



Law Society
of Ontario

Barreau
de l'Ontario

Tab 8

Tribunal Committee

Tribunal Statistics

October 24, 2019

Committee Members:

Isfahan Merali (Chair)

Julia Shin Doi (Vice-Chair)

David A. Wright (*ex officio*)

Larry Banack

Jack Braithwaite

Paul Cooper

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Tribunal Statistics – For Information

A. Executive Summary

Ongoing collection and reporting of Tribunal operational statistics assists the Tribunal to track issues, identify needs and monitor emerging trends in Tribunal proceedings. This enables the Committee and Convocation to make policy decisions with a more fulsome understanding of the Tribunal's work.

B. Committee Process

The Committee met on October 8, 2019. Committee members Isfahan Merali (Chair), Julia Shin Doi (Vice-Chair), Larry Banack, Jack Braithwaite, Paul Cooper, John Fagan, Geneviève Painchaud, Gina Papageorgiou, Lubomir Poliacik, and David A. Wright (Chair, Law Society Tribunal and *ex officio* Committee Member) attended. Treasurer Malcom M. Mercer and Bencher Alexander Wilkes also attended, as did staff members Celia Lieu, Lisa Mallia and Joe Zaffino.

Background

In June 2016, the Tribunal Committee began to revise the statistical information and data gathered by the Tribunal with a view to providing more relevant reports to Convocation and the public. The Tribunal Committee considered other types of data that would be useful in public and internal reports. This review was done while considering the goals of the Tribunal model as well as issues raised in the 2016 Tribunal Model Three-Year Review final report. That report highlighted the need for a revised approach to data collection that would focus on adjudicative purposes in order to measure the effectiveness of the Tribunal's processes.

The goal of Tribunal statistical data collection is to have more focused reporting that:

- measures outcomes;
- measures efficiency;
- monitors trends; and
- monitors data around adjudicators, duty counsel/self-represented licensees, French language hearings, and licensee/licensee applicant data.

while bearing in mind the public interest nature of the information and the need for transparency. The Committee developed a list of statistics to be gathered and reported quarterly and annually. The statistical reports for the first two quarters of 2019 are set out at **TABS 8.1 and 8.2**.

The volume of cases open at any point in time is generally between 165 and 175, although there was a brief dip in Q1 this year: see *Case/load* on page 3 of Q1 report. The same dip also occurred in terms of hearing days used.

The figures on timeliness show that, on average, files are closed within a year of the first PMC (see Q1, Figure 7; Q2, Figure 11).

The Tribunal also measures the length of time taken to complete reasons (see Q1, Figure 11; Q2, Figure 15). There were more oral reasons in Q2 as well as fewer reasons that took 91 or more days to complete.

The reports also show that all 10 motions for interlocutory suspension that were closed in the first two quarters of 2019 were granted, in full or in part (See Q2, Figures 20 and 21). Five appeals brought by licensee/licence applicants were also closed in the first two quarters of 2019 – one was abandoned and four were dismissed (See Q2, Figures 22 and 23). No appeals brought by the Law Society were closed in Q1 or Q2.

Most applications heard by the Tribunal are initiated by the Law Society. Of those applications that were closed in the first two quarters of 2019, most were granted in full (See Q2, Figures 18 and 19). In two instances the Law Society withdrew the notice of application. In two other instances, both a capacity proceeding and a conduct proceeding had been commenced and the capacity proceeding was subsequently withdrawn.



Law Society Tribunal Quarterly Statistics

For the period from January 1, 2019 to March 31, 2019

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Introduction

Statistics are critical to the work of the Law Society Tribunal. By recording, analyzing and sharing data, we are able to identify areas for improvement, inform the continual evolution of our processes and policies, assist Convocation in making policy decisions, and be transparent with the public about the work we do.

Volume

Total Files Opened

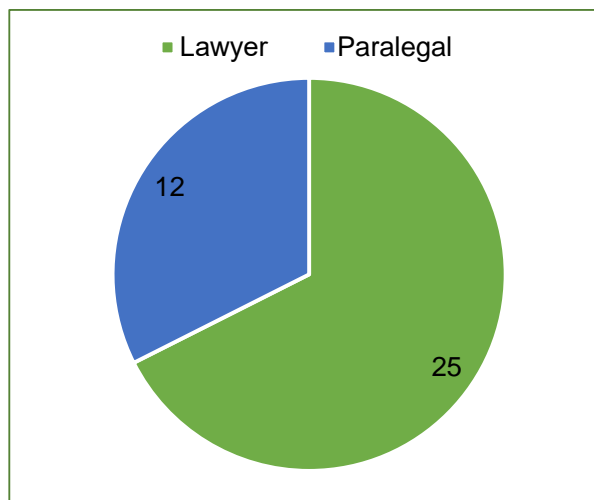
A Tribunal file is opened when an applicant files a notice of application, notice of referral for a hearing, notice of motion for an interlocutory suspension or restriction or notice of appeal with the Tribunal.

Figure 1: Files opened in this quarter by type of file

Type of file	Lawyer	Paralegal	Total
Regular	16	9	25
Summary	6	2	8
Appeal	3	1	4

Unlike non-summary files, summary hearings tend to be brief, and are always heard before a single adjudicator.

Figure 2: Ratio of licence type for the 37 files opened in the first quarter



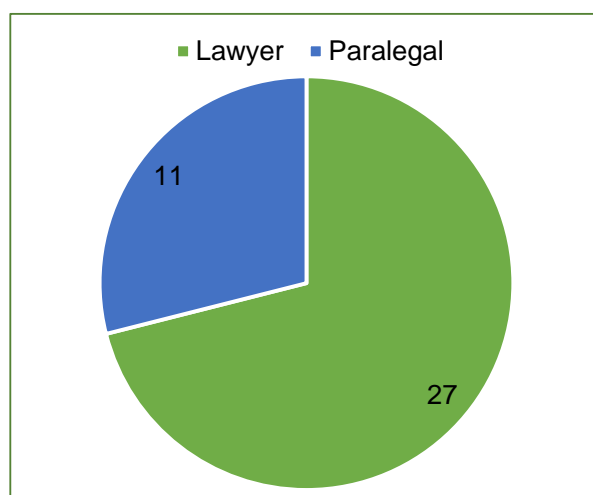
Total Files Closed

The Tribunal closes a file after the final order is issued, final reasons are published, or if the matter is abandoned or deemed abandoned.

Figure 3: Files closed in this quarter by type of file

Type of file	Lawyer	Paralegal	Total
Regular	19	5	24
Summary	6	4	10
Appeal	2	2	4

Figure 4: Ratio of licence type for the 38 files closed in the first quarter



Caseload

155 files (124 lawyer and 31 paralegal files) were open at the end of this quarter, compared to 167 at the end of last quarter. One year ago, at the end of the first quarter in 2018, 174 files were open.

Hearings

All hearings at the Tribunal are either oral or written.

Oral hearing days (either in-person or electronic) that are more than three hours are considered a full hearing day and those that conclude within three hours are considered a half hearing day.

Written hearings are conducted by written submissions, with the panel making its decision based on the documents without an in-person or electronic hearing. There were 15 written hearings this quarter.

