



The Law Society of
Upper Canada

Barreau
du Haut-Canada

The Professional Regulation Division

Quarterly Report
July – September 2015

The Quarterly Report

The Quarterly Report provides a summary of the Professional Regulation Division's complaints activity and achievements during the past quarter, July 1 to September 30, 2015. The purpose of the Quarterly Report is to provide information on the production and work of the Division during the quarter and to explain the factors that may have influenced the Division's performance.

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 chart of the Professional Regulation's departments.

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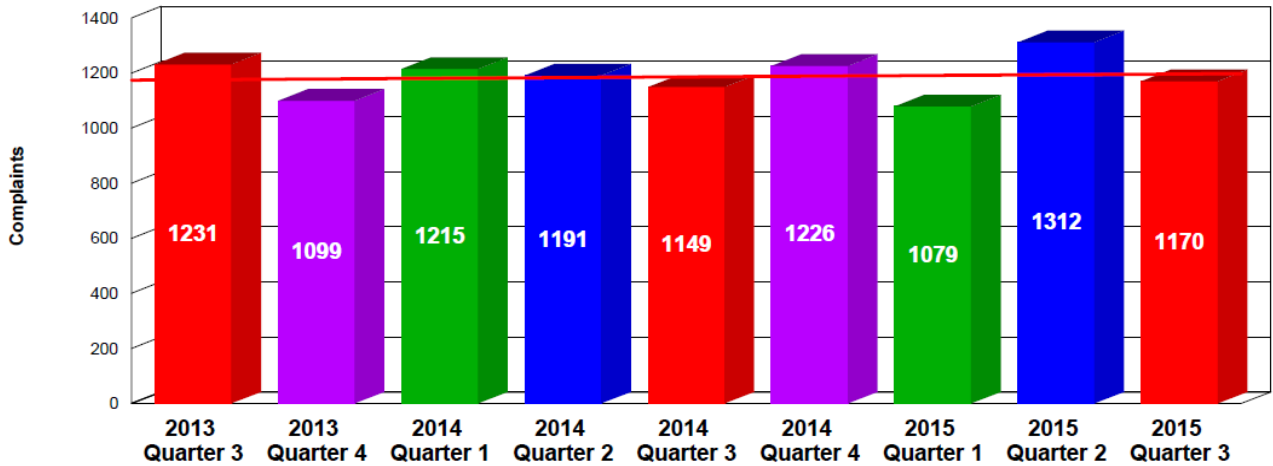
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SECTION 1

DIVISIONAL PERFORMANCE DURING THE QUARTER

PERFORMANCE IN THE PROFESSIONAL REGULATION DIVISION

Graph 2A: Complaints¹ Received in the Division



Detailed Analysis of Complaints Received in the Division

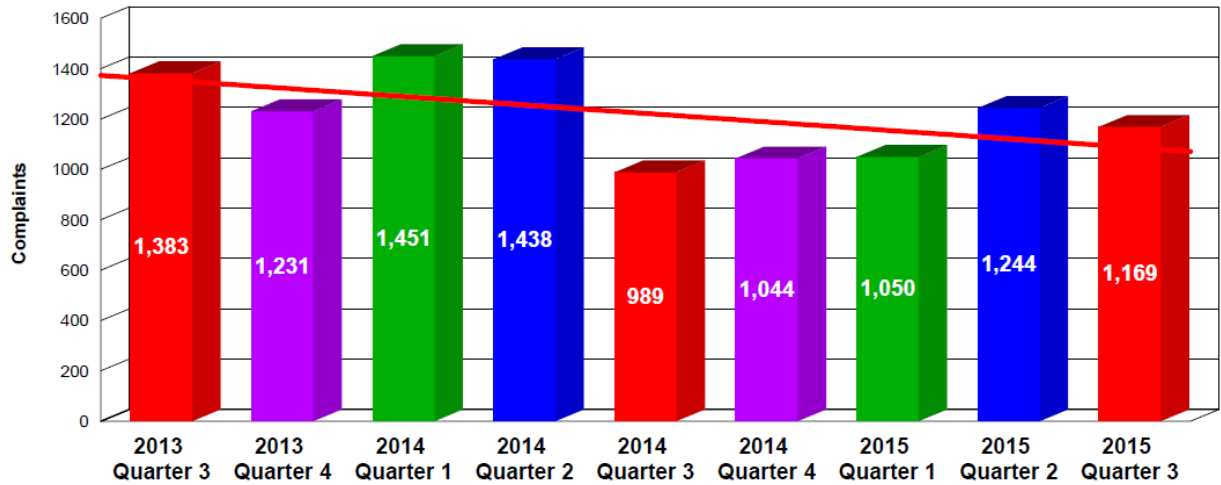
	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	936	1004	862	946	955
Lawyer Applicant Cases ★	25	4	7	62	26
Complaints against Licensed Paralegals	117	150	134	158	116
Paralegal Applicant Cases ★	20	20	33	96	28
Complaints against Non-Licensees/Non-Applicants*	51	48	43	50	45
TOTAL	1149	1226	1079	1312	1170

★ 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 the Division from Complaints Services.

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



Detailed Analysis of Complaints Closed in the Division

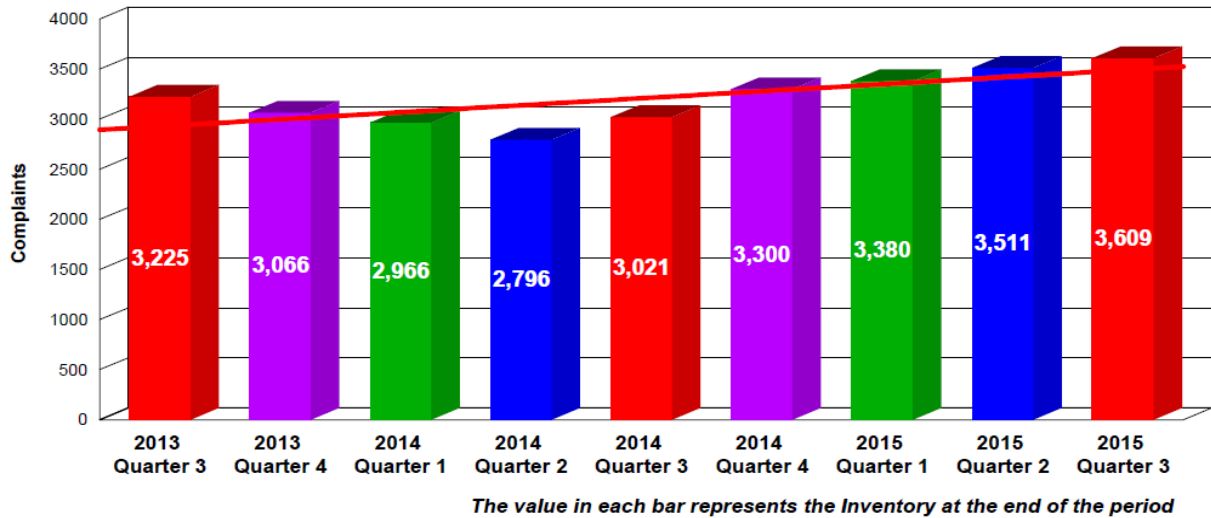
	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	780	826	832	937	952
Lawyer Applicant Cases★	16	14	9	60	23
Complaints against Licensed Paralegals	133	122	125	122	122
Paralegal Applicant Cases★	22	32	29	75	30
Complaints against Non-Licensees/Non-Applicants*	38	50	55	50	42
TOTAL	989	1044	1050	1244	1169

★ Applicant cases include good character cases and UAP complaints

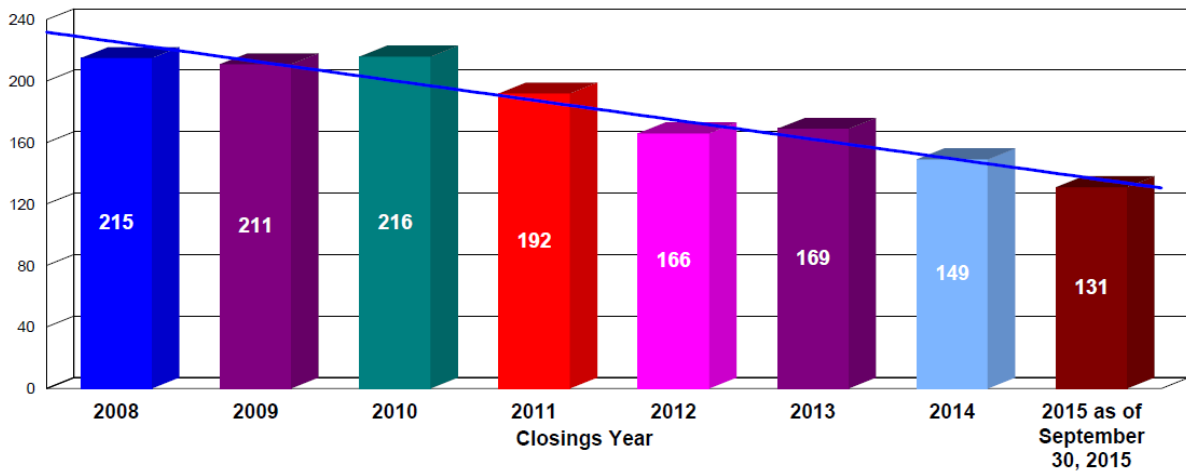
* For a complete analysis of UAP complaints see section 3.4.

