



Law Society
of Ontario

Barreau
de l'Ontario

Tab 11

Tribunal Committee

For Information

February 27, 2020

Committee Members:

Isfahan Merali (Chair)

Julia Shin Doi (Vice-Chair)

David A. Wright (*ex officio*)

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Jack Braithwaite

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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. The fourth quarter statistics for 2019 are attached to this report. In general, the statistics including the Tribunal's caseload, timeliness and the results of proceedings are steady.

B. Committee Process

The Committee met on February 13, 2020. Committee members Isfahan Merali (Chair), Julia Shin Doi (Vice-Chair), Jack Braithwaite, John Fagan, Marian Lippa, Geneviève Painchaud, Gina Papageorgiou and Lubomir Poliacik attended. The Treasurer, Malcolm Mercer, also attended, as did staff members Lisa Mallia, Ada Maxwell-Alleyne, and Joe Zaffino.

Background

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.

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.

As a result of the 2016 review, 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.

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

In 2017, the Committee approved a list of statistics to be gathered and reported on quarterly and annually. The statistical report for the third quarter of 2019 is set out at [TAB 11.1](#).

The Q4 report follows the usual course of the year – fewer files are opened in Q4 than earlier in the year, and fewer are closed as well. More full-day hearing days were used in Q4 however.

The average days from first PMC to file closed improved over the year: from 347 days in Q1 to 332 in Q2, an unusual increase to 371 in Q3 and down to 318 for the final quarter. As noted in the Q3 stats report – there was an outlier file that took 1,572 days to close. Without that file the average for Q3 would be 342.

The Q4 report also shows that fewer written reasons took more than 120 days to be issued: from 7 in Q1, 6 in Q2, 4 in Q3 and 2 in Q4. More written reasons took 60 days or less versus taking more than 61 days (20 versus 16).

All 17 applications brought by the Law Society that were closed in the fourth quarter were granted in full. Five motions for interlocutory suspension or restriction were also closed in the fourth quarter: two were granted in full, two were granted in part and one was abandoned/withdrawn. Three appeals by licensees/licence applicants were also closed in the fourth quarter and all three were dismissed.



Law Society Tribunal Quarterly Statistics

For the period from October 1, 2019 to December 31, 2019

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Introduction

Statistics are critical to understanding 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 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	18	6	24
Summary	5	3	8
Appeal	2	0	2

