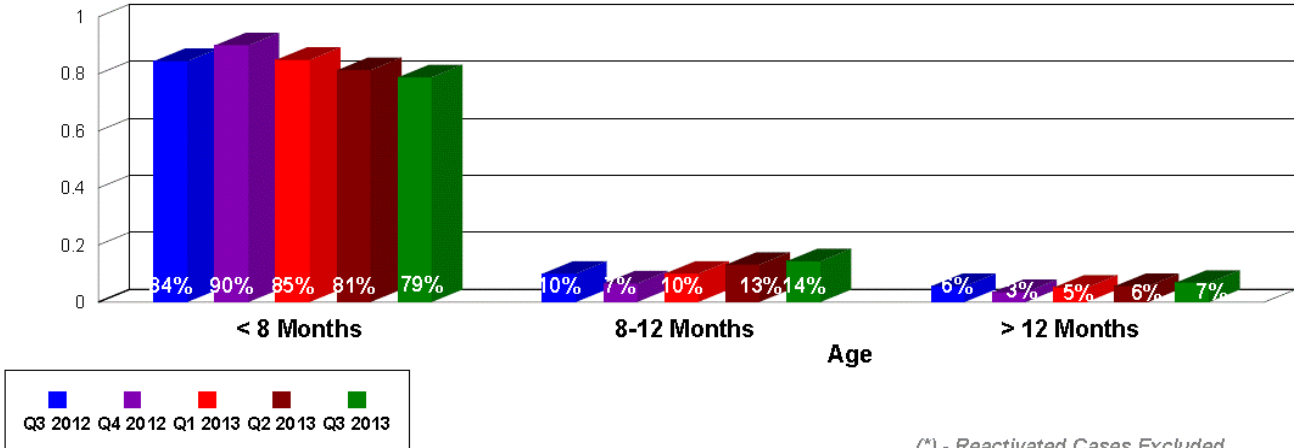
Graph 3.2D: Complaints Resolution - Median Age of Complaints



While the department's median age increased from the previous quarter, it is within the department's target range of 150-170 days.

3.2 – Complaints Resolution

Graph 3.2E: Complaints Resolution – Aging of Complaints



The above graph sets out the spectrum of aging in the department’s inventory (excluding reactivated cases) at the end of each of the 5 quarters displayed. Excluding reactivated cases, Complaints Resolution’s department inventory was 989 cases involving 867 subjects. The age distribution of those cases was:

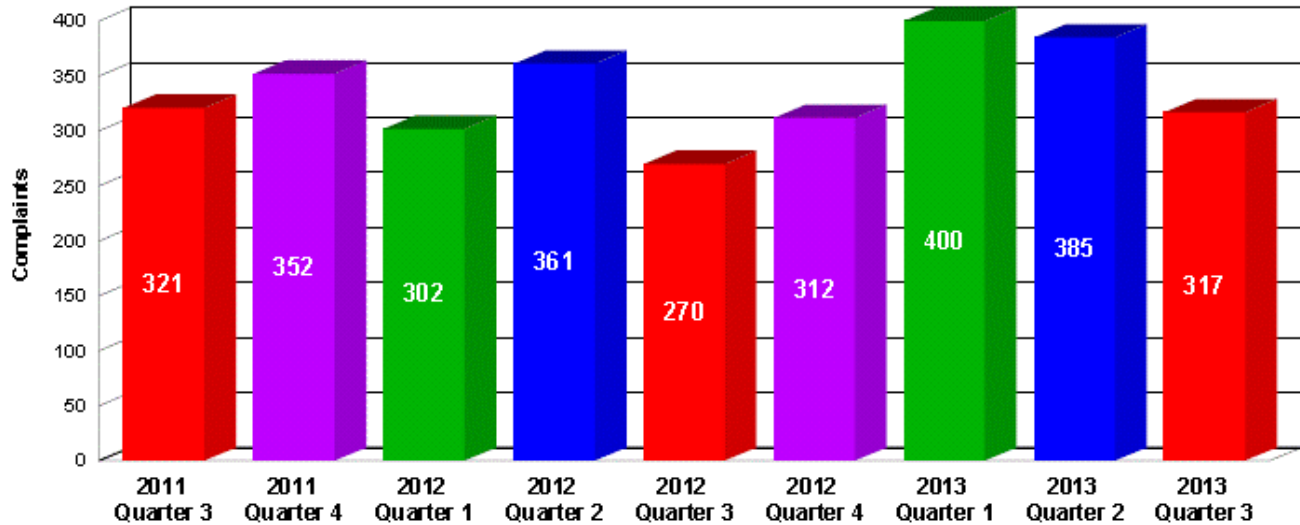
Less than 8 months	780 cases involving 693 subjects
8 to 12 months	142 cases involving 127 subjects
More than 12 months	67 cases involving 47 subjects

The goal is to reduce the proportion of cases in the older time frames and increase the proportion of cases in the youngest time frame. However, it is recognized that there will always be cases that are older than 12 months in Complaints Resolution for the following reasons:

- Newer complaints against the lawyer/paralegal are received. In some cases existing cases await the completion of younger cases relating to the same licensee;
- Delays on the part of licensees in providing representations and in responding to the investigators’ requests. In a number of instances, the Summary Hearing process is required;
- Delays on the part of complainants in responding to licensee’s representations and to investigators’ requests for additional information; and
- New issues raised by the complainant requiring additional investigation

3.3 –Investigations

Graph 3.3A: Investigations - Input



The input of cases into the Investigations department in Q2 2013 decreased by approximately 18% from the input in the last quarter (Q2 2013).