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

Graph 2C: Total Inventory³



Graph 2D: Median Age of Closed Complaints (days)³



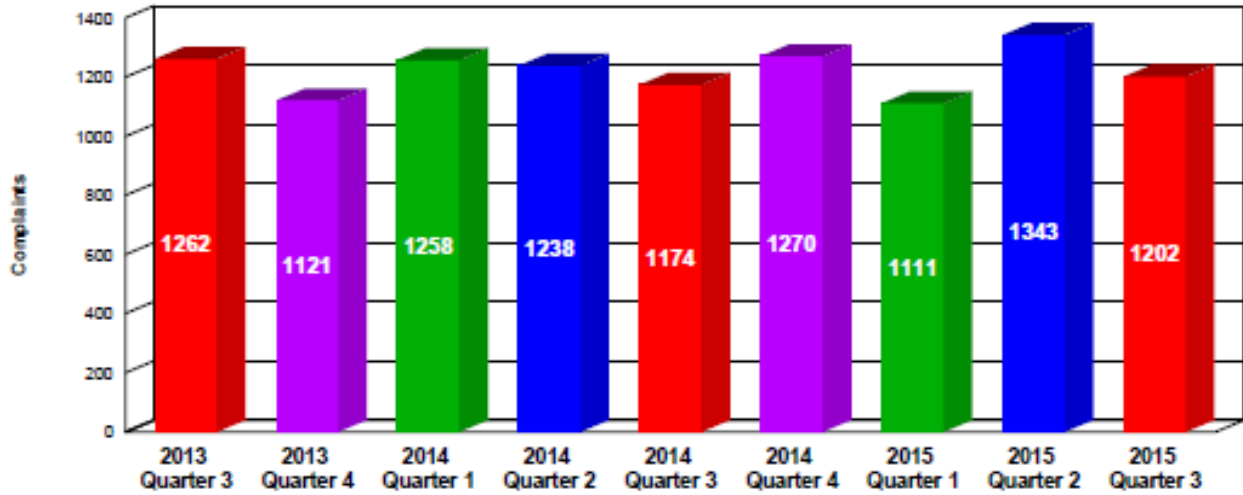
³ These graphs do not include active complaints (enforcement matters) in the Monitoring & Enforcement Department.

SECTION 2

DEPARTMENTAL PERFORMANCE DURING THE QUARTER

2.1 – Intake

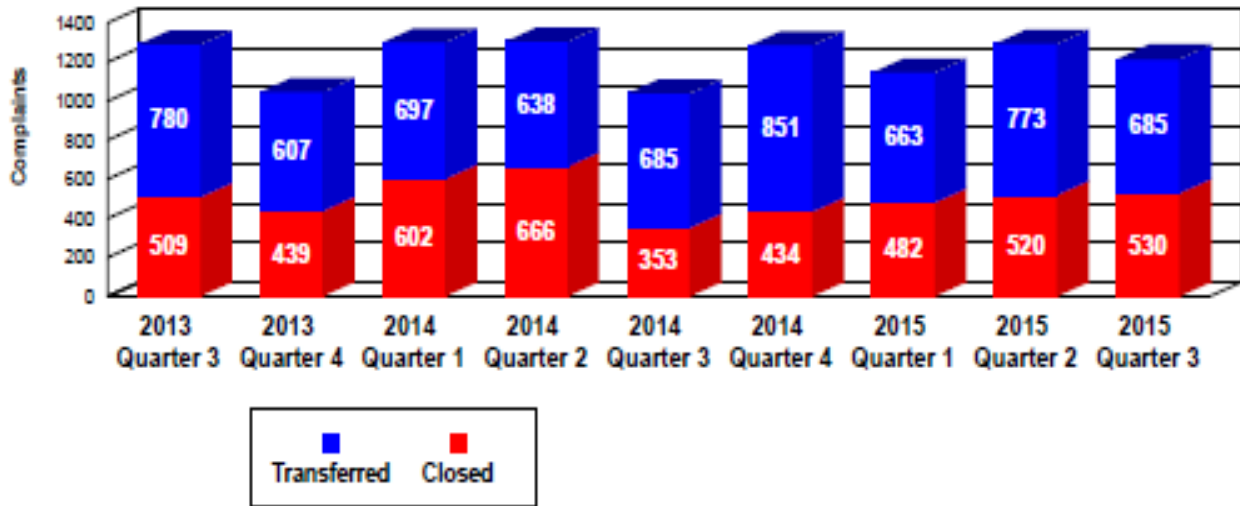
Graph 2.1A: Input⁴



⁴ Includes new complaints received and re-opened complaints

2.1 – Intake

Graph 2.1B: Complaints Closed and Transferred Out



Detailed Analysis of Complaints Closed and Transferred From Intake

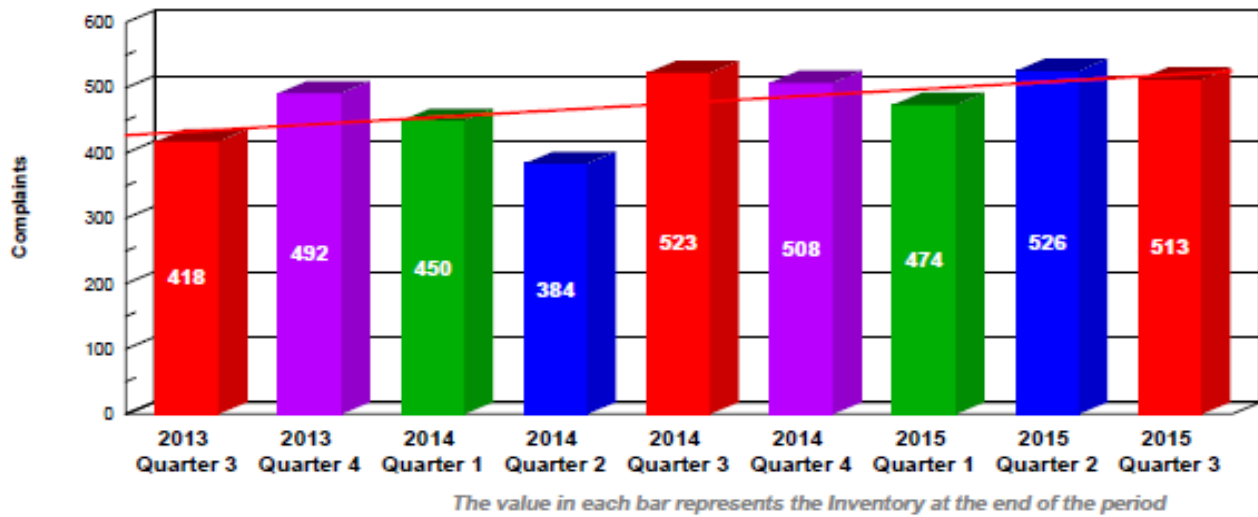
		Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	Closed	291	342	399	354	446
	Transferred	576	687	525	562	551
Lawyer Applicant Cases ★	Closed	12	7	4	52	16
	Transferred	10	1	3	11	6
Complaints against Licensed Paralegals	Closed	32	41	35	34	35
	Transferred	74	116	97	127	92
Paralegal Applicant Cases ★	Closed	7	21	21	65	17
	Transferred	6	11	10	32	8
Complaints against Non-Licensees/Non-Applicants*	Closed	11	23	23	15	16
	Transferred	19	36	28	41	28
TOTAL	Closed	353	434	482	520	530
	Transferred	685	851	663	773	685

★ Applicant cases include good character cases and UAP complaints

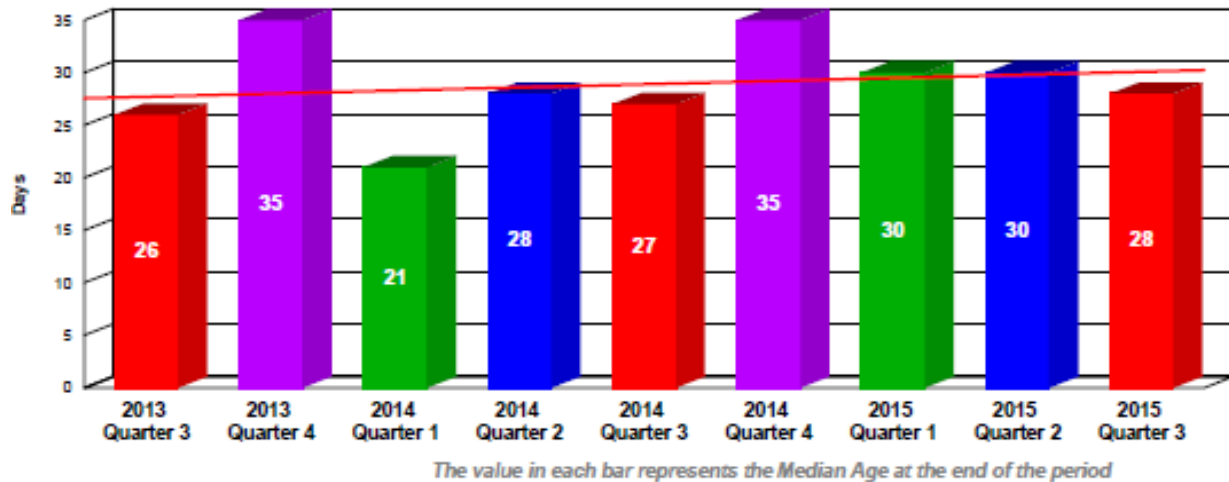
* For a complete analysis of UAP complaints see section 3.4.