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

Figure 2: Files opened in each quarter by file type

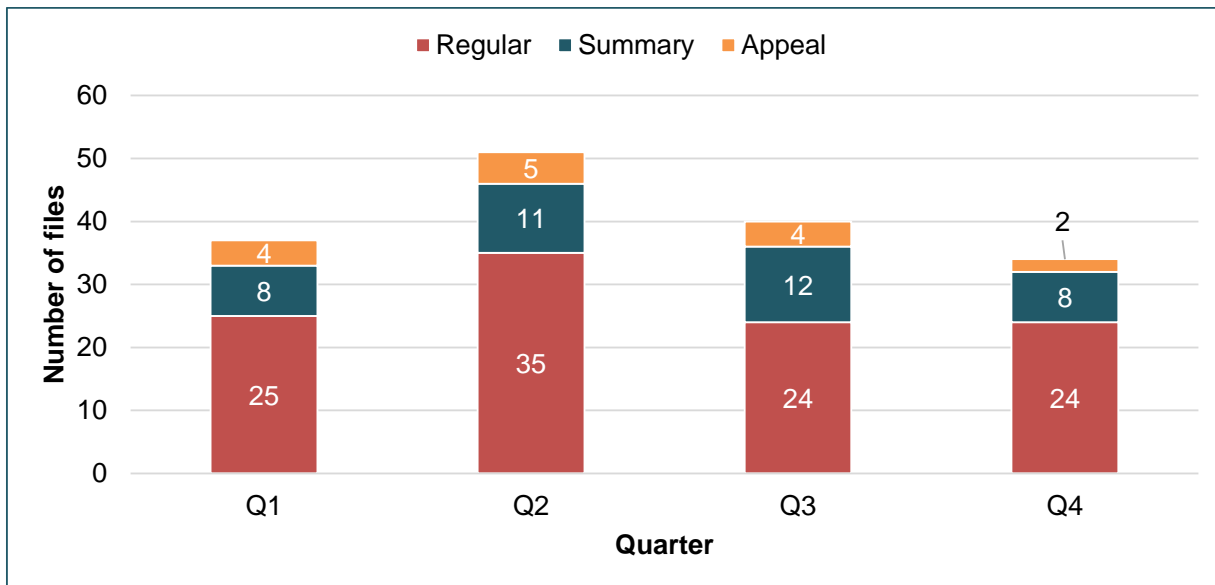


Figure 3: Ratio of licence type for the 37 files opened in the first quarter

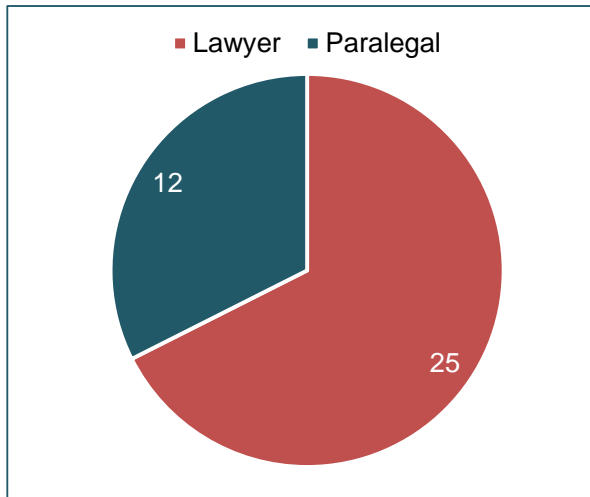


Figure 4: Ratio of licence type for the 51 files opened in the second quarter

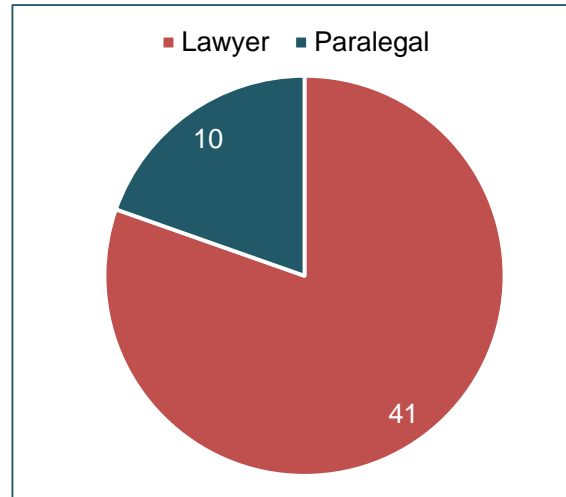


Figure 5: Ratio of licence type for the 40 files opened in the third quarter

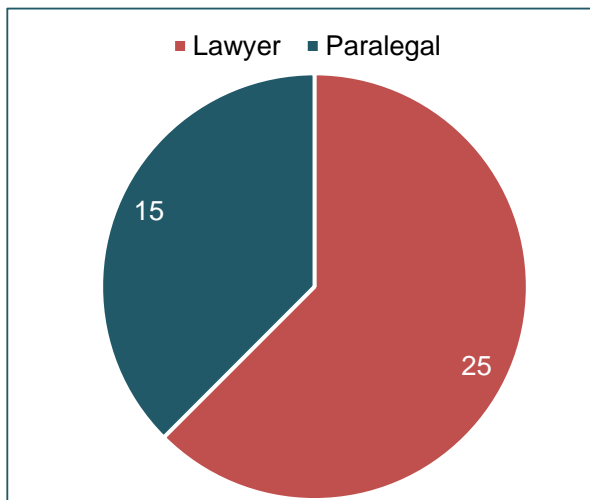
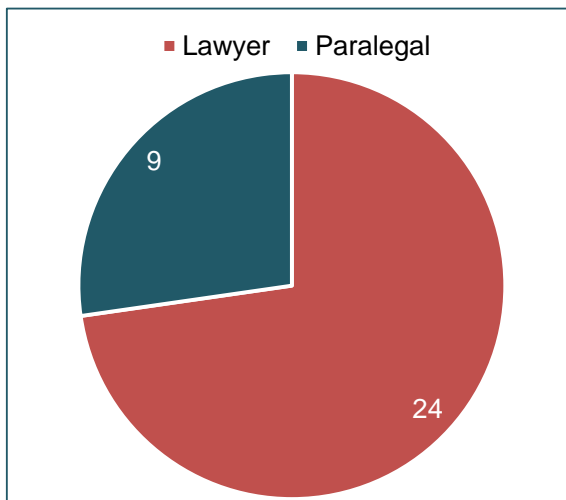


Figure 6: Ratio of licence type for the 34 files opened in the fourth quarter



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 7: Files closed in this quarter by type of file