Detailed Analysis of New and Re-opened Complaints Received in Investigations

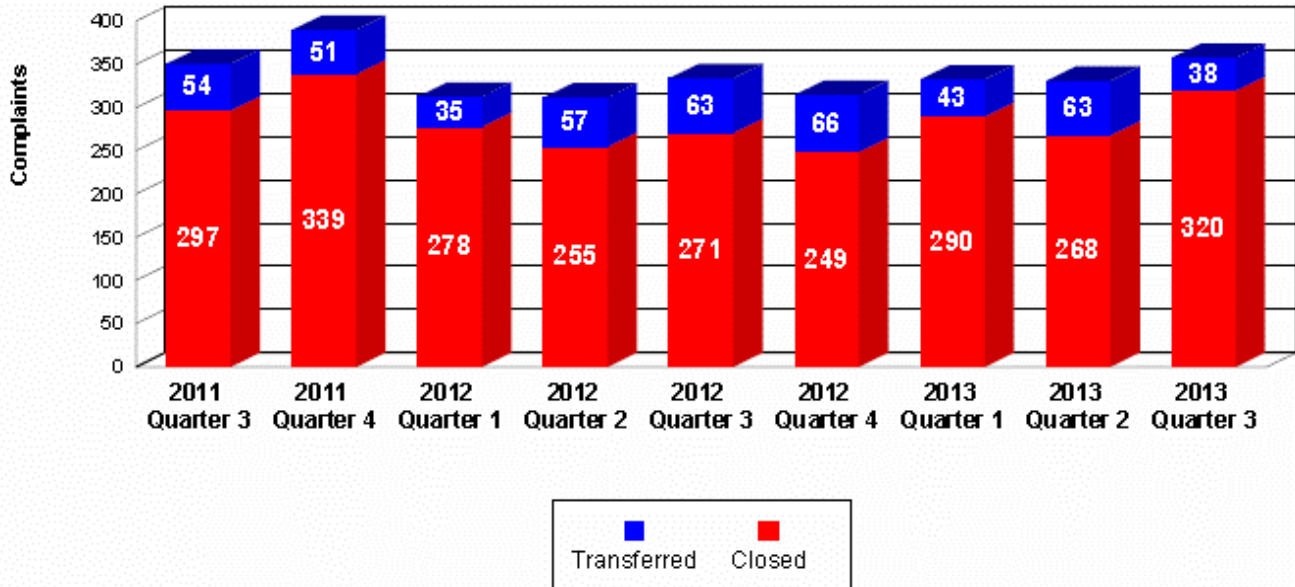
	Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Complaints against Lawyers	192	200	254	208	197
Lawyer Applicant Cases ★	19	4	18	18	11
Complaints against Licensed Paralegals	25	54	67	69	54
Paralegal Applicant Cases ★	19	19	15	45	19
Complaints against Non-Licensees/Non-Applicants*	15	35	46	45	36
TOTAL	270	312	400	385	317

★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

3.3 –Investigations

Graph 3.3B Investigations - Complaints Closed and Transferred Out



The number of cases closed/transferred out of the department in Q3 2013 (358 cases) was 8% higher than the number completed in Q2 2013 (331 cases) and 7% more than the number completed in the same period in 2012 (i.e. 334 cases in Q2 2012).

Detailed Analysis of Complaints Closed and Transferred Out of Investigations

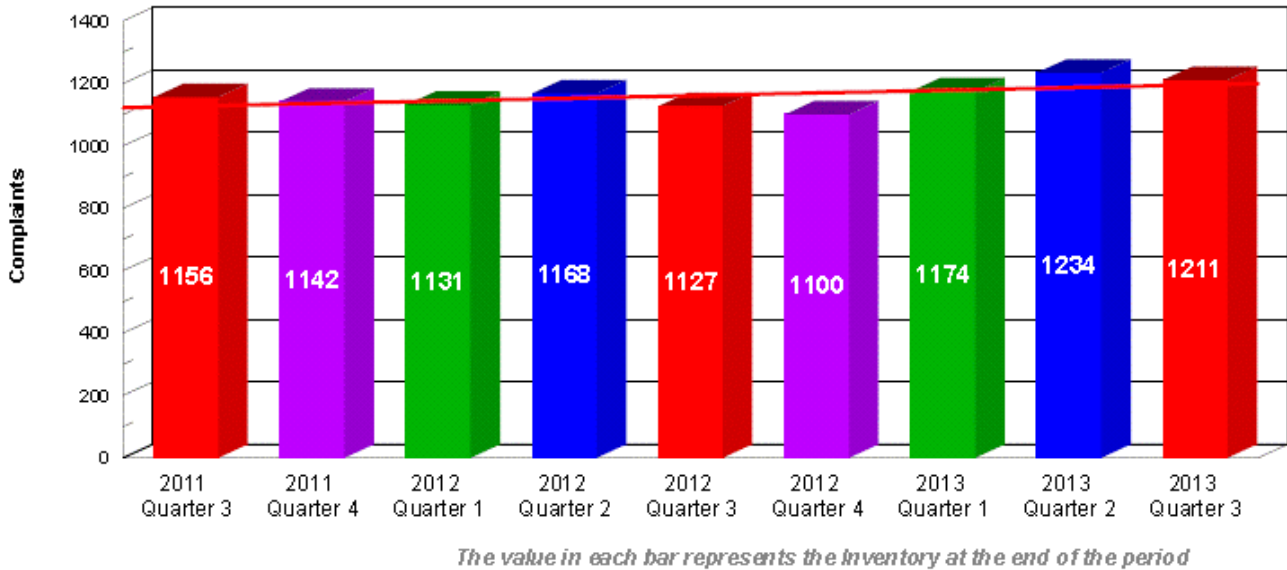
		Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Complaints against Lawyers	Closed	146	160	181	171	194
	Transferred	47	60	23	45	32
Lawyer Applicant Cases★	Closed	5	8	11	17	14
	Transferred	0	0	1	0	0
Complaints against Licensed Paralegals	Closed	62	38	32	39	39
	Transferred	10	6	7	17	4
Paralegal Applicant Cases★	Closed	22	17	23	12	31
	Transferred	0	0	4	1	2
Complaints against Non-Licensees/Non-Applicants*	Closed	36	26	43	29	42
	Transferred	6	0	8	0	0
TOTAL	Closed	271	249	290	268	320
	Transferred	63	66	43	63	38

★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

3.3 – Investigations

Graph 3.3C: Investigations – Department Inventory



As the number of cases completed in the department in Q3 2013 (358) exceeded the number of cases received (317), Investigations' inventory decreased by approximately 2% during the third quarter of 2013. The decrease in inventory is attributable to all groups except licensed paralegals. Inventory with respect to this group increased during the quarter.

