



Tab 14

Tribunal Committee

For information

February 25, 2021

Committee Members:

Julia Shin Doi (Chair)

Ryan Alford (Vice-Chair)

Marian Lippa (Vice-Chair)

Malcolm M. Mercer (*ex officio*)

Jared Brown

Paul Cooper

Jean-Jacques Desgranges

John Fagan

Michael LeSage

C. Scott Marshall

Isfahan Merali

Barbara Murchie

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For information

Tab 14 Tribunal Statistics Q3 2020



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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 Tribunal Committee and Convocation to make policy decisions with a more fulsome understanding of the Tribunal's work.

B. Committee Process

The Committee met on January 14, 2020. Committee members Julia Shin Doi (Chair), Ryan Alford (Vice-Chair), Marian Lippa (Vice-Chair), Malcolm M. Mercer, (*ex officio*), Jared Brown, Paul Cooper, John Fagan, Michael Lesage, C. Scott Marshall, Barbara Murchie, Geneviève Painchaud, Chi-Kun Shi and Tanya Walker attended. Staff members Celia Lieu and Lisa Mallia also attended

C. Background

The statistics that the Tribunal reports on were decided upon through an extensive process. In 2016, the Tribunal Committee considered what types of data 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.

In 2017, the Committee approved a list of statistics to be gathered and reported on quarterly and annually. The Tribunal then designed data collection and technology around this list. The goal of the statistics the Committee chose is to have 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.

These goals must be pursued while bearing in mind the public interest nature of the information and the goal of transparency.

The Tribunal provides five statistical reports each year to Convocation: four quarterly reports and one year-end report. The Q3 2020 quarterly report is set out at **TAB 14.1**.

D. Q3 2020 quarterly report

Law Society staff, including those at the Tribunal, began working at home during the last two weeks of the first quarter. All in-person appearances were cancelled at that time and since then, appearances have taken place by videoconference, teleconference or in writing. Most merits and



motion hearings have taken place by videoconference, PMCs have taken place by teleconference, and PHCs have recently changed from teleconference to videoconference at the request of PHC adjudicators.

The volume of cases open at any point in time is generally between 165 and 175. In 2020, the case load was higher: from 185 files open at the end of Q1 to 210 at the end of Q2 and 205 at the end of Q3: Caseload on page 6 of the Q3 report.

A smaller number of hearing files were opened in Q3 of 2020 (29) and Q3 of 2019 (36), and similarly fewer files were closed in Q3 of 2020 (33) than 2019 (36): Figure 1 on page 2 and Figure 6 on page 5.

Following a significant decrease in full days used for hearings from Q1 to Q2, the number of full days used more than doubled from Q2 to Q3: Figure 12 on page 9. Most longer, more complex hearings were cancelled during the first months of COVID-19 and continued to be rescheduled in Q2.

The Tribunal also measures the length of time taken to complete reasons: Figure 17 on page 13. The average number of days to deliver written reasons decreased from 82 in Q1 to 69.5 in Q2 and to 61 in Q3.

The report also shows that 27 applications by the Law Society were closed in Q3: Figure 22 on page 16. Most were granted in full (25), one was withdrawn, and one was dismissed. There were no motions for interlocutory suspension closed in Q3. Six matters initiated by the licensee / licence applicant were closed in Q3, two were granted, two dismissed and two withdrawn: Figure 27 on page 18.

Four appeals brought by a licensee / licence applicant were closed in Q3: two were dismissed, one abandoned/withdrawn and one granted in part: Figure 30 on page 19. No appeals brought by the Law Society were closed in Q3.



Law Society Tribunal Quarterly Statistics

For the period from July 1, 2020 to September 30, 2020

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Introduction

Statistics are critical to understanding the work of the Law Society Tribunal. By recording, analyzing and sharing data, we can 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.

This report provides operational statistics during a period where the Tribunal continued to operate remotely during COVID-19.

In this quarter, the Tribunal rescheduled many of its cancelled hearings from Q2 and converted all in-person hearings to videoconference.

Volume

Files Opened

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

Figure 1: Types of files opened in this quarter

Type of file	Lawyer	Paralegal	Total
Regular	19	5	24
Summary	5	0	5
Appeal	3	0	3

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

There has been a decrease with the number of files opened compared to quarter two of 2020, when there were 38 regular, 13 summary and 2 appeal files opened. There was also a decrease in files opened compared to the third quarter of last year, representing a 20% reduction in files that were opened in this quarter.

