



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

# **The Professional Regulation Division**

**Quarterly Report**  
October - December 2014

## **The Quarterly Report**

The Quarterly Report provides a summary of the Professional Regulation Division's activities and achievements during the past quarter, October 1 to December 31, 2014. 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.

## INDEX

	<b>Page</b>
<b>OVERVIEW, QUARTERLY REPORT, DECEMBER 31, 2014</b>	<b>5</b>
<b>SECTION 1 – DIVISIONAL PERFORMANCE DURING THE QUARTER</b>	<b>6</b>
Graph 2A: Complaints Received in the Division	7
Graph 2B: Complaints Closed in the Division	8
Graph 2C: Total Inventory	9
<b>SECTION 2 – DEPARTMENT PERFORMANCE DURING THE QUARTER</b>	<b>10</b>
<b>2.1 – Intake</b>	<b>11</b>
Graph 2.1A: Input	11
Graph 2.1B: Complaints Closed and Transferred Out	12
Graph 2.1C: Department Inventory	13
Graph 2.1D: Median Age of Complaints	13
<b>2.2 – Complaints Resolution</b>	<b>14</b>
Graph 2.2A: Input	14
Graph 2.2B: Complaints Closed and Transferred Out	15
Graph 2.2C: Department Inventory	16
Graph 2.2D: Median Age of Complaints	16
Graph 2.2E: Aging of Complaints	17
Graph 2.2F: Complaints Closed by Disposition	18
<b>2.3 – Investigations</b>	<b>19</b>
Graph 2.3A: Input	19
Graph 2.3B: Complaints Closed and Transferred Out	20
Graph 2.3C: Department Inventory	21
Graph 2.3D: Median Age of Complaints	21
Graph 2.3E: Aging of Complaints – Core Cases and Mortgage Fraud Cases	22
Graph 2.3F: Complaints Closed by Disposition	24
<b>2.4 – Unauthorized Practice (UAP)</b>	<b>25</b>
Graph 2.4A: Unauthorized Practice Complaints in Intake	25
Graph 2.4B: Unauthorized Practice Investigations (in Complaints Resolution & Investigations)	25
Graph 2.4C: Unauthorized Practice Investigations: Closing Dispositions	26
Graph 2.4D: UAP Enforcement Actions	26
<b>2.5 – Complaints Review Commissioner</b>	<b>27</b>
Graph 2.5A: Reviews Requested and Files Reviewed (by Quarter)	27
Graph 2.5B: Status of Files Reviewed in each Quarter	27
Graph 2.5C: Decisions Rendered, by Quarter and Active Inventory	28

	<b>Page</b>
<b>2.6 – Discipline</b>	<b>29</b>
Graph 2.6A: Input	29
Graph 2.6B: Department Inventory	30
Graph 2.6C: Matters Authorized by PAC	31
Graph 2.6D: Notices Issued	32
Graph 2.6E: Completed Matters	33
Graph 2.6F: Appeals	34
<b>2.7 – Trustee Services</b>	<b>36</b>
Graph 2.7A: Formal Trusteeships Opened and Closed	36
Graph 2.7B: Client Request Files Opened and Closed by Quarter	37
Graph 2.7C: Client Files Indexed Annually	37
Graph 2.7D: Summary of Applications Made to the Unclaimed Trust Fund	38
Graph 2.7E: Unclaimed Trust Fund Amounts Received	38
<b>2.8 – Monitoring &amp; Enforcement</b>	<b>39</b>
Graph 2.8A: New Matters and Active Inventory	39
Graph 2.8B: Collections	39
Graph 2.8C: Regulatory Inquiries	39
<b>SECTION 3 – APPENDICES</b>	<b>40</b>
Appendix A: A Description of the Professional Regulation Division Work Process	41
Appendix B: Glossary of Case Types Used in the Quarterly Report	44
Appendix C: Glossary of Closing Dispositions Used in the Quarterly Report - Intake	45
Appendix D: Glossary of Closing Dispositions Used in the Quarterly Report	
Complaints Resolution and Investigations	46
The Professional Regulation Complaint Process	47
Professional Regulation Organization Chart	48

**PROFESSIONAL REGULATION  
QUARTERLY REPORT  
DECEMBER 31, 2014**

**OVERVIEW**

During 2014, Professional Regulation received 4781 new cases. While these are referenced as complaints, they include investigations relating to applicants with good character issues, and matters commenced by the Law Society based on information that has come to our attention.

The number of new matters in 2014 was almost exactly the same as in 2012, and 259 cases fewer than in 2013. There is no apparent reason for the approximately 5% reduction in the number of new cases between 2013 and 2014. The nature of the caseload, including types of complaints and areas of practice to which they refer, were proportionately similar. There was also no procedural or communications change that would explain the difference.

During 2014 more cases were closed than were received. 4922 cases were closed in the period. The resulting inventory of all complaints at the end of 2014 was 3300. As noted earlier, in 2013 the Law Society received a larger than expected number of new cases and these were for the most part received in the first half of that year. The current inventory of cases still reflects this influx of cases as they move through the process to completion.

During 2014 additional attention was focused on completing cases in a timely manner in the investigation stages of the process. Case aging at this stage can be caused by a number of factors including the volume of work for the investigator, however it is most often due to a number of factors beyond the control of the Law Society. These include:

- Newer complaints received in the course of the existing investigation
- The need to coordinate related investigations concerning several licensees
- Case complexity due to the nature of the complaint or the number of complaints
- Delay occasioned as evidence is obtained from third parties including financial institutions, and other witnesses, where cooperation is not required
- The need to obtain expert opinions and reviews
- Case was previously in abeyance or closed at the request of the complainant, or due to a prosecution of the licensee for failure to cooperate with the Law Society
- Policy considerations requiring analysis in unusual or unique cases

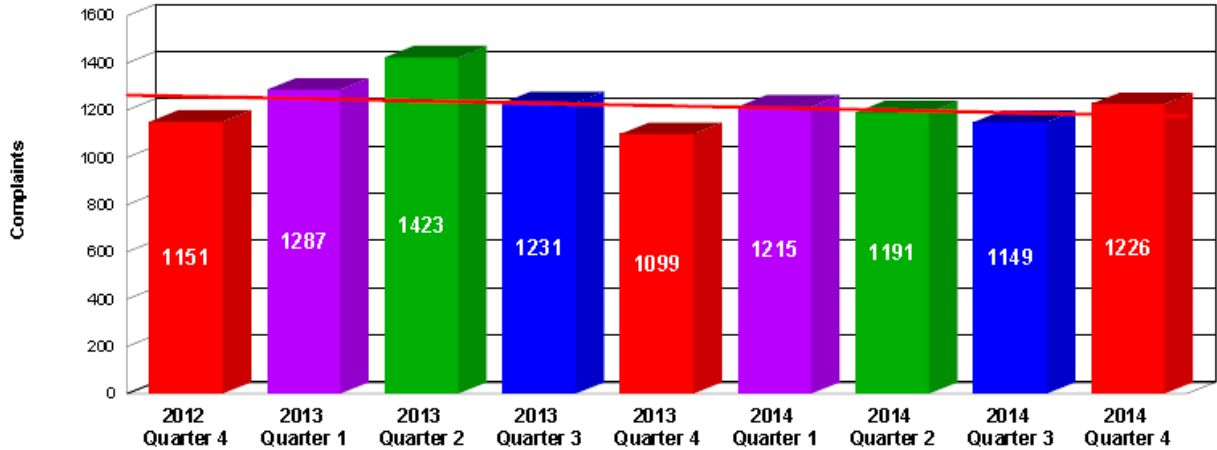
Older cases are closely monitored. During 2014, both the Complaints Resolution and the Investigations departments have succeeded in reducing the proportion of older cases in their inventory, and further reductions are expected in 2015. (See pages 16, 21 and 22).

## **SECTION 1**

### **DIVISIONAL PERFORMANCE DURING THE QUARTER**

## PERFORMANCE IN THE PROFESSIONAL REGULATION DIVISION

**Graph 1A: Complaints<sup>1</sup> Received in the Division**



### Detailed Analysis of Complaints Received in the Division

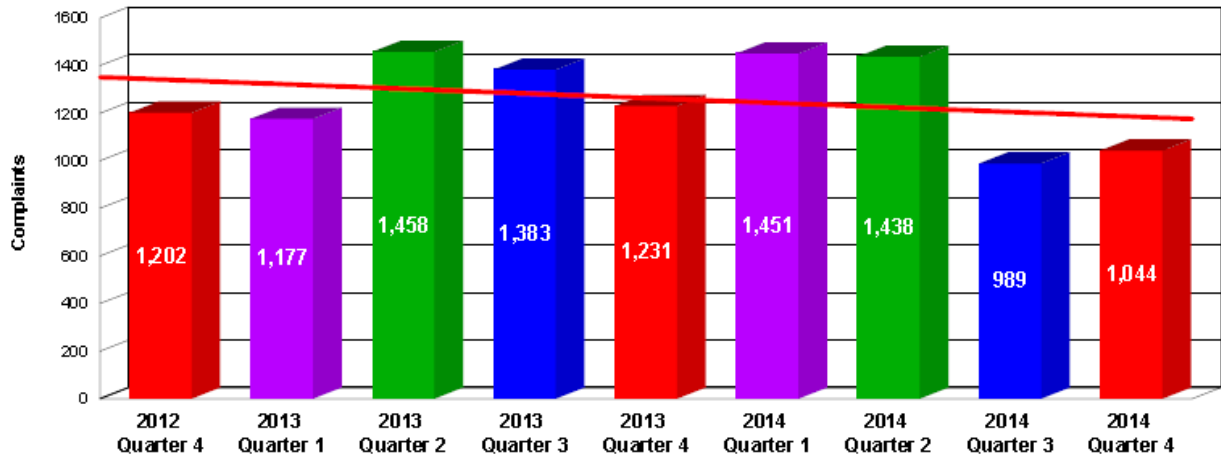
	2012	2013	2014
<b>Complaints against Lawyers</b>	3820	3896	3734
<b>Lawyer Applicant Cases ★</b>	99	115	115
<b>Complaints against Licensed Paralegals</b>	480	584	543
<b>Paralegal Applicant Cases ★</b>	155	205	180
<b>Complaints against Non-Licensees/Non-Applicants*</b>	228	240	209
<b>TOTAL</b>	4782	5040	4781

★ Applicant cases include good character cases and UAP complaints

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

<sup>1</sup> Includes all complaints received in PRD from Complaints Services.

**Graph 1B: Complaints Closed<sup>2</sup> in the Division (by Quarters)**



**Detailed Analysis of Complaints Closed in the Division**

	2012	2013	2014
<b>Complaints against Lawyers</b>	3932	4174	3813
<b>Lawyer Applicant Cases ★</b>	88	122	112
<b>Complaints against Licensed Paralegals</b>	486	487	570
<b>Paralegal Applicant Cases ★</b>	163	206	195
<b>Complaints against Non-Licensees/Non-Applicants*</b>	259	260	232
<b>TOTAL</b>	4928	5249	4922

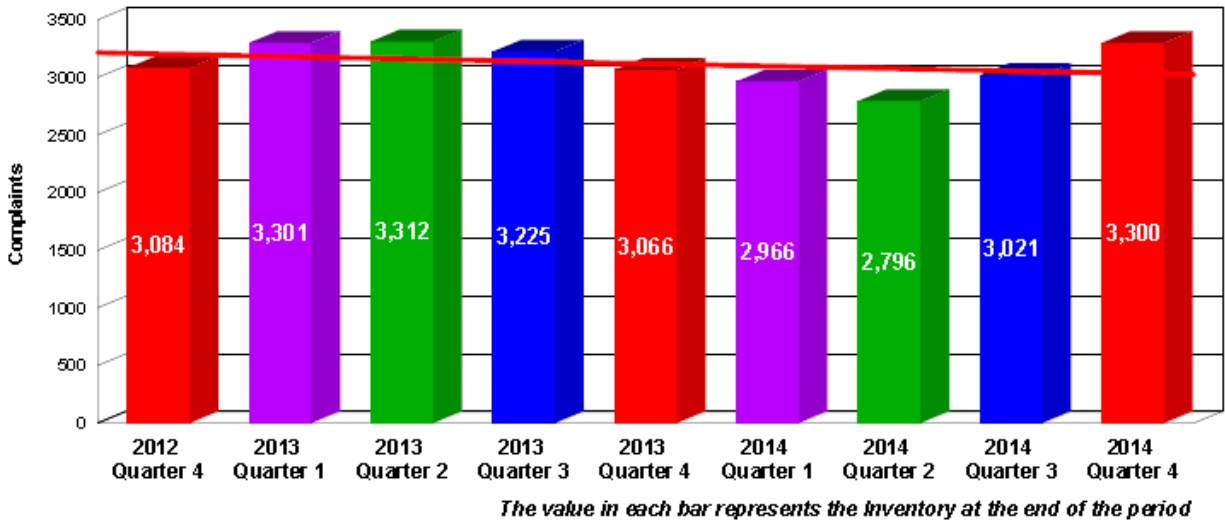
★ Applicant cases include good character cases and UAP complaints

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

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



**Graph1C: Total Inventory<sup>3</sup>**



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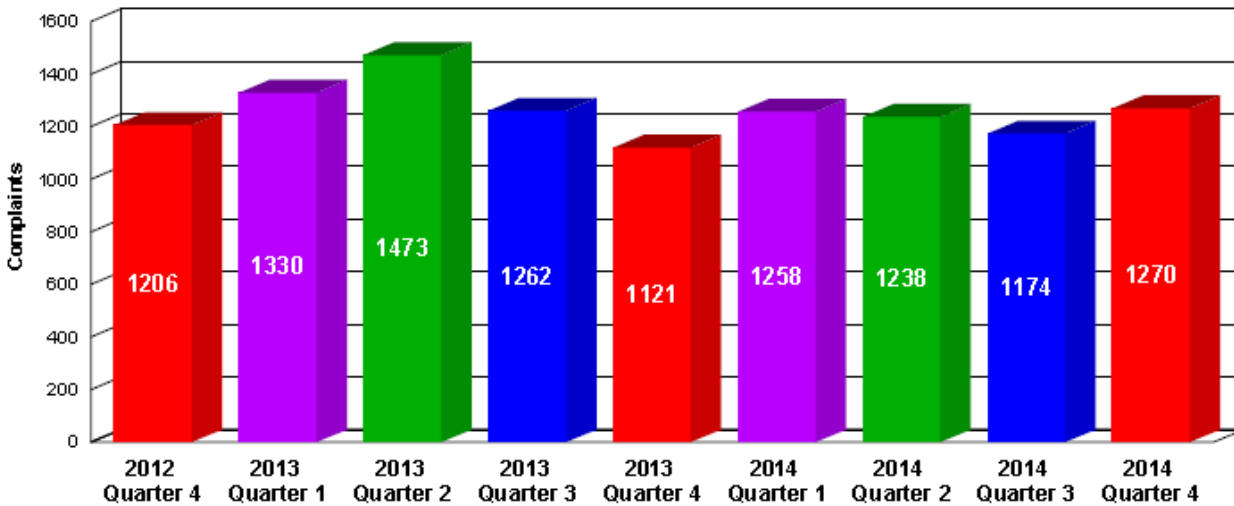
<sup>3</sup> This graph does not include active complaints in the Monitoring & Enforcement Department.