Figure 5: Half days used in the first quarter of 2019 versus the first quarter of 2018

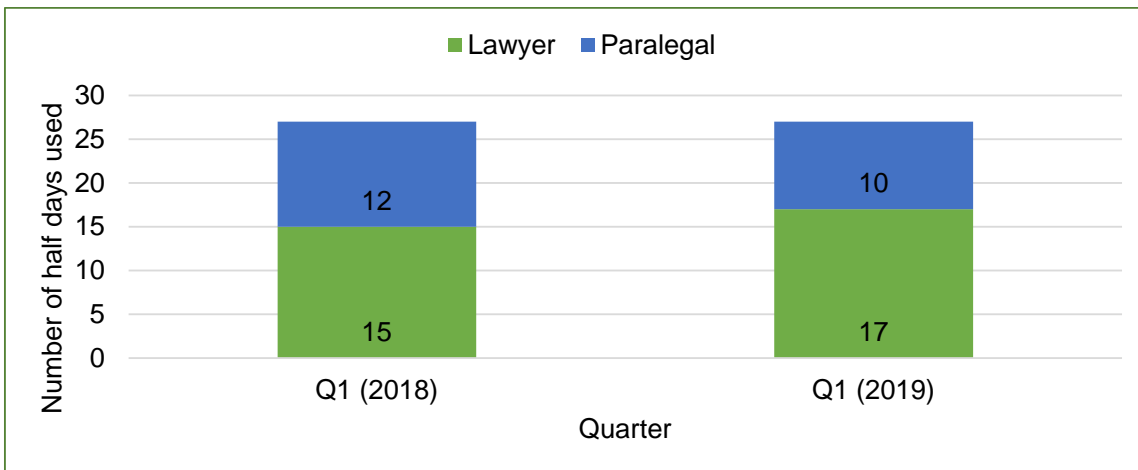
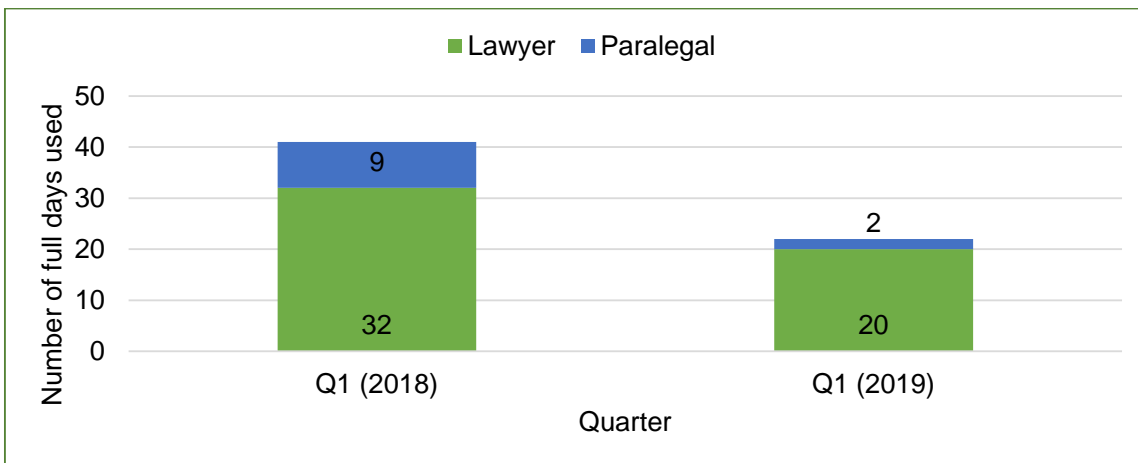


Figure 6: Full days used in the first quarter of 2019 versus the first quarter of 2018



The average number of hearing days used per file closed in this quarter was 1.5 days.

Timeliness

Proceedings Milestones

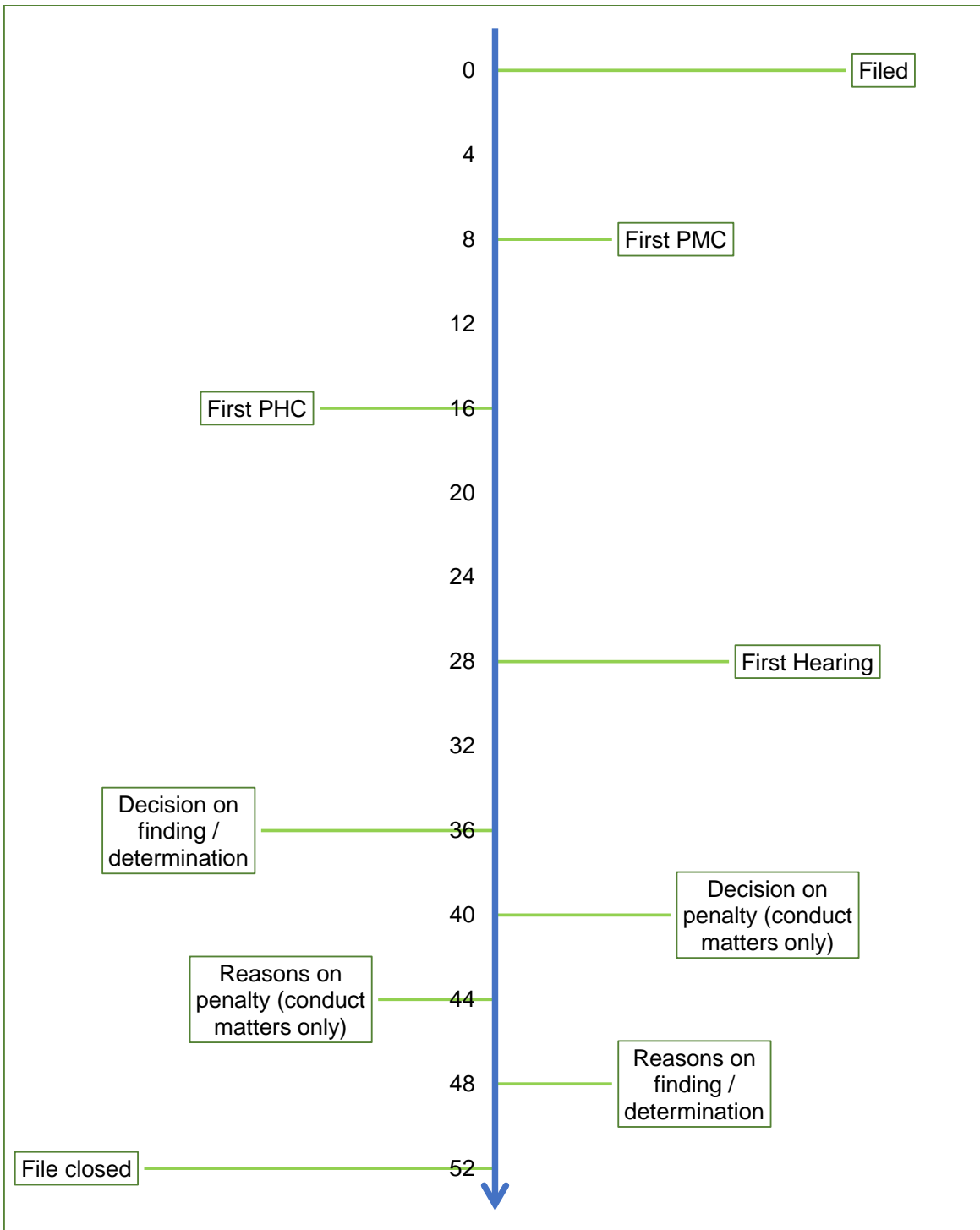
Tribunal proceedings pass most or all of the following milestones, though not always in the order listed below.

Averages are based on files that do pass the corresponding milestone.

Figure 7: Average days to significant milestones for files closed this quarter

Milestone	Lawyer files	Paralegal files	All files
First PMC	81	20	66
First PHC	127	90	117
First hearing	218	156	200
Decision on finding / determination	281	176	253
Last hearing / written submissions	296	164	258
Decision on penalty (conduct matters only)	298	132	259
Reasons on finding / determination	336	231	308
Reasons on penalty (conduct matters only)	328	199	298
File closed	376	273	347

Figure 8: Approximate average weeks between milestones for files closed this quarter



The Law Society of Ontario requires approval from the Proceedings Authorization Committee (PAC) to commence certain proceedings at the Tribunal. Conduct, capacity, non-compliance and interlocutory suspension or restriction motions require PAC approval.

Of the 38 files closed in this quarter 32 files were authorized by PAC.