2.1 – Intake

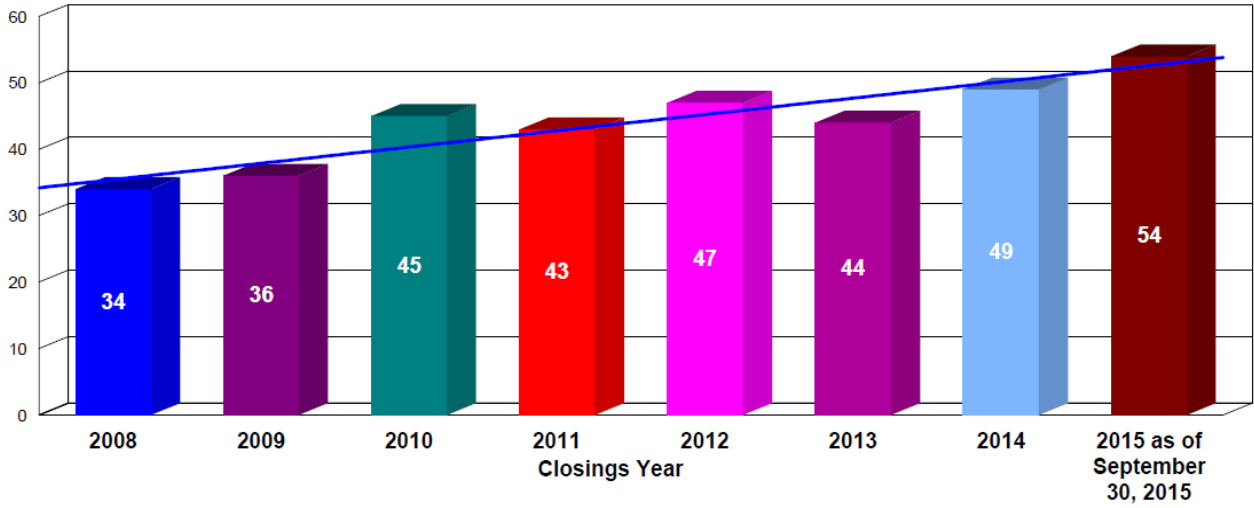
Graph 2.1 C: Department Inventory



Graph 2.1D: Median Age of Active Complaints

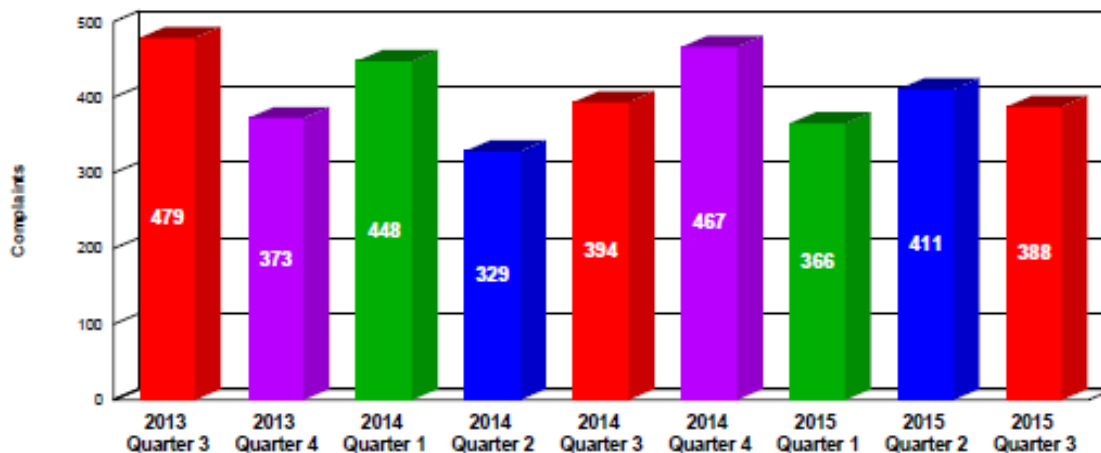


Graph 2.1E: Median Age of Closed Complaints (days)



2.2 – Complaints Resolution

Graph 2.2A: Input⁵



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

	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	346	410	324	352	353
Lawyer Applicant Cases ★	0	0	0	0	0
Complaints against Licensed Paralegals	48	56	41	59	35
Paralegal Applicant Cases ★	0	0	0	0	0
Complaints against Non-Licensees/Non-Applicants*	0	1	1	0	0
TOTAL	394	467	366	411	388

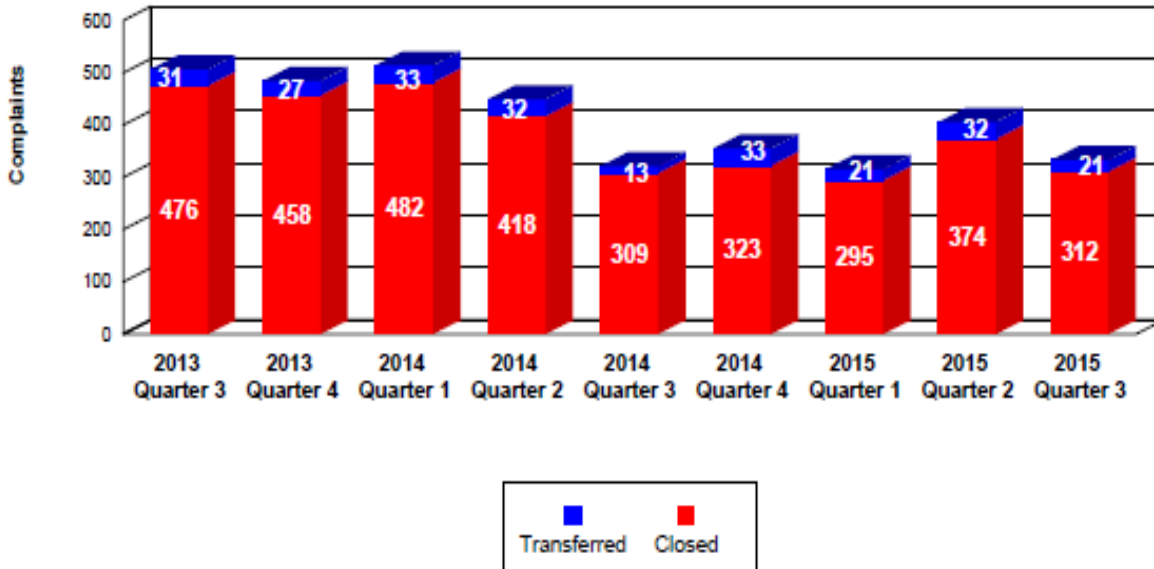
★ Applicant cases include good character cases and UAP complaints

* 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.

2.2 – Complaints Resolution

Graph 2.2B: Complaints Closed and Transferred Out



Detailed Analysis of Complaints Closed and Transferred From Complaints Resolution

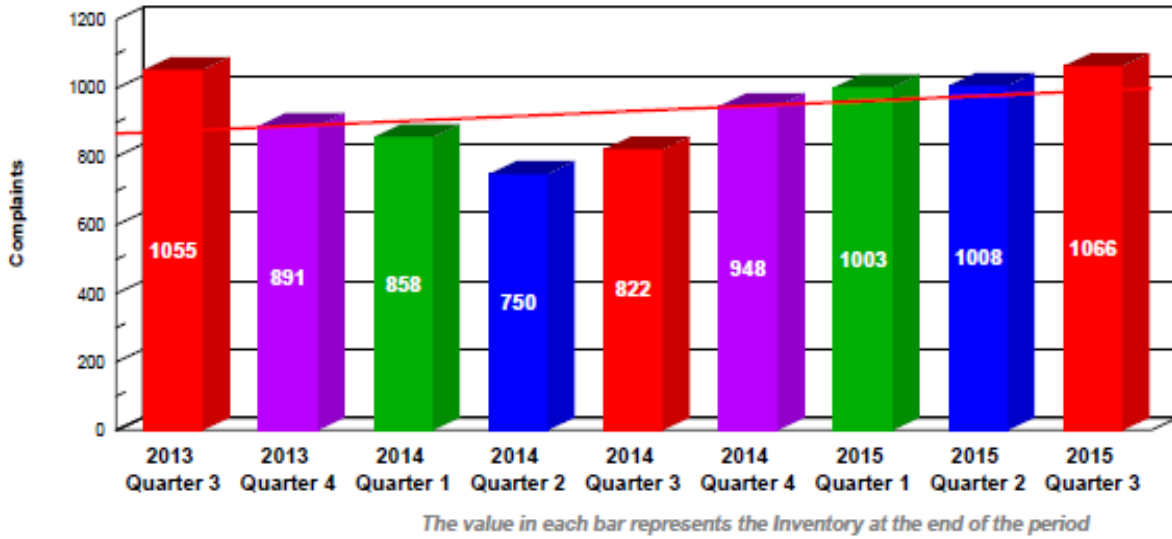
		Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	Closed	273	286	265	329	274
	Transferred	13	28	13	25	17
Lawyer Applicant Cases★	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
Complaints against Licensed Paralegals	Closed	36	37	30	45	38
	Transferred	0	5	8	7	4
Paralegal Applicant Cases★	Closed	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	0
TOTAL	Closed	309	323	295	374	312
	Transferred	13	33	21	32	21

★ Applicant cases include good character cases and UAP complaints

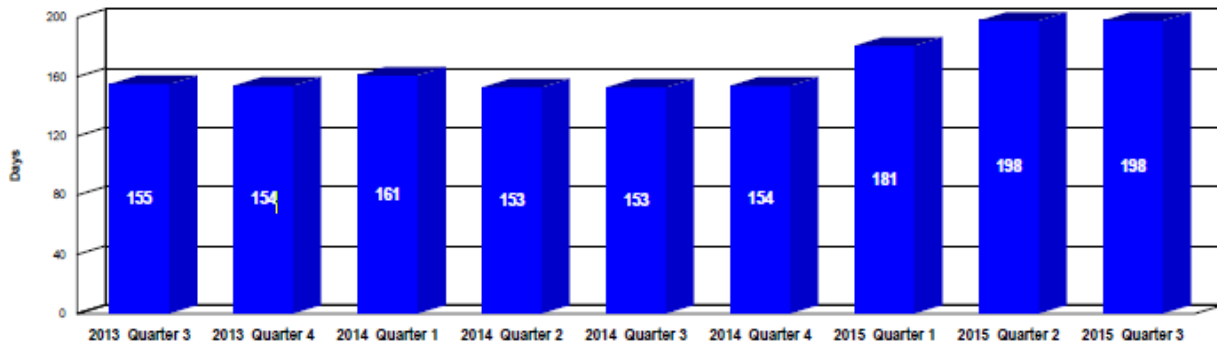
* For a complete analysis of UAP complaints see section 3.4.