Figure 2: Types of files opened in Q1, Q2 and Q3 of 2020

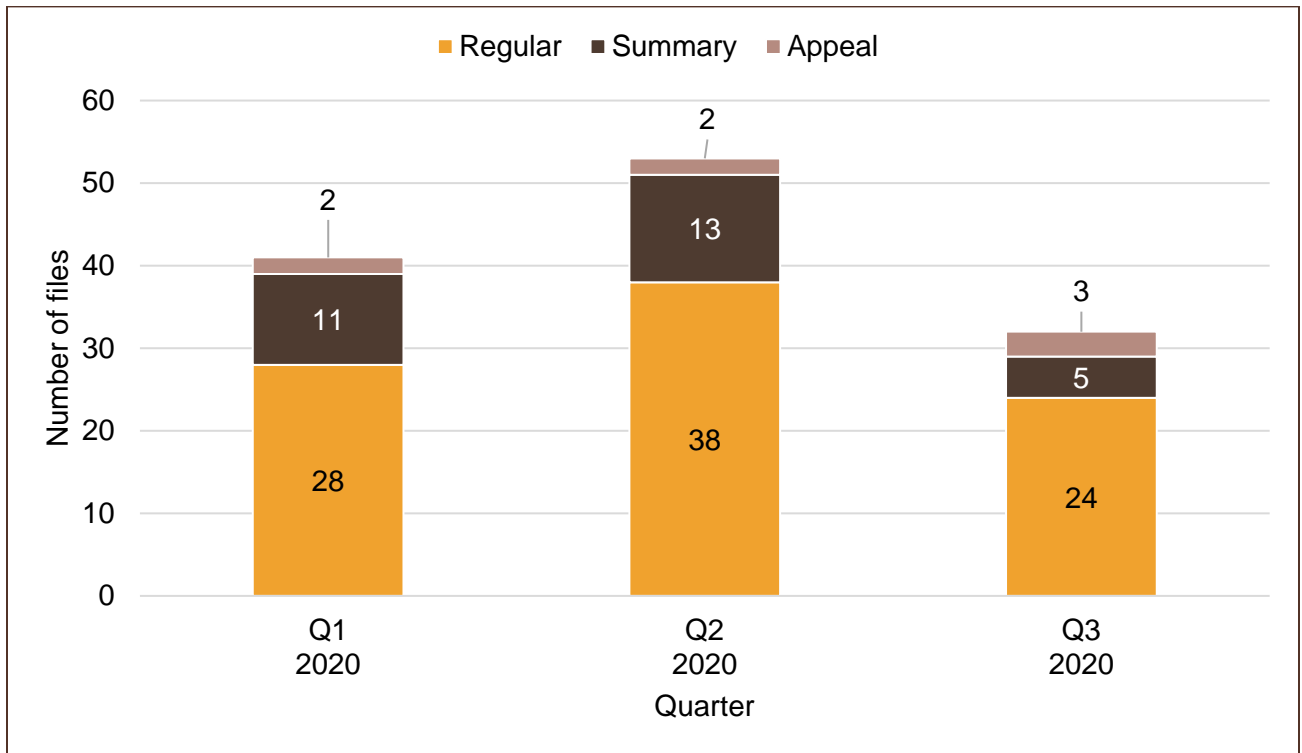


Figure 3: Ratio of licence types for the 41 files opened in Q1 of 2020

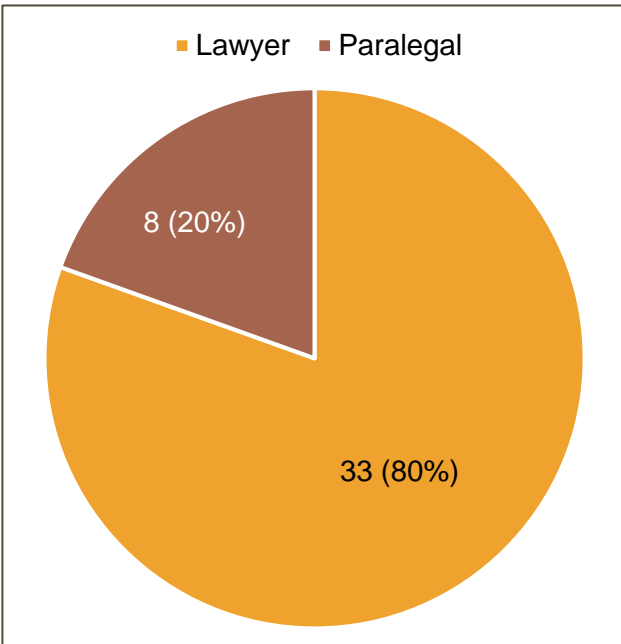


Figure 4: Ratio of licence types for the 52 files opened in Q2 of 2020

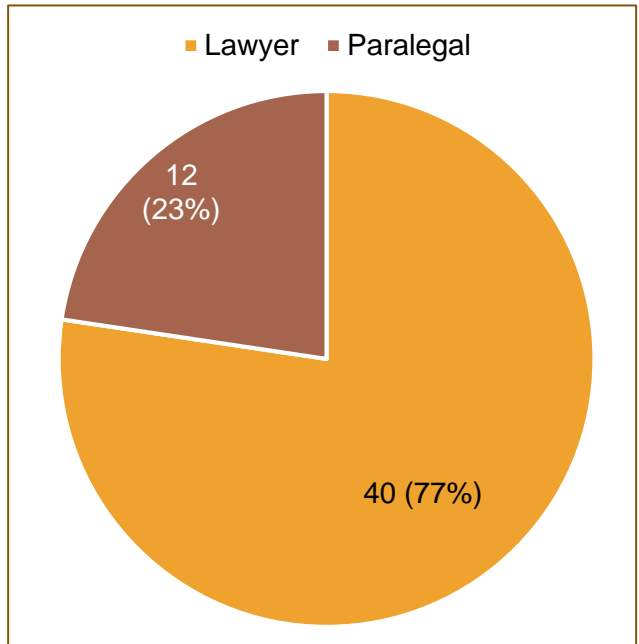
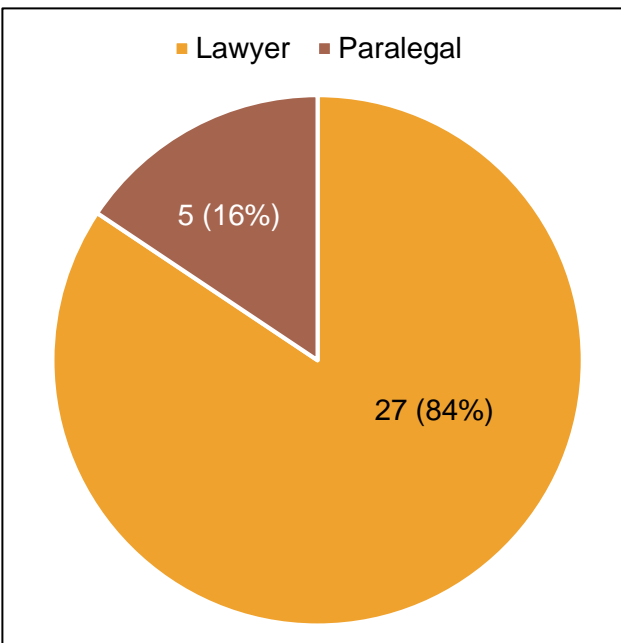


Figure 5: Ratio of licence types for the 32 files opened in Q3 of 2020



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 6: Types of files closed in this quarter

Type of file	Lawyer	Paralegal	Total
Regular	9	4	13
Summary	13	7	20
Appeal	4	0	4

There has been an increase of 32% in the number of files closed in this quarter compared to last quarter, however, there was a slight decrease when compared to the third quarter of 2019.