Type of file	Lawyer	Paralegal	Total
Regular	14	5	19
Summary	5	1	6
Appeal	2	1	3

Figure 8: Files closed in each quarter by file type

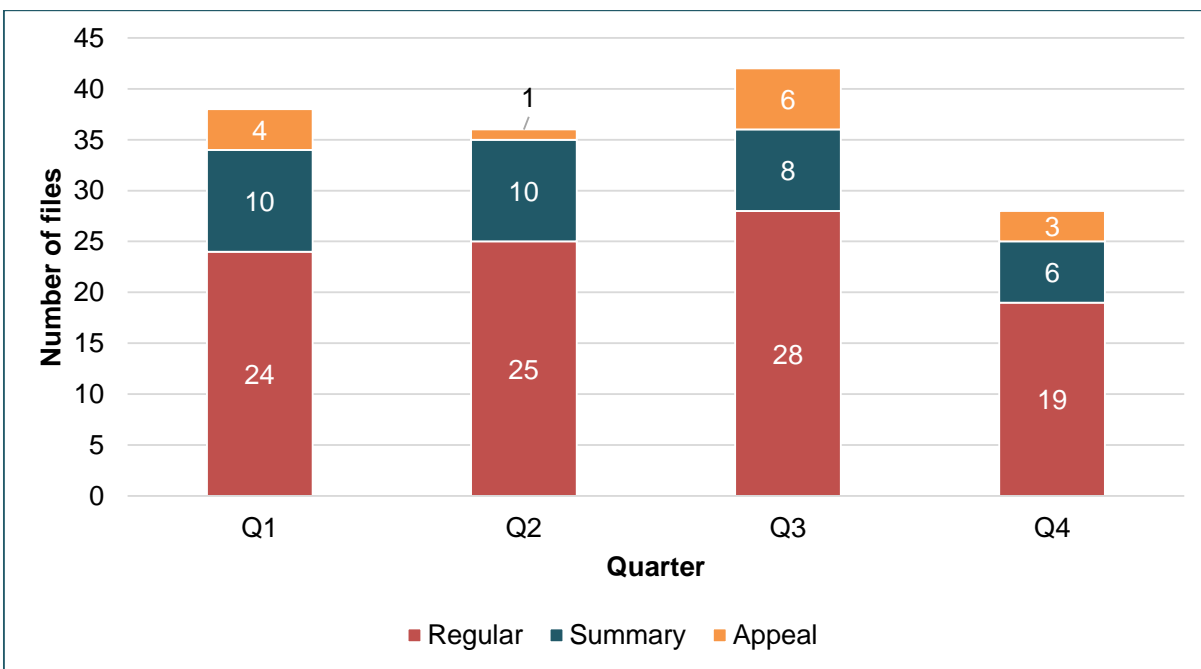


Figure 9: Ratio of licence type for the 39 files closed in the first quarter

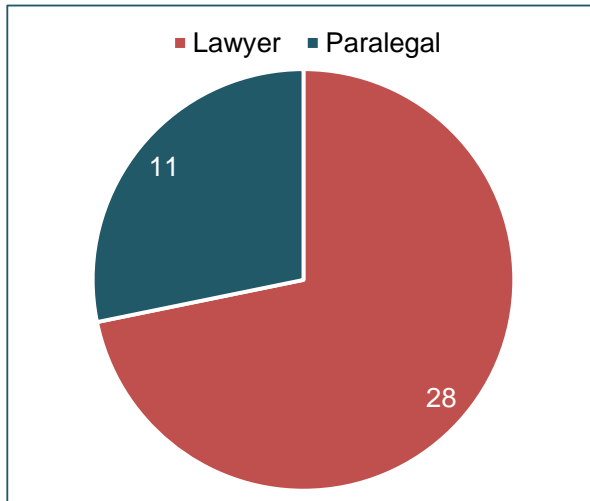


Figure 10: Ratio of licence type for the 36 files closed in the second quarter

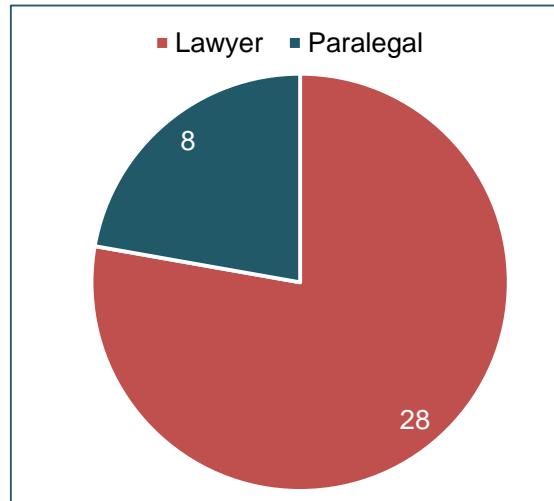


Figure 11: Ratio of licence type for the 42 files closed in the third quarter

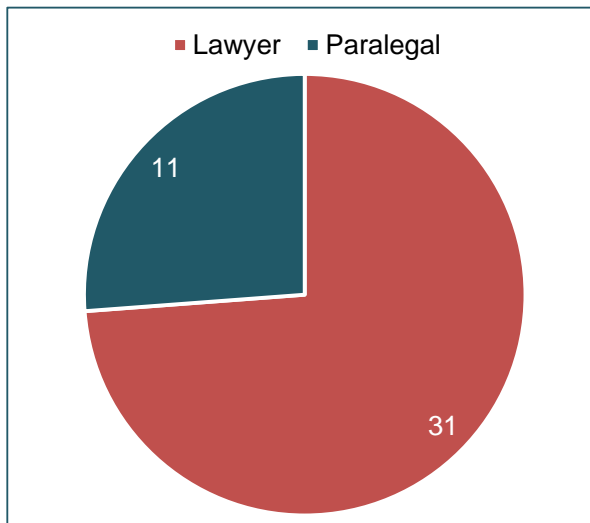
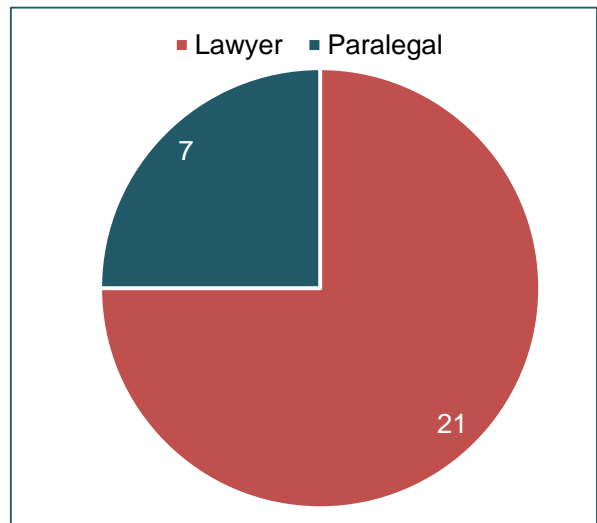


Figure 12: Ratio of licence type for the 28 files closed in the fourth quarter



Caseload

173 files (134 lawyer and 39 paralegal files) were open at the end of the fourth quarter of 2019 compared to 168 at the end of the previous quarter and 167 at the end of the fourth quarter of 2018.

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 **19** written hearings this quarter compared to 7 last quarter.