Detailed Analysis of Investigations Inventory

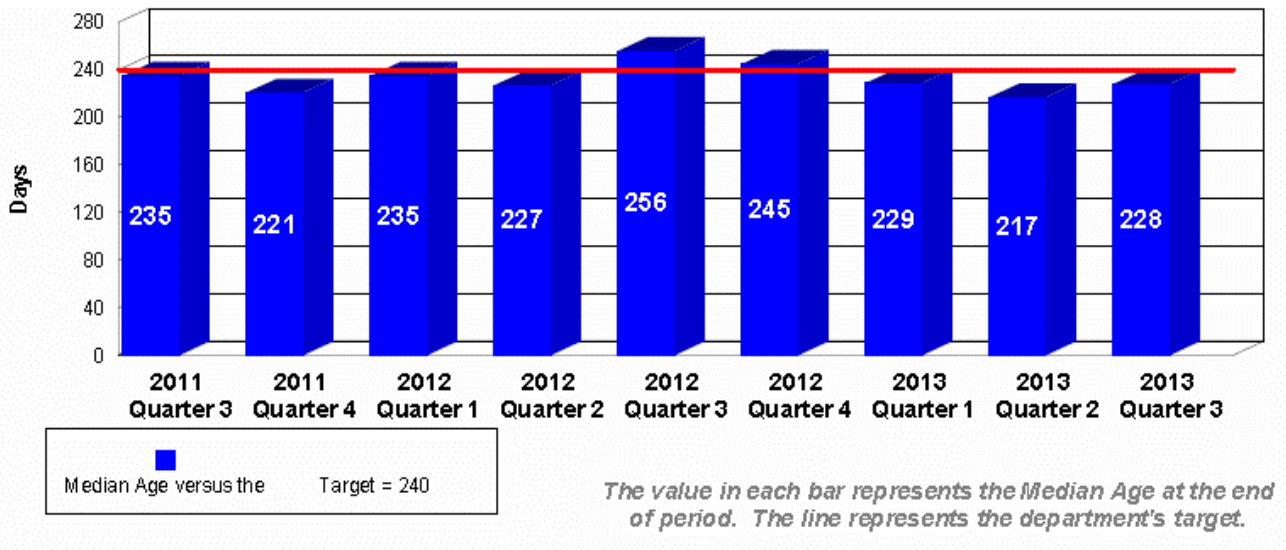
	Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Complaints against Lawyers	831	796	851	851	837
Lawyer Applicant Cases ★	29	25	31	31	28
Complaints against Licensed Paralegals	142	145	174	186	200
Paralegal Applicant Cases ★	43	43	32	64	52
Complaints against Non-Licensees/Non-Applicants*	82	91	86	102	94
TOTAL	1127	1100	1174	1234	1211

★ Applicant cases include good character cases and UAP complaints

* For a complete analysis of UAP complaints see section 3.4.

3.3 – Investigations

Graph 3.3D: Investigations – Median Age of All Complaints

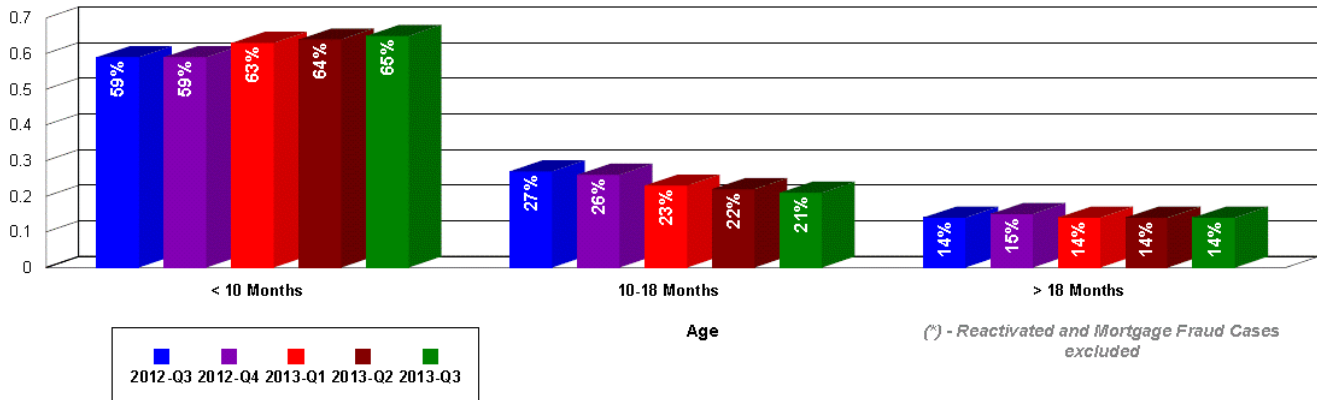


While the department's median age increased in the past quarter to 228 days, it remains below the target of 240 days.

3.3 – Investigations

Graph 3.3E: Investigations – Aging of Complaints

(a) Core Cases



The above graph sets out the spectrum of aging in the department’s inventory (excluding reactivated and mortgage fraud cases) at the end of each of the 5 quarters displayed. The inventory of Investigations at the end of Q3 2013, excluding reactivated and mortgage fraud cases, was 1026 cases involving 780 subjects. The distribution of those cases was:

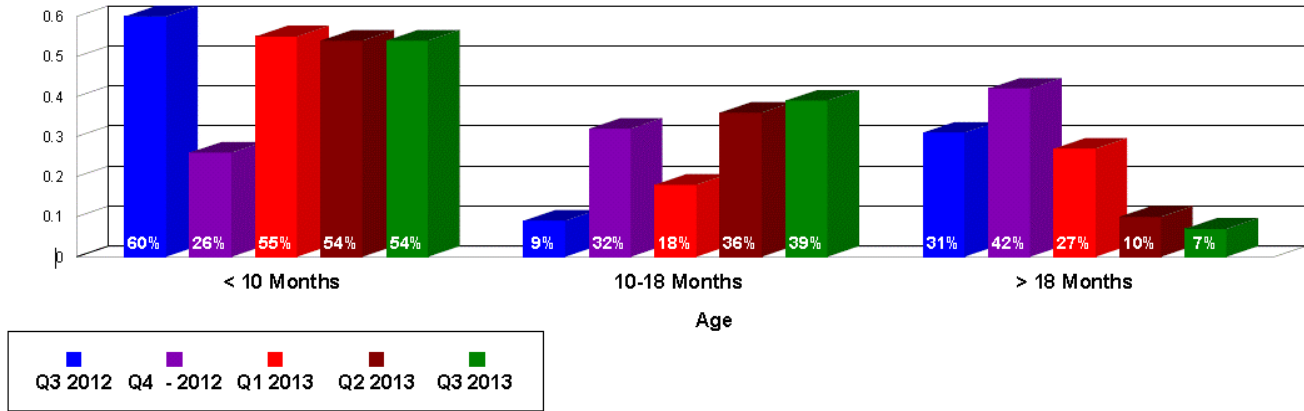
Less than 10 months	662 cases involving 490 subjects
10 to 18 months	214 cases involving 179 subjects
More than 18 months	150 cases involving 111 subjects