## **SECTION 2**

# **DEPARTMENTAL PERFORMANCE DURING THE QUARTER**

## 2.1 – Intake

**Graph 2.1A: Intake - Input<sup>4</sup>**



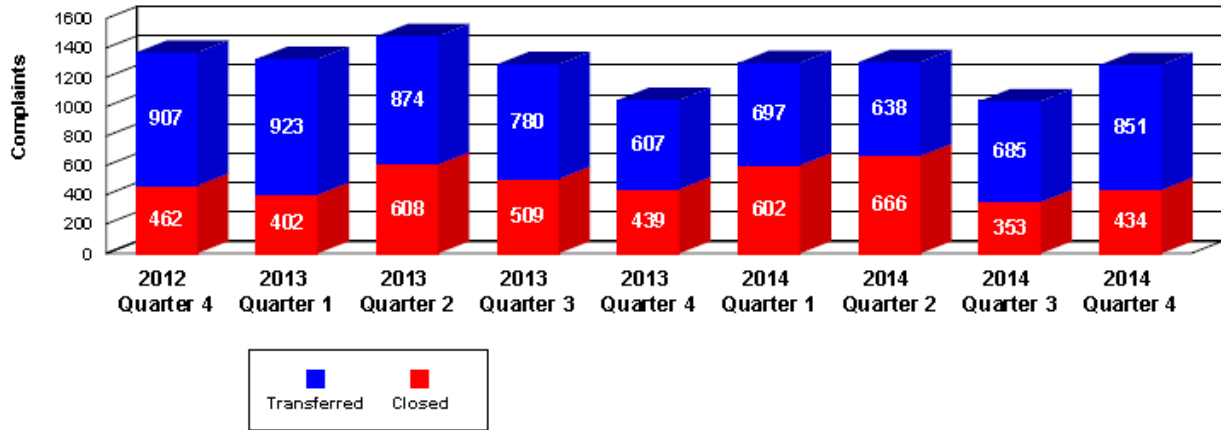
The Intake department processes all new regulatory complaints. In Q4 2014, in addition to the 1226 new cases, Intake re-opened 44 complaints which met the threshold for re-opening a closed matter.

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<sup>4</sup>Includes new complaints received and re-opened complaints

## 2.1 – Intake

**Graph 2.1B: Intake - Complaints Closed and Transferred Out**



### Detailed Analysis of Complaints Closed and Transferred From Intake

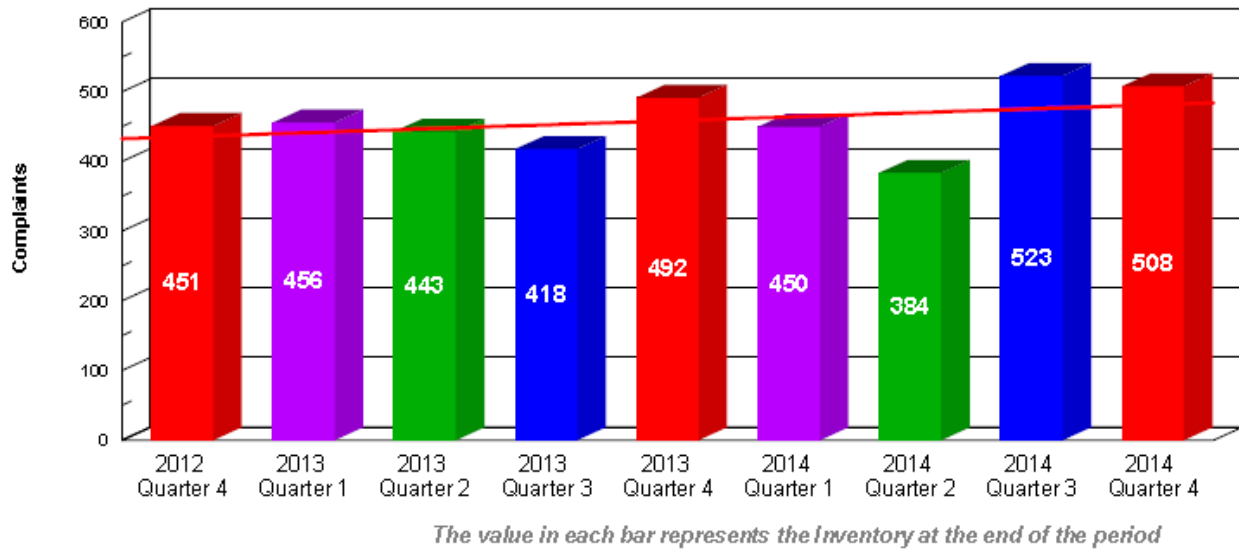
		2012		2013		2014	
		Closed	Transferred	Closed	Transferred	Closed	Transferred
<b>Complaints against Lawyers</b>	Closed	1431	3894	1524	3991	1561	3851
	Transferred	2464		2467		2290	
<b>Lawyer Applicant Cases★</b>	Closed	61	98	67	113	92	119
	Transferred	37		46		27	
<b>Complaints against Licensed Paralegals</b>	Closed	138	483	142	568	191	556
	Transferred	345		426		365	
<b>Paralegal Applicant Cases★</b>	Closed	80	157	114	197	135	188
	Transferred	77		83		53	
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	89	232	111	273	76	212
	Transferred	143		162		136	
<b>TOTAL</b>	Closed	1799	4865	1958	5142	2055	4926
	Transferred	3066		3184		2871	

★ Applicant cases include good character cases and UAP complaints

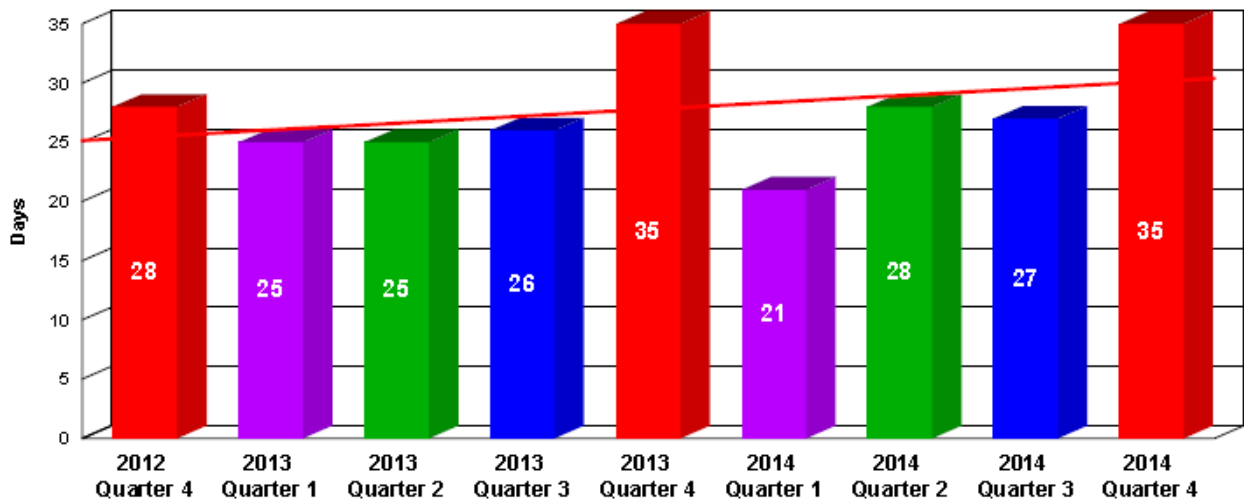
\* For a complete analysis of UAP complaints see section 3.4.

## 2.1 – Intake

**Graph 2.1 C: Intake - Department Inventory**

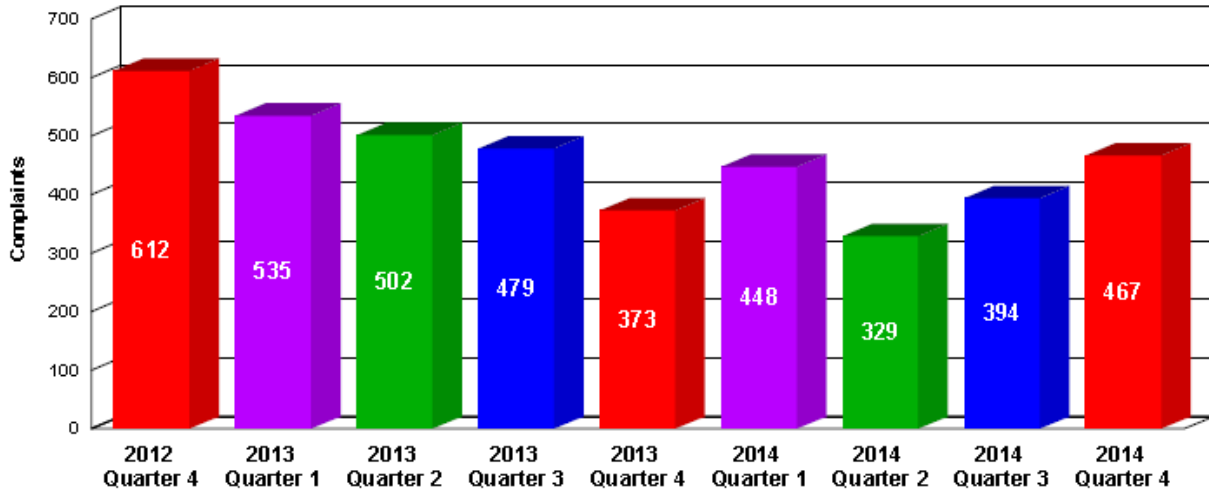


**Graph 2.1D: Intake - Median Age of Complaints**



## 2.2 – Complaints Resolution

**Graph 2.2A: Complaints Resolution – Input<sup>5</sup>**



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

	2012	2013	2014
<b>Complaints against Lawyers</b>	1736	1683	1426
<b>Lawyer Applicant Cases ★</b>	0	0	0
<b>Complaints against Licensed Paralegals</b>	163	205	210
<b>Paralegal Applicant Cases ★</b>	0	0	0
<b>Complaints against Non-Licensees/Non-Applicants*</b>	0	1	2
<b>TOTAL</b>	1899	1889	1638

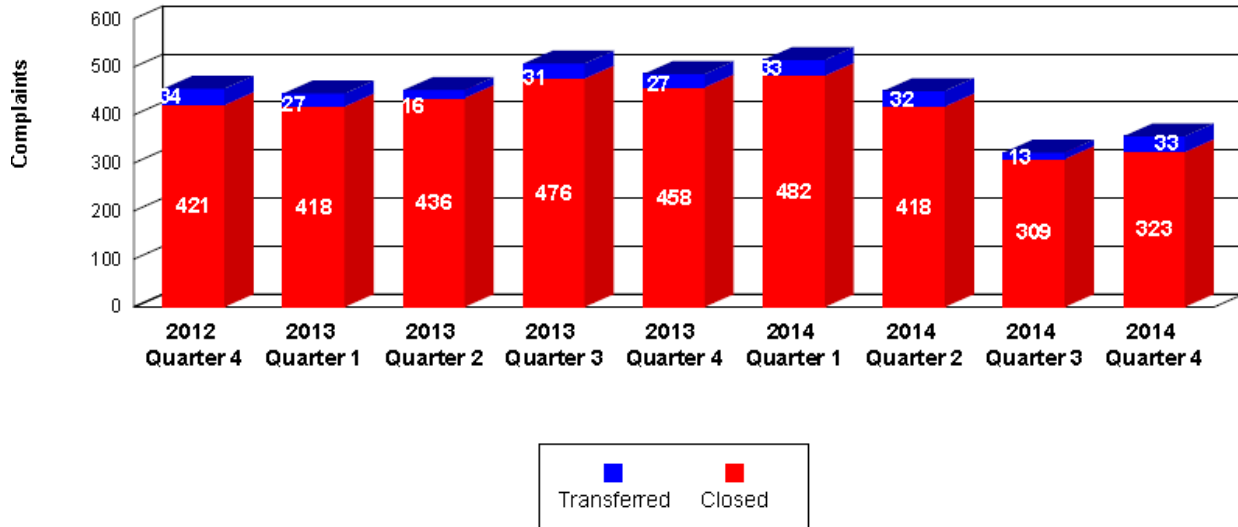
★ Applicant cases include good character cases and UAP complaints