Figure 13: Half days used for hearings in each quarter

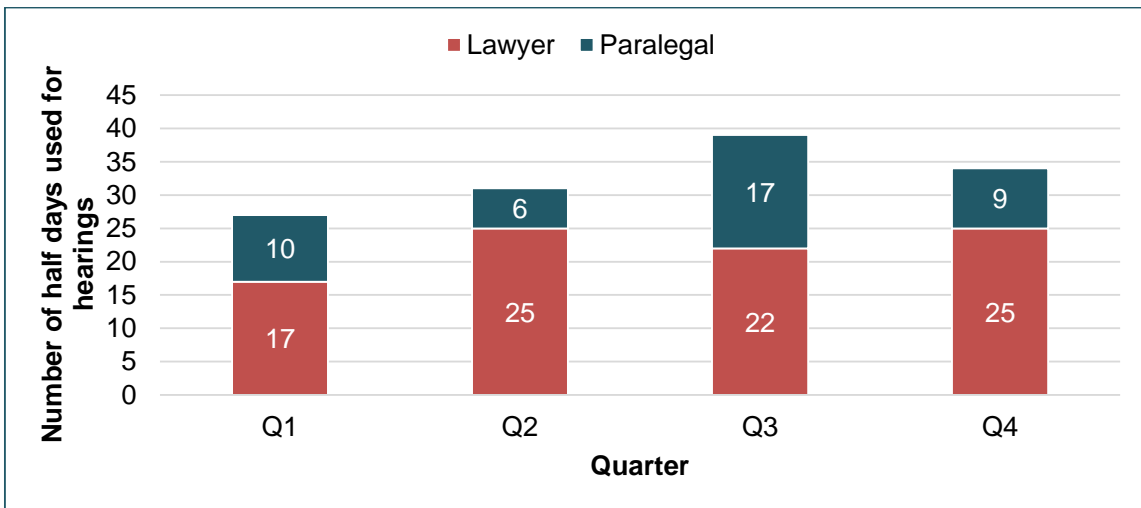
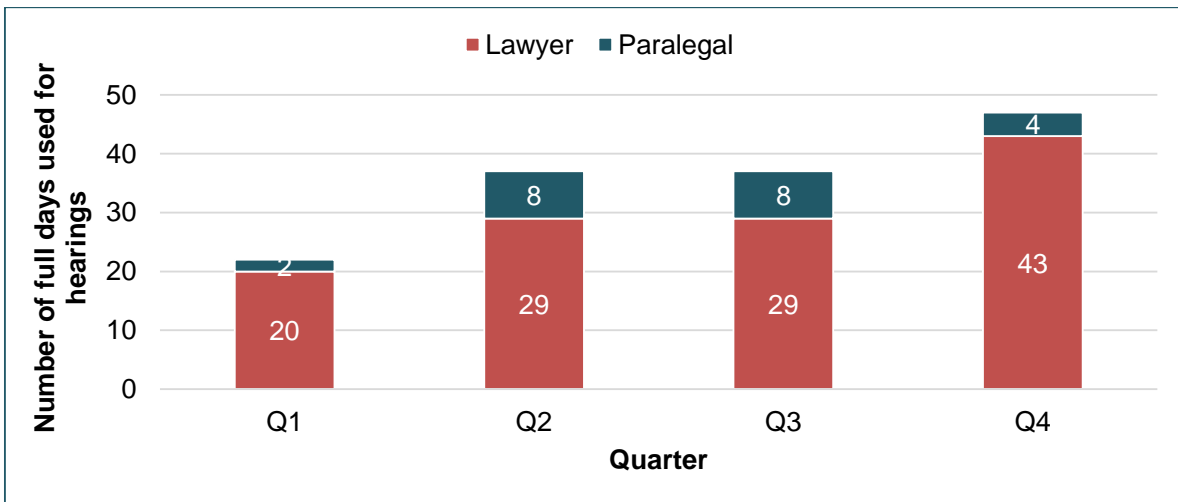


Figure 14: Full days used for hearings in each quarter



Timeliness

Proceedings Milestones

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

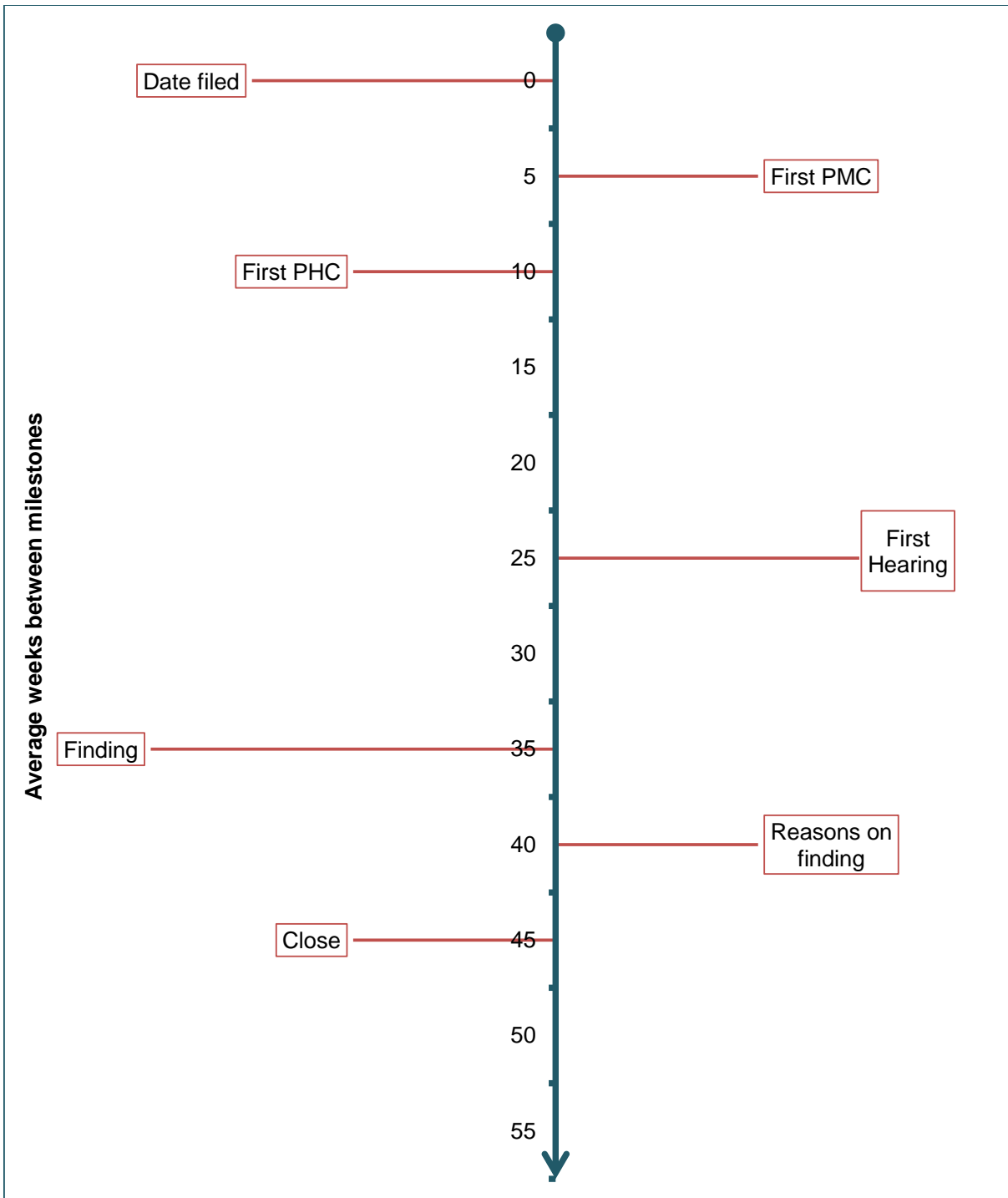
Averages are based on files that do pass the corresponding milestone.