While the department strives to reduce the proportion of cases in the older time frame and to increase the proportion of cases in the youngest time frame, it is recognized that there are cases that are older than 18 months in Investigations for the following reasons:

- The investigator has to wait for evidence from a third party (i.e. not the complainant or the licensee/subject), for example psychiatric evaluation, court transcripts, or a key witness;
- Newer complaints are received against the licensee/subject. In order to move forward together to the Proceedings Authorization Committee, the older cases await the completion of younger cases;
- A need to coordinate investigations between different licensees/subject where the issues arise out of the same set of circumstances (e.g. a complainant complains about 2 lawyers in relation to the same matter);
- Multiple cases involve one lawyer. These investigations are complex and time consuming;
- Where capacity issues are raised during a conduct investigation.

3.3 – Investigations

(b) Mortgage Fraud Cases



The above graph sets out the spectrum of aging in the department’s mortgage fraud case inventory at the end of each of the 5 quarters displayed. The inventory of mortgage fraud cases at the end of Q3 2013 was 85 cases involving 73 subjects. The distribution of those cases was:

Less than 10 months	46 cases involving 37 subjects
10 to 18 months	33 cases involving 30 subjects
More than 18 months	6 cases involving 6 subjects

As noted above, the department strives to reduce the proportion of mortgage fraud cases in the older time frame and to increase the proportion of cases in the youngest time frame. However, it is recognized that there will always be mortgage fraud cases that are older than 18 months in Investigations for the reasons cited above, particularly:

- When newer complaints against the licensee/subject are received, existing investigations may have to await their completion in order that all the cases can be taken to Proceedings Authorization Committee together.
- There is a need to coordinate investigations between different licensees/subject where the issues arise out of the same set of circumstances (e.g. a complainant complains about 2 lawyers in relation to the same matter).
- There are multiple cases involve one lawyer resulting in greater complexity.

3.4 – Unauthorized Practice (UAP)

Graph 3.4A: Unauthorized Practice Complaints in Intake

Quarter	New	Closed/Transferred			Active at end of Quarter
		Closed	Transfer to CR	Transfer to Inv	
Totals: 2008	337	122	50	168	
Totals: 2009	445	165	86	192	
Q1 2010	94	42	0	76	36
Q2 2010	89	32	0	69	32
Q3 2010	67	32	1	50	29
Q4 2010	80	45	0	54	18
Totals – 2010 (+ POL)	330* (398)	151	1	249	
Q1 2011 (+ POL)	61 (74)	24	0	41	20
Q2 2011 (+ POL)	61 (84)	20	1	54	12
Q3 2011 (+ POL)	70 (80)	27	0	49	28
Q4 2011 (+ POL)	63 (83)	16	1	62	15
Totals – 2011 (+POL)	255 (321)	87	2	206	
Q1 2012 (+ POL)	77(91)	16	0	61	17
Q2 2012 (+POL)	58 (80)	22	0	49	6
Q3 2012 (+POL)	41 (44)	16	0	27	11
Q4 2012 (+POL)	80 (84)	32	0	45	19
Totals – 2012 (+POL)	256 (299)	86	0	182	
Q1 2013 (+POL)	71(93)	29	0	59	11
Q2 2013 (+POL)	60(66)	26	0	51	5
Q3 2013 (+POL)	69 (81)	27	0	46	9

* In response to the number of UAP complaints being received in the division, a new allegation of “Practising Outside the Scope of Licence” (“POL”) was added to the division’s case management system in Q1 2010. This allows for improved identification of the nature of these complaints. In Q3 2013, complaints alleging practicing outside the scope of licensee were received in a total of 81 cases. Prior to Q1 2010, these would have been included in the UAP figures.

As noted in the chart above, in the first three quarters of 2012, the Division received 200 UAP complaints, approximately 14% more than it did during the same period in 2012 (176).

3.4 – Unauthorized Practice (UAP)

Graph 3.4B: Unauthorized Practice investigations (in Complaints Resolution and Investigations)

	New		Closed ⁶		Inventory	
	CR	Inv	CR	Inv	CR	Inv
Totals: 2008	52	171	64	126	106	
Totals: 2009	77	187	48	138	168	
Q1 2010	0	76	12	73	17	79
Q2 2010	0	69	6	54	10	90
Q3 2010	1	50	2	31	8	108
Q4 2010	0	54	8	32	0	124
Totals: 2010	1	249	28	190	124	
Q1 2011	0	41	0	61	0	104
Q2 2011	1	54	0	56	1	102
Q3 2011	0	49	0	45	1	106
Q4 2011	1	62	0	26	1	139
Totals: 2011	2	206	0	188	140	
Q1 2012	0	61	1	45	0	156
Q2 2012	0	49	0	65	0	140
Q3 2012	0	27	0	41	0	120
Q4 2012	0	45	0	34	0	131
Totals: 2012	0	182	1	185	131	
Q1 2013	0	59	0	62	0	128
Q2 2013	0	51	0	36	0	143
Q3 2013	0	46	0	58	0	129

As noted in the chart above, in Q3 2013, a total of 58 UAP cases were completed. At the end of the quarter, the inventory of UAP cases in Investigations was 129 cases.