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

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

## 2.2 – Complaints Resolution

**Graph 2.2B: Complaints Resolution - Complaints Closed and Transferred Out**



### Detailed Analysis of Complaints Closed and Transferred From Complaints Resolution

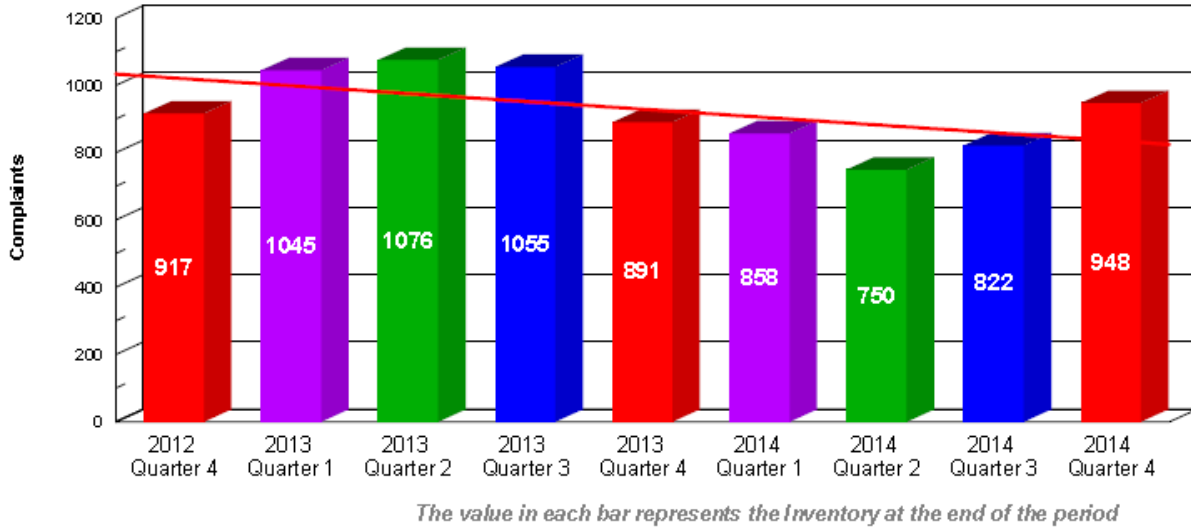
		2012		2013		2014	
		Closed	Transferred	Closed	Transferred	Closed	Transferred
<b>Complaints against Lawyers</b>	Closed	1623	1698	1626	1709	1364	1460
	Transferred	75		83		96	
<b>Lawyer Applicant Cases ★</b>	Closed	0	0	0	0	0	0
	Transferred	0		0		0	
<b>Complaints against Licensed Paralegals</b>	Closed	146	154	162	179	168	183
	Transferred	8		17		15	
<b>Paralegal Applicant Cases ★</b>	Closed	0	0	0	0	0	0
	Transferred	0		0		0	
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	0	0	0	1	0	0
	Transferred	0		1		0	
<b>TOTAL</b>	Closed	1769	1852	1788	1889	1532	1643
	Transferred	83		101		111	

★ Applicant cases include good character cases and UAP complaints

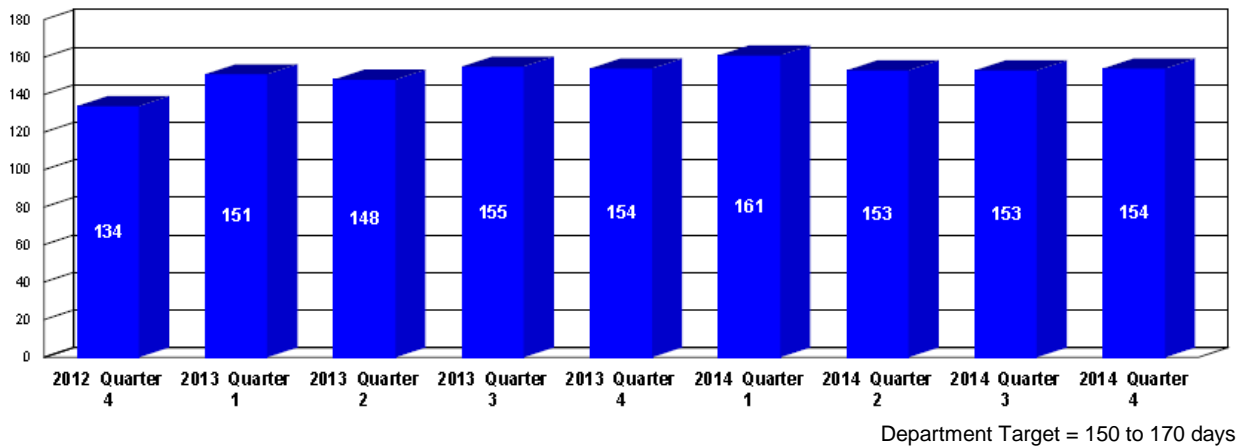
\* For a complete analysis of UAP complaints see section 3.4.

## 2.2 – Complaints Resolution

**Graph 2.2C: Complaints Resolution – Department Inventory**



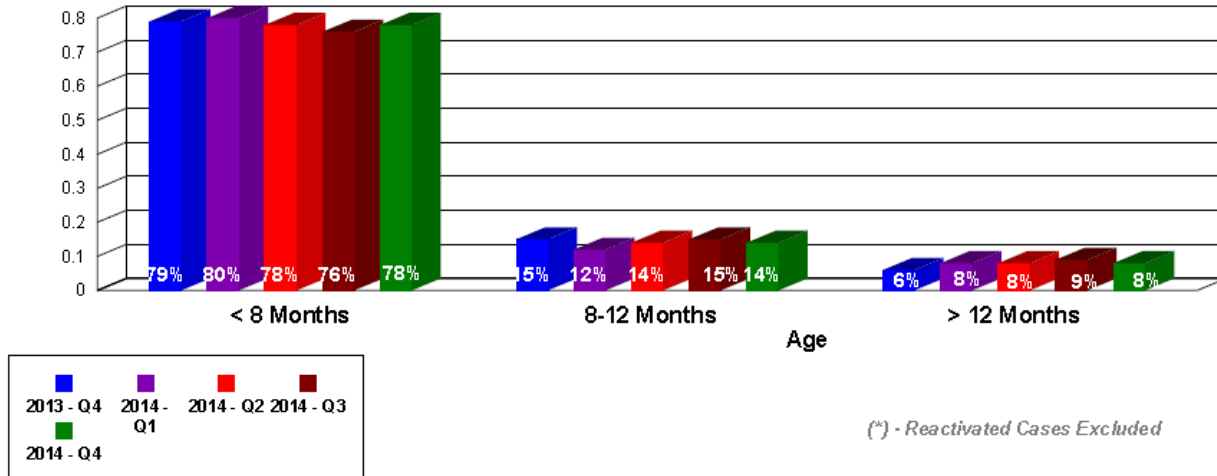
**Graph 2.2D: Complaints Resolution - Median Age of Complaints**





## 2.2 – Complaints Resolution

**Graph 2.2E: Complaints Resolution – Aging of Complaints**



The chart below compares the department's age distribution of cases for the past 5 quarters

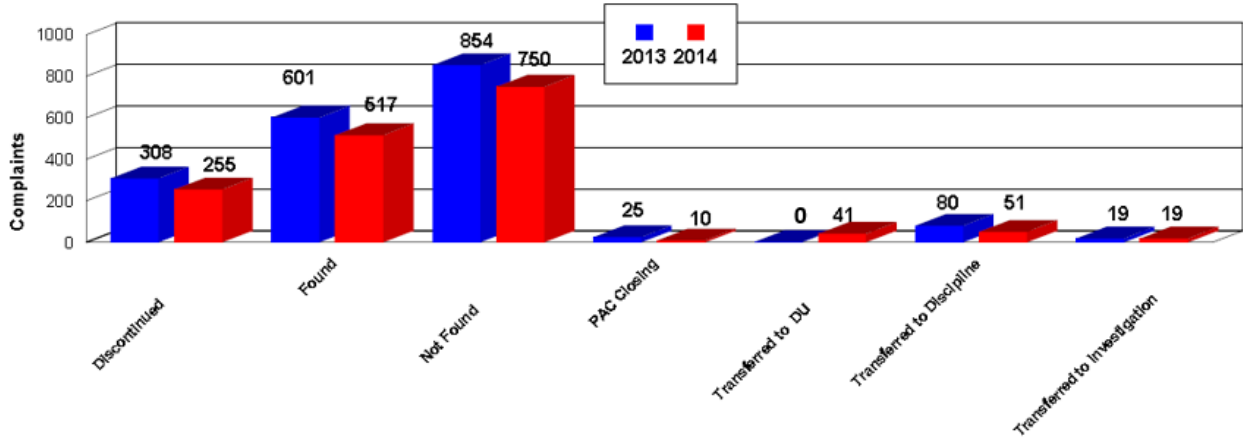
	<8 months	8 to 12 months	>12 months
<b>Q4 2013</b>	658 cases involving 600 subjects	124 cases involving 119 subjects	51 cases involving 43 subjects
<b>Q1 2014</b>	635 cases involving 584 subjects	96 cases involving 88 subjects	62 cases involving 53 subjects
<b>Q2 2014</b>	534 cases involving 487 subjects	100 cases involving 95 subjects	53 cases involving 42 subjects
<b>Q3 2014</b>	574 cases involving 521 subjects	114 cases involving 106 subjects	67 cases involving 54 subjects
<b>Q4 2014</b>	673 cases involving 620 subjects	120 cases involving 112 subjects	73 cases involving 60 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 2.2G: Complaints Resolution - Complaints Closed by Disposition**

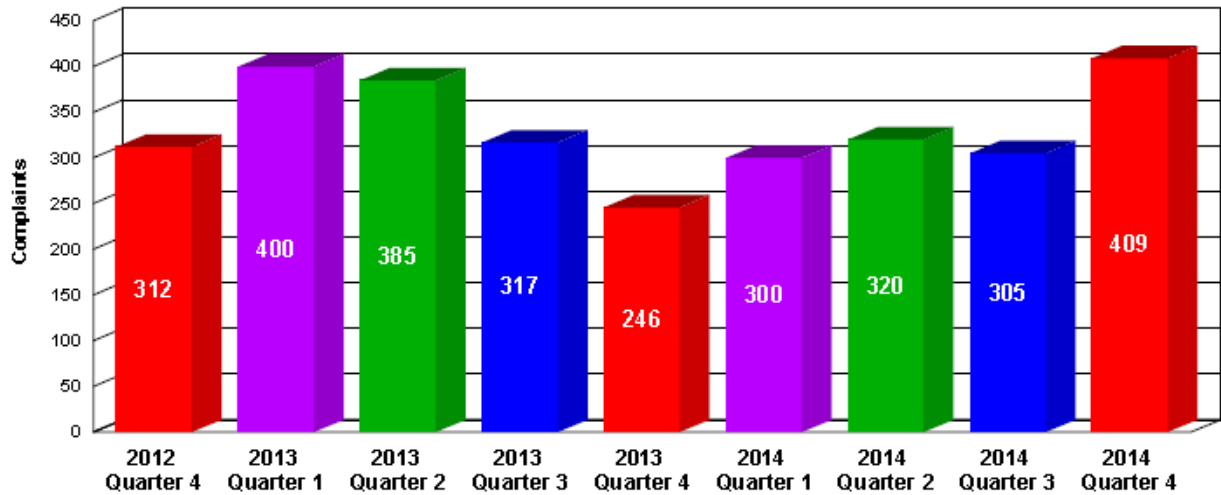


	2013 (% of total cases closed)	2014 (% of total cases closed)
<b>Discontinued</b>	17%	17%
<b>Found</b>	34%	34%
<b>Not Found</b>	48%	49%
<b>PAC Closing</b>	1%	1%
<b>Total cases closed</b>	100% (1788 cases)	100% (1532 cases)

A glossary of the individual disposition types included in each of the shown categories is available in Section 4, Appendix D.