Figure 15: Average days to significant milestones for files closed in the third quarter

Milestone	Lawyer files	Paralegal files	All files
First PMC	35	16	31
First PHC	59	84	65
First hearing	172	191	176
Decision on finding / determination	239	272	247
Last hearing / written submissions	256	252	255
Decision on penalty (conduct matters only)	182	295	210
Reasons on finding / determination	265	306	275
Reasons on penalty (conduct matters only)	213	321	240
File closed	331	277	318

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

Figure 16: 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 28 files closed in this quarter **22** files were authorized by PAC.

Figure 17: Average days from authorization to significant milestones for PAC-authorized files closed this quarter

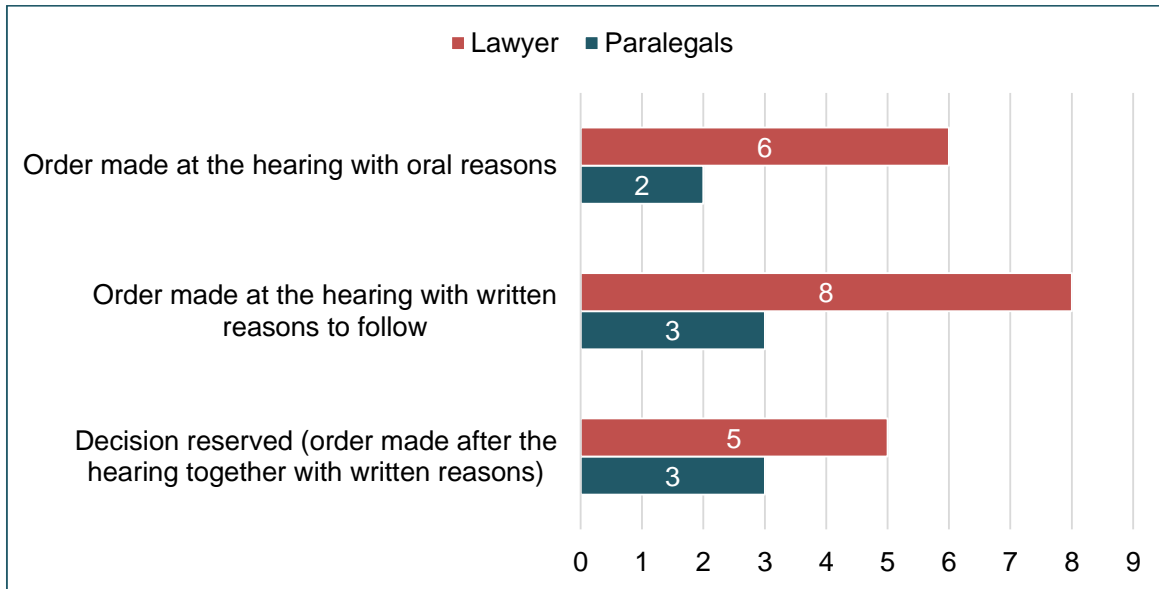
Milestone	Lawyer files	Paralegal files	Overall average
Date filed	19	17	19
First PMC	46	39	44
First PHC	82	107	89
First hearing	161	227	176
Decision on finding / determination	220	267	231
Last hearing / written submissions	250	240	248
Decision on penalty (conduct matters only)	199	314	228
Reasons on finding / determination	251	308	264
Reasons on penalty (conduct matters only)	231	341	258
File closed	281	308	287

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.

Figure 18: Merits orders issued this quarter and their corresponding reasons

The Tribunal issued **64** orders this quarter, 27 of which were merits only or merits and costs orders while the remaining 37 were orders pertaining to a motion, public access or costs only.