Figure 9: Average days to significant milestones for PAC-authorized files closed this quarter

Milestone	Lawyer files	Paralegal files	Overall average
Date filed	68	18	55
First PMC	135	41	119
First PHC	233	90	197
First hearing	268	135	234
Decision on finding / determination	333	138	284
Last hearing / written submissions	345	135	293
Decision on penalty (conduct matters only)	384	151	328
Reasons on finding / determination	390	196	342
Reasons on penalty (conduct matters only)	412	218	365
File closed	426	206	371

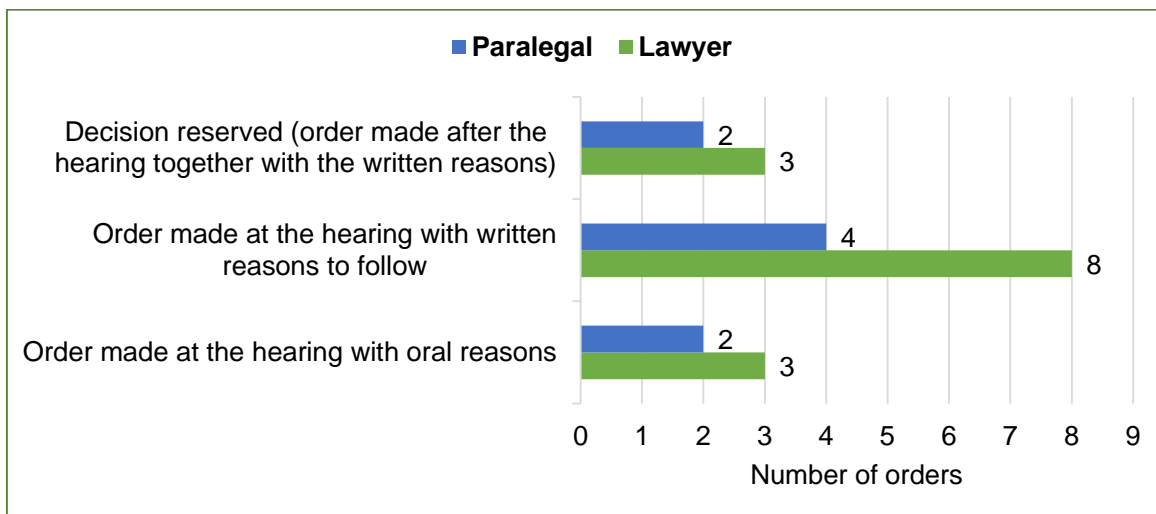
Orders and Reasons

Orders

There are many types of orders that the Tribunal may make during the course of a proceeding. Merits orders decide an application on its merits (for example, whether an interlocutory suspension is granted or whether a licensee has engaged in misconduct and will be subject to penalty) and are often accompanied by reasons.

The panel may reserve its decision at the end of a hearing or may provide their decision at the hearing with oral reasons given on the record or with written reasons to follow.

There were a total of 22 merit orders issued this quarter.

Figure 10: Merits orders issued this quarter and corresponding reasons

The Tribunal issued 53 orders this quarter, 22 of which were merits only or merits and costs orders while the remaining 31 were orders pertaining to a motion, public access or costs only.

Reasons

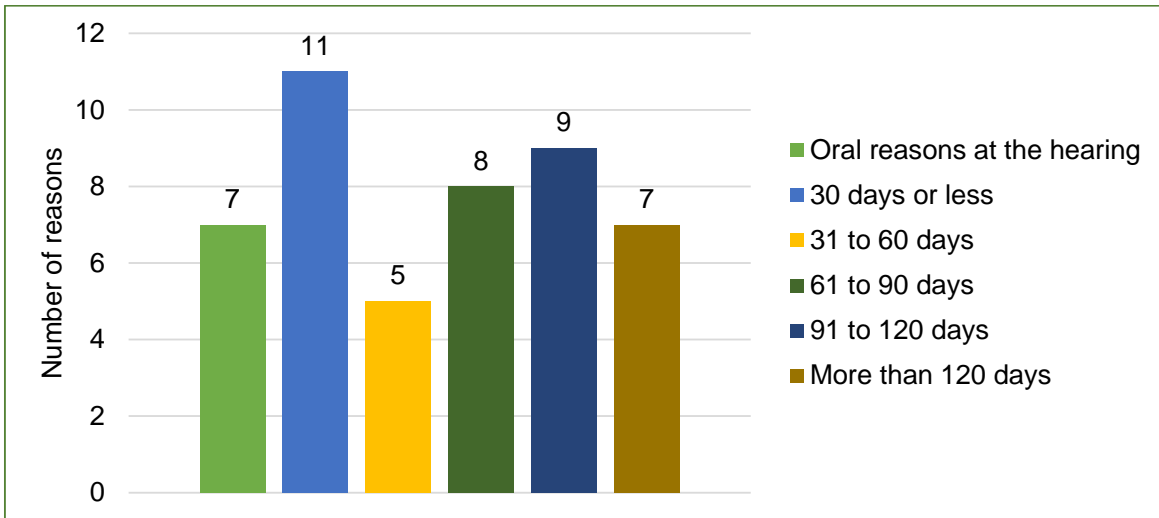
At the end of an oral hearing, or the date on which the last submissions are received in a written hearing, the panel can begin the process of generating written reasons. The Tribunal publishes written reasons on CanLII, usually within a week of their delivery to the parties.

Sometimes the panel delivers oral reasons at the end of the hearing instead of written reasons. When oral reasons are given, the Tribunal also publishes a written version on CanLII.

Figure 11: Time taken to complete reasons for reasons released this quarter

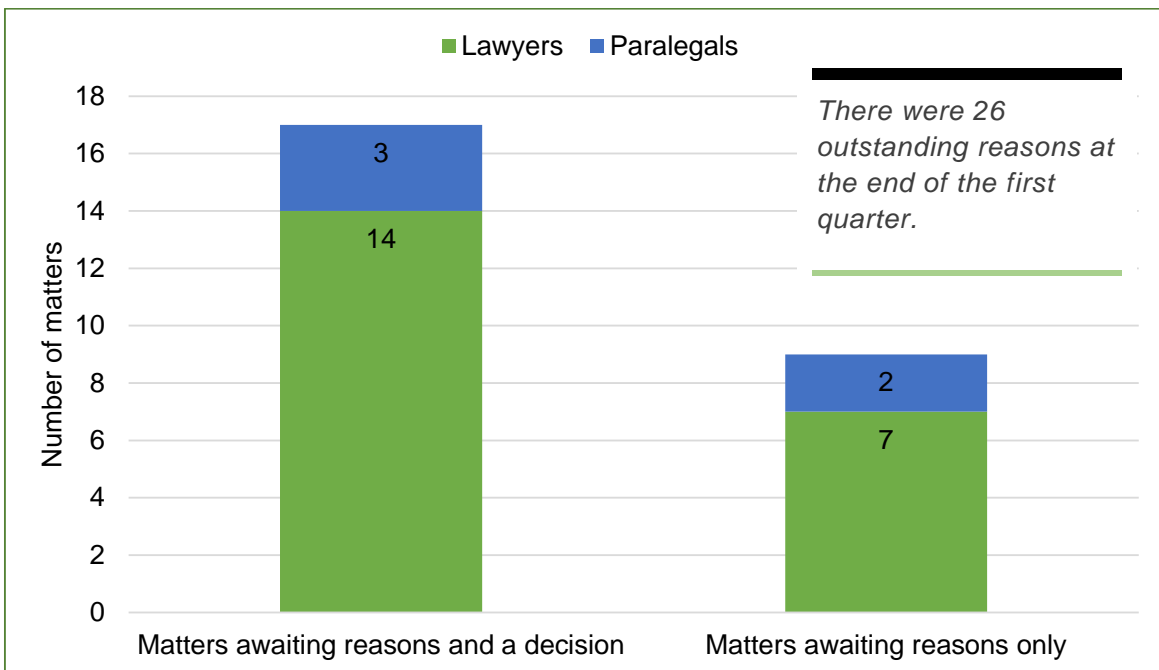
Days taken to deliver reasons to the parties	Q1
Oral reasons at the hearing	7
30 days or less	11
31 to 60 days	5
61 to 90 days	8
91 to 120 days	9
More than 120 days	7
Total	47

Figure 12: Number of reasons released in this quarter and the time taken to release them



The Tribunal published a total of 52 reasons this quarter, with 40 written reasons and 12 written versions of oral reasons.