## 2.3 –Investigations

**Graph 2.3A: Investigations - Input**



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

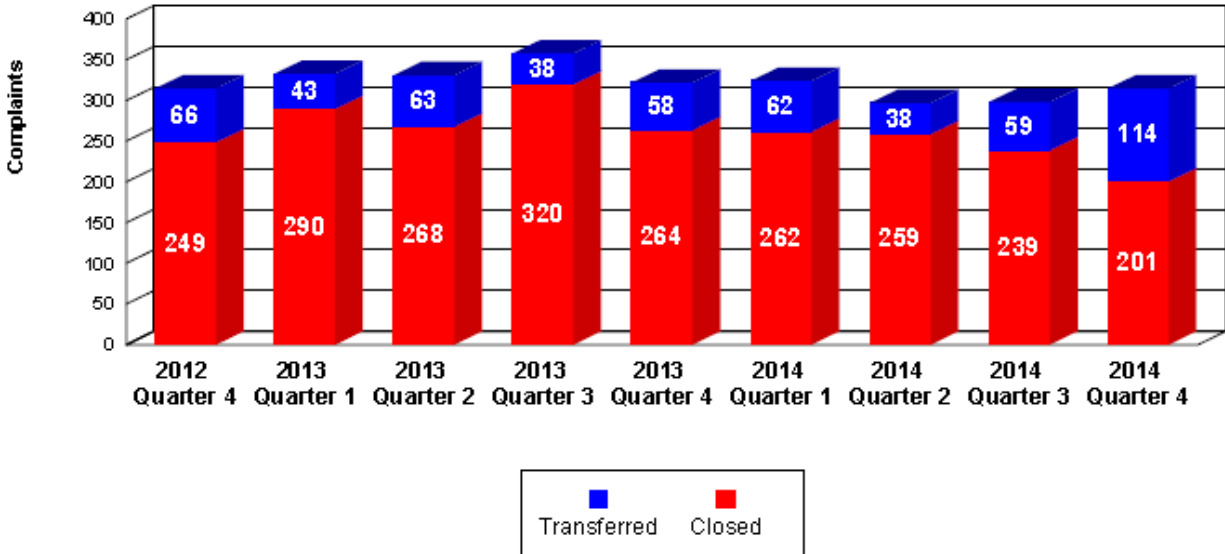
	2012	2013	2014
<b>Complaints against Lawyers</b>	796	823	927
<b>Lawyer Applicant Cases ★</b>	37	47	28
<b>Complaints against Licensed Paralegals</b>	190	230	192
<b>Paralegal Applicant Cases ★</b>	80	85	53
<b>Complaints against Non-Licensees/Non-Applicants*</b>	142	163	134
<b>TOTAL</b>	1245	1348	1334

★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 Investigations - Complaints Closed and Transferred Out**



### Detailed Analysis of Complaints Closed and Transferred Out of Investigations

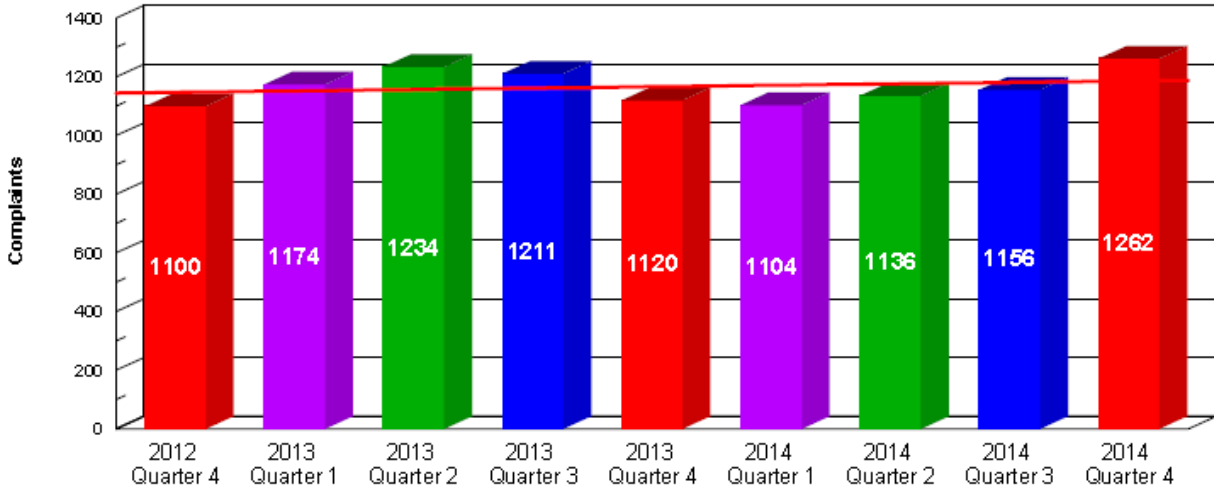
		2012		2013		2014	
<b>Complaints against Lawyers</b>	Closed	657	815	729	875	593	807
	Transferred	158		146		214	
<b>Lawyer Applicant Cases ★</b>	Closed	24	27	51	52	18	20
	Transferred	3		1		2	
<b>Complaints against Licensed Paralegals</b>	Closed	163	206	137	175	158	195
	Transferred	43		38		37	
<b>Paralegal Applicant Cases ★</b>	Closed	69	69	88	95	42	48
	Transferred	0		7		6	
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	140	157	137	147	150	164
	Transferred	17		10		14	
<b>TOTAL</b>	Closed	1053	1274	1142	1344	961	1234
	Transferred	221		202		273	

★ Applicant cases include good character cases and UAP complaints

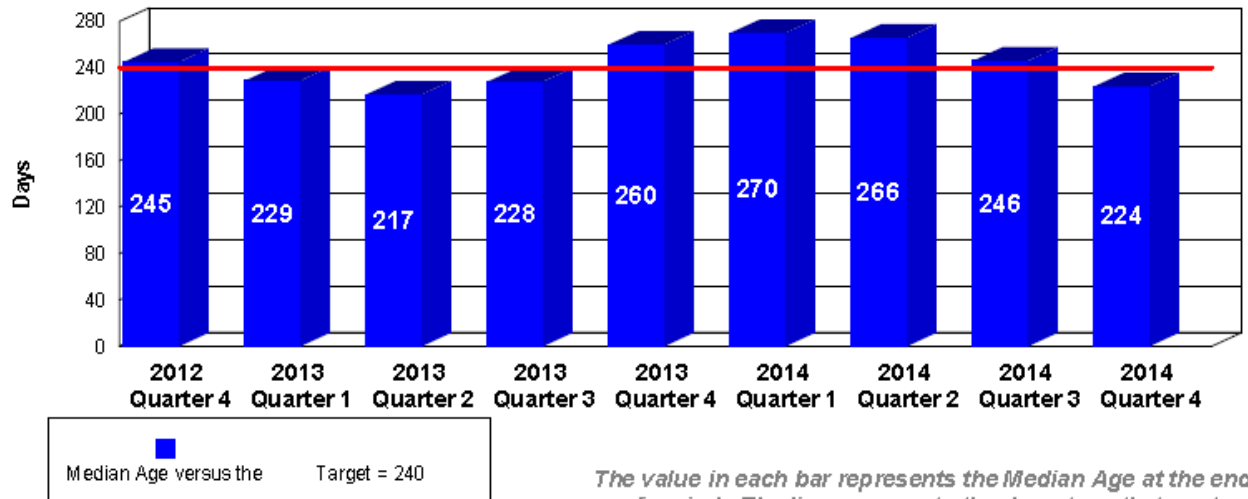
\* For a complete analysis of UAP complaints see section 3.4.

## 2.3 – Investigations

**Graph 2.3C: Investigations – Department Inventory**

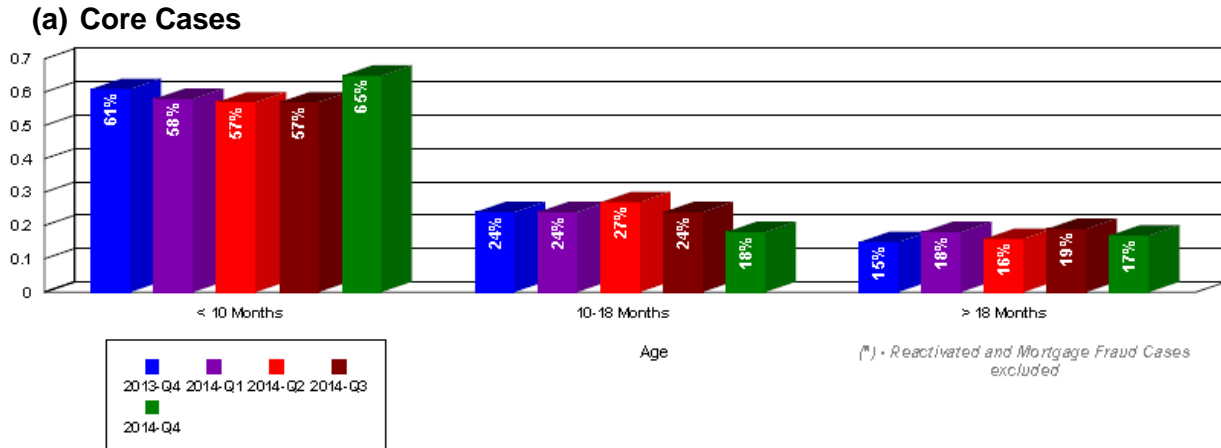


**Graph 2.3D: Investigations - Median Age of All Complaints**



## 2.3 – Investigations

**Graph 2.3E: Investigations – Aging of Complaints**



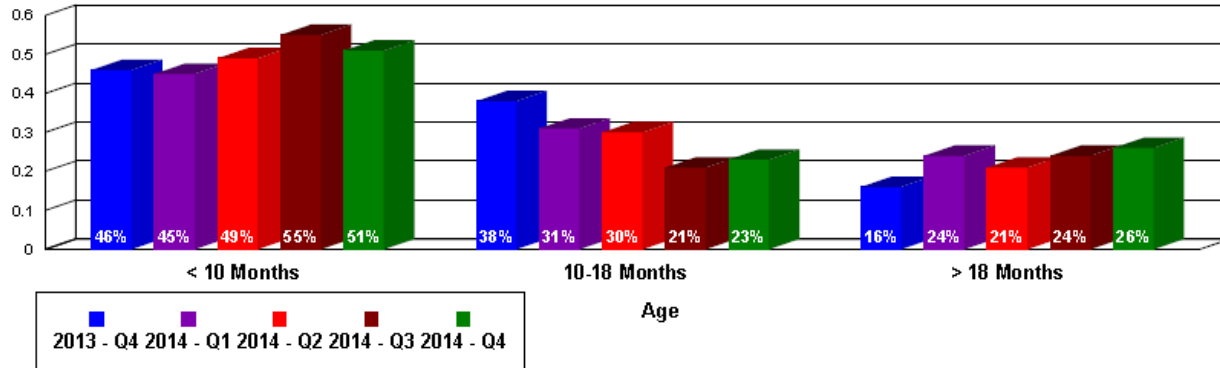
	<10 months	10 to 18 months	>18 months
<b>Q4 2013</b>	591 cases involving 451 subjects	228 cases involving 177 subjects	147 cases involving 109 subjects
<b>Q1 2014</b>	544 cases involving 451 subjects	227 cases involving 160 subjects	165 cases involving 122 subjects
<b>Q2 2014</b>	549 cases involving 433 subjects	256 cases involving 178 subjects	160 cases involving 120 subjects
<b>Q3 2014</b>	540 cases involving 395 subjects	223 cases involving 180 subjects	180 cases involving 124 subjects
<b>Q4 2014</b>	693 cases involving 452 subjects	193 cases involving 152 subjects	181 cases involving 191 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



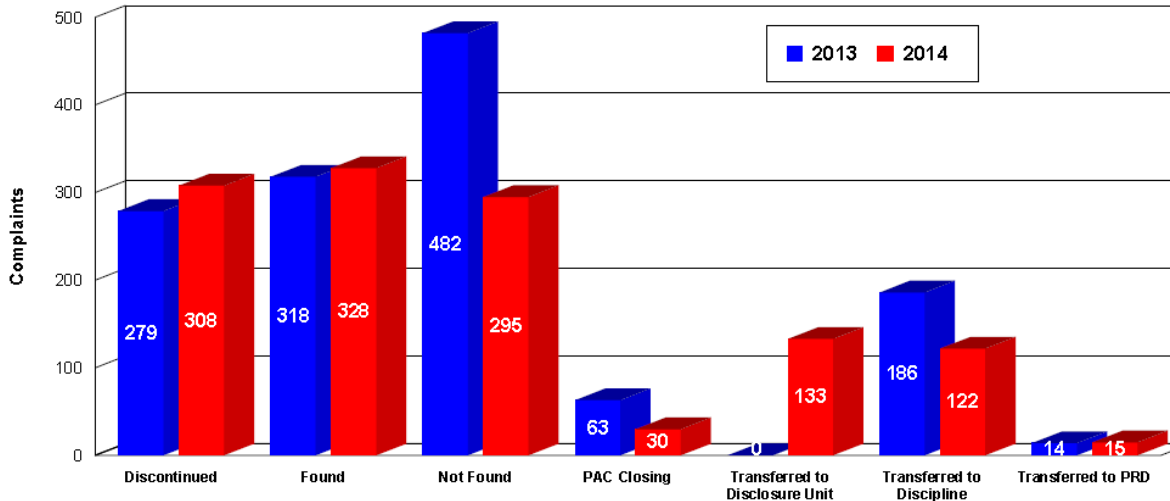
	<10 months	10 to 18 months	>18 months
<b>Q4 2013</b>	35 cases involving 28 subjects	29 cases involving 26 subjects	12 cases involving 11 subjects
<b>Q1 2014</b>	40 cases involving 33 subjects	28 cases involving 23 subjects	21 cases involving 19 subjects
<b>Q2 2014</b>	49 cases involving 41 subjects	30 cases involving 24 subjects	21 cases involving 19 subjects
<b>Q3 2014</b>	61 cases involving 46 subjects	23 cases involving 19 subjects	26 cases involving 21 subjects
<b>Q4 2014</b>	57 cases involving 41 subjects	26 cases involving 23 subjects	29 cases involving 26 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 2.3G: Investigations – Complaints Closed by Disposition**



This graph shows a breakdown of the dispositions for complaints closed in or transferred out of Investigations for 2013 and 2014.

With respect to the closing dispositions, as shown in the chart below,

- there was a significant decrease in 2014 in the proportion of cases that were closed on the basis that no breach was found (not found), decreasing from 42% of all closures in 2013 to 31% of all closures in 2014, and
- the proportion of cases closed as discontinued or found (with a remedial measure) increased significantly from 2013 to 2014.

	2013 (% of total cases closed)	2014 (% of total cases closed)
<b>Discontinued<sup>6</sup></b>	24%	32%
<b>Found<sup>7</sup></b>	28%	34%
<b>Not Found<sup>6</sup></b>	42%	31%
<b>PAC Closing<sup>7</sup></b>	6%	3%
<b>Total cases closed</b>	100% (1142 cases)	100% (961 cases)

A glossary of the individual disposition types included in each of the shown categories is available in Section 4, Appendix D.