Figure 7: Types of files closed in Q1, Q2 and Q3 of 2020

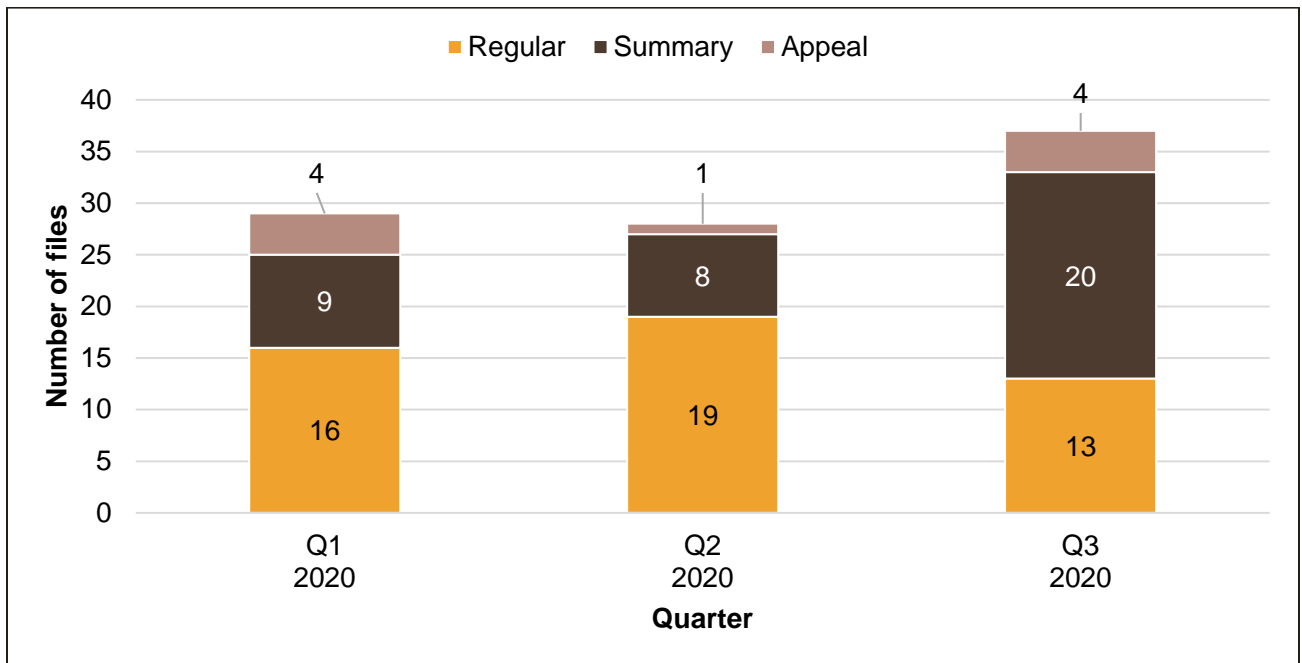


Figure 8: Ratio of licence types for the 29 files closed in Q1 of 2020

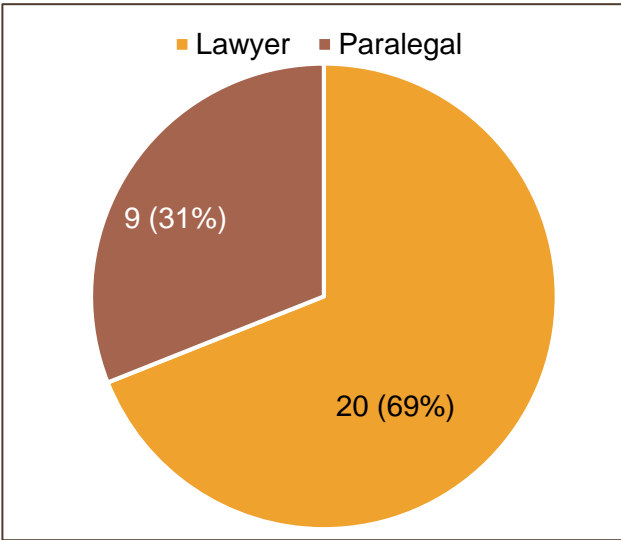


Figure 9: Ratio of licence types for the 28 files closed in Q2 of 2020

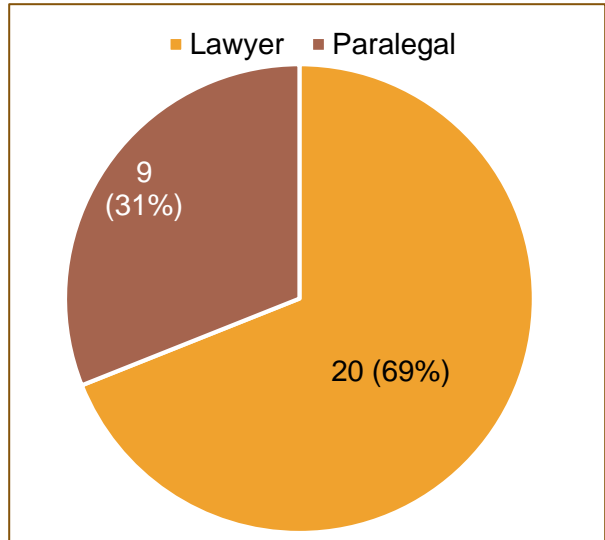
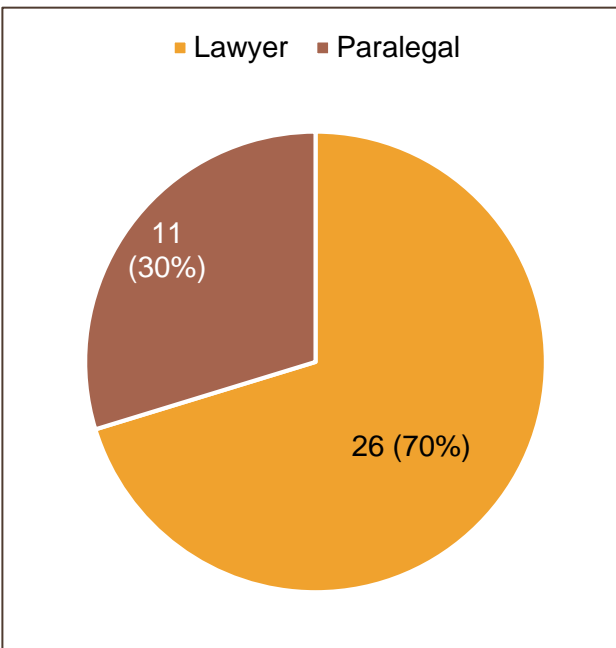


Figure 10: Ratio of licence types for the 37 files closed in Q3 of 2020



Caseload

205 files (170 lawyer and 35 paralegal files) were open at the end of the third quarter of 2020 compared to 210 at the end of the previous quarter and 168 at the end of the third

quarter of 2019. The increase in files open can be attributed to the decrease in hearings as a result of COVID-19.

Hearings

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 seven written hearings this quarter compared to 19 last quarter and 12 in the second quarter of 2019.