Figure 13: Matters awaiting reasons at the end of this quarter

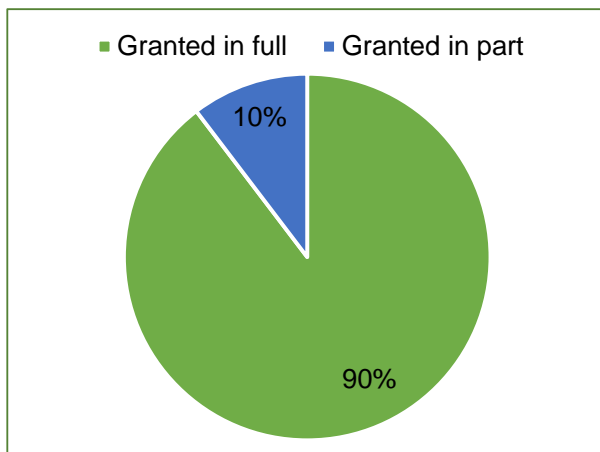


Outcomes

Applications by the Law Society

Most matters that are heard by the Tribunal are initiated by the Law Society, with the Law Society as the applicant and a licensee as the respondent.

Figure 14: Results of the 29 applications by the Law Society that were closed this quarter



Applications by the Licensee or Licence Applicant

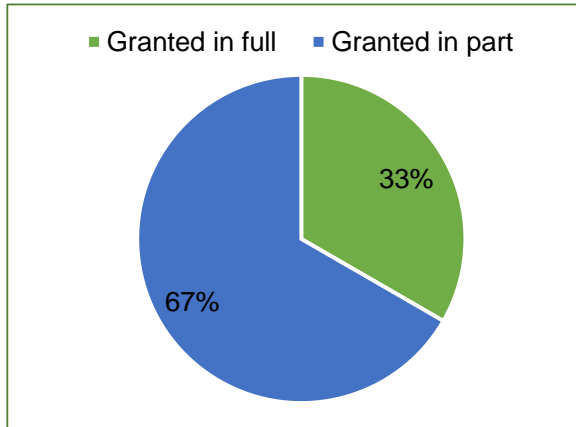
Some matters that are heard by the Tribunal are initiated by the licensee or licence applicant with the Law Society as the respondent.

The Tribunal closed two matters that were initiated by the licensee or licence applicant in the first quarter. Both of these were granted in full.

Interlocutory Suspension or Restriction Motions

An interlocutory suspension or restriction is an interim measure that may be requested by the Law Society before the hearing on the merits of a case. Interlocutory suspensions may be ordered when significant risk to the public, or to the public interest in the administration of justice, has been demonstrated.

Figure 15: Results of the 3 motions for interlocutory suspension or restriction closed in the first quarter

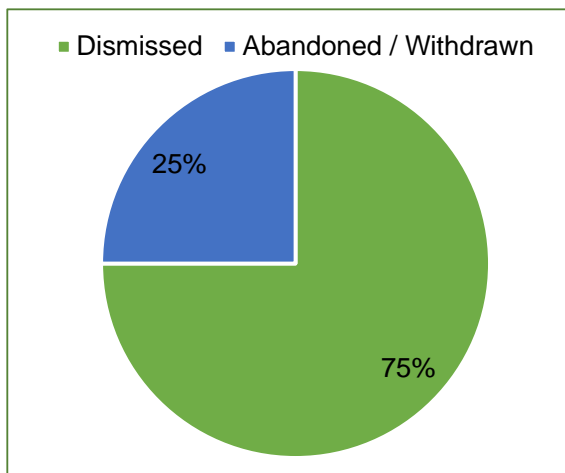


Appeals

If an applicant or respondent believes that the Tribunal's Hearing Division has made an incorrect decision, they may appeal the decision to the Appeal Division.

There were no appeals by the Law Society closed in the first quarter.

Figure 16: Results of the 4 appeals by licensee / licence applicant that were closed in the first quarter





Law Society Tribunal Quarterly Statistics

For the period from April 1, 2019 to June 30, 2019

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Introduction

Statistics are critical to the work of the Law Society Tribunal. By recording, analyzing and sharing data, we are able to identify areas for improvement, inform the continual evolution of our processes and policies, assist Convocation in making policy decisions, and be transparent with the public about the work we do.

Volume

Files Opened

A Tribunal file is opened when an applicant files a notice of application, notice of referral for a hearing, notice of motion for an interlocutory suspension or restriction or notice of appeal with the Tribunal.

Figure 1: Files opened in second quarter by type of file

Type of file	Lawyer	Paralegal	Total
Regular	29	6	35
Summary	8	3	11
Appeal	4	1	5

Unlike non-summary files, summary hearings tend to be brief, and are always heard before a single adjudicator.

Figure 2: Files opened in each quarter by file type

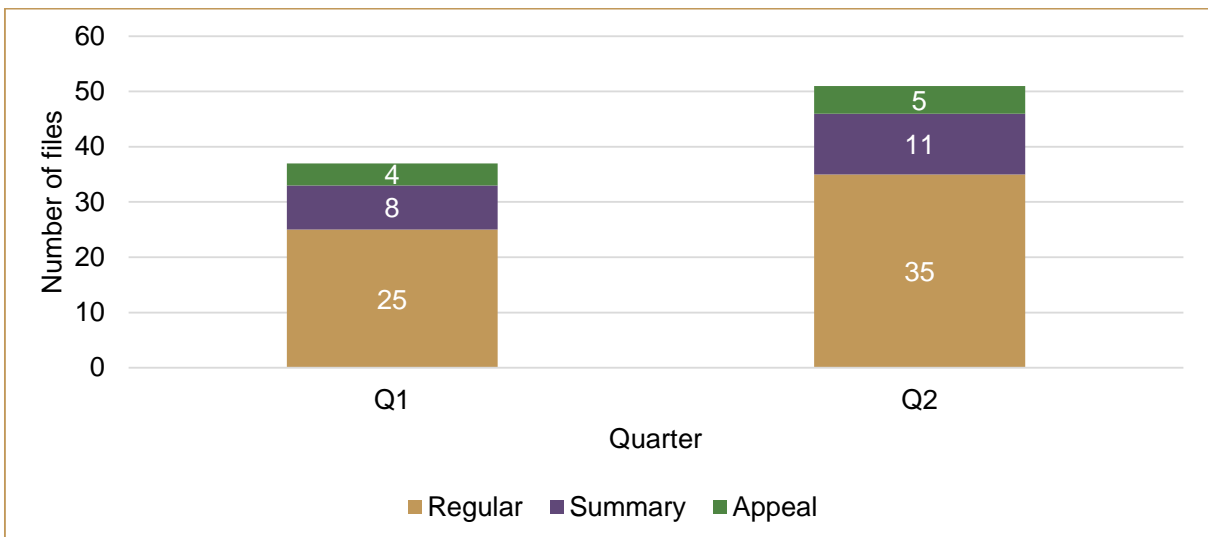


Figure 3: Ratio of licence type for the 37 files opened in the first quarter

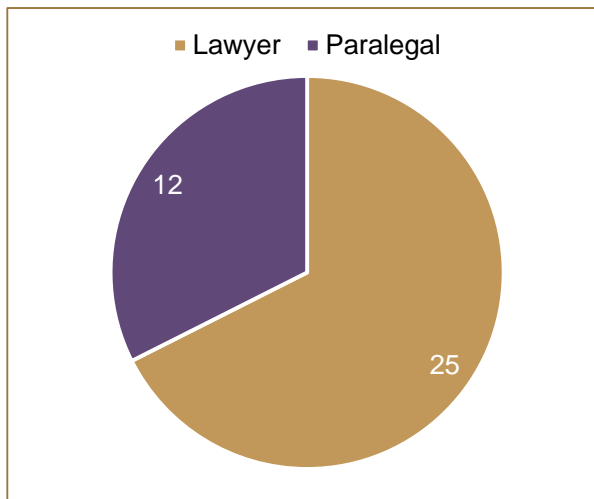
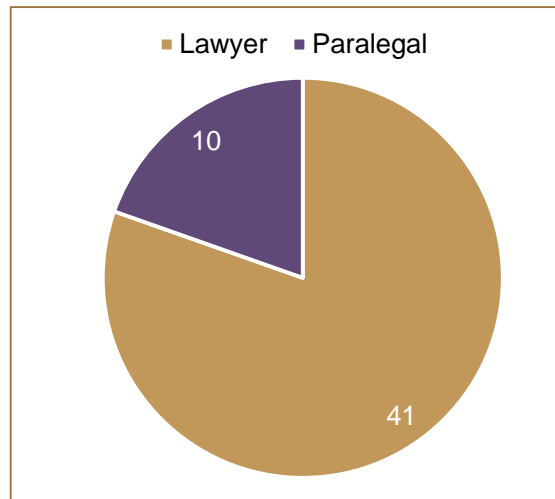


Figure 4: Ratio of licence type for the 51 files opened in the second quarter



Files Closed

The Tribunal closes a file after the final order is issued, final reasons are published, or if the matter is withdrawn, abandoned or deemed abandoned.