<sup>6</sup> Differences noted between 2013 and 2014 are significant to  $p > .001$

<sup>7</sup> Differences notes between 2013 and 2014 are significant to  $p > .01$



## 2.4 – Unauthorized Practice (UAP)

**Graph 2.4A: Unauthorized Practice Complaints in Intake**

Quarter	New	Closed/Transferred			Inventory at Year End
		Closed	Transfer to CR	Transfer to Investigations	
<b>2010 (+POL)</b>	330 (398)*	151	1	249	18
<b>2011 (+POL)</b>	255 (321)*	87	2	206	15
<b>2012 (+POL)</b>	256 (299)*	86	0	182	19
<b>2013 (+POL)</b>	260 (311)*	102	0	197	11
<b>2014 (+POL)</b>	223 (266)*	77	0	154	21

\* In 2014, complaints alleging practising outside the scope of licence (“POL”) were received in a total of 43 cases. The number of POL complaints received since the beginning of 2010 (when the POL allegation was added to the division's case management system) has remained fairly stable.

**Graph 2.4B: Unauthorized Practice investigations (in Complaints Resolution and Investigations)**

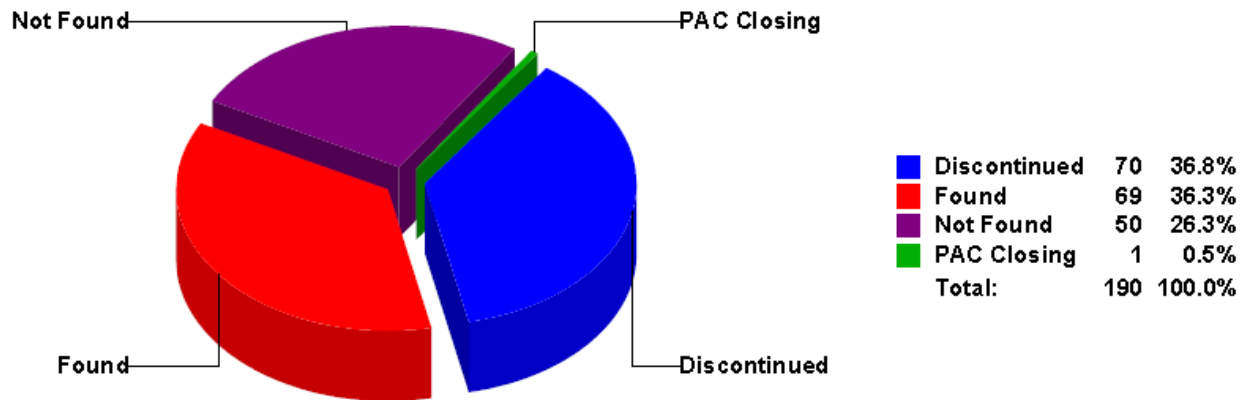
	New		Closed <sup>8</sup>		Inventory
	CR	INV	CR	INV	CR & INV
<b>2010</b>	1	249	28	190	124
<b>2011</b>	2	206	0	188	140
<b>2012</b>	0	182	1	185	131
<b>2013</b>	0	197	0	187	137
<b>2014</b>	0	154	0	206	90

As noted in the chart above, in 2014, a total of 206 UAP cases were completed. The inventory of UAP cases in Investigations decreased significantly from 137 cases at the end of 2013 to 90 cases at the end of 2014.

<sup>8</sup>“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.

## 2.4 – Unauthorized Practice (UAP)

**Graph 2.4C: Unauthorized Practice Investigations – Closing Dispositions**



This chart displays the dispositions of unauthorized practice (UAP) investigations closed in Complaints Resolution and Investigations in the quarter:

“Not found” refers to investigations where there was no evidence of unauthorized practice/provision of legal services.

“Found” reflects investigations that were closed by some action to remedy the unauthorized practice such as an undertaking or an injunction.

“Discontinued” investigations were closed without a final determination on the merits of the complaint for reasons such as the withdrawal of the complaint by the complainant.

### Graph 2.4D: UAP Enforcement Actions

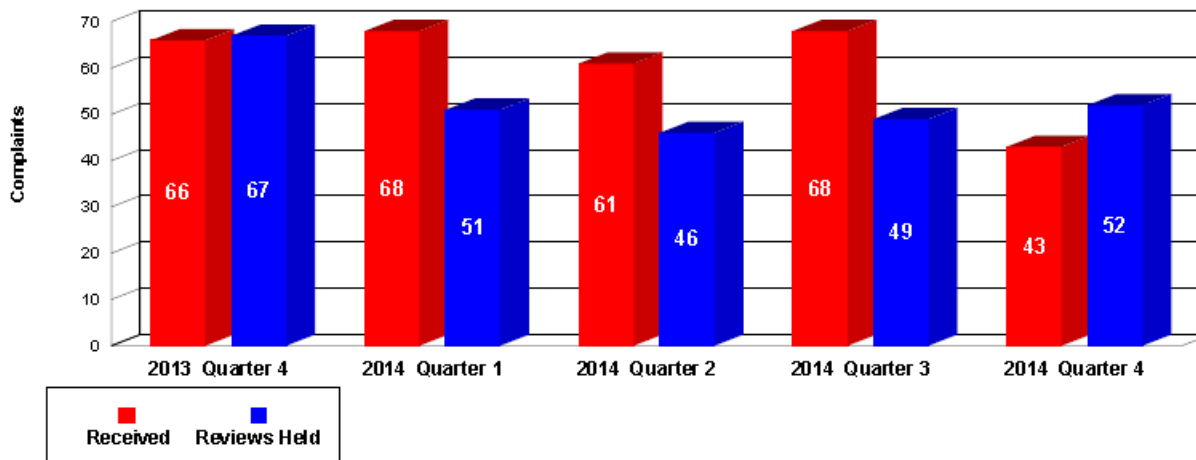
In 2014,

- 4 matters were initiated in the courts, all seeking permanent injunctions.
- 2 appeals were launched in matters in which injunctions had been ordered.
- 1 application for leave to appeal to the Supreme Court of Canada was launched;
- 5 matters were completed, including 2 matters in which injunctions were obtained and 2 appeals against injunctions ordered previously were dismissed.

There were 5 active UAP matters as at December 31, 2014.

## 2.5 – Complaints Resolution Commissioner

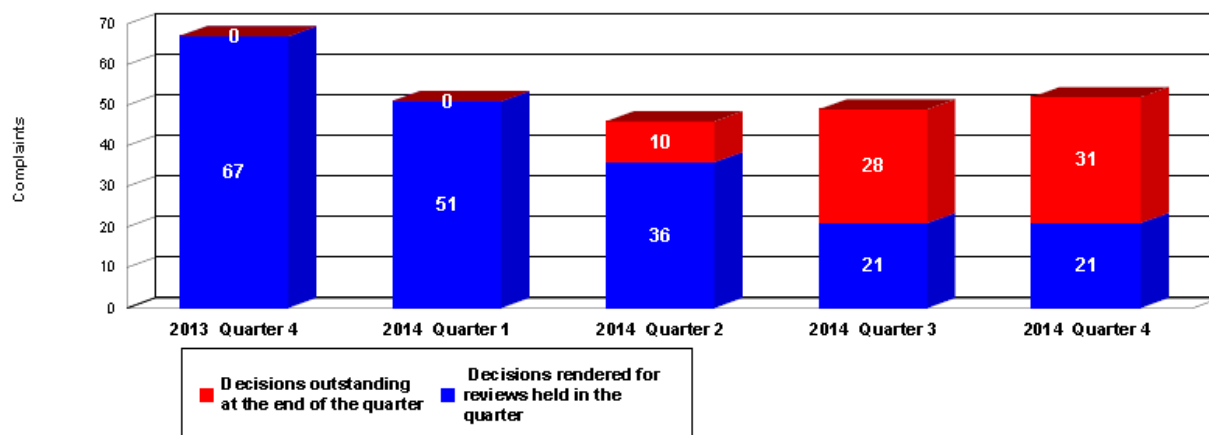
**Graph 2.5A: Reviews Requested and Files Reviewed (by Quarter)**



In 2014, the Complaints Resolution Commissioner received 240 requests for review. This represents an increase of approximately 3% from the number of requests for review received in 2013 (233). The 240 requests for review were received from 208 complainants and involved investigations of 206 lawyers and 24 paralegals. An additional 41 requests were received (for cases closed in Complaints Services and Intake) over which the Commissioner had no jurisdiction.

In 2014, the Commissioner reviewed 198 cases, a 3.4% decrease from the number of cases reviewed in 2013 (205). Forty-nine (49) of the cases reviewed were conducted in writing.

**Graph 2.5B: 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 the last quarter of 2014, the Commissioner rendered decisions in 21 of the 52 cases reviewed in that quarter. (He also rendered decisions in 29 cases reviewed in previous quarters.) As at December 31, 2014, there were 31 decisions outstanding from cases reviewed in 2014.

## 2.5 – Complaints Resolution Commissioner

**Graph 2.5C: Decisions Rendered, by Quarter**

<b>Quarter</b>	<b>Decisions Rendered (# of decisions where review in previous quarter(s))</b>	<b>Files to Remain Closed</b>	<b>Files Referred Back to PRD</b>
<b>2009</b>	194	174 (90%)	20 (10%)
<b>2010</b>	193	160 (83%)	33 (17%)
<b>2011</b>	260	248 (95%)	12 (5%)
<b>2012</b>	242	224 (93%)	18 (7%)
<b>2013</b>	205	192(94%)	13(6%)
<b>2014</b>	167	160 (96%)	7 (4%)

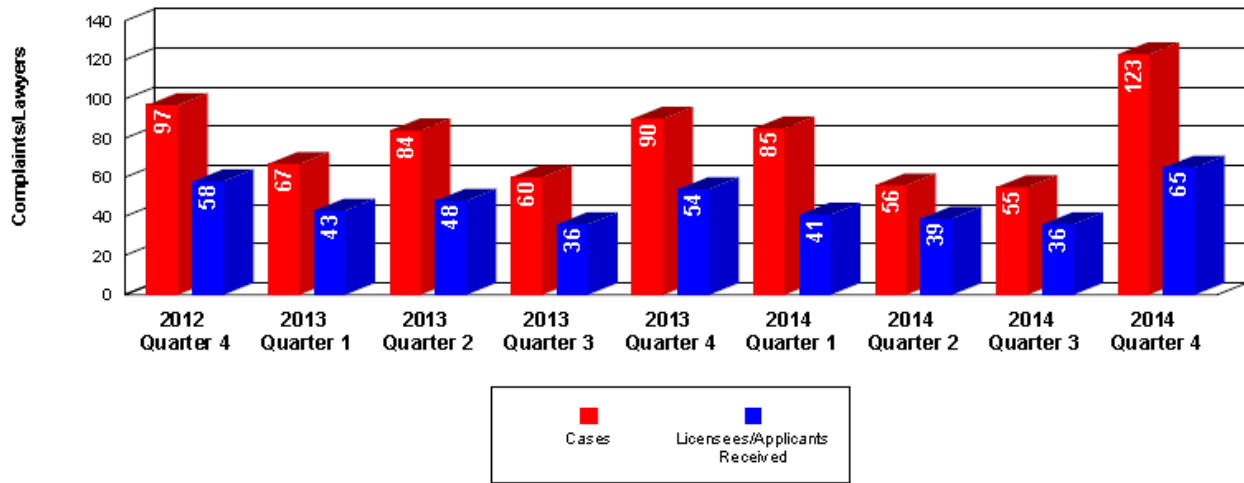
Of the 167 decisions rendered in 2014, the Commissioner sent 7 files back to Professional Regulation. In 4 of these cases, the Commissioner was not satisfied that the decision to close was reasonable and referred the cases back with a recommendation for further investigation. With respect to the remaining 3 cases, while he found the Law Society's decision to close the case to be reasonable, the Commissioner referred the cases back for other considerations (e.g. to consider new information provided by the Complainant during the review; to consider investigating other issues).

With respect to the 4 cases referred back with a recommendation for further investigation, the Executive Director of Professional Regulation, as at December 31, 2014:

- adopted the recommendation in 3 cases;
- had not rendered a decision with respect to a case referred back in the last quarter of 2014.

## 2.6 – Discipline

**Graph 2.6A: Discipline - Input<sup>9</sup>**



In 2014, 181 new licensee/applicant matters were received in Discipline, the same as received in 2013. (New appeals commenced in 2014 are not included in these numbers.) These matters related to 319 cases.