Graph 3.4C: UAP Enforcement Actions

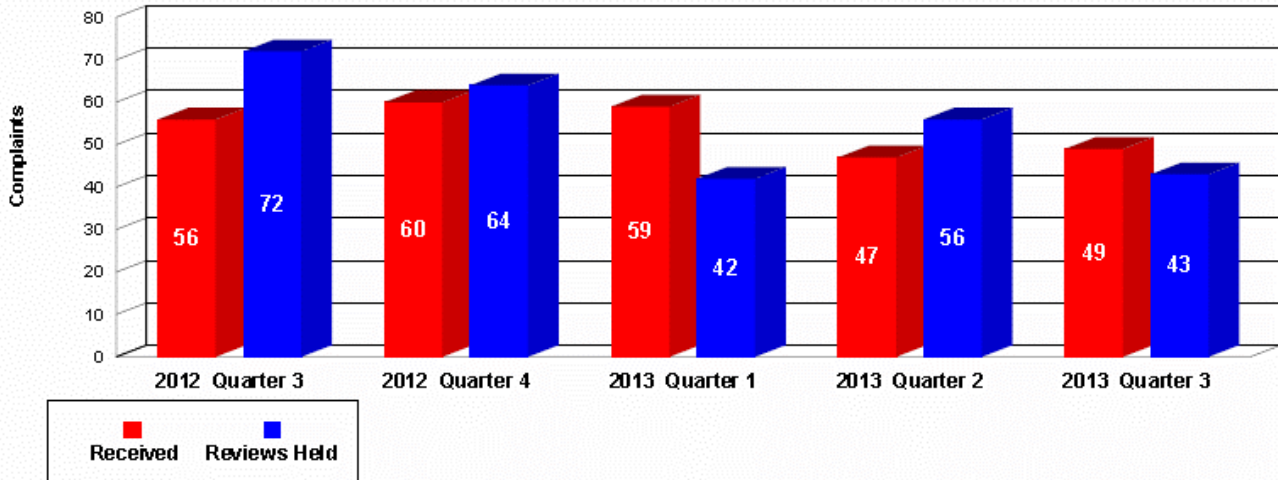
In the third quarter of 2013, an order was obtained prohibiting the respondent from further contravening the provisions of s. 26.1 of the *Law Society Act* in 1 matter.

As at September 30, 2013, there are 2 open UAP matters. In 1 matter, the Law Society has commenced an action for a breach of a previous order prohibiting an individual from contravening the provisions of s.26.1 of the *Law Society Act*. In the second matter, an appeal of a permanent injunction has been filed.

⁶ “Closed” refers to completed investigations and therefore consists of both those investigations that were closed by the Law Society and those that were referred for prosecution/injunctive relief.

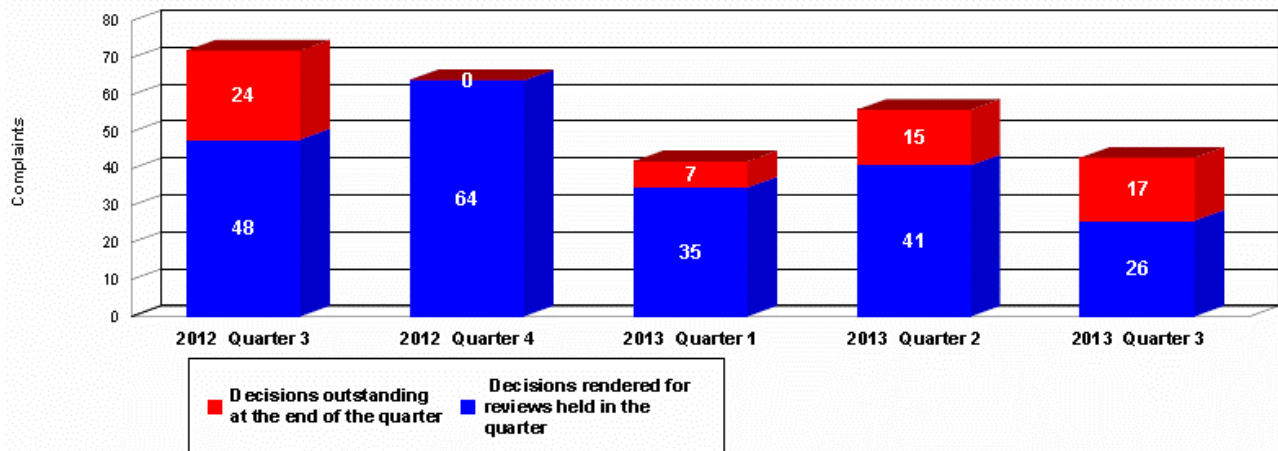
3.5 – Complaints Resolution Commissioner

Graph 3.5A: Reviews Requested and Files Reviewed (by Quarter)



In Q3 of 2013, the Complaints Resolution Commissioner received 49 requests for reviews of cases closed in either Complaints Resolution or Investigations and reviewed 43 cases. Eleven of the cases reviewed were conducted in writing.

Graph 3.5B: Status of Files Reviewed in each Quarter



While the files may be reviewed in one quarter, the final decision by the Commissioner may not be rendered in the same quarter. In Q3 of 2013, the Commissioner rendered decisions in 26 of the 43 cases reviewed in that quarter. As at September 30, 2013, decisions were outstanding in 17 of the 43 cases.

3.5 – Complaints Resolution Commissioner

Graph 3.5C: Decisions Rendered, by Quarter

Quarter	Decisions Rendered	Files to Remain Closed	Files Referred Back to PRD
Total 2009	194	174 (90%)	20 (10%)
Total 2010	193	160 (83%)	33 (17%)
Q1 2011	85	79 (93%)	6 (7%)
Q2 2011	60	58 (96%)	2 (4%)
Q3 2011	53	50 (94%)	3 (6%)
Q4 2011	62	61 (98%)	1 (2%)
Total 2011	260	248 (95%)	12 (5%)
Q1 2012	36	32 (89%)	4 (11%)
Q2 2012	50	48 (96%)	2 (4%)
Q3 2012	67	63 (94%)	4 (6%)
Q4 2012	89	81 (91%)	8(9%)
Total 2012	242	224 (93%)	18 (7%)
Q1 2013	35	33 (94 %)	2 (6 %)
Q2 2013	47	43 (91%)	4 (9%)
Q3 2013	40	36 (90%)	4(10%)

In Q2 2013 the Commissioner rendered 40 decisions. Of those 40 decisions, the Commissioner sent 4 files (10%) back to Professional Regulation. In 3 of those files, the Commissioner was not satisfied that the decision to close was reasonable and recommended further investigation. With respect to the fourth case, while he found the Law Society’s decision to close the case to be reasonable, the Commissioner referred the case back for Professional Regulation to consider new information provided by the Complainant during the review..