Figure 5: Files closed in the second quarter by type of file

Type of file	Lawyer	Paralegal	Total
Regular	20	5	25
Summary	7	3	10
Appeal	1	0	1

Figure 6: Files closed in each quarter by file type

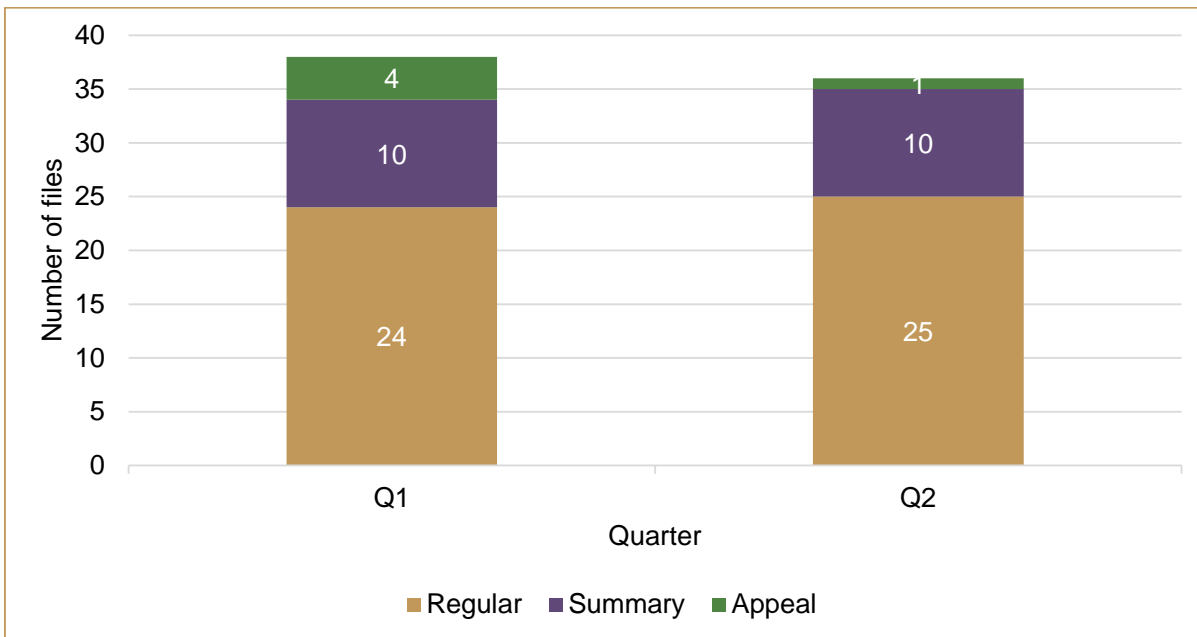


Figure 7: Ratio of licence type for the 38 files closed in the first quarter

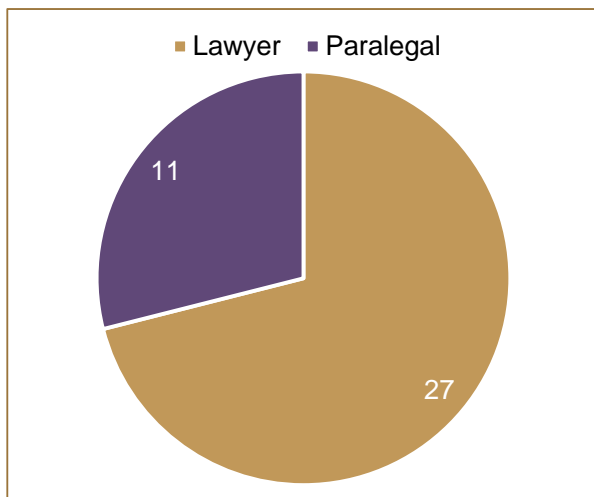
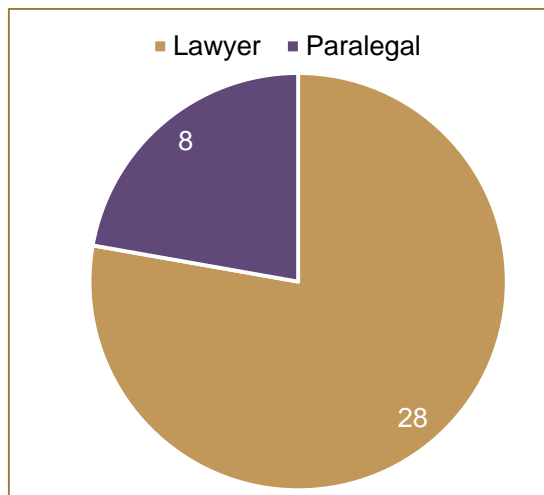


Figure 8: Ratio of licence type for the 36 files closed in the second quarter



Caseload

170 files (137 lawyer and 33 paralegal files) were open at the end of the second quarter of 2019 compared to 167 at the end of the second quarter of 2018 and 155 at the end of last quarter.

Hearings

All hearings at the Tribunal are either oral or written.

Oral hearing days (either in-person or electronic) that are more than three hours are considered a full hearing day and those that conclude within three hours are considered a half hearing day.

Written hearings are conducted by written submissions, with the panel making its decision based on the documents without an in-person or electronic hearing. There were 12 written hearings this quarter compared to 15 last quarter.