Figure 11: Half days used for hearings in Q1, Q2 and Q3 of 2020

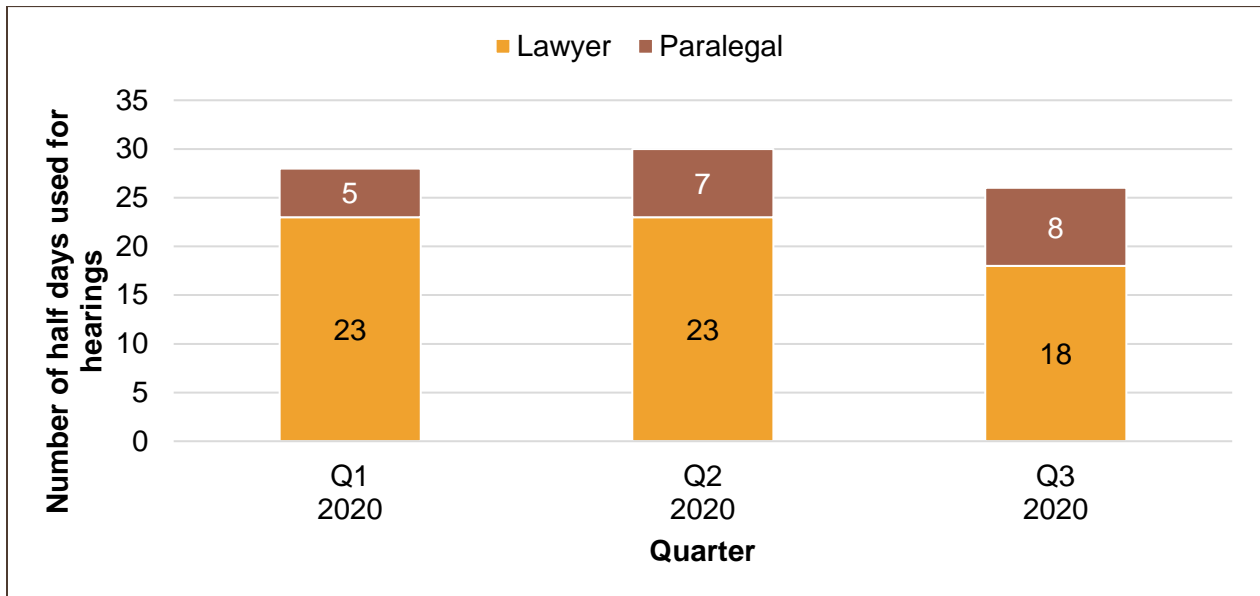
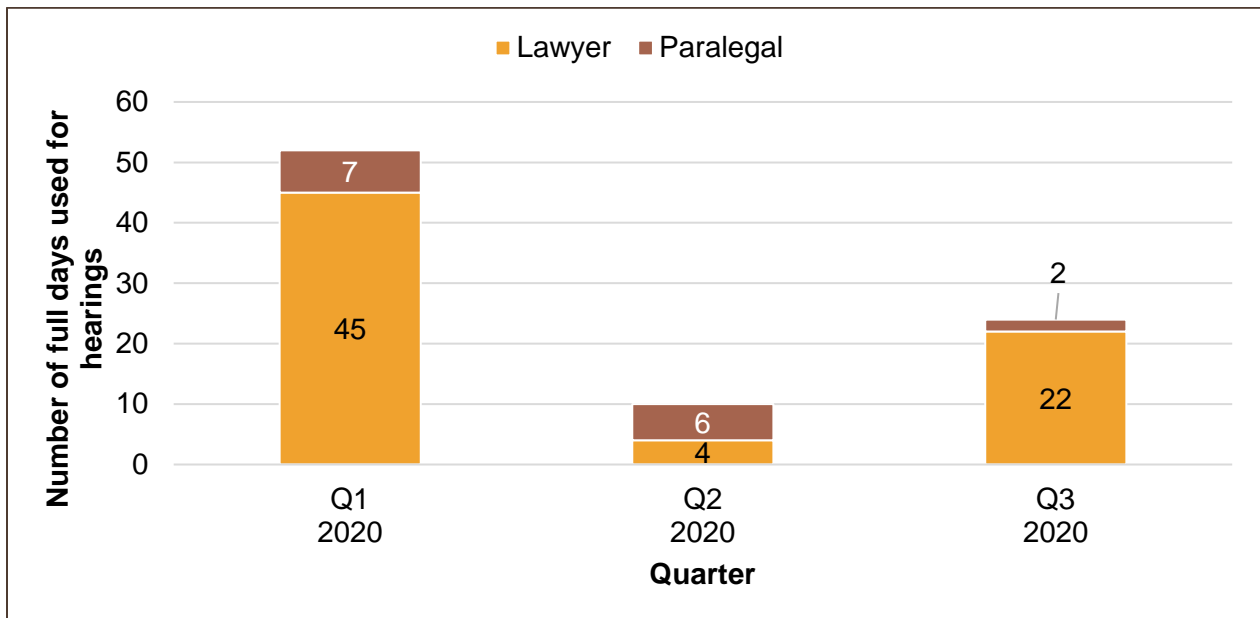


Figure 12: Full days used for hearings in Q1, Q2 and Q3 of 2020



The average number of hearing days used per file closed in this quarter was 0.9 days.

The dramatic decrease in full days used for hearings can be attributed to the fact that most longer hearings were cancelled during the first months of COVID-19.

Timeliness

Proceedings Milestones

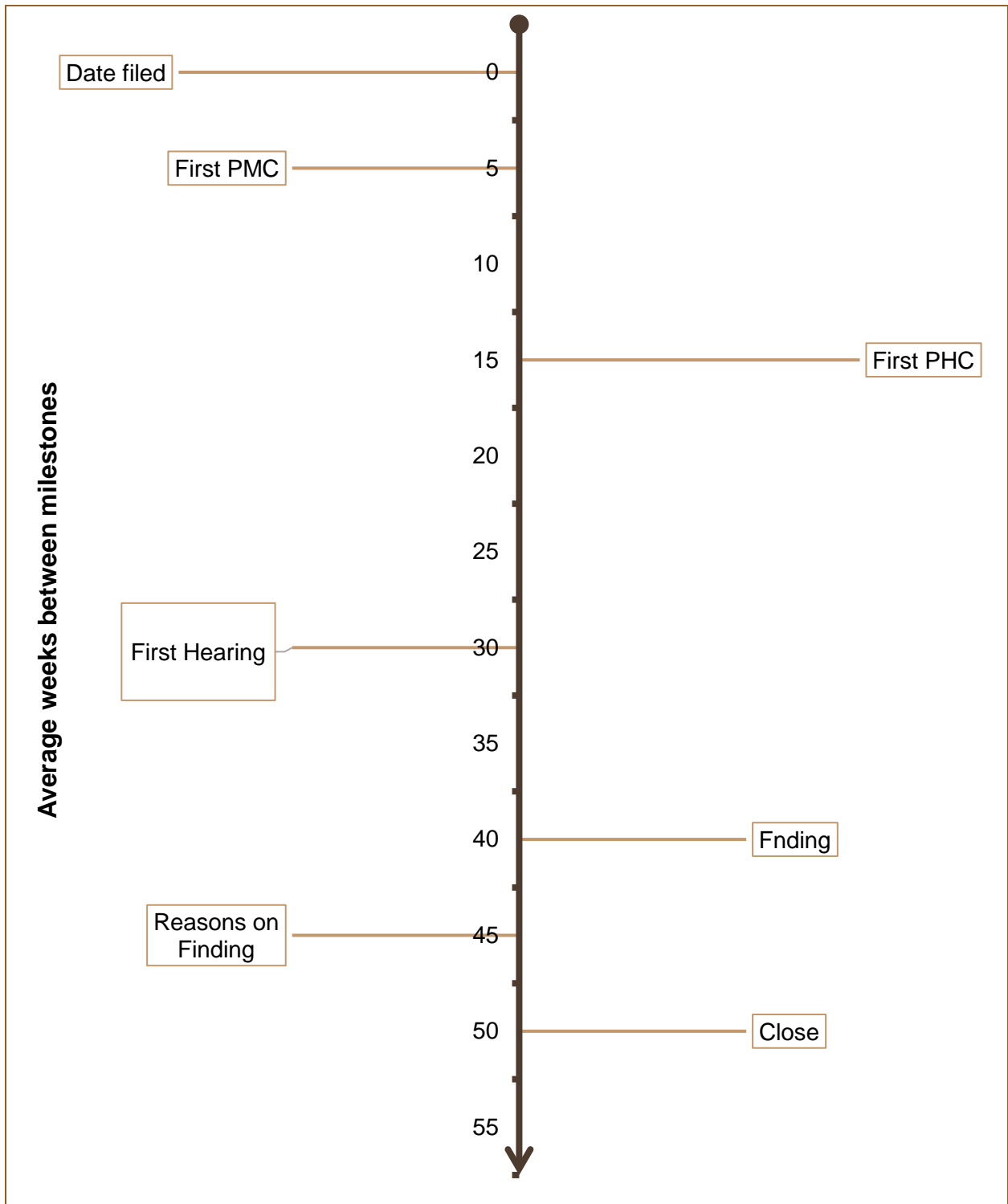
Tribunal proceedings pass most or all of the following milestones, though not always in the order listed below.