With respect to the 3 cases referred back with a recommendation for further investigation, no decision has been rendered by the Director with respect to the Commissioner’s recommendation.

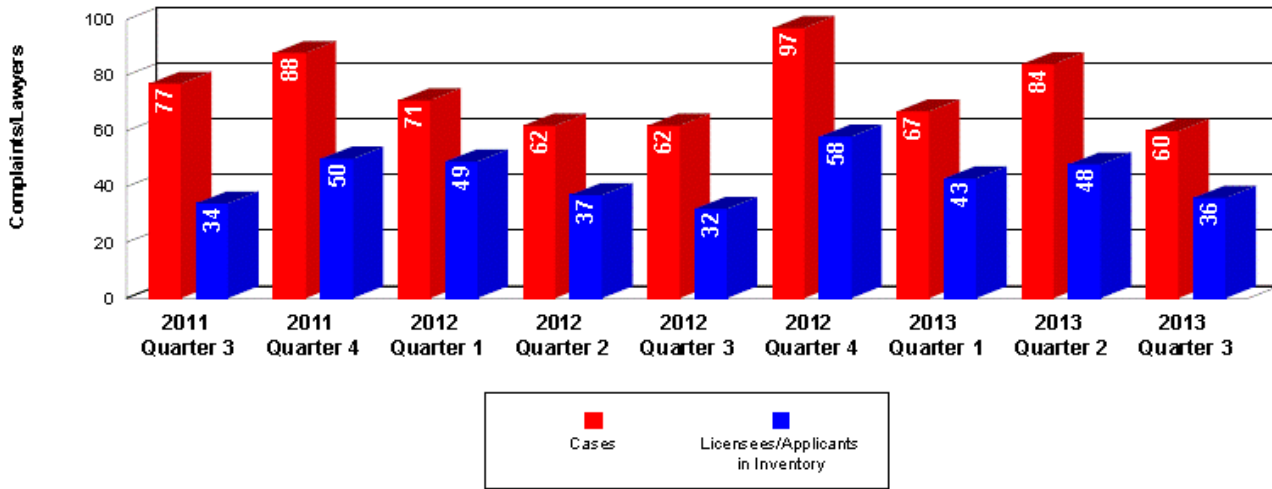
Active Inventory

As at September 30, 2013, the Office of the Complaints Resolution Commissioner had an inventory of 137 files:

Request received; awaiting preparation of CRC materials	44 files
Ready for scheduling	10 files
Review Meeting Scheduled	66 files
Review Completed Awaiting decision	17 files
Cases in Abeyance	0 Files

3.6 – Discipline

Graph 3.6A: Discipline - Input⁷



As noted in the chart below, in Q3 2013, the department received complaints from various departments involving 27 lawyers (relating to 50 cases), 8 licensed paralegals (relating to 8 cases), and 1 paralegal applicant (relating to 2 cases).

Detailed Analysis of New Cases Received in Discipline

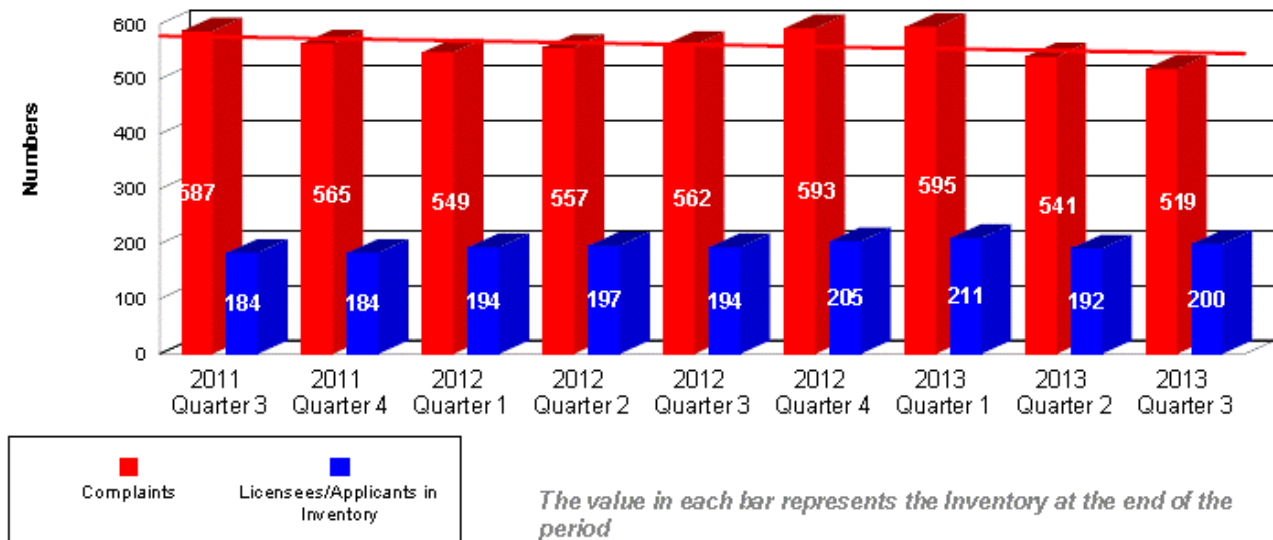
		Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Lawyers	Cases	48	89	47	65	50
	Lawyers	27*	51*	29*	36*	27*
Lawyer Applicants	Cases	0	1	1	0	0
	Lawyer Applicants	0*	1*	1*	0	0
Licensed Paralegals	Cases	14	8	9	18	8
	Licensed Paralegals	5*	5*	7*	11*	8*
Paralegal Applicants	Cases	5	1	10	1	2
	Paralegal Applicants	1*	1*	6*	1*	1*
TOTAL	Cases	62	99	67	84	60
	Licensees & Applicants	32*	58*	43*	48*	36*

* The number of new Lawyers and Paralegals cited represents the number coming into the department each quarter. However, there may, in fact, already be cases involving the licensee/applicant in the department.

⁷ "Input" refers to complaints that were transferred into Discipline from various other departments during the specific quarter. Includes new complaints/cases received in Discipline and the lawyers/applicants to which the new complaints relate.