Figure 9: Half days used for hearings in each quarter

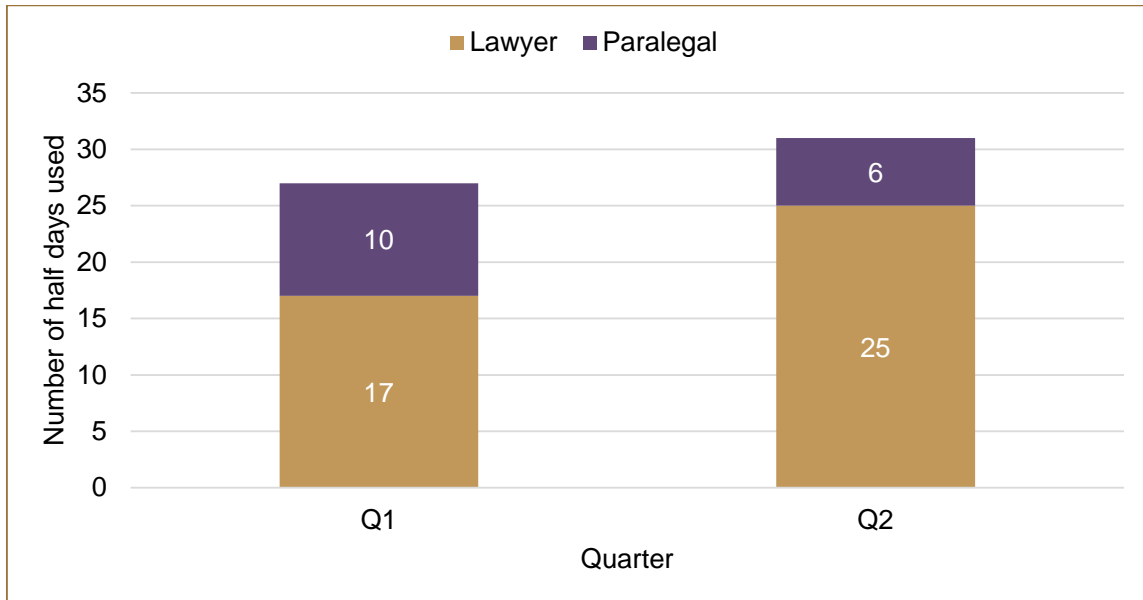
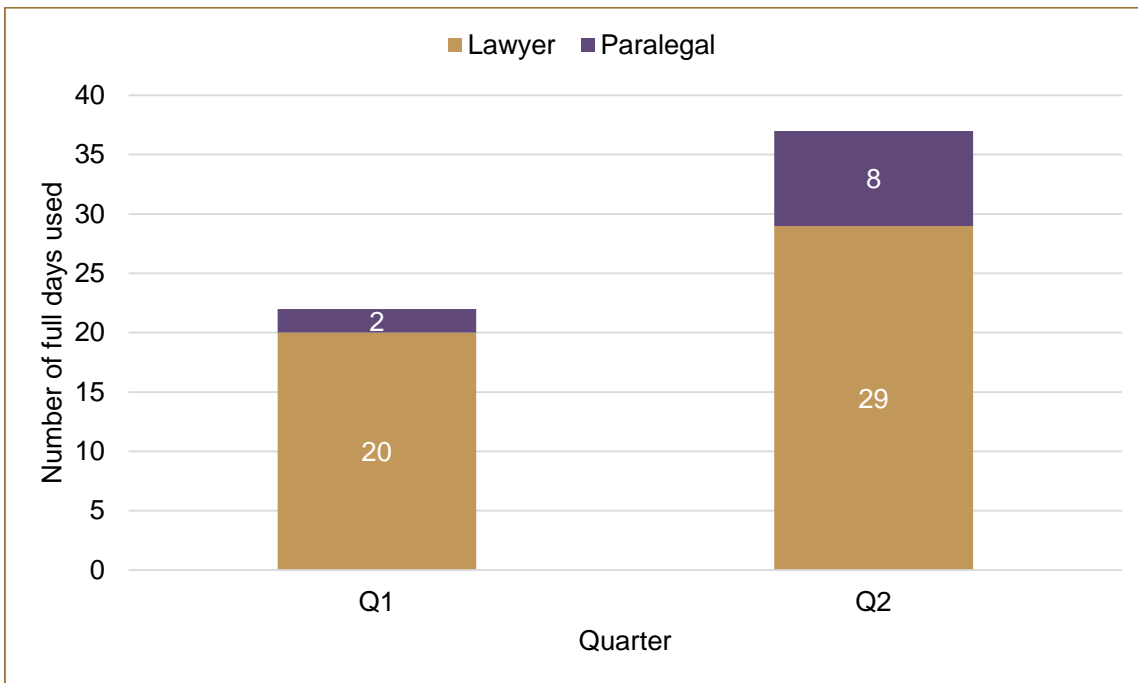


Figure 10: Full days used for hearings in each quarter



The average number of hearing days used per file closed in this quarter was 2.2 days.

Timeliness

Proceedings Milestones

Tribunal proceedings pass most or all of the following milestones, though not always in the order listed below.

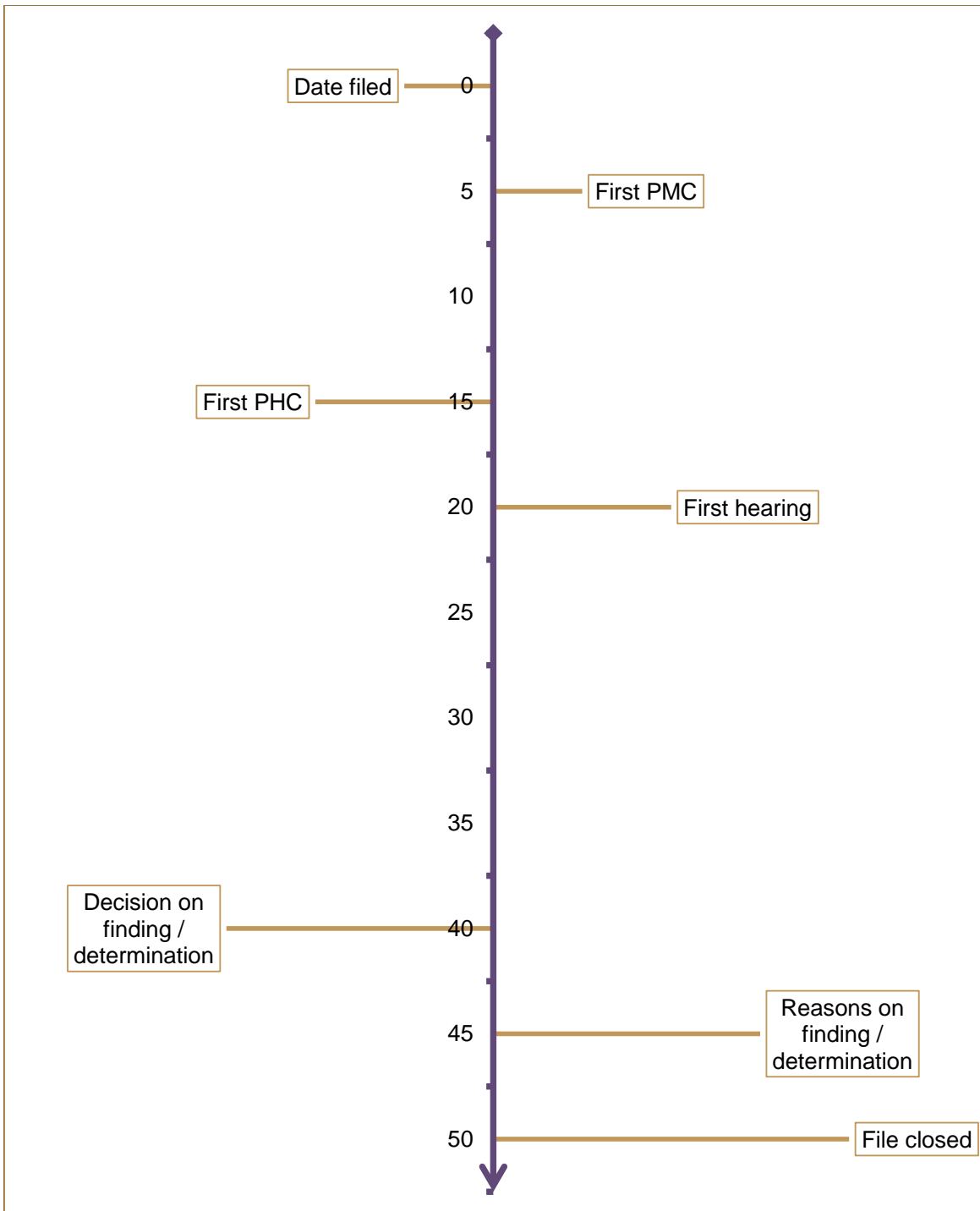
Averages are based on files that do pass the corresponding milestone.

Figure 11: Average days to significant milestones for files closed in the second quarter¹

Milestone	Lawyer files	Paralegal files	All files
First PMC	42	30	40
First PHC	124	60	112
First hearing	155	98	140
Decision on finding / determination	329	124	274
Last hearing / written submissions	345	116	286
Decision on penalty (conduct matters only)	394	110	326
Reasons on finding / determination	355	151	307
Reasons on penalty (conduct matters only)	422	123	351
File closed	381	169	332

¹ These numbers do not include one file which took 1869 days to close due in part to the licensee being out of the country for a prolonged period of time.

Figure 12: Approximate average weeks between milestones for files closed this quarter



The Law Society of Ontario requires approval from the Proceedings Authorization Committee (PAC) to commence certain proceedings at the Tribunal. Conduct, capacity, non-compliance and interlocutory suspension or restriction motions require PAC approval.