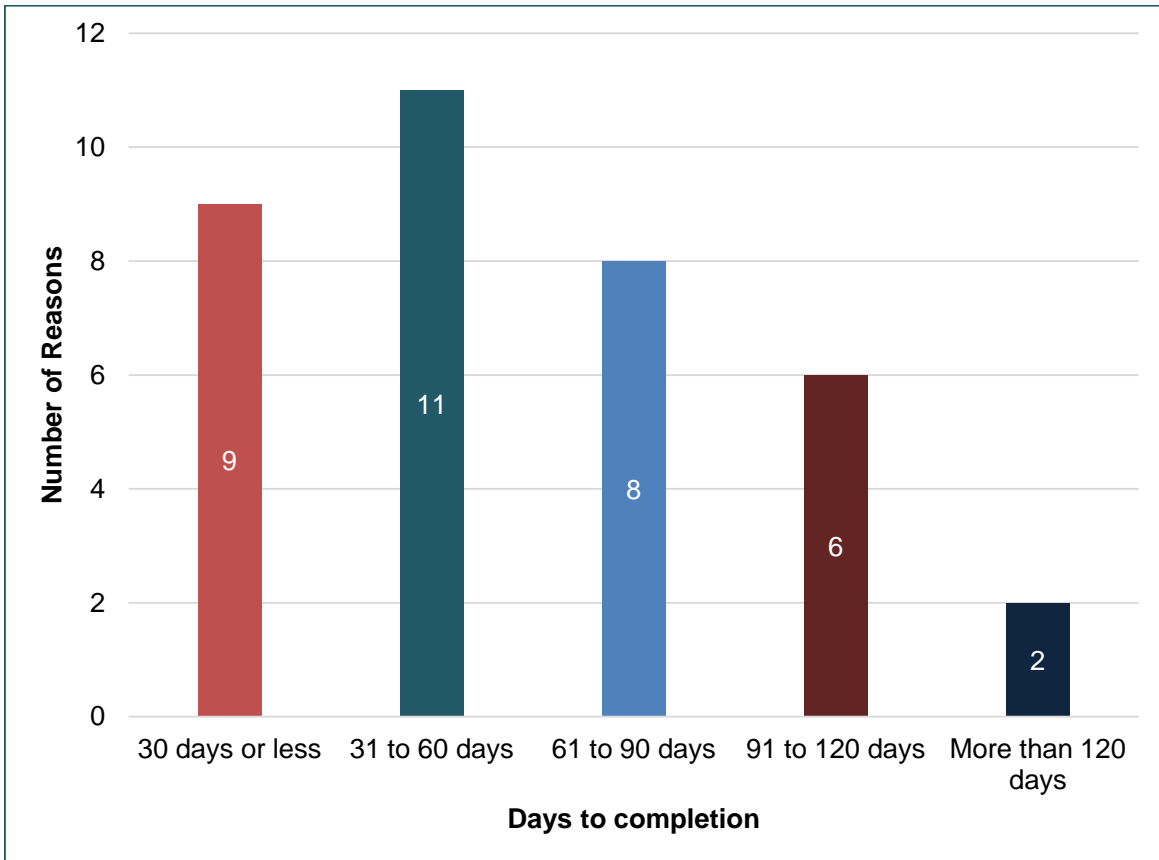
Reasons

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.

*The Tribunal published a total of **41** reasons this quarter, with 36 written reasons and 5 written versions of oral reasons.*

Figure 19: Number of written reasons issued this quarter and time taken to release them

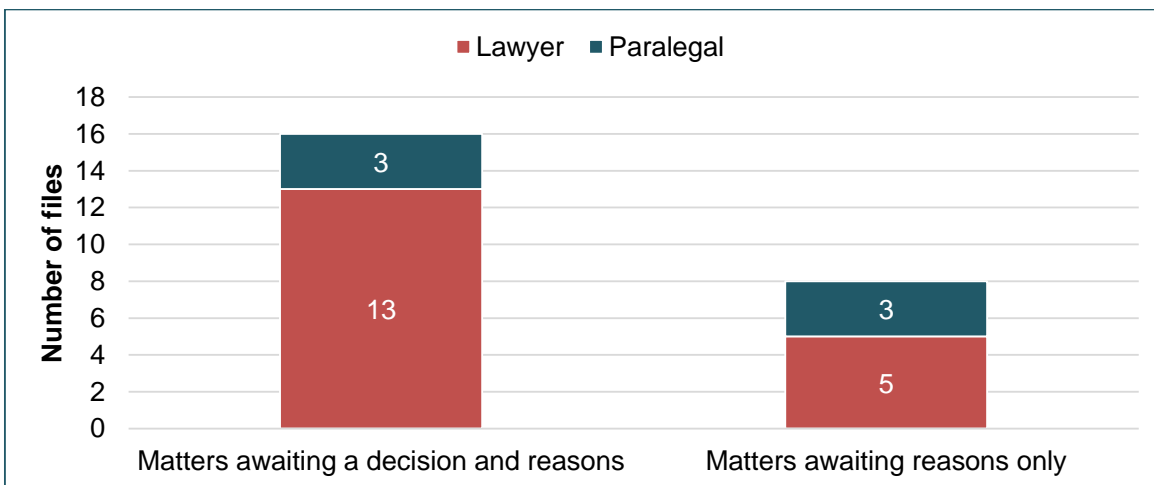


*The average number of days taken to deliver written reasons this quarter was **59** days.*

Figure 20: Time taken to complete reasons in each quarter

Days taken to deliver reasons to the parties	Q1	Q2	Q3	Q4
Oral reasons at the hearing	7	12	2	6 ¹
30 days or less	11	4	2	9
31 to 60 days	5	9	14	11
61 to 90 days	8	15	12	8
91 to 120 days	9	6	9	6
More than 120 days	7	6	4	2
Total	47	52	43	42

Figure 21: Matters awaiting reasons at the end of this quarter



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

¹ One set of oral reasons was not published.

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 22-25 below please refer to the following legend key.

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

Figure 22: Results of the 29 applications by the Law Society that were closed in the first quarter

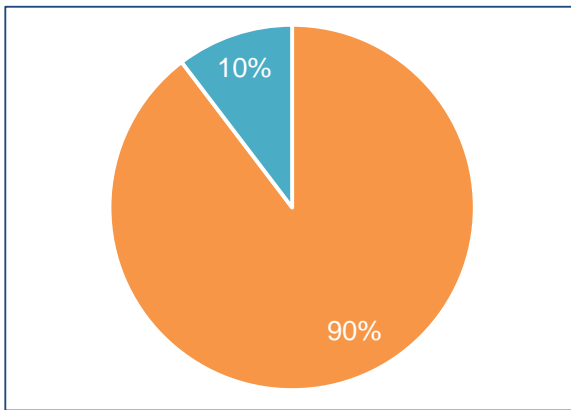


Figure 23: Results of the 25 applications by the Law Society that were closed in the second quarter

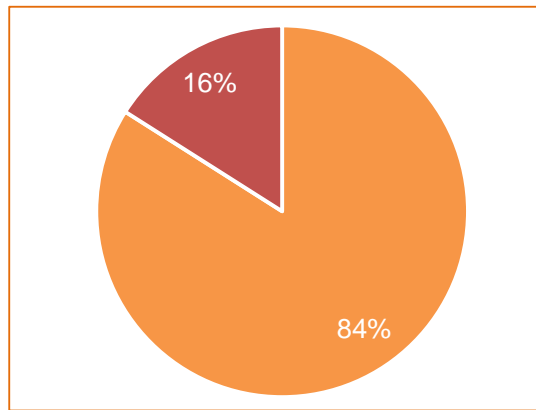


Figure 24: Results of the 27² applications by the Law Society that were closed in the third quarter