3.6 – Discipline

Graph 3.6B: Discipline – Department Inventory⁸



This graph shows the total number of licensees/applicants and related complaints that are in the Discipline process at the end of each of the last 9 quarters. At the end of Q3 2013, the department's inventory of licensee/applicants (200) was higher than at the end of Q3 2012 (194) and than at the end of Q3 2011 (184).

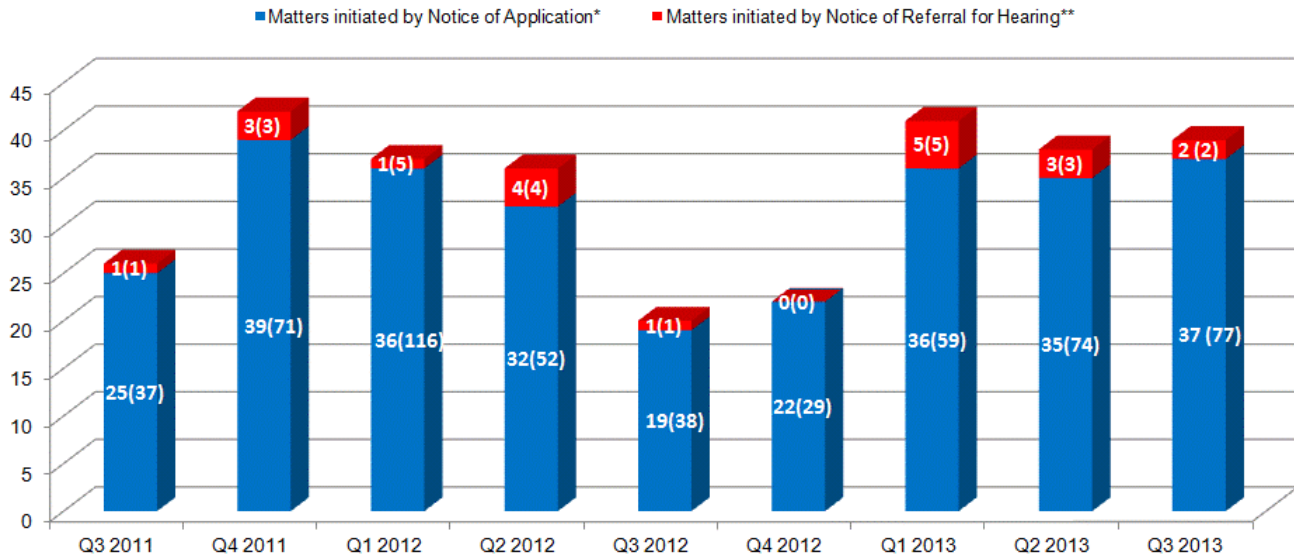
Detailed Analysis of Discipline's Inventory

		Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Lawyers	Cases	482	514	508	460	433
	Lawyers	162	171	176	160	164
Lawyer Applicants	Cases	4	4	5	3	1
	Lawyer Applicants	4	4	5	3	1
Licensed Paralegals	Cases	53	58	60	57	62
	Licensed Paralegals	18	21	20	20	26
Paralegal Applicants	Cases	23	17	22	21	23
	Paralegal Applicants	10	9	10	9	9
TOTAL	Cases	562	593	595	541	519
	Licensees & Applicants	194	205	211	192	200

⁸ Consists primarily of complaints and lawyers/applicants that are in scheduling and are with the Hearing Panel or on appeal.

3.6 – Discipline

Graph 3.6C: Discipline - Notices Issued



* Matters which are initiated by Notice of Application include conduct, capacity, non-compliance and competency matters. Also included in this category are interlocutory suspension/restriction motions.

** Matters which are initiated by Notice of Referral for Hearing (formerly Notice of Hearing) include licensing (including readmission matters), reinstatement and restoration matters.

The above graph shows the number of notices issued by the Discipline department in the past 9 quarters. The numbers in each bar indicate the number of notices issued and, in brackets, the number of cases relating to those notices. One notice may relate to more than one case. For example, in Q3 2013, 37 Notices of Application were issued (relating to 77 cases) and 2 Notices of Referral for Hearing were issued (relating to 2 cases).

With respect to the 37 Notices of Application⁹/Notices of Motion for Interim Suspension Order which were issued in Q2 2013:

- 28 were issued less than 1 month after PAC authorization;
- 6 were issued between 1 and 2 months after PAC authorization;
- 2 were issued between 2 and 3 months after PAC authorization; and
- 1 was issued more than 3 months after PAC authorization.

With respect to the 2 matters for which a Notice of Referral for Hearing were issued in Q2 2013, 1 was issued less than a month after PAC authorization. One matter did not require PAC authorization as it related to a reinstatement matter.

⁹ Notices of Application are issued with respect to conduct, competency, capacity and non-compliance matters and require authorization by the Proceedings Authorization Committee (PAC).

3.6 – Discipline

Graph 3.6D: Discipline – Completed Matters

		Q1 2012	Q2 2012	Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013
Conduct Hearings	Lawyers	17	16	18	31	20	33	17
	Paralegal Licensees	6	6	4	3	4	2	3
Interlocutory Suspension Hearings/Orders	Lawyers	2	1	1	-	-	1	-
	Paralegal Licensees	-	1	-	-	-	-	-
Capacity Hearings	Lawyers	-	-	1	4	1	-	-
	Paralegal Licensees	-	-	-	-	-	-	-
Competency Hearings	Lawyers	-	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-	-
Non-Compliance Hearings	Lawyers	-	-	-	1	-	-	-
	Paralegal Licensees	-	-	-	-	-	-	-
Reinstatement Hearings (incl. Term Disputes)	Lawyers	2	1	-	-	1	-	-
	Paralegal Licensees	-	-	-	-	-	1	1
Restoration	Lawyers	-	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-	-
Licensing Hearings (including Readmission)	Lawyer Applicants	-	1	2	1	-	2	2
	Paralegal Applicants	3	1	1	-	1	1	1
TOTAL NUMBER OF HEARINGS	Lawyers*	21	19	22	37	22	36	19
	Paralegals*	9	8	5	3	5	4	5
	TOTAL	30	27	27	40	27	40	24

3.6 – Discipline

Graph 3.6E: Discipline – Appeals

The following chart sets out the number of appeals filed with the Appeal Panel, the Divisional Court or the Court of Appeal in the calendar years 2008, 2009, 2010, 2011, 2012 and the first 3 quarters of 2013:

Quarter/Year	Appeal Panel	Divisional Court	Court of Appeal
2008	14	8 appeal	
2009	19	1 appeal	3 motions for leave; 2 appeals
2010	27	3 appeals; 2 judicial reviews	4 motions for leave
2011	18	6 appeals, 2 judicial reviews	2 motions for leave
2012	23	4 appeals; 5 judicial reviews	2 motions for leave
2013 1 st Quarter	7	1 judicial review	
2 nd Quarter	3	3 appeals	
3 rd Quarter	5	1 judicial review	

As of September 30, 2013, there are 15 appeals pending before the Appeal Panel, 4 appeals in which the Appeal Panel has reserved on judgment, 1 appeal before the Appeal Panel that has been adjourned sine die, and 4 appeals in which the Appeal Panel has rendered decisions but is still seized on the issue of costs.

With respect to matters before the Divisional Court, there are 4 appeals and 2 judicial review matters pending. There are no matters pending in the Court of Appeal.

In the third quarter of 2013, decisions were rendered in 6 appeals before the Appeal Panel.

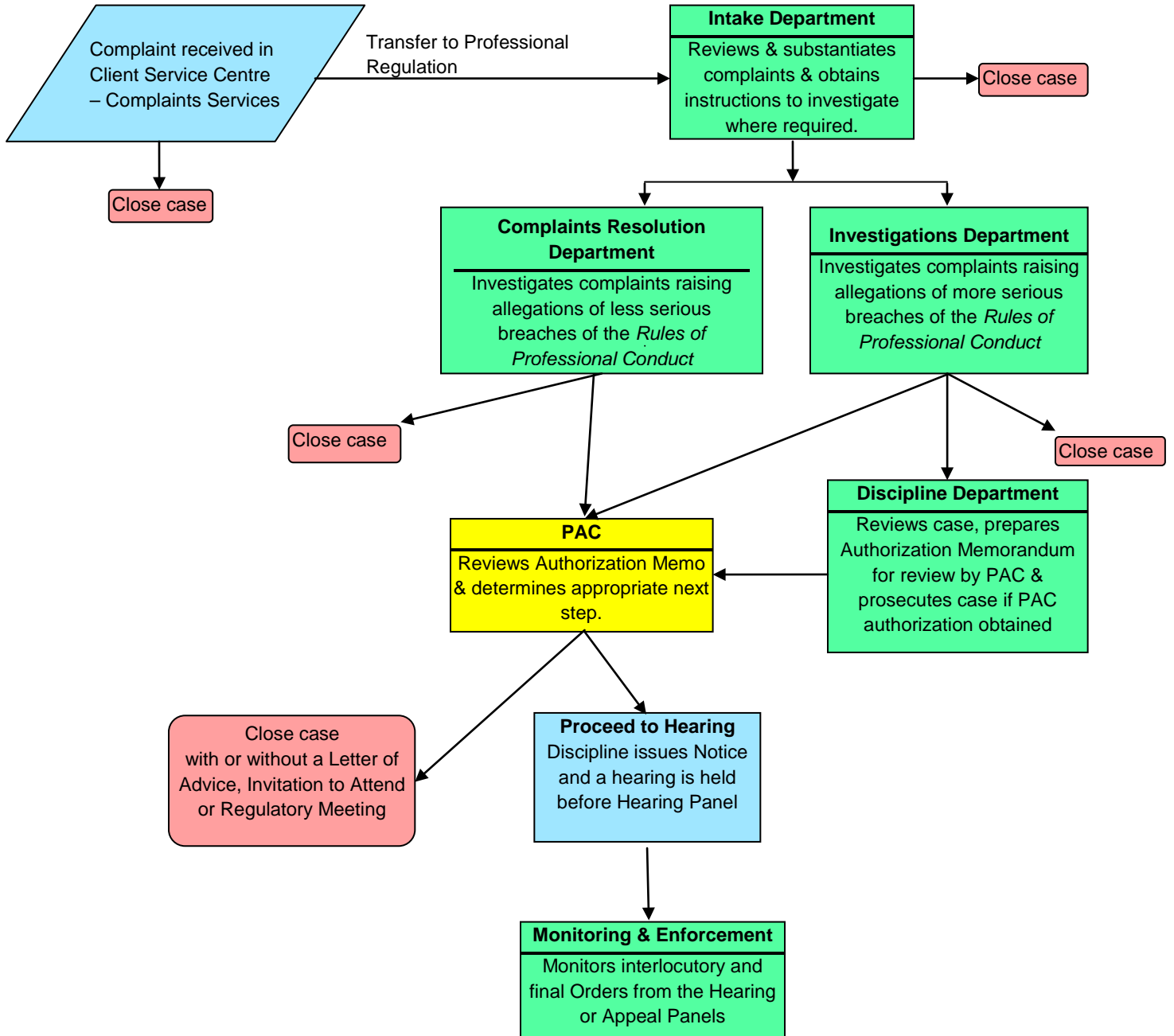
- 3 appeals were dismissed (1 was launched by a licensee; 2 were launched by applicants). The Appeal Panel remains seized of one of these appeals on the issue of costs;
- In 1 matter in which the Law Society and the licensee had filed appeals, the Appeal Panel dismissed the licensee's appeal against penalty (revocation), upheld certain findings and set aside other findings made by the Hearing Panel, ordering a new hearing on certain of the particulars. The Law Society has since advised that it will not proceed further with the balance of the Notice of Application. The Appeal Panel remains seized on the issue of costs;
- In the other 2 appeals, the Appeal Panel allowed the appeals in full or in part
 - In one appeal (by the Law Society), the Appeal Panel allowed the appeal in part, upholding the suspension order but setting aside the Hearing Panel's order as to costs and increasing the amount to be paid by the licensee. The Appeal Panel remains seized with respect to the issue of costs of the appeal:

- In the other appeal (by a lawyer applicant), the Appeal Panel allowed the appeal, set aside the decision and order of the Hearing Panel and granted the appellant a Class L1 licence.

SECTION 4

APPENDICES

The Professional Regulation Complaint Process



PROFESSIONAL REGULATION ORGANIZATIONAL CHART