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

Figure 13: Average days to significant milestones for files closed in Q3

Milestone	Lawyer files	Paralegal files	All files
First PMC	47	29	43
First PHC	110	39	103
First hearing	263	104	221
Decision on finding / determination	350	121	288
Reasons on finding / determination	380	143	315
Decision on penalty (conduct matters only)	243	121	201
Reasons on penalty (conduct matters only)	264	133	222
File closed	404	171	335

Figure 14: 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 37 files closed in this quarter **26** files were authorized by PAC.

Figure 15: Average days from authorization to significant milestones for PAC-authorized files closed this quarter

Milestone	Lawyer files	Paralegal files	Overall average
Date filed	29	21	27
First PMC	68	60	67
First PHC	178	-	178
First hearing	232	112	195
Decision on finding / determination	252	130	214
Reasons on finding / determination	276	154	238
Last hearing / written submissions	270	141	230
Decision on penalty (conduct matters only)	237	130	201
Reasons on penalty (conduct matters only)	259	154	224
File closed	302	171	262

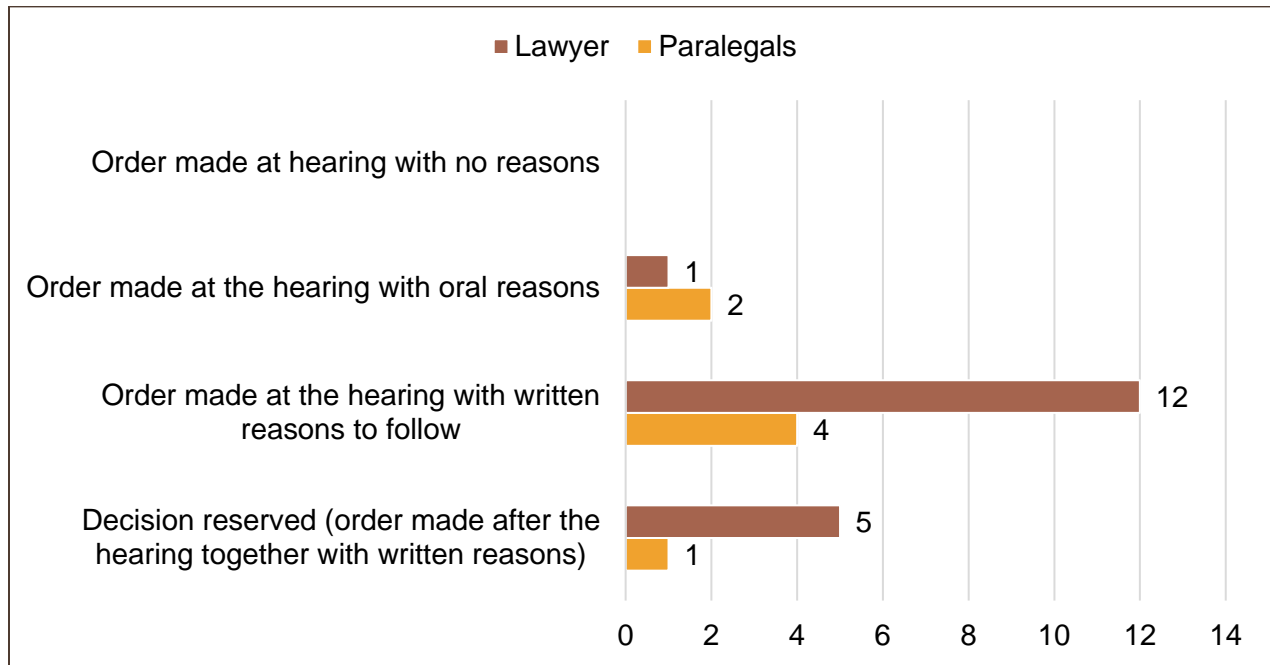
Orders and Reasons

Orders

There are many types of orders that the Tribunal may make during 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 its decision at the hearing with oral reasons given on the record or with written reasons to follow.

Figure 16: Merits orders issued this quarter and their corresponding reasons



The Tribunal issued **54** orders this quarter, 25 of which were merits only or merits and costs orders while the remaining 29 were orders pertaining to a motion, public access or costs only. This is an increase from last quarter and in keeping with the number of overall orders issued in 2019 for the same period. However, there is a 19% decrease in merits or disposition orders from the same period last year, again reflecting the influence of COVID on the Tribunal's operations and the reduced number of hearings held.