Of the 36 files closed in this quarter 29 files were authorized by PAC.

Figure 13: Average days to significant milestones for PAC-authorized files closed this quarter²

Milestone	Lawyer files	Paralegal files	Overall average
Date filed	42	19	36
First PMC	94	48	86
First PHC	171	67	155
First hearing	198	96	171
Decision on finding / determination	371	113	298
Last hearing / written submissions	379	100	304
Decision on penalty (conduct matters only)	437	133	357
Reasons on finding / determination	394	142	334
Reasons on penalty (conduct matters only)	467	147	383
File closed	409	150	346

Orders and Reasons

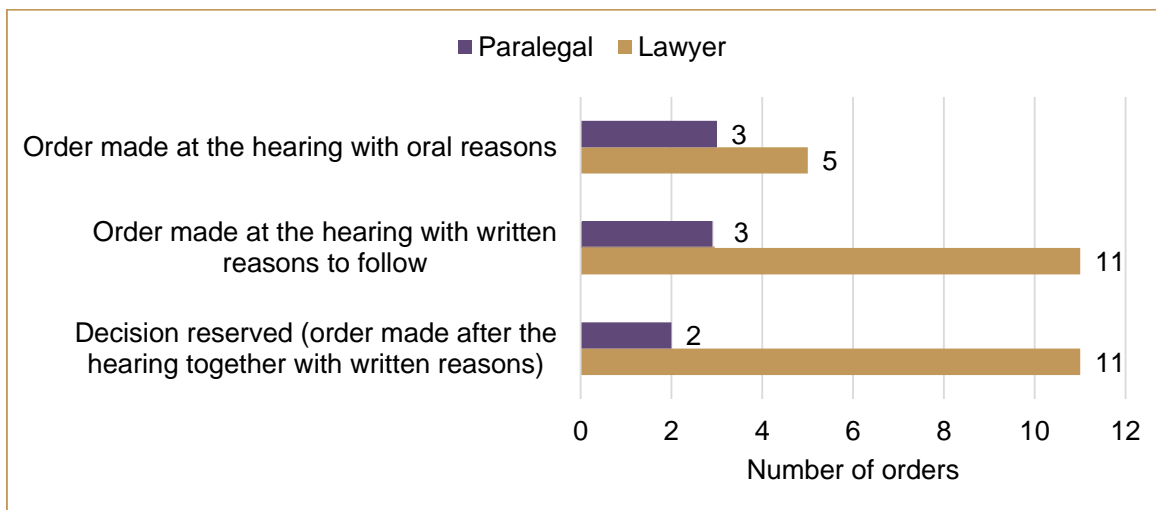
Orders

There are many types of orders that the Tribunal may make during the course of a proceeding. Merits orders decide an application on its merits (for example, whether an interlocutory suspension is granted or whether a licensee has engaged in misconduct and will be subject to penalty) and are often accompanied by reasons.

The panel may reserve its decision at the end of a hearing or may provide their decision at the hearing with oral reasons given on the record or with written reasons to follow.

² These numbers do not include one file which took 1869 days to close due in part to the licensee being out of the country for a prolonged period of time.

Figure 14: Merits orders issued this quarter and their corresponding reasons



The Tribunal issued 68 orders this quarter, 33 of which were merits only or merits and costs orders while the remaining 35 were orders pertaining to a motion, public access or costs only.

Reasons

At the end of an oral hearing, or the date on which the last submissions are received in a written hearing, the panel can begin the process of generating written reasons. The Tribunal publishes written reasons on CanLII, usually within a week of their delivery to the parties.

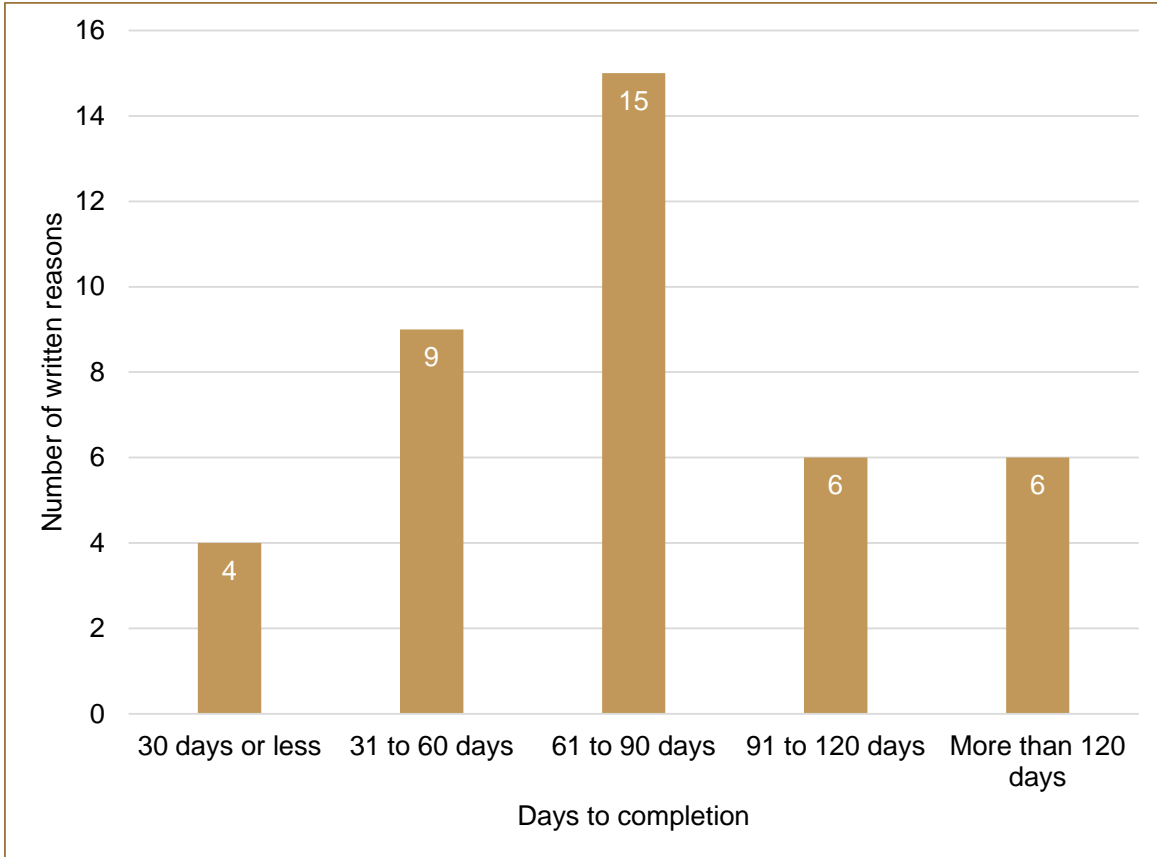
Sometimes the panel delivers oral reasons at the end of the hearing instead of written reasons. When oral reasons are given, the Tribunal also publishes a written version on CanLII.