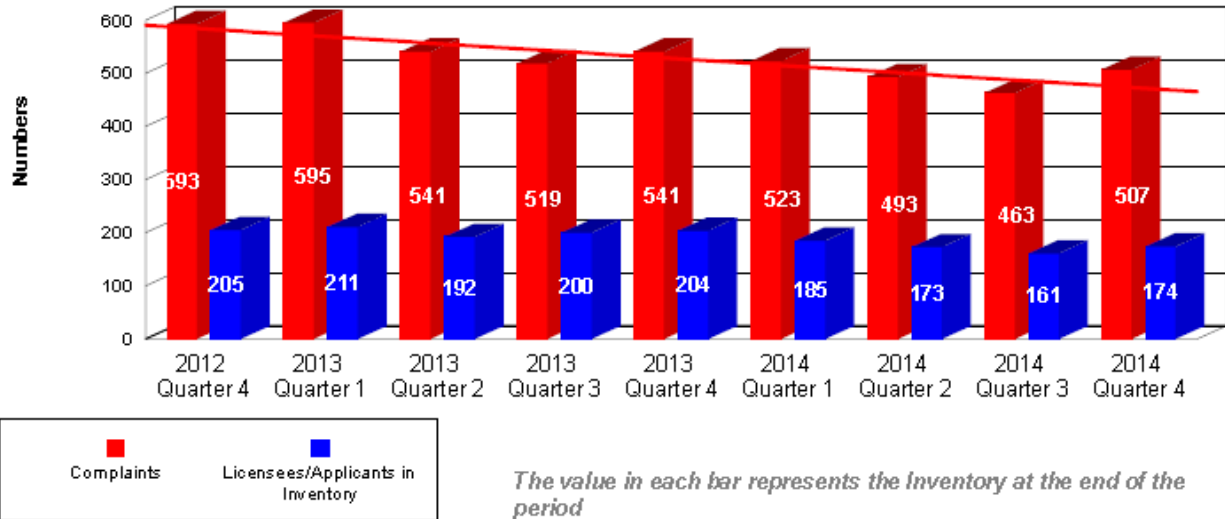
### Detailed Analysis of New Cases Received in Discipline

		2012	2013	2014
<b>Lawyers</b>	Cases	226	238	267
	Lawyers	110	135	150
<b>Lawyer Applicants</b>	Cases	4	1	1
	Lawyer Applicants	3	1	1
<b>Licensed Paralegals</b>	Cases	56	49	46
	Licensed Paralegals	20	37	25
<b>Paralegal Applicants</b>	Cases	11	13	5
	Paralegal Applicants	3	8	5
<b>TOTAL</b>	Cases	292	301	319
	Licensees & Applicants	136	181	181

<sup>9</sup>“Input” refers to complaints that were transferred into Discipline from various other departments during the specific quarter. It includes new complaints/cases received in Discipline and the lawyers/applicants to which the new complaints relate. New appeals commenced in the period are not included in these numbers.

## 2.6 – Discipline

Graph 2.6B: Discipline – Department Inventory<sup>10</sup>



<sup>10</sup>Consists primarily of complaints and lawyers/applicants that are in scheduling and are with the Hearing Panel or on appeal.

## 2.6 – Discipline

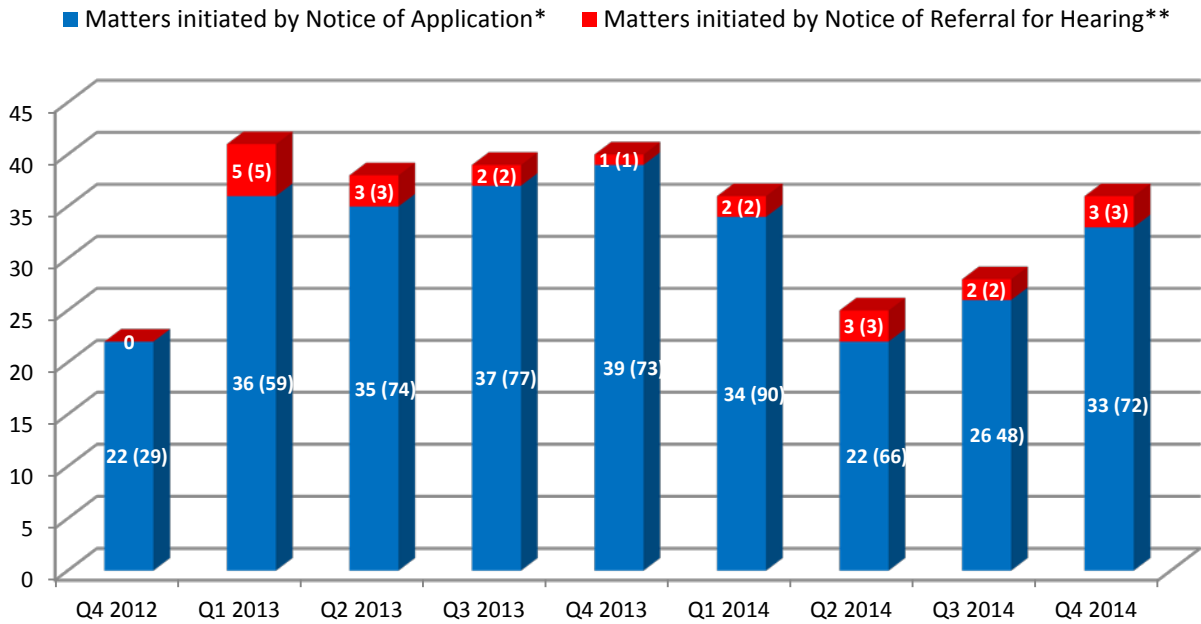
**Graph 2.6C: Discipline – Matters Authorized by PAC**

		Totals for 2013	Q1 2014	Q2 2014	Q3 2014	Q4 2014	Totals for 2014
<b>Conduct</b>	Lawyer	121 (SH-36)*	18 (SH-7)*	22 (SH-5)*	23 (SH-9)*	19 (SH-10)*	82 (SH-31)*
	Paralegal	41 (SH-12)	7 (SH-3)*	4 (SH-1)*	1 (SH-1)*	5 (SH-2)*	17 (7)*
<b>Capacity</b>	Lawyer	4	1	-	2	-	3
	Paralegal		-	-	-	-	
<b>Competency</b>	Lawyer		-	-	-	-	
	Paralegal		-	-	-	-	
<b>Non-Compliance</b>	Lawyer		-	-	-	-	
	Paralegal		-	-	-	-	
<b>Interlocutory Suspension</b>	Lawyer	5	2	2	2	5	11
	Paralegal		-	-	-	3	3
<b>Licensing</b>	Lawyer	3	-	2	1	1	4
	Paralegal	4	-	1	-	-	1
<b>Invitation to Attend</b>	Lawyer	31	3	4	1	6	14
	Paralegal	3	2	2	-	1	5
<b>Letter of Advice</b>	Lawyer	24	2	1	2	2	7
	Paralegal	3	-	-	-	-	
<b>Regulatory Meeting</b>	Lawyer	3	-	-	-	1	1
	Paralegal		-	-	-	-	
<b>Yearly Totals</b>	Lawyer	191	26	31	31	37	122
	Paralegal	51	9	7	1	8	26
	<b>TOTAL</b>	<b>242</b>	<b>35</b>	<b>38</b>	<b>32</b>	<b>45</b>	<b>148</b>

\*The number of Summary Hearings (SH) authorized appears in brackets and is included in the total number of conduct matters authorized in each quarter.

## 2.6 – Discipline

**Graph 2.6D: Discipline - Notices of Application / Referral for Hearing 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 Q4 2014, 33 Notices of Application were issued (relating to 72 cases) and 3 Notices of Referral for Hearing were issued (relating to 3 cases).

	2011	2012	2013	2014
Notices of Application issued	122	109	147	115
Notices of Application	118	104	142	101
Interlocutory Suspension/Restriction motions	4	3	5	14
Notices of Referral for Hearing issued	12	6	11	10
<b>Total Notices Issued</b>	<b>134</b>	<b>115</b>	<b>158</b>	<b>125</b>



## 2.6 – Discipline

With respect to the 32 Notices of Application<sup>11</sup>/Notices of Motion for Interim Suspension Order and 3 licensing matters for which PAC authorization was obtained which were issued in Q4 2014:

- 25 were issued less than 1 month after PAC authorization;
- 8 were issued between 1 and 2 months after PAC authorization; and
- 2 were issued between 2 and 3 months after PAC authorization.

**Graph 2.6E: Discipline – Completed Matters**

		Q1 2013	Q2 2013	Q3 2013	Q4 2013	Total 2013	Q1 2014	Q2 2014	Q3 2014	Q4 2014	Total 2014
<b>Conduct Hearings</b>	Lawyers	20	32	18	24	94	27	21*	23	30	101*
	Paralegal Licensees	4	2	3	9	18	10	6	4	3	23
<b>Interlocutory Suspension Hearings/Orders</b>	Lawyers	-	1	-	2	3	2	3	2	4	11
	Paralegal Licensees	-	-	-	-	-	-	-	-	3	3
<b>Capacity Hearings</b>	Lawyers	1	-	-	1	2	1	-	1	1	3
	Paralegal Licensees	-	-	-	-	-	-	-	-	-	-
<b>Competency Hearings</b>	Lawyers	-	-	-	-	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-	-	-	-	-
<b>Non-Compliance Hearings</b>	Lawyers	-	-	-	-	-	-	1*	-	-	1*
	Paralegal Licensees	-	-	-	-	-	-	-	-	-	-
<b>Reinstatement Hearings</b>	Lawyers	1	-	-	-	1	2	-	1	1	3
	Paralegal Licensees	-	-	1	-	1	-	-	-	-	1
<b>Restoration</b>	Lawyers	-	-	-	-	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-	-	-	-	-
<b>Licensing Hearings (including Readmission)</b>	Lawyer Applicants	-	2	2	-	4	-	1	-	1	2
	Paralegal Applicants	1	1	1	-	3	1	2	1	-	4
<b>TOTAL NUMBER OF HEARINGS</b>	Lawyers*	22	35	20	27	104	32	25	27	37	120
	Paralegals*	5	3	5	9	22	11	8	5	6	31
	<b>TOTAL</b>	<b>27</b>	<b>38</b>	<b>25</b>	<b>36</b>	<b>126</b>	<b>43</b>	<b>33</b>	<b>32</b>	<b>43</b>	<b>151</b>

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

<sup>11</sup> Notices of Application are issued with respect to conduct, competency, capacity and non-compliance matters and require authorization by the Proceedings Authorization Committee (PAC).

## 2.6 – Discipline

### Graph 2.6F: 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, 2013 and 2014.

Quarter/Year	Appeal Division	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	20	3 appeals; 3 judicial reviews	
2014 1 <sup>st</sup> Quarter	2	5 appeals; 1 judicial review	1 motion for leave
2 <sup>nd</sup> Quarter	8 <sup>12</sup>	5 appeals; 1 judicial review	1 motion for leave
3 <sup>rd</sup> Quarter	7	2 appeals	2 motions for leave
4 <sup>th</sup> Quarter	<u>6</u>	<u>2 appeals; 3 judicial reviews</u> <sup>13</sup>	<u>1 motion for leave</u>
Total:	23	14 appeals; 5 judicial reviews	4 motions for leave

As of December 31, 2014, there are 12 appeals pending before the Appeal Division, 6 appeals in which the Appeal Division has reserved on judgment, 1 appeal before the Appeal Division that has been adjourned *sine die*, and 1 appeal in which the Appeal Division allowed the appeal in part, substituting findings of professional misconduct for those rendered by the Hearing Division, and is seized on the issue of penalty and costs.

With respect to matters before the Divisional Court, there are 11 appeals and 5 judicial review matters<sup>14</sup> pending. There are 3 leave applications pending in the Court of Appeal.

In 2014, 24 appeals before the Appeal Division were completed; 17 were launched by licensees/applicants, 6 were launched by the Law Society and 1 was launched by the Law Society with a cross-appeal by the licensee<sup>14</sup>:

- With respect to the 17 appeals brought by licensees / applicants:
  - 3 appeals were abandoned or deemed abandoned
  - 8 appeals were dismissed (4 licensees subsequently launched an appeal / judicial review before the Divisional Court)

<sup>12</sup> 1 of the matters is a motion seeking an extension of time in which to file an appeal.

<sup>13</sup> While one of the judicial reviews has been filed with the Divisional Court, as at December 31, 2014, the Law Society had not yet been served.

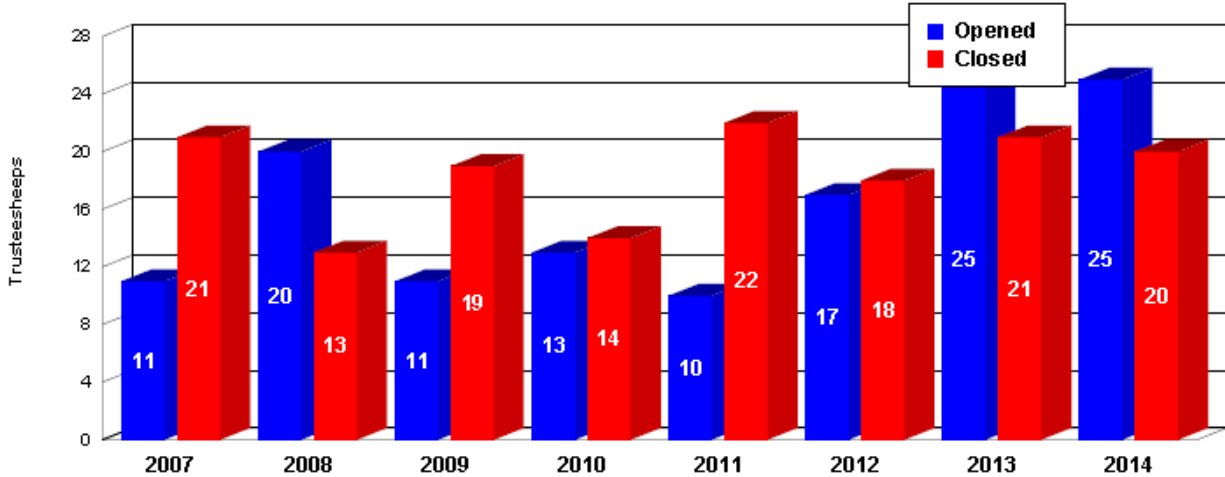
<sup>14</sup> A licensee also brought a motion for an extension of time in which to file an appeal. This matter was subsequently brought before the Divisional Court and dismissed.