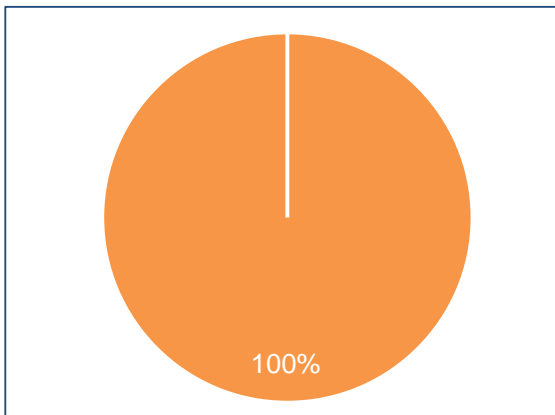
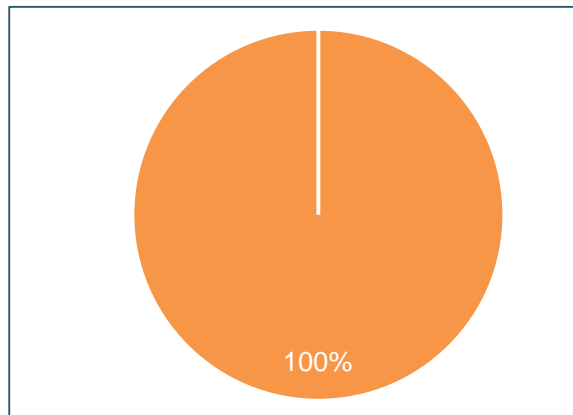


Figure 25: Results of the 17 applications by the Law Society that were closed in the fourth quarter



² Does not include one application filed by the Law Society to vary an interlocutory suspension order that was 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 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 26-29 below please refer to the following legend key.

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

Figure 26: Results of the 3 motions for interlocutory suspension or restriction closed in the first quarter

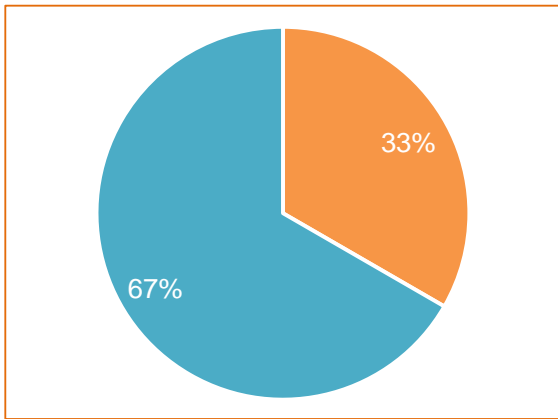


Figure 27: Results of the 7 motions for interlocutory suspension or restriction closed in the second quarter

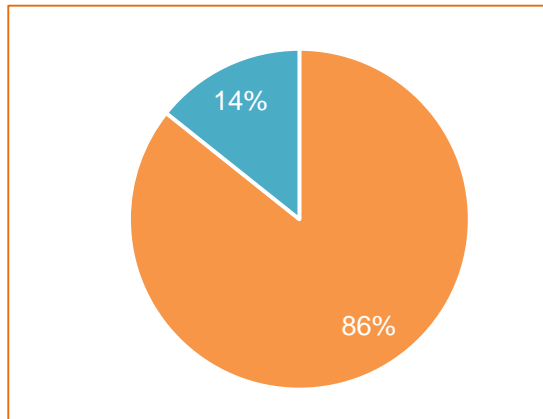


Figure 28: Results of the 2 motions for interlocutory suspension or restriction closed in the third quarter

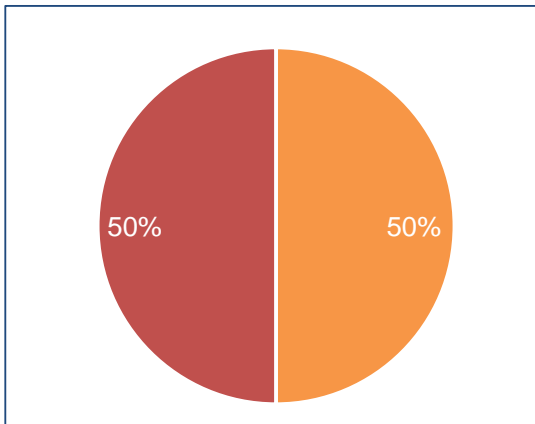
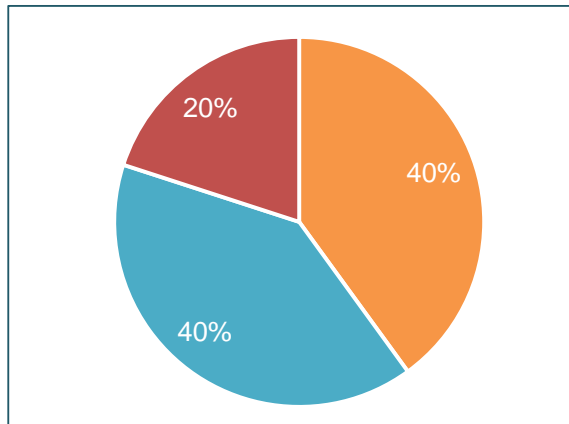


Figure 29: Results of the 5 motions for interlocutory suspension or restriction closed in the fourth quarter



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.

For Figures 30-33 below please refer to the following legend key.