Figure 15: Time taken to complete reasons for reasons released each quarter

Days taken to deliver reasons to the parties	Q1	Q2
Oral reasons at the hearing	7	12
30 days or less	11	4
31 to 60 days	5	9
61 to 90 days	8	15
91 to 120 days	9	6
More than 120 days	7	6
Total	47	52

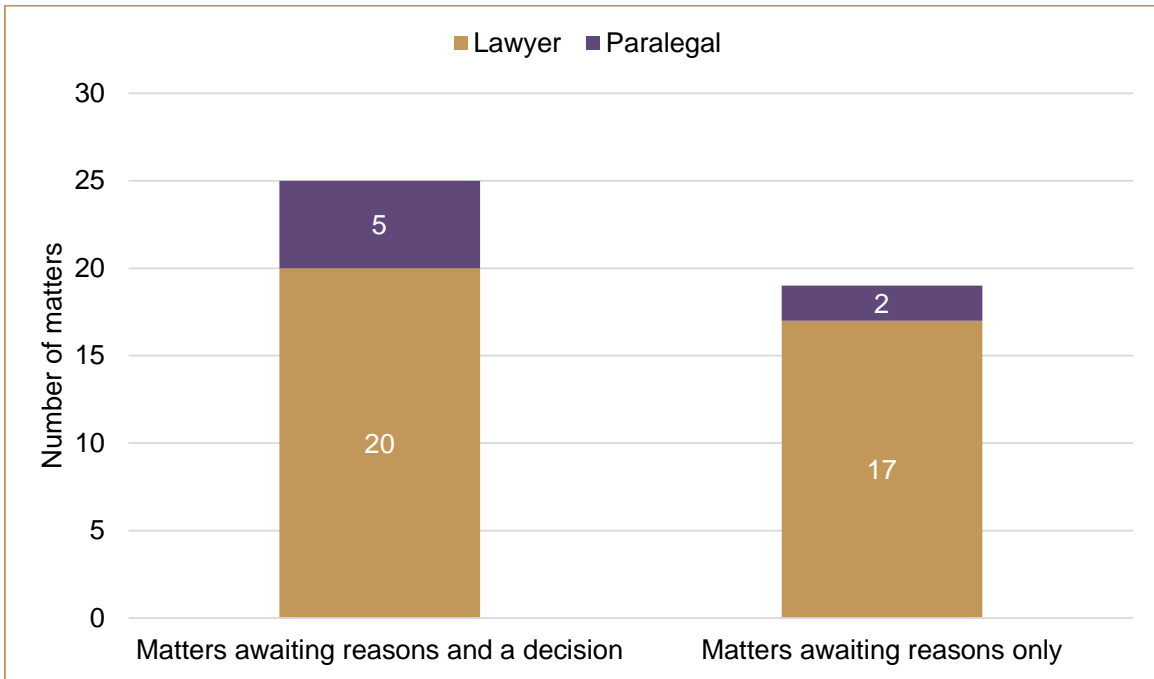
The average number of days taken to deliver written reasons this quarter was 85 days.

Figure 16: Number of reasons issued this quarter and time taken to release them



The Tribunal published a total of 45 reasons this quarter, with 40 written reasons and 5 written versions of oral reasons.

Figure 17: Matters awaiting reasons at the end of this quarter



44 matters were awaiting reasons at the end of this quarter.

Outcomes

Applications by the Law Society

Most matters that are heard by the Tribunal are initiated by the Law Society, with the Law Society as the applicant and a licensee as the respondent.

For Figures 18 and 19 below please refer to the following legend key.

■ Granted in full
 ■ Granted in part
 ■ Dismissed
 ■ Abandoned / Withdrawn

Figure 18: Results of the 29 applications by the Law Society that were closed in the first quarter

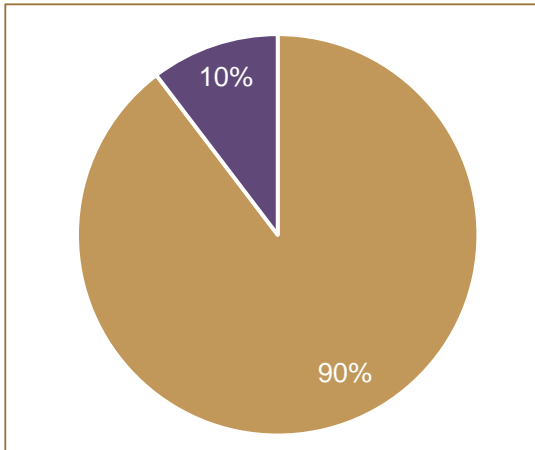
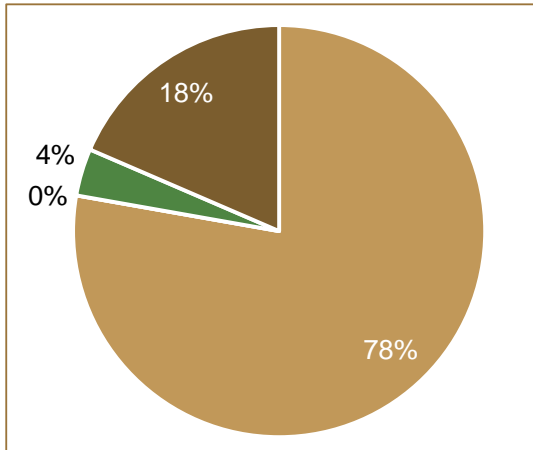


Figure 19: Results of the 27 applications by the Law Society that were closed in the second quarter



Applications by the Licensee or Licence Applicant

Some matters that are heard by the Tribunal are initiated by the licensee or licence applicant with the Law Society as the respondent.

The Tribunal closed one matter that was initiated by the licensee or licence applicant in the second quarter. It was dismissed.

Interlocutory Suspension or Restriction Motions

An interlocutory suspension or restriction is an interim measure that may be requested by the Law Society before the hearing on the merits of a case. Interlocutory suspensions may be ordered when significant risk to the public, or to the public interest in the administration of justice, has been demonstrated.

Figure 20: Results of the 3 motions for interlocutory suspension or restriction closed in the first quarter

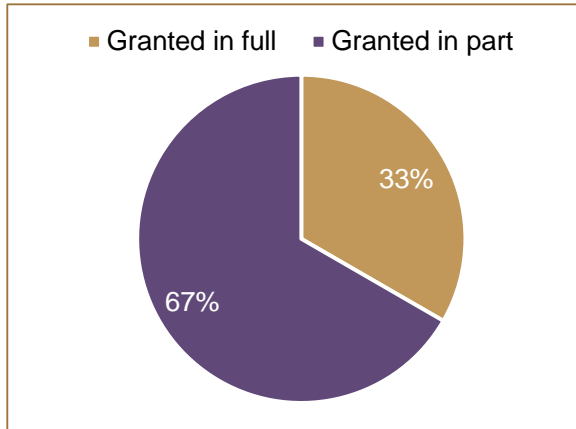
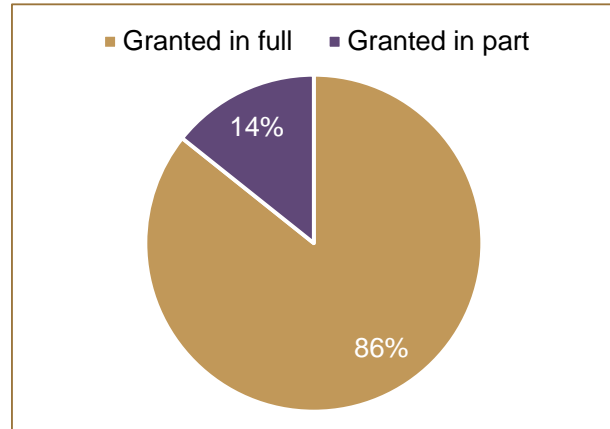


Figure 21: Results of the 7 motions for interlocutory suspension or restriction closed in the second quarter



Appeals

If an applicant or respondent believes that the Tribunal’s Hearing Division has made an incorrect decision, they may appeal the decision to the Appeal Division.

There were no appeals by the Law Society closed in the second quarter.

Figure 22: Results of the 4 appeals by licensee / licence applicant that were closed in the first quarter

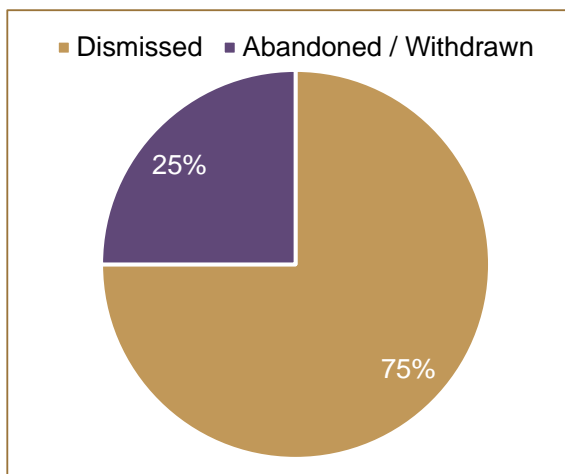


Figure 23: Results of the 1 appeal by the licensee / licence applicant that was closed in the second quarter.