2.2 – Complaints Resolution

Graph 2.2C: Department Inventory

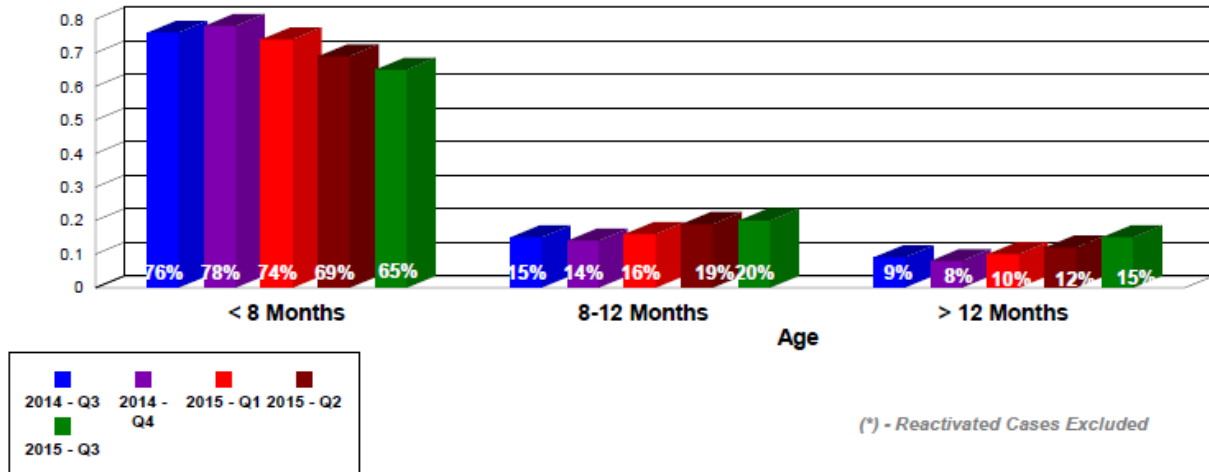


Graph 2.2D: Median Age of Active Complaints



2.2 – Complaints Resolution

Graph 2.2E: Aging of Active Complaints



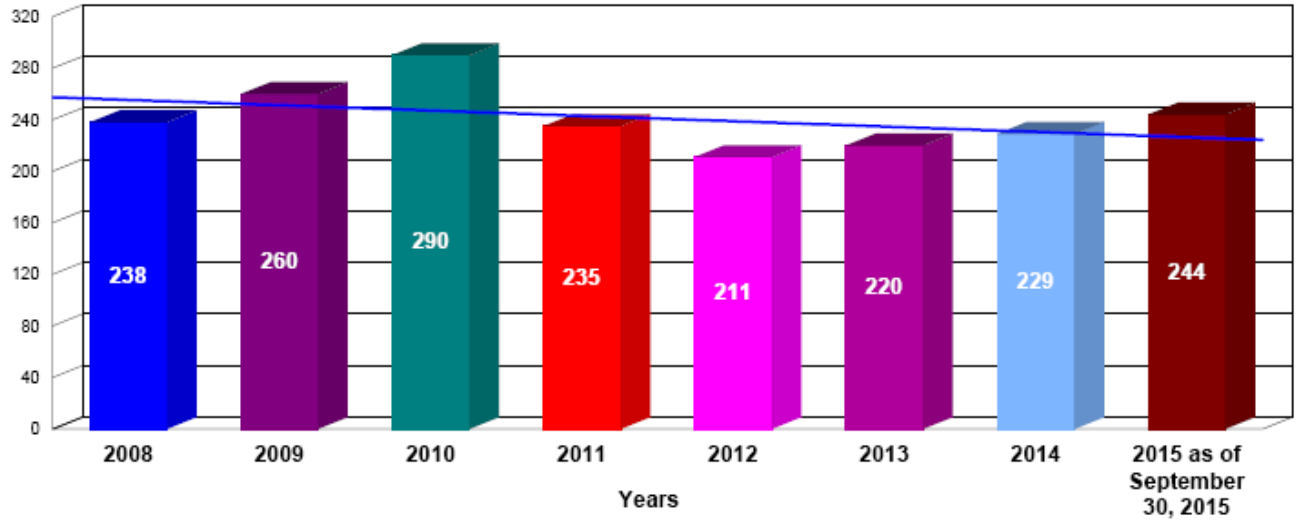
	<8 months	8 to 12 months	>12 months
Q3 2014	574 cases involving 521 subjects	114 cases involving 106 subjects	67 cases involving 54 subjects
Q4 2014	673 cases involving 620 subjects	120 cases involving 112 subjects	73 cases involving 60 subjects
Q1 2015	679 cases involving 625 subjects	147 cases involving 137 subjects	94 cases involving 70 subjects
Q2 2015	627 cases involving 579 subjects	177 cases involving 168 subjects	107 cases involving 78 subjects
Q3 2015	638 cases involving 584 subjects	201 cases involving 190 subjects	144 cases involving 108 subjects

Cases which have been in the process longer than 12 months are closely monitored. In almost all instances, the case is in this category due to reasons beyond the control of the Law Society. Cases are usually 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.

2.2 – Complaints Resolution

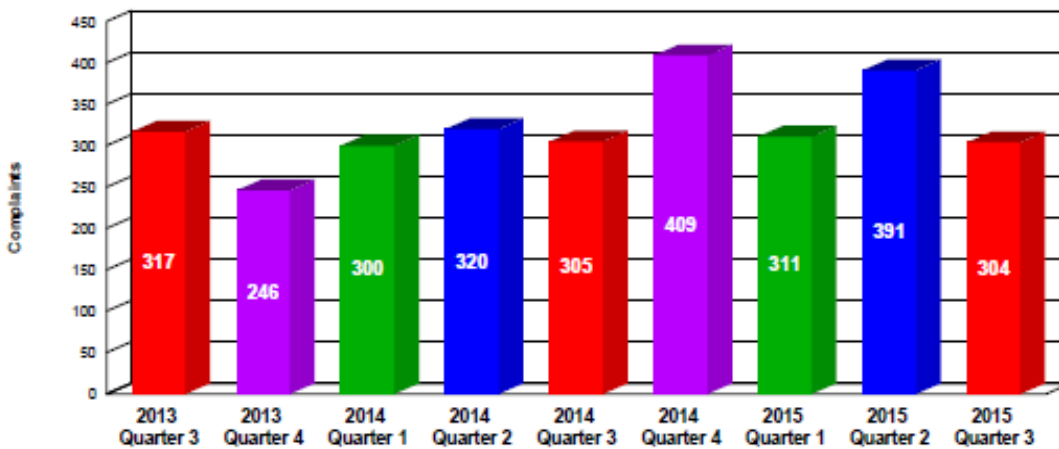
Graph 2.2F: Median Age of Completed⁶ Complaints



⁶ Included are complaints closed by Complaints Resolution or transferred by the department to Discipline.

2.3 –Investigations

Graph 2.3A: Input



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

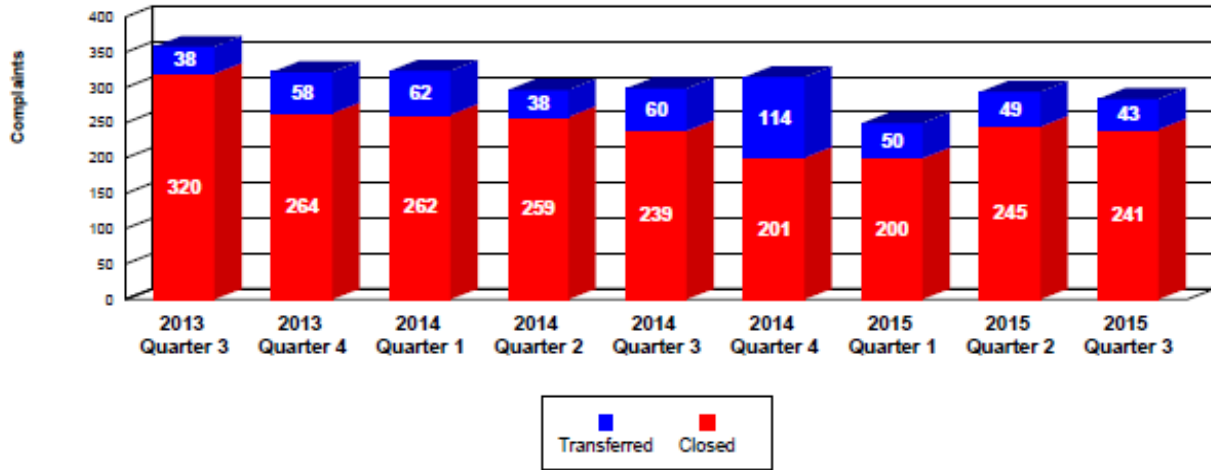
	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	240	296	210	238	207
Lawyer Applicant Cases ★	10	2	3	11	6
Complaints against Licensed Paralegals	30	65	60	70	58
Paralegal Applicant Cases ★	6	11	11	32	8
Complaints against Non-Licensees/Non-Applicants*	19	35	27	40	25
TOTAL	305	409	311	391	304