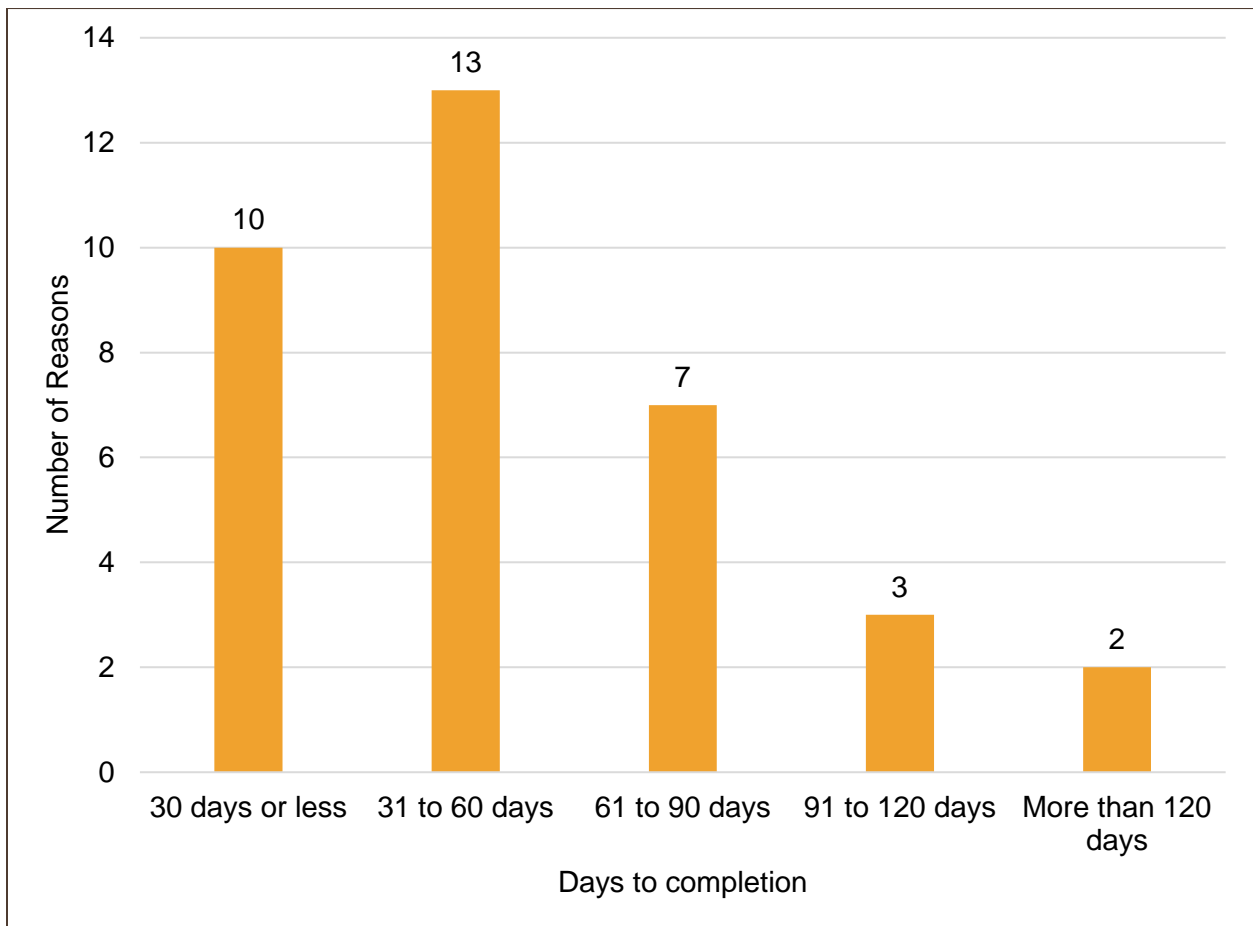
Reasons

At the end of an oral hearing, or when the last submissions are received in a written hearing, the panel can begin the process of writing 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.

*The Tribunal published a total of **41** reasons this quarter, with 35 written reasons and 4 written versions of oral reasons.*

Figure 17: Number of written reasons issued this quarter and time taken to release them



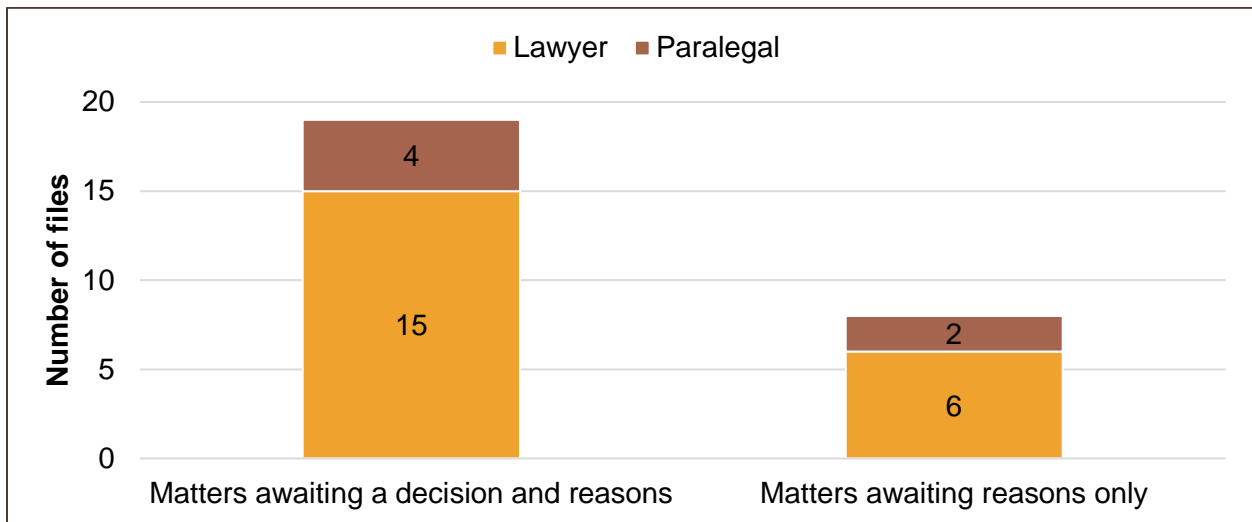
*The average number of days taken to deliver written reasons this quarter was **61** days compared with 69.5 in the last quarter.*

Figure 18: Time taken to complete reasons in Q1, Q2 and Q3 of 2020

Days taken to deliver reasons to the parties	Q1 2020	Q2 2020	Q3 2020
Oral reasons at the hearing	6	5	3
30 days or less	7	8	10
31 to 60 days	10	11	13
61 to 90 days	6	7	7
91 to 120 days	5	4	3
More than 120 days	11	6	2
Total	45	41	38

The number of reasons released declined by 12% from the same period last year.

Figure 19: Matters awaiting reasons and/or a decision at the end of this quarter



27 reasons were outstanding at the end of this quarter. Of those, 5 had been outstanding for more than 90 days.

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 20-22 below please refer to the following legend key.