## 2.6 – Discipline

- 6 appeals were allowed or allowed in part:
  - In 2 matters, the Appeal Division set aside the Hearing Panel/Divisions' Decisions and Orders and ordered new hearings. In one of these matters, the Law Society elected not to re-prosecute and the Appeal Division ordered a new penalty.
  - in 4 matters, the Appeal Division set aside the Hearing Panel/Division's Decisions and Orders, substituting new penalties in 2 matters, substituting a new cost order in 1 matter and granting an applicant a L1 licence in the fourth matter.
- With respect to the 6 Law Society appeals, the Appeal Division allowed or allowed in part all 6 appeals,
  - setting aside the Decisions and Orders of the Hearing Division and ordering new hearings in 5 matters. (3 licensees appealed these decisions to Divisional Court.)
  - amending the Hearing Division's order in 1 matter.
- With respect to the appeal by the Law Society/cross-appeal by the licensee, the Appeal Division allowed the Law Society's appeal, setting aside the penalty ordered by the Hearing Division and substituting a new penalty. The cross-appeal was dismissed. (The licensee appealed this decision to the Divisional Court.)

## 2.7 – Trustee Services

**Graph 2.7A: Trustee Services - Formal Trusteeships Opened and Closed**

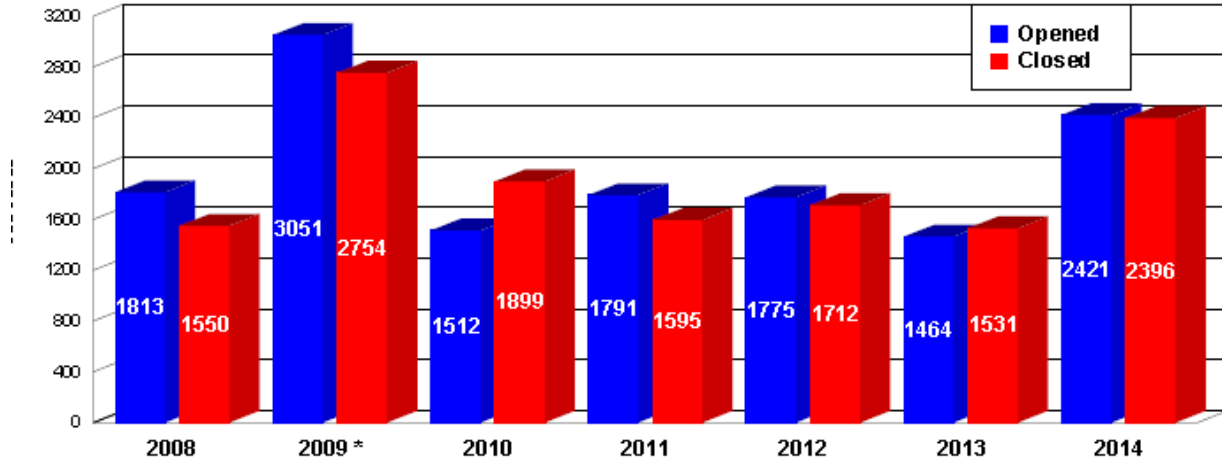


This graph displays the number of formal trusteeships that were opened and closed in the past 7 years. Formal trusteeships are court-ordered.

During 2014, Trustee Services opened 76 files. As of December 31, 2014, a total of 130 active files remained in its inventory, which included 44 active court ordered (formal) and voluntary (informal) trusteeships. The remaining files involve various other matters that Trustee Services deals with on a regular basis, including search warrants and the administration of the Unclaimed Trust Fund.

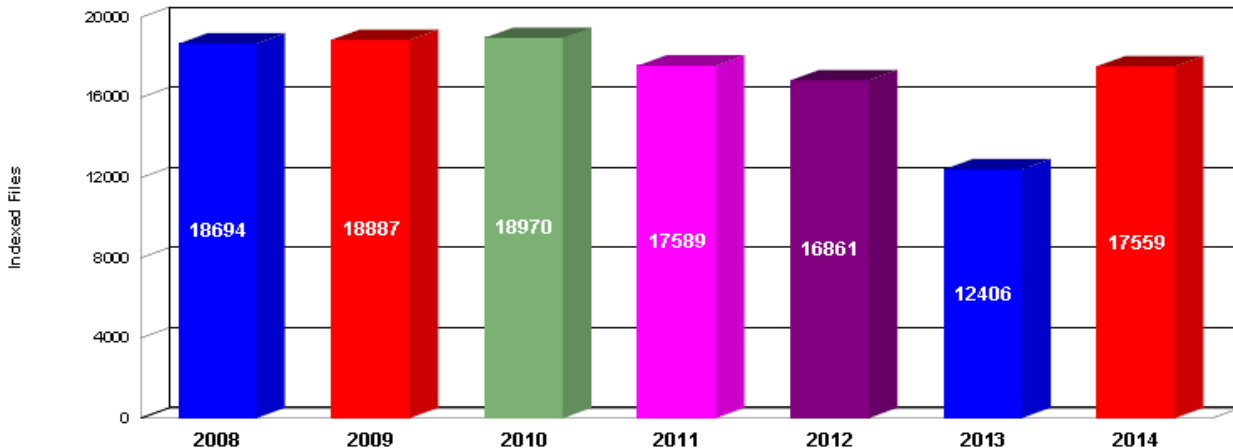
## 2.7 – Trustee Services

**Graph 2.7B: Trustee Services – Client Request Files Opened and Closed, by Quarters**



Trustee Services staff receive and respond to specific client related requests, such as the return of a file or responding to requests for information concerning a professional business. The graph above shows these requests (which are created as sub-cases in the division’s case management system, IRIS) that were opened and closed in the past five years. The higher numbers in 2009 (\*) represent a one-time capturing of work in progress as a result of the department’s decision in that year to also record distribution of client funds to specific individuals within the IRIS system. As of December 31, 2014, Trustee Services had 456 active client request files, of which 282 related solely to the distribution of trust funds.

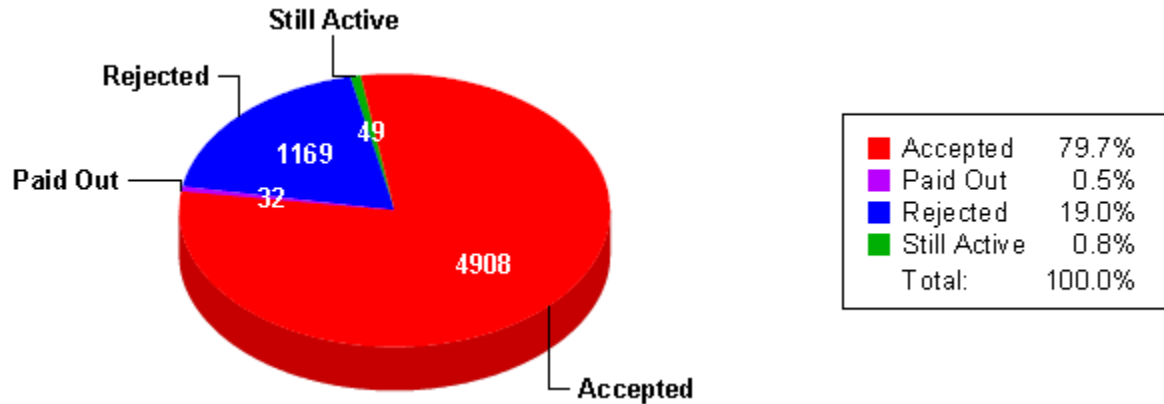
**Graph 2.7C: Trustee Services – Client Files Indexed Annually**



When Trustee Services obtains a formal, court-ordered trusteeship against a licensee or enters into a voluntary trusteeship arrangement with a licensee, client files are retrieved from the licensee’s professional business, indexed and preserved for the benefit of the clients. The above graph displays the number of client files obtained and indexed in the last 6 years. In addition to the indexing of client files, Trustee Services also indexes wills and Powers of Attorneys which are in the licensee’s possession.

## 2.7 – Trustee Services

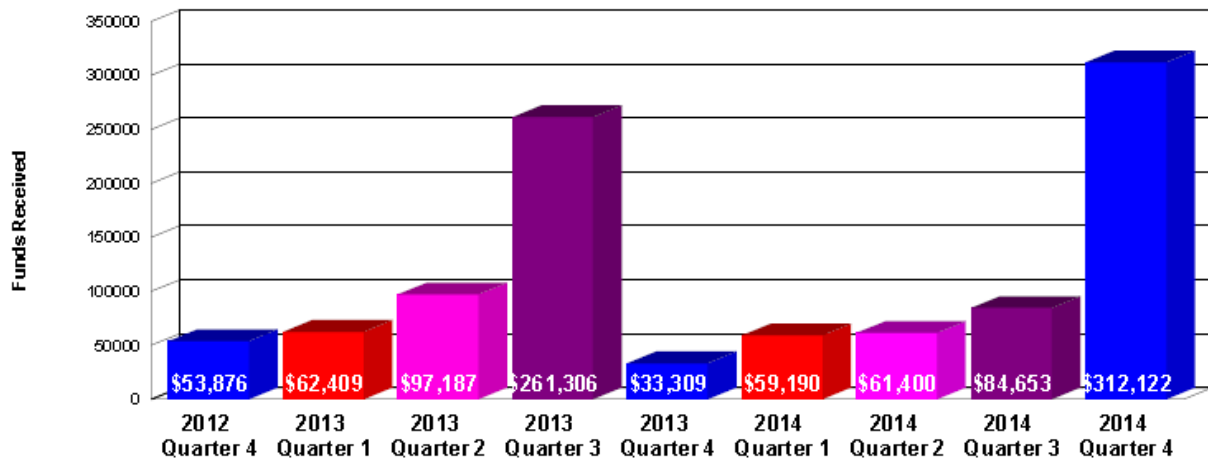
**Graph 2.7D: Unclaimed Trust Fund – Summary of Applications Made**



The Unclaimed Trust Fund (UTF) is a program that enables lawyers to apply to have trust funds they have held for at least 2 years to be taken over and held by the Law Society. This diagram displays the results of applications made to the UTF from its inception on February 1, 1999 to December 31, 2014.

**Graph 2.7E: Unclaimed Trust Fund - Amounts Received**

The graph below shows the amounts received into the UTF for the previous 9 quarters. As of December 31, 2014, a total of \$3,812,536 had been received into the Fund since its inception and \$100,318 has been paid out, leaving a balance in the Fund of \$3,712,218.



## 2.8 – Monitoring & Enforcement

**Graph 2.8A: Monitoring & Enforcement – New Matters**

	Totals for 2013	Q1 2014	Q2 2014	Q3 2014	Q4 2014	Totals for 2014
<b>Enforcement</b>	28	8	8	3	7	26
<b>Insolvency</b>	30	5	12	7	6	30
<b>Orders</b>	147	38	43	53	45	179
<b>Restitution &amp; Judgments</b>	6	0	1	0	0	1
<b>Undertakings</b>	47	12	16	15	16	59
<b>TOTAL</b>	<b>258</b>	<b>63</b>	<b>80</b>	<b>78</b>	<b>74</b>	<b>295</b>

The above chart sets out the number of new matters opened by the Monitoring and Enforcement Department in 2014. As at December 31, 2014, the department had an active inventory of 953 cases, broken down as follows:

Enforcement	8
Insolvency	108
Orders	501 (with an additional 262 in abeyance)
Restitution & Judgments	37 (with an additional 2 in abeyance)
Undertakings	299 (with an additional 463 in abeyance)
<b>TOTAL</b>	<b>953</b>

**Graph 2.8B: Monitoring & Enforcement – Collections**

As at December 31, 2014, the department collected a total of \$346,751.

\$324,104 (Discipline order costs)
\$ 7,000 (Compensation Fund recoveries)
\$ 5,647 (bankruptcy dividends)
\$ 10,000 (court & restitution order recoveries)

**Graph 2.8C: Monitoring & Enforcement – Regulatory Inquiries**

In May 2009, Monitoring & Enforcement took over responsibility for responding to inquiries from the public concerning regulatory matters. The following chart sets out the number of emails/telephone inquiries the Monitoring and Enforcement staff responded to and the number of licensees who were the subjects of those inquiries:

Type of Inquiry		Totals for 2009*	Totals for 2010	Totals for 2011	Totals for 2012	Totals for 2013	Totals for 2014
<b>Email</b>	<b>Number</b>	1655	4302	2643	3474	3860	4316
	<b>Licensees</b>	2844	5976	3755	4148	4368	4910
<b>Telephone</b>	<b>Number</b>	3193	3575	1097	918	936	1063
	<b>Licensees</b>	3544	3944	1211	970	979	1072
<b>Total Inquiries</b>	<b>Number</b>	<b>4848</b>	<b>7877</b>	<b>3740</b>	<b>4392</b>	<b>4796</b>	<b>5379</b>
	<b>Licensees</b>	<b>6388</b>	<b>9920</b>	<b>4966</b>	<b>5118</b>	<b>5347</b>	<b>5982</b>

\*May 1 to December 31 only

## **SECTION 3**

## **APPENDICES**



## APPENDIX A

### A Description of the Professional Regulation Division Work Process

#### Client Service Centre (CSC)

All complaints to the Law Society receive initial processing in the CSC. It is the responsibility of this group of staff to sort these complaints to identify those which may raise regulatory issues, and to forward them to Professional Regulation.

#### Intake

Intake receives all new complaints referred to Professional Regulation. Its function is to review and substantiate the complaints, identify regulatory and risk issues, triage where required, and to provide early resolution where appropriate. Intake also has an important case management function, determining and facilitating the regulatory approach that will best serve the requirements of the case, and ensuring that different investigations concerning the same lawyer are appropriately linked.