★ Applicant cases include good character cases and UAP complaints

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

2.3 –Investigations

Graph 2.3B Complaints Closed and Transferred Out



Detailed Analysis of Complaints Closed and Transferred Out of Investigations

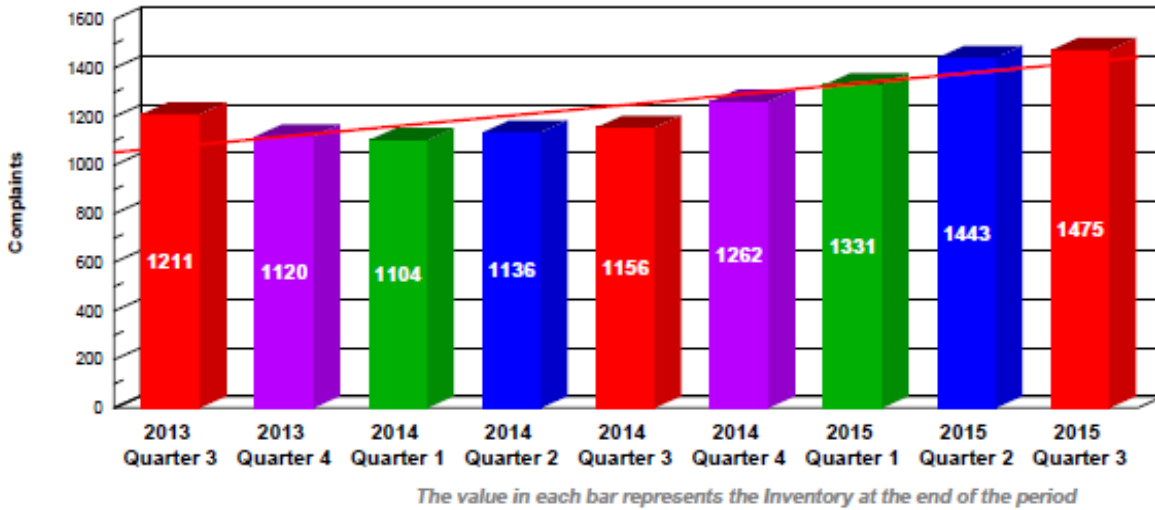
		Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Complaints against Lawyers	Closed	147	122	121	162	164
	Transferred	49	90	27	27	23
Lawyer Applicant Cases ★	Closed	4	6	5	7	7
	Transferred	0	0	0	3	0
Complaints against Licensed Paralegals	Closed	51	37	48	38	34
	Transferred	11	20	17	17	20
Paralegal Applicant Cases ★	Closed	10	11	5	10	10
	Transferred	0	4	4	1	0
Complaints against Non-Licensees/Non-Applicants*	Closed	27	25	21	28	26
	Transferred	0	0	2	1	0
TOTAL	Closed	239	201	200	245	241
	Transferred	60	114	50	49	43

★ Applicant cases include good character cases and UAP complaints

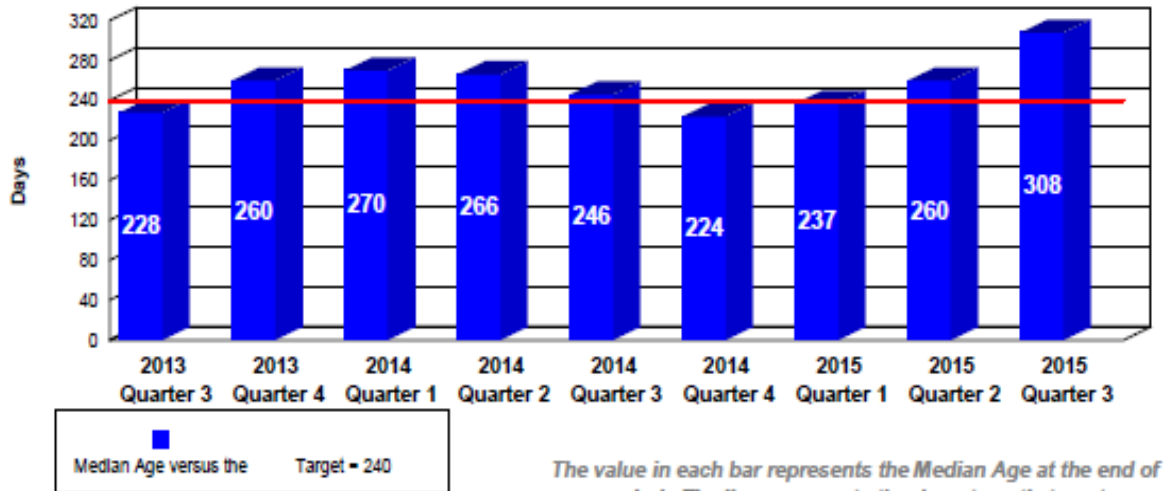
* For a complete analysis of UAP complaints see section 3.4.

2.3 – Investigations

Graph 2.3C: Department Inventory



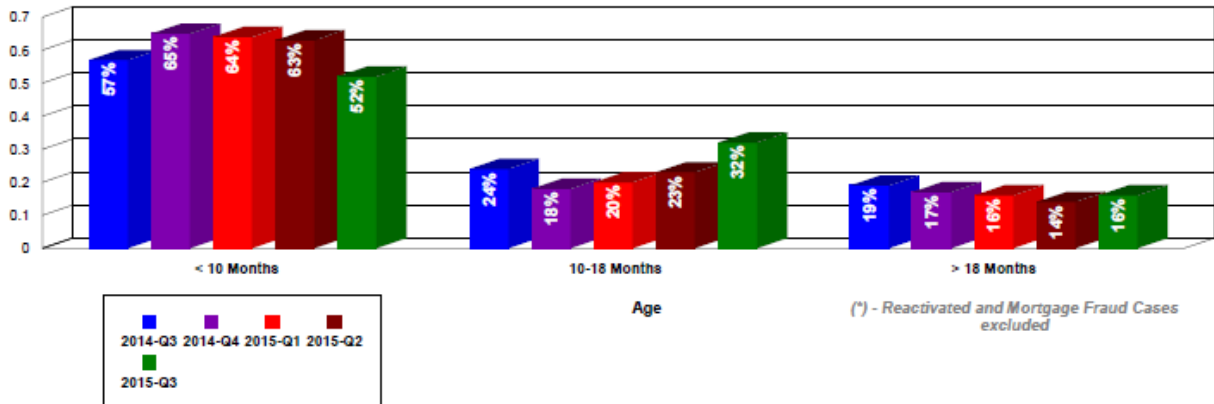
Graph 2.3D: Median Age of All Complaints



2.3 – Investigations

Graph 2.3E: Aging of Active Complaints

(a) Core Cases



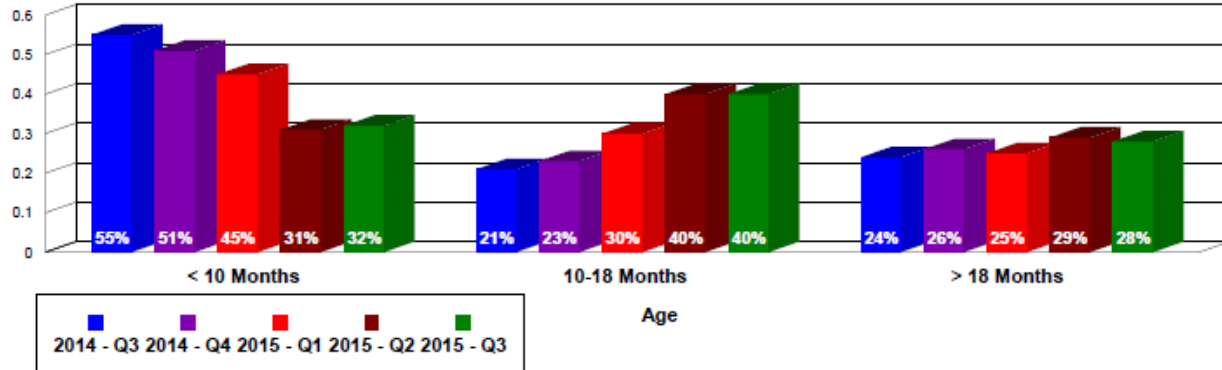
	<10 months	10 to 18 months	>18 months
Q3 2014	540 cases involving 395 subjects	223 cases involving 180 subjects	180 cases involving 124 subjects
Q4 2014	693 cases involving 451 subjects	193 cases involving 152 subjects	181 cases involving 119 subjects
Q1 2015	740 cases involving 476 subjects	226 cases involving 186 subjects	185 cases involving 125 subjects
Q2 2015	787 cases involving 548 subjects	284 cases involving 190 subjects	183 cases involving 121 subjects
Q3 2015	676 cases involving 539 subjects	408 cases involving 211 subjects	205 cases involving 124 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.