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

Figure 20: Results of the 17 applications by the Law Society that were closed in Q1 of 2020

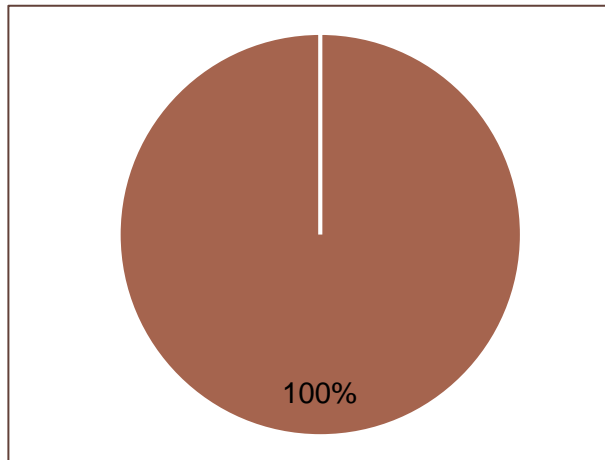


Figure 21: Results of the 19 applications by the Law Society that were closed in Q2 of 2020

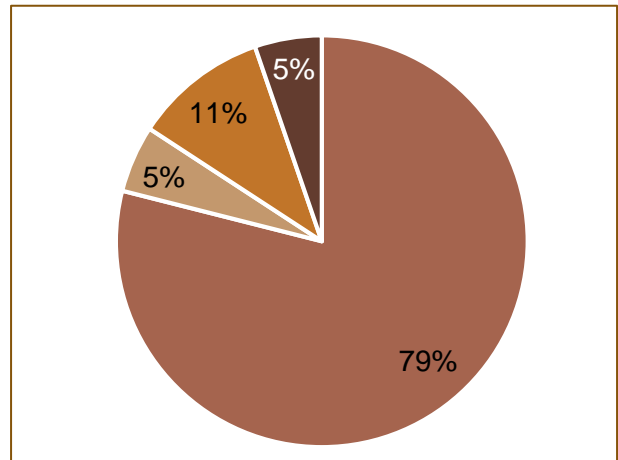
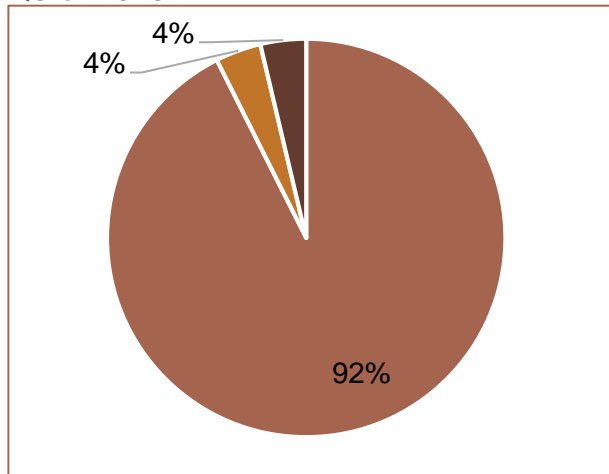


Figure 22: Results of the 27 applications by the Law Society that were closed in Q3 of 2020



Interlocutory Suspension or Restriction Motions

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

For Figures 23-24 below please refer to the following legend key.

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

Figure 23: Results of the 5 motions for interlocutory suspension or restriction closed in Q1 of 2020

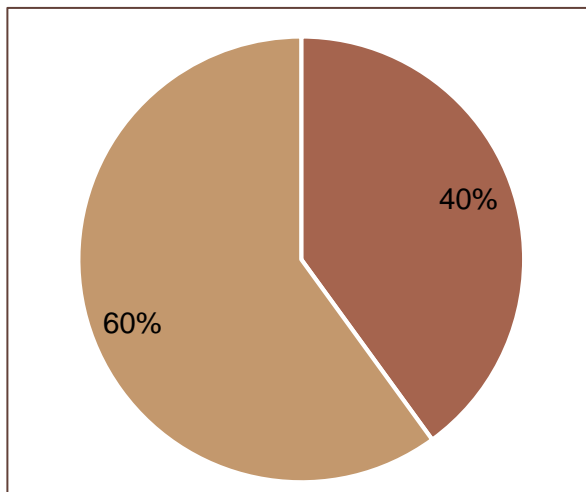
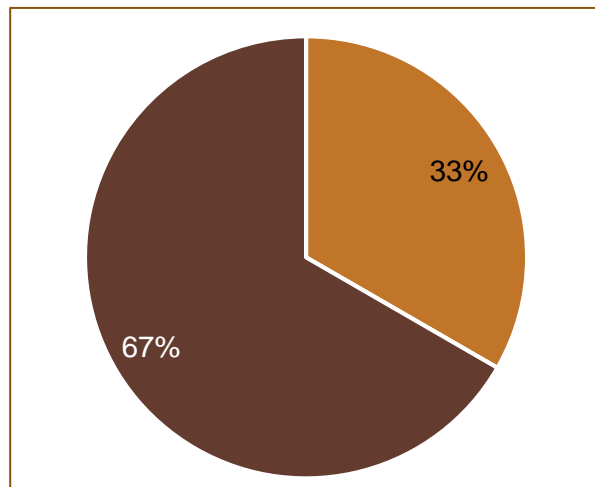


Figure 24: Results of the 3 motions for interlocutory suspension or restriction closed in Q2 of 2020



There were no motions for interlocutory suspension or restriction files closed in Q3 of 2020.

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.

For Figures 25-27 below please refer to the following legend key.

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

Figure 25: Results of the 3 matters initiated by the licensee / licence applicant that were closed in Q1 of 2020

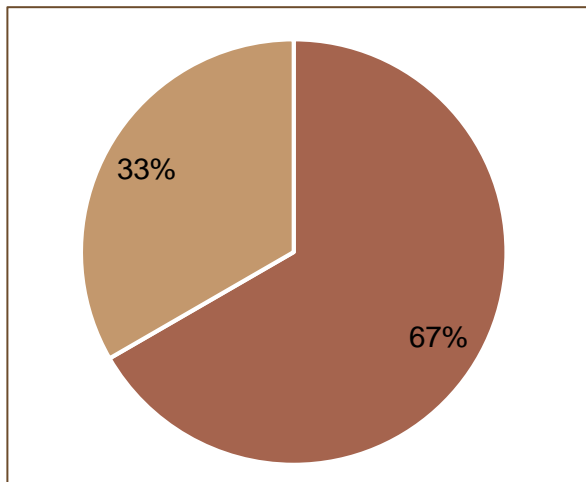


Figure 26: Results of the 5 matters initiated by the licensee / licence applicant that were closed in Q2 of 2020