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

Figure 30: Results of the 3 matters initiated by the licensee / licence applicant that were closed in the first quarter

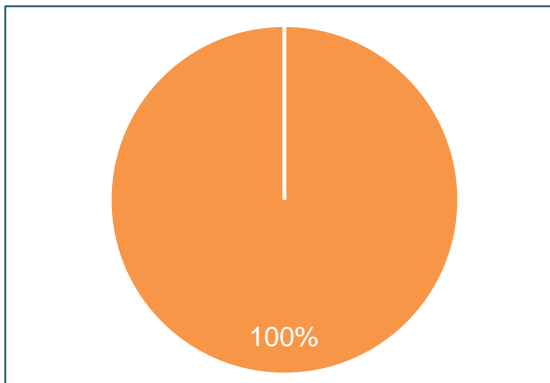


Figure 31: Results of the 3 matters initiated by the licensee / licence applicant that was closed in the second quarter

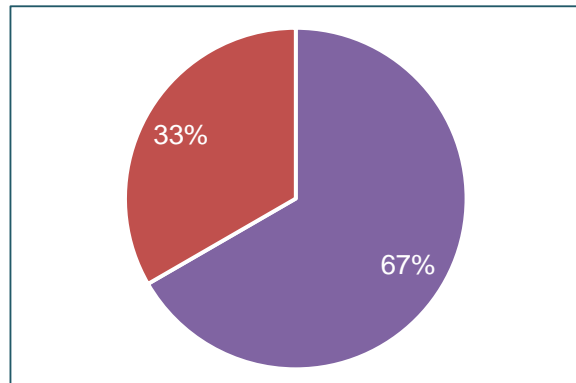


Figure 32: Results of the 6 matters initiated by the licensee / licence applicant that were closed in the third quarter

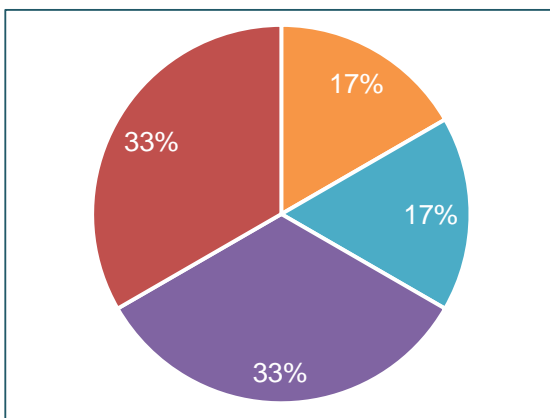
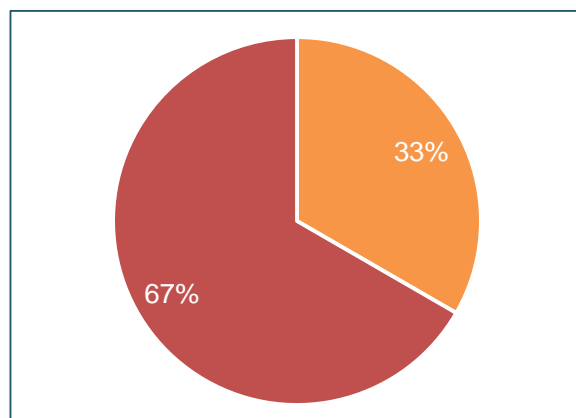


Figure 33: Results of the 3 matters initiated by the licensee / licence applicant that were closed in the fourth quarter



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 this quarter.

For Figures 34-37 below please refer to the following legend key.

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

Figure 34: Results of the 4 appeals by licensee / licence applicant that were closed in the first quarter

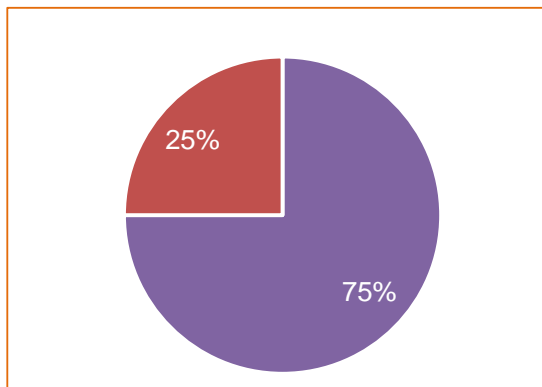


Figure 35: Results of the 1 appeal by the licensee / licence applicant that was closed in the second quarter.

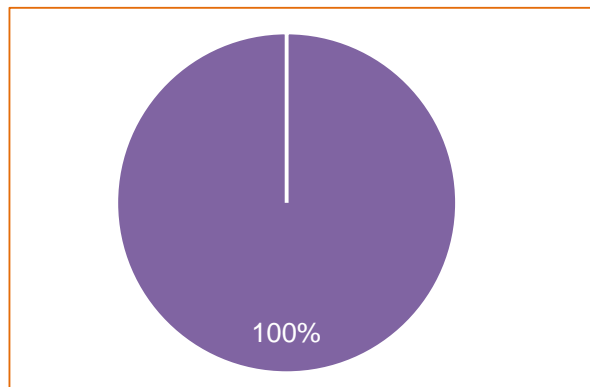


Figure 36: Results of the 6 appeals by the licensee / licence applicant that were closed in the third quarter

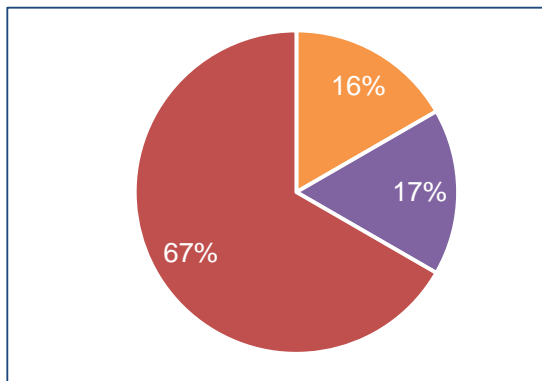


Figure 37: Results of the 3 appeals by the licensee / licence applicant that were closed in the fourth quarter