2.3 – Investigations

(b) Mortgage Fraud Cases



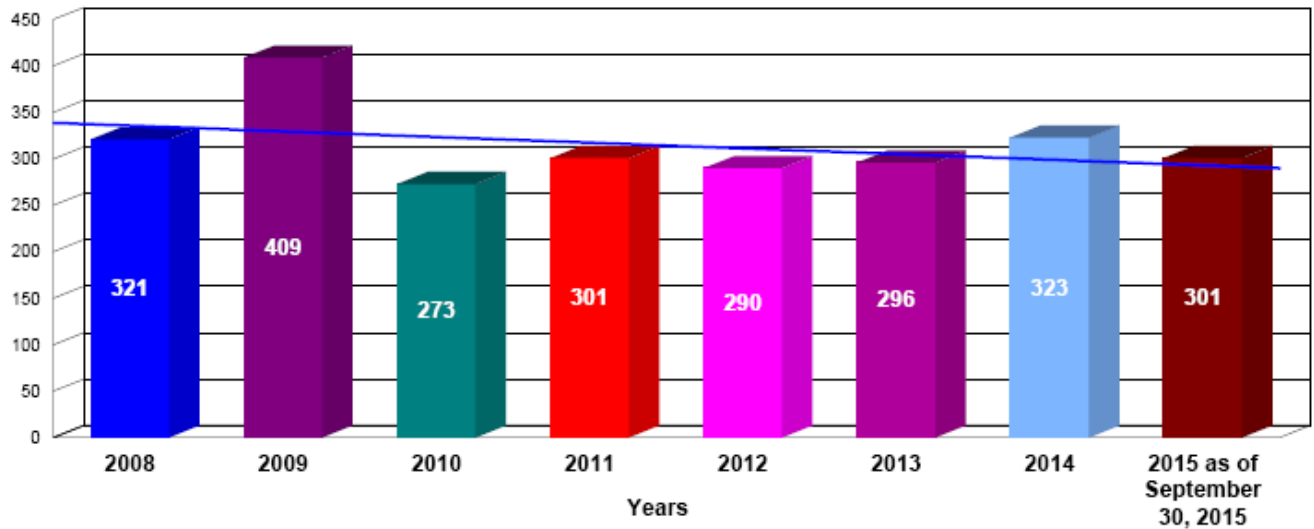
	<10 months	10 to 18 months	>18 months
Q3 2014	61 cases involving 46 subjects	23 cases involving 19 subjects	26 cases involving 21 subjects
Q4 2014	57 cases involving 41 subjects	26 cases involving 23 subjects	29 cases involving 26 subjects
Q1 2015	46 cases involving 32 subjects	31 cases involving 28 subjects	26 cases involving 23 subjects
Q2 2015	30 cases involving 25 subjects	39 cases involving 31 subjects	28 cases involving 25 subjects
Q3 2015	29 cases involving 28 subjects	36 cases involving 22 subjects	26 cases involving 23 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.

2.3 – Investigations

Graph 2.3F: Median Age of Completed⁷ Complaints



⁷ Included are complaints closed by Investigations or transferred by the department to Discipline.

2.4 – Unauthorized Practice (UAP)

Graph 2.4A: Unauthorized Practice Complaints in Intake

Quarter	New	Closed	Transferred for Investigation	Active at end of Quarter
Q1 2013	71	29	59	11
Q2 2013	60	26	51	5
Q3 2013	69	27	46	9
Q4 2013	60	20	41	11
Total for 2013	260	102	197	11
Q1 2014	64	26	51	6
Q2 2014	52	15	38	7
Q3 2014	44	13	21	20
Q4 2014	63	23	44	21
Total for 2014	223	77	154	21
Q1 2015	45	22	37	11
Q2 2015	60	16	47	8
Q3 2015	48	13	36	11

Graph 2.4B: Unauthorized Practice Investigations

	New Investigations	Closed ⁸ Investigations	Inventory at Quarter End
Q1 2013	59	62	128
Q2 2013	51	36	143
Q3 2013	46	58	129
Q4 2013	40	31	137
Totals: 2013	197	187	
Q1 2014	51	66	122
Q2 2014	38	82	82
Q3 2014	21	29	74
Q4 2014	44	29	90
Totals: 2014	154	206	
Q1 2015	37	26	101
Q2 2015	46	31	115
Q3 2015	36	39	112

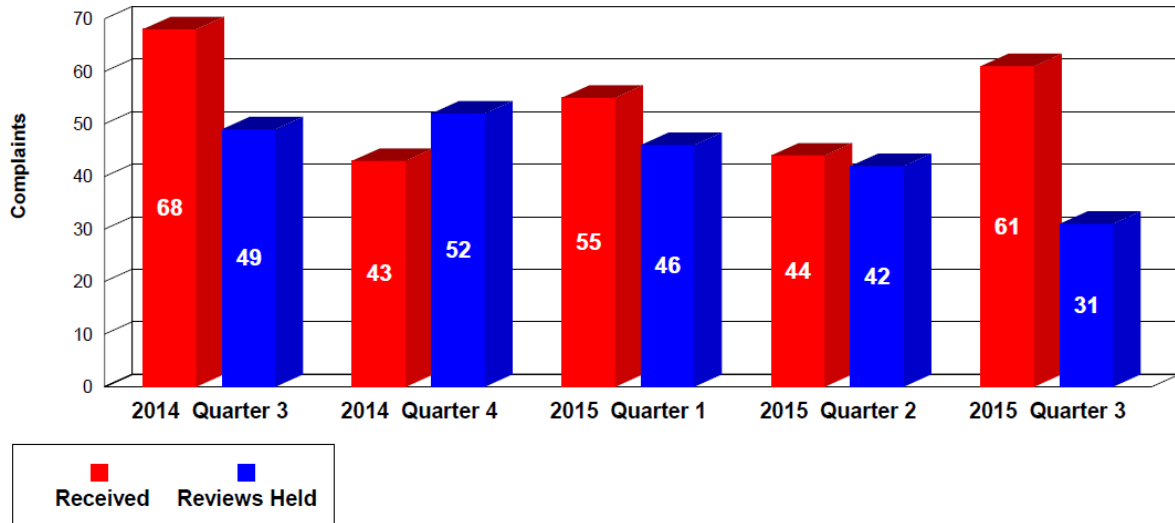
Graph 2.4C: UAP Enforcement Actions

There were 3 new UAP enforcement matters commenced in Q3 2015. As at September 30, 2015, there were 3 active UAP matters.

⁸ “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.

2.5 – Complaints Resolution Commissioner

Graph 2.5A: Reviews Requested and Files Reviewed (by Quarter)



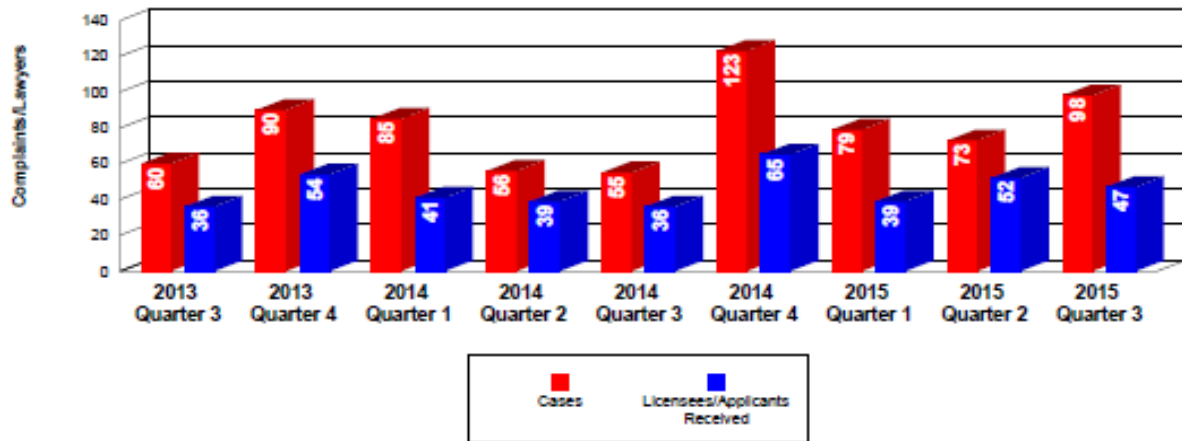
Graph 2.5B: Decisions Rendered, by Quarter

Quarter	Decisions Rendered	Files to Remain Closed	Files Referred Back to PRD
Q1 2013	40	38 (95 %)	2 (5 %)
Q2 2013	55	49 (89%)	6 (11%)
Q3 2013	43	40 (93%)	3 (7%)
Q4 2013	67	65 (97%)	2 (3%)
Total 2013	205	192 (94%)	13 (6%)
Q1 2014	51	50(98%)	1(2%)
Q2 2014	36	33(92%)	3(8%)
Q3 2014	30	29(97%)	1(3%)
Q4 2014	50	48 (98%)	2 (2%)
Total 2014	167	160(96%)	7(4%)
Q1 2015	39	37 (95%)	2 (5%)
Q2 2015	40	39 (98%)	1 (2%)
Q3 2015	31	27 (87%)	4 (13%)

Of the 31 decisions rendered in Q3 2015, the Commissioner referred 4 files back to Professional Regulation with a recommendation for further investigation. To date, the Executive Director has accepted one of the recommendations. Decisions are outstanding on the remaining three files.