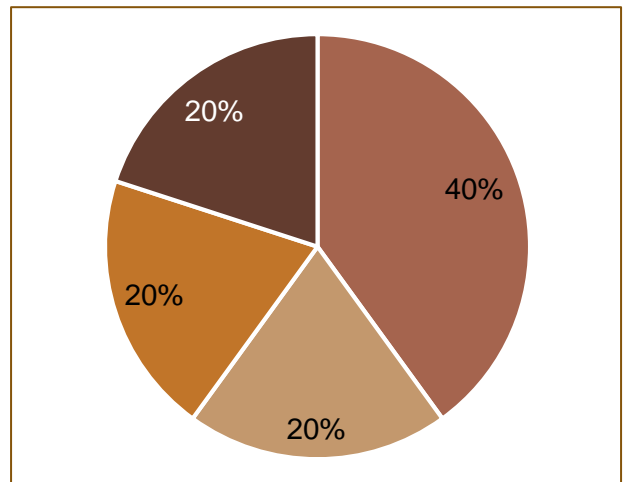
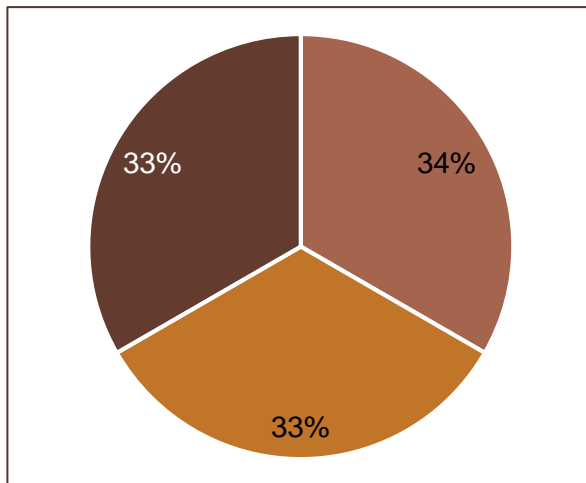


Figure 27: Results of the 6 matters initiated by the licensee / licence applicant that were closed in Q3 of 2020



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.

For Figures 28-30 below please refer to the following legend key.

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

Figure 28: Results of the 3 appeals by licensee / licence applicant that were closed in Q1 of 2020

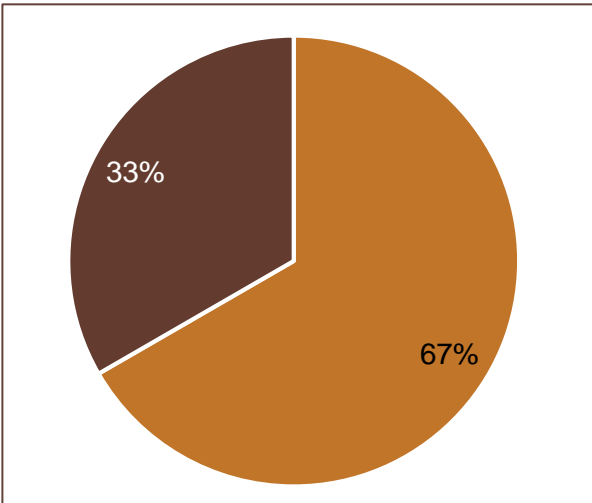


Figure 29: Results of the 1 appeal by licensee / licence applicant that was closed in Q2 of 2020

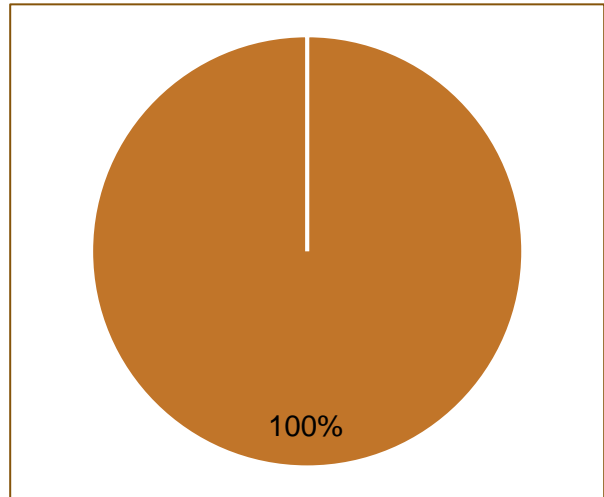
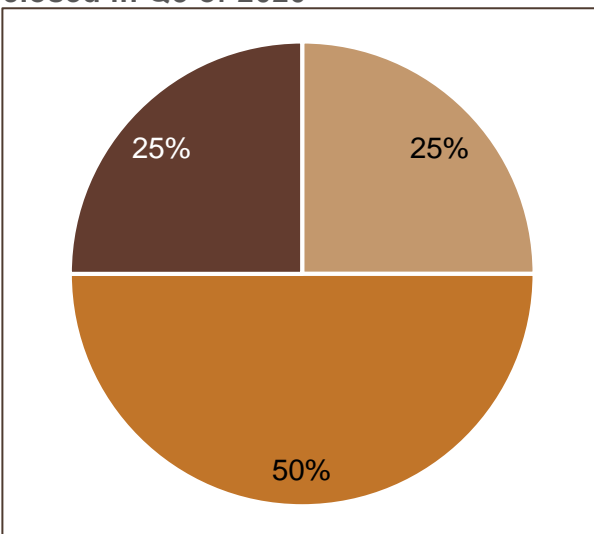


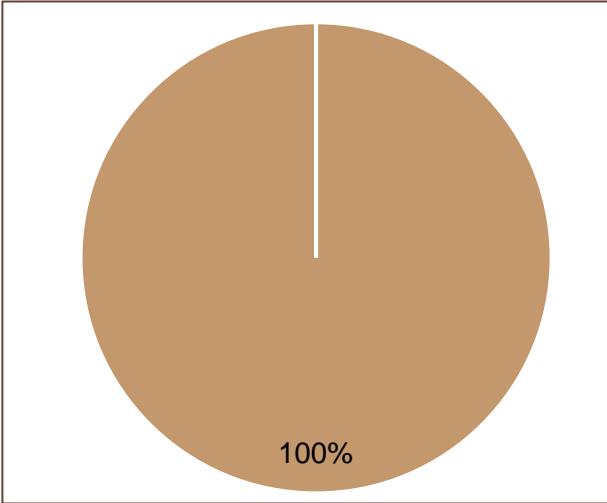
Figure 30: Results of the 4 appeals by licensee / licence applicant that were closed in Q3 of 2020



For Figure 31 below please refer to the following legend key.

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

Figure 31: Results of the one appeal by the Law Society that was closed in Q1 2020



There were no appeals by the Law Society closed in Q2 and Q3 of 2020.