#### Complaints Resolution

The role of Complaints Resolution is to investigate and resolve complaints where the allegations indicate less serious breaches of the *Rules of Professional Conduct*. The majority of complaints are resolved, or closed on the basis of an informal regulatory response. Where a significant breach of the rules is shown on investigation, or where the lawyer fails to cooperate in the regulatory process, a prosecution or other response may be sought from the Proceedings Authorization Committee.

#### Investigations

The Investigations Department's primary responsibility is to investigate allegations concerning a licensee's conduct or capacity, which, if made out, are likely to lead to discipline proceedings. Investigations staff includes lawyers, investigators and auditors. On completion of the investigation a complaint is referred to the Proceedings Authorization Committee, closed, or resolved. On reviewing any complaint referred to it, the Proceedings Authorization Committee may authorize a prosecution, order further investigation, or authorize an alternative resolution such as an Invitation to Attend. The Investigations Department is also responsible for unauthorized practice cases, contrary to section 26.1 (formerly section 50) of the *Law Society Act*.

## **A Description of the Professional Regulation Division Work Process (Cont'd)**

### **Complaints Review**

Where a complaint is closed by Law Society staff, the complainant may have the right to a review of that decision by the Complaints Resolution Commissioner. The role of the Commissioner and the complaints review process is established by the *Law Society Act* and Law Society By-Law 11. The Commissioner receives all cases where a complainant wishes to bring a complaint and holds meetings with the complainants. At the end of the process, the Commissioner may confirm the Law Society decision, or recommend further investigation. The Commissioner may also make informal recommendations for improved process.

### **Discipline**

Discipline counsel represent the Law Society before Hearing and Appeal Panels and in the courts when appeals are taken from the decisions of these panels. The department is responsible for the prosecution of a variety of matters including those concerning licensee conduct and capacity, applications for admission to the Law Society, and applications for reinstatement or readmission.

The majority of prosecutions concern issues of licensee conduct based on infractions of the *Rules of Professional Conduct*. The Law Society's discipline counsel issue the application commencing the process, disclose evidence, and represent the Law Society in pre-hearing and hearing processes.

### **Monitoring and Enforcement**

The Monitoring & Enforcement Department is responsible for enforcement of Hearing Panel orders and lawyer undertakings. Monitoring & Enforcement Department activities include enforcing Hearing Panel orders, monitoring undertakings obtained at the completion of matters by other departments within the Division, ensuring that bankrupt lawyers comply with the Law Society's by-laws; enforcing judgments and mortgages obtained by or assigned to the Compensation Fund and responding to regulatory inquiries from the public.

### **Trustee Services**

Trustee Services responds in situations where a lawyer has abandoned his/her practice or has been disbarred or suspended, as well as situations where a sole practitioner has suffered serious health problems and is unable to continue in the practice of law. Through the use of the Law Society's trusteeship powers, staff carry out the Law Society's mandate to protect the public interest by taking possession of the practice, if necessary. The department also provides information and assistance to lawyers and their personal representatives who are closing their practices.

## **A Description of the Professional Regulation Division Work Process (Cont'd)**

### *Unclaimed Trust Fund Services*

The Law Society has established a program that enables lawyers to submit unclaimed trust funds that they have held for at least two years to the Law Society. Members of the public who believe they are entitled to these funds are able to make claims for these funds. Trustee Services receives lawyer applications to remit funds, investigates the circumstances, and recommends whether the funds should be accepted into the UTF. In a significant minority of cases, Society staff locate the client and the lawyer is then able to return the funds.

### **Compensation Fund**

This fund receives and processes claims from clients who have lost money because of a lawyer's or paralegal's dishonesty. The Fund depends entirely on the lawyer and paralegal fee levies. Staff receive claims and assess their merits based on a set of Guidelines approved by Convocation. The maximum compensation payable under the Guidelines is \$150,000 to any one claimant for claims involving lawyers and \$10,000 per claimant for claims involving paralegals.

### **Office of the Director**

The responsibility of the Director is to oversee all departments within the Division including budget, staffing, technology, issue management and case process including an effective and timely complaints process, and appropriate risk management. This includes coordination and liaison with other divisions of the Law Society and external parties, communications both within the outside the division, development of policy and rule amendment proposals, oversight of case process including the management of significant investigations and prosecutions, and resource management. The Director reports to the Professional Regulation Committee and supports Bencher work on strategic initiatives in licensee regulation.

### **Case Management**

This department's main responsibility is the oversight of Professional Regulation's case management system, the Integrated Regulatory Information System ("IRIS"). Case Management was created in 2008 as a discrete department within the division to ensure in-house control of the quality and integrity of data maintained in IRIS and to allow for ongoing improvements to IRIS. The department is responsible for: the development of qualitative analysis and recommendations regarding file handling, issue management, work process and procedural improvements; the development of reporting structures and the examination and evaluation of reporting requirements for Professional Regulation; and ongoing monitoring of case files to ensure that the Professional Regulation product continues to support the Law Society's mandate to protect the public and maintain public confidence in the legal profession in Ontario. Case Management is also responsible for various divisional projects, including the Discipline History Project and the Reasons Analysis Project.

## APPENDIX B -Glossary of Case Types Used in the Quarterly Report

<b>Case Type Name</b>	<b>Individual Allegations</b>	
<b>Conflicts</b>	Licensee in a Position of Conflict Business / Financial Relations with Client	
<b>Financial</b>	Estate / Power of Attorney Real Estate / Mortgage Schemes Misapplication Misappropriation Pre-Taking Co-mingling / Mishandling Trust Accounts Breach of No-Cash Rule	
<b>Governance</b>	Fail to Maintain Books & Records Practice by Former / Suspended Licensee Relations Prohibited Persons / Fail Prevent UAP UAP by Non-Licensee Fail to Prevent Practise Outside Scope of Licence Practising Outside Scope of Licence Fail to Report Misconduct / Error / Omission Fail to Cooperate with LSUC Practising without insurance / Fee Category Student Investigations Improper Advertising Operating Trust Account while Bankrupt	
<b>Integrity</b>	Conduct Unbecoming outside the Practice of Law Criminal Charges Counseling / Behaving Dishonourably Discriminatory Conduct Sexual Misconduct Direct Communications with Represented Parties Misleading Breach of Orders, Undertaking or Escrow Civility	
<b>Service Issues</b>	Fail to Provide Client Report Fail to Follow Client Instructions Fail to Communicate Fail to Preserve Client Property Fail to Serve Client Withdrawal of Services / Abandonment Fail to Supervise Staff Fail to Account Fail to Pay Financial Obligations Breach of Confidentiality / Fiduciary Duty	
<b>Special Applications</b>	Readmission Admission Capacity Reinstatement – Variation of Order	Reinstatement – Order Fulfilled Restoration Competency from PD&C Interlocutory Suspension
<b>Other Issues</b>	Other Issues	

## APPENDIX C

### Glossary of Closing Dispositions Used in the Quarterly Report Intake Department

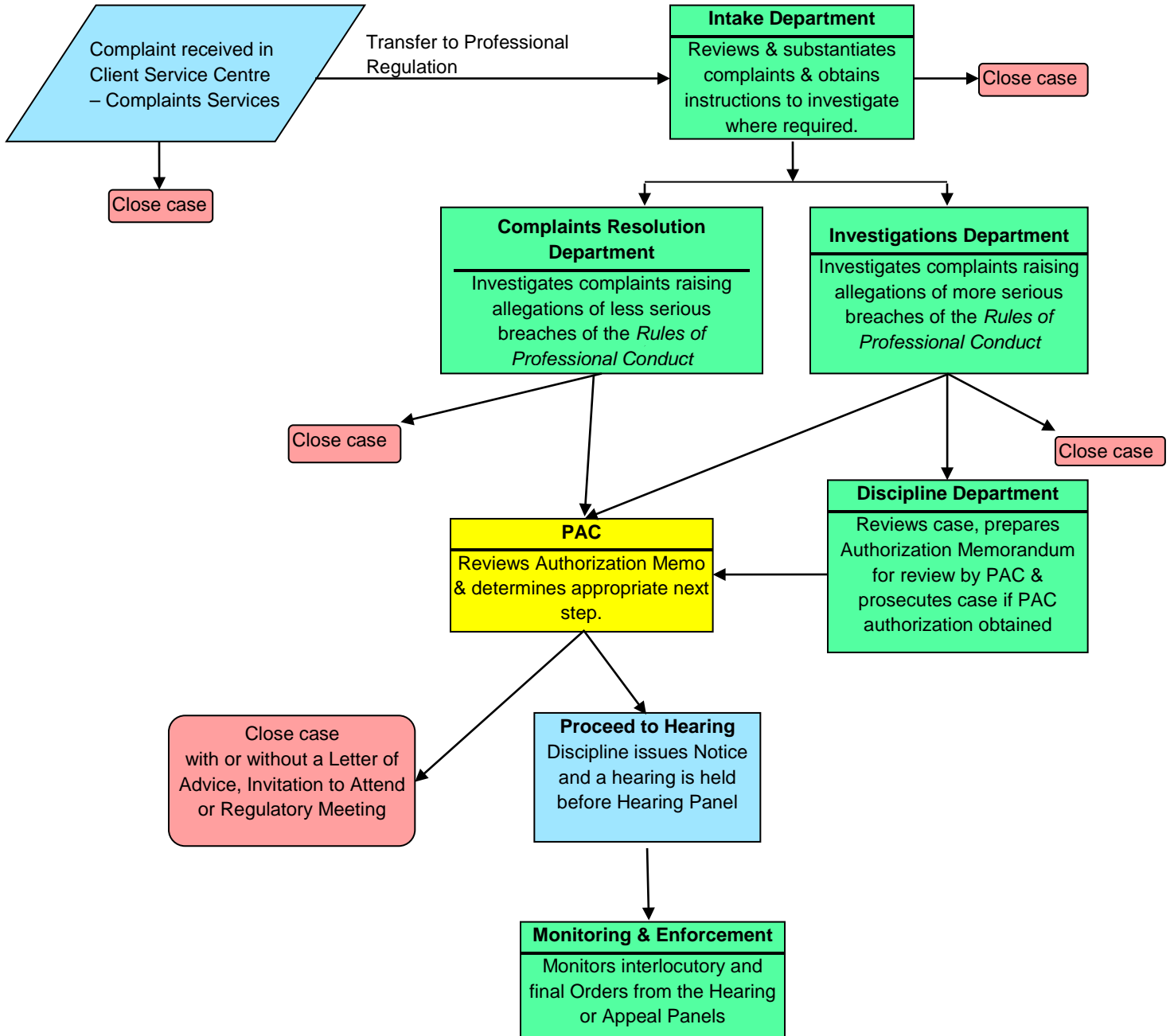
<b><i>Closing Type Category Name</i></b>	<b><i>Closing Disposition category includes:</i></b>
<b>No Jurisdiction</b>	Negligence Fees Non-lawyer / Non-member Mandate
<b>No Response from Complainant</b>	Incomplete complaint submission Failure to provide requested information
<b>Withdrawal</b>	Prior Resolution between Member and Complainant Withdrawal at request of Complainant UAP – Closed by Triage Project
<b>Concurrent Litigation</b>	Concurrent Litigation pending internal to Law Society Process Concurrent Litigation pending external to Law Society Process
<b>Previously Raised, Previously decided</b>	Within LS Process
<b>Regulatory Issue Determined</b>	Not of Sufficient regulatory concern Abuse of Law Society Process Independent resolution between Member and Complainant Exceptional Circumstances Refusal by Complainant to LSUC release information / M Counsel S.49.3 Authorization Denied Referral for Mentoring
<b>Early Resolution</b>	Between Parties Resolution reached by LSUC

## APPENDIX D

### Glossary of Closing Dispositions Used in the Quarterly Report Complaints Resolution and Investigations Departments

<b>Closing Type Category Name</b>	<b>Closing Disposition Category Includes:</b>
<p><b>Discontinued</b>  (Investigations which have been closed without a final determination on the merits of the complaints.)</p>	<p>Availability - evidence unavailable  Availability – information unavailable  Availability - subject deceased  Availability - witnesses unavailable  Concurrent Litigation – External to LSUC Process  Concurrent Litigation – Within LSUC Process  Concurrent Litigation – Summary Hearing Suspension  Decision - exceptional circumstances  Decision - malice or abuse of process  Decision - not regulatory enough  Decision -refusal by complainant for LSUC to release information  Decision -resolution from complainant &amp; subject  Withdrawn at Complainant’s Request – independent resolution  Withdrawn at Complainant’s Request – other  UAP – Closed by UAP Triage</p>
<p><b>Found</b>  (A breach was found as a result of an investigation but the file was closed.)</p>	<p>Administrative Resignation of Subject  Caution – oral  Caution – written  Counselling – Referred by Staff  Counselling – Referred by Subject  Education – Referred by Staff  Education – Referred by Subject  Education – Staff Provided  Mentoring – Referred by Staff  Mentoring – Referred by Subject  Practice Review – Referred by Staff  Practice Review – Referred by Subject  Subject Rectified Breach  Undertaking – Oral  Undertaking – Written</p>
<p><b>Not Found</b>  (No breach found or the complaint was outside the jurisdiction of the Law Society to continue.)</p>	<p>Jurisdiction – Fees  Jurisdiction – Negligence  Jurisdiction – Other  No Breach – Inquiry Completed</p>
<p><b>PAC Closing</b>  (Closed under the direction of the Proceedings Authorization Committee (“PAC”))</p>	<p>Approval of Settlement  Closed  Invitation to Attend  Letter of Advice  Regulatory Meeting  Undertaking</p>

## The Professional Regulation Complaint Process



### PROFESSIONAL REGULATION ORGANIZATIONAL CHART