2.6 – Discipline

Graph 2.6A: Input⁹



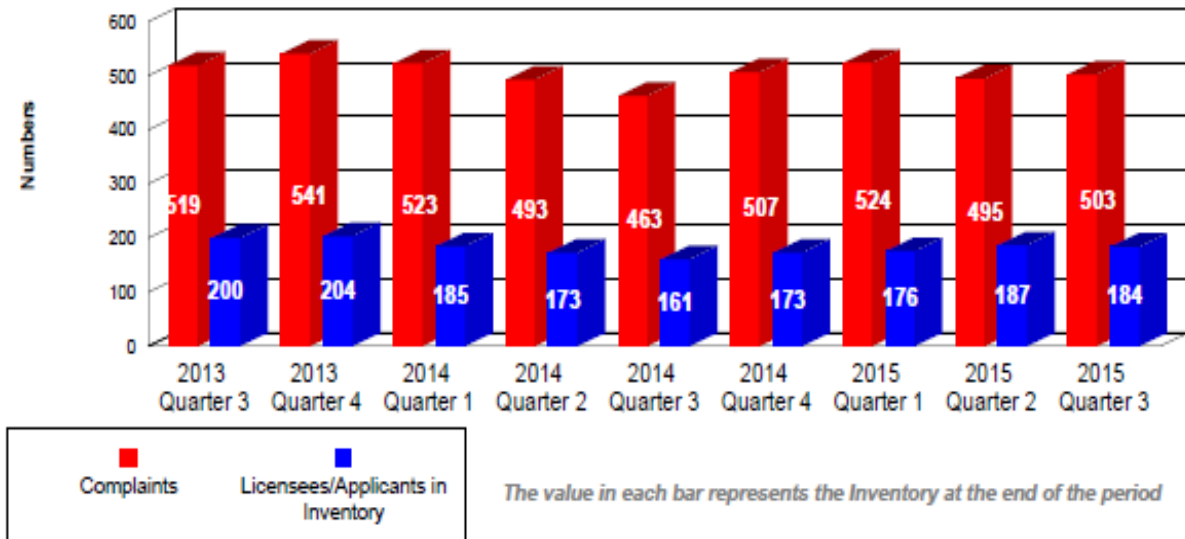
Detailed Analysis of New Cases Received in Discipline

		Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Lawyers	Cases	46	49	100	49	45	67
	Lawyers	33	33	52	26	32	33
Lawyer Applicants	Cases	1	0	0	0	3	0
	Lawyer Applicants	1	0	0	0	3	0
Licensed Paralegals	Cases	8	6	20	29	20	27
	Licensed Paralegals	4	3	10	12	13	13
Paralegal Applicants	Cases	1	0	3	1	5	4
	Paralegal Applicants	1	0	3	1	4	1
TOTAL	Cases	56	55	123	79	73	98
	Licensees & Applicants	39	36	65	39	52	47

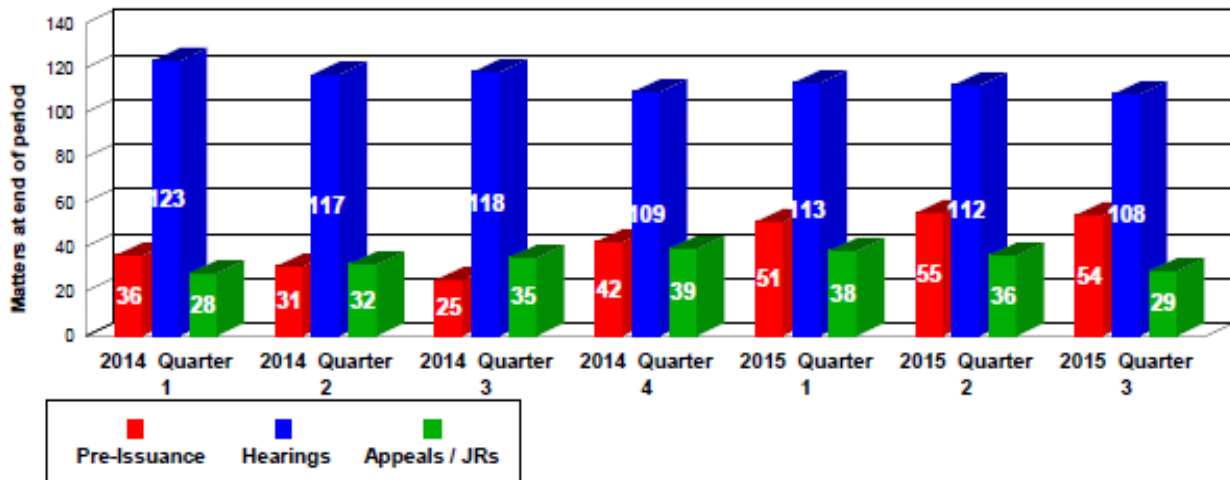
⁹ “Input” refers to complaints that were transferred into Discipline from various other departments during the specific quarter. Includes new complaints/cases received in Discipline and the lawyers/applicants to which the new complaints relate.

2.6 – Discipline

Graph 2.6B: Department Inventory¹⁰



Graph 2.6C: Inventory of Discipline Matters¹¹

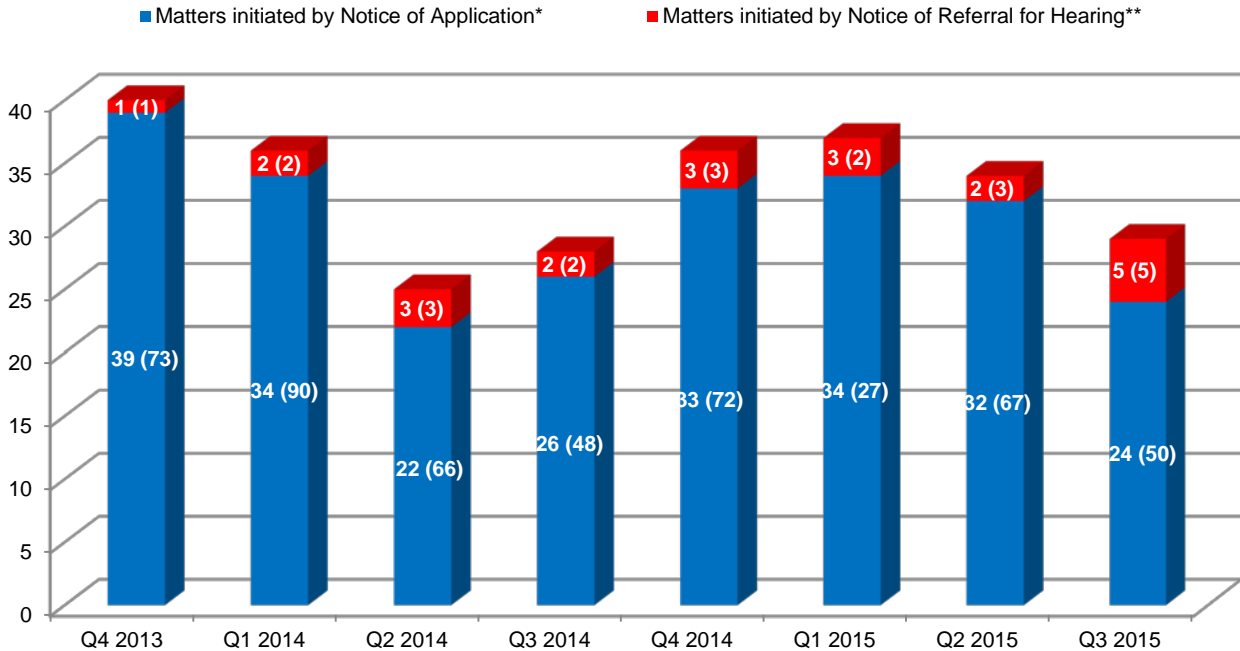


¹⁰ Consists primarily of complaints and lawyers/applicants that are in scheduling and are with the Hearing Division or on appeal. Note that a lawyer/applicant who has more than one matter will only be counted once.

¹¹ A licensee may have more than one matter ongoing at a time (e.g. a licensee may have an ongoing hearing before the Hearing Division and a judicial review in Divisional Court).

2.6 – Discipline

Graph 2.6D: Notices Issued in the Hearing Division



* 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 include licensing (including re-licensing matters), reinstatement and restoration matters.

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 2015, 24 Notices of Application were issued (relating to 50 cases) and 5 Notices of Referral for Hearing were issued (relating to 5 cases).

With respect to the 24 Notices of Application¹²/Notices of Motion for Interim Suspension Order and 4 Notice of Referral for Hearing (licensing matters) which were issued in Q3 2015¹³:

- 82% were issued within 60 days of PAC Authorization;
- 96% were issued within 90 days of PAC Authorization.

¹² Notices of Application are issued with respect to conduct, competency, capacity and non-compliance matters and require authorization by the Proceedings Authorization Committee (PAC).

¹³ The other Notice of Referral for Hearing was issued in relation to a reinstatement matter which does not require PAC authorization.

2.6 – Discipline

Graph 2.6E: Completed Matters in the Hearing Division

		Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015	Q3 2015
Conduct Hearings	Lawyers	21*	23	30	14	19	20
	Paralegal Licensees	6	4	3	6	2	8
Interlocutory Suspension Hearings/ Orders	Lawyers	3	2	4	2	4	-
	Paralegal Licensees	-	-	3	1	-	2
Capacity Hearings	Lawyers	-	-	1	2	3	-
	Paralegal Licensees	-	-	-	-	-	-
Competency Hearings	Lawyers	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-
Non-Compliance Hearings	Lawyers	1*	-	-	-	1	-
	Paralegal Licensees	-	-	-	-	-	-
Reinstatement / Terms Dispute	Lawyers	-	1	1	-	2	-
	Paralegal Licensees	-	1	-	1	-	-
Restoration	Lawyers	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-
Licensing Hearings**	Lawyer Applicants	1	-	1	2	-	-
	Paralegal Applicants	2	1	-	3	1	2
TOTAL NUMBER OF HEARINGS	Lawyers*	25	26	37	20	29	20
	Paralegals*	8	6	6	11	3	12
	TOTAL	33	32	43	31	32	32

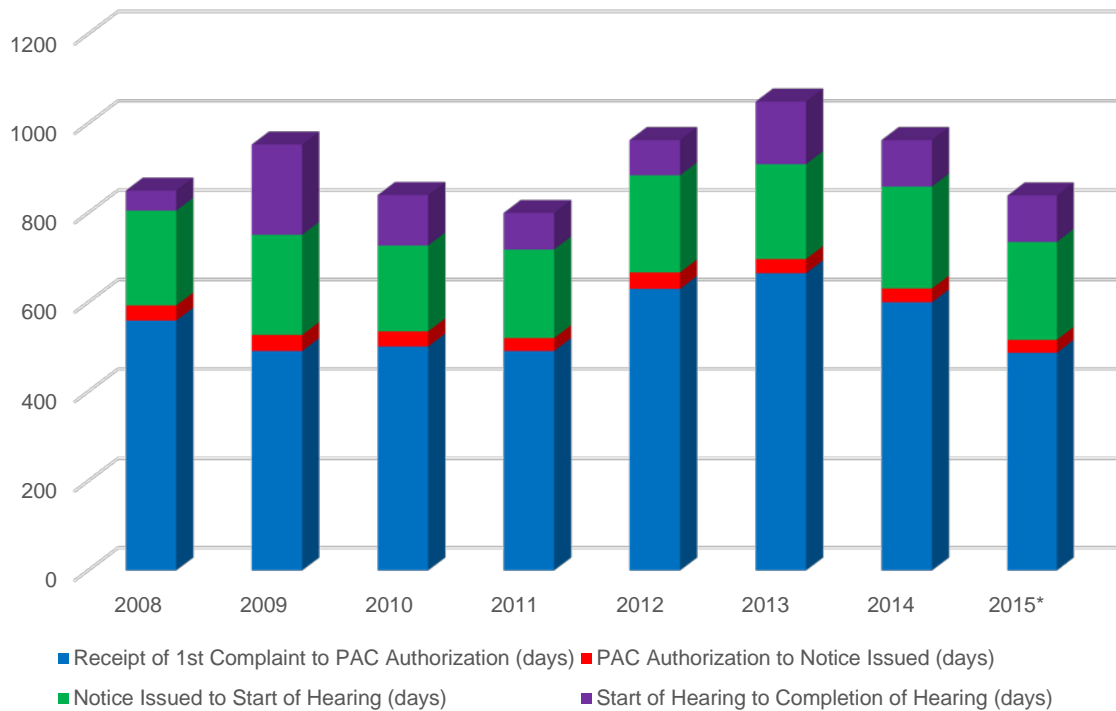
* In Q2 2014, a conduct application and a non-compliance application were heard together in one hearing. Both are included in the totals for lawyer conduct and lawyer non-compliance categories. However, the hearing is only counted once in the total numbers for the quarter.

** including Readmission

2.6 – Discipline

Graph 2.6F: Age of Completed Matters in the Hearing Division

	Total Completed Hearings	Date 1 st Complaint Received to Date Hearing Completed	Total Completed Hearings less Completed Mortgage Fraud Hearings	Date 1 st Complaint Received to Date Hearing Completed
2008	108	847 days	100	770 days
2009	102	841 days	98	813 days
2010	131	833 days	117	727 days
2011	114	770 days	102	652 days
2012	110	940 days	92	693 days
2013	123	1031 days	103	805 days
2014	135	896 days	126	797 days
2015*	95	780 days	86	680 days



	2008	2009	2010	2011	2012	2013	2014	2015*
Receipt of 1st Complaint to PAC Authorization (days)	559	491	501	491	630	665	600	487
PAC Authorization to Notice Issued (days)	34	36	34	29	37	32	31	29
Notice Issued to Start of Hearing (days)	212	224	192	198	217	212	228	219
Start of Hearing to Completion of Hearing (days)	45	202	113	82	79	140	104	104

* to September 30, 2015

2.6 – Discipline

Graph 2.6G: Appeals and Judicial Reviews

The following chart sets out the number of appeals filed with the Appeal Division, the Divisional Court or the Court of Appeal in the calendar years 2010 to 2014 and the first three quarters of 2015.

Quarter/Year	Appeal Division	Divisional Court	Court of Appeal
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	20	3 appeals; 3 judicial reviews	
2014	23	14 appeals; 5 judicial reviews	4 motions for leave
2015 1 st Quarter	6	2 appeals; 0 judicial review	3 motions for leave
2 nd Quarter	1	2 appeals; 0 judicial reviews	0 motions for leave; 1 appeal
3 rd Quarter	2	1 appeal; 0 judicial reviews	1 motion for leave
Total	9	5 appeals; 0 judicial review	4 motions for leave; 1 appeal

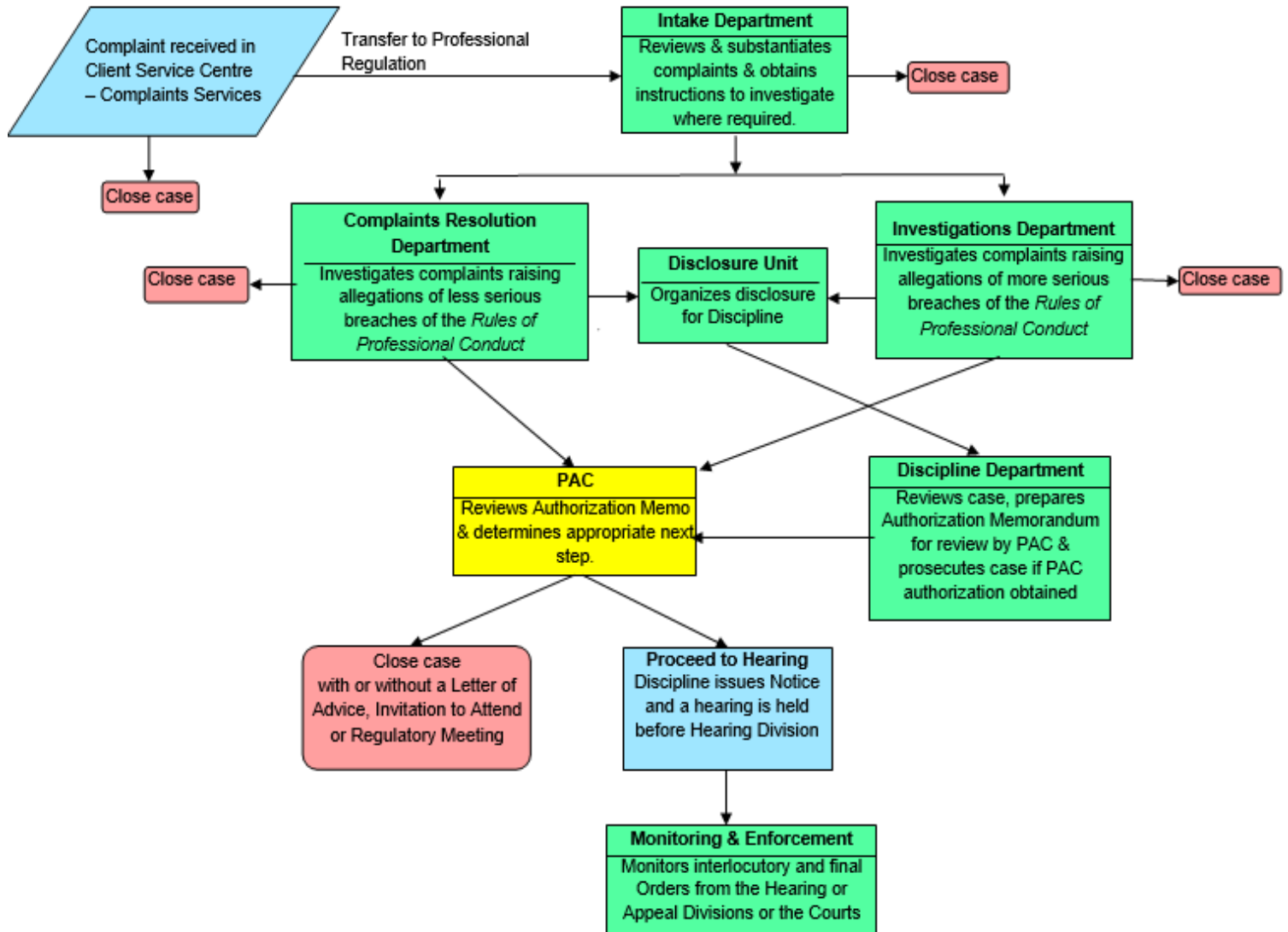
As of September 30, 2015, there are 9 appeals pending before the Appeal Division, 1 appeal in which the Appeal Division has reserved on judgment, 2 appeals that have been adjourned sine die and 3 appeals in which costs or penalty decisions remained outstanding.

With respect to matters before the Divisional Court, there are 10 appeals, and 3 judicial review matters pending. There are 2 motions for leave to appeal and 1 appeal pending in the Court of Appeal.

SECTION 3

APPENDICES

The Professional Regulation Complaint Process



PROFESSIONAL REGULATION ORGANIZATIONAL CHART

