



**TAB 5**

**Report to Convocation  
November 28, 2014**

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**Professional Regulation Committee**

**Committee Members**

Malcolm Mercer (Chair)  
Paul Schabas (Vice-Chair)  
Susan Richer (Vice-Chair)  
Robert Armstrong  
John Callaghan  
John Campion  
Cathy Corsetti  
Seymour Epstein  
Robert F. Evans  
Julian Falconer  
Patrick Furlong  
Carol Hartman  
Jacqueline Horvat  
Brian Lawrie  
Jeffrey Lem  
William C. McDowell  
Ross Murray  
Jan Richardson  
Heather J. Ross

**Purpose of Report: Decision and Information**

**Prepared by the Policy Secretariat  
(Margaret Drent (416-947-7613))**

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### **Decision**

Amendments to the Rules of Professional Conduct [TAB 5.1](#)

### **Information**

Professional Regulation Division Quarterly Report (July-September 2014) [TAB 5.2](#)

## COMMITTEE PROCESS

1. The Professional Regulation Committee (“the Committee”) met on November 12, 2014. In attendance were Malcolm Mercer (Chair), Paul Schabas (Vice-Chair), Susan Richer (Vice-Chair), John Callaghan, John Campion, Cathy Corsetti, Robert F. Evans, Julian N. Falconer (by telephone), Patrick Furlong, Carol Hartman (by telephone), Jacqueline Horvat, Brian Lawrie, Jeffrey Lem, William C. McDowell, Ross Murray, Jan Richardson (by telephone), and Heather Ross.
2. Staff members attending were Zeynep Onen, Grant Wedge, Elliot Spears, Jim Varro, Naomi Bussin, and Margaret Drent.

**FOR DECISION**

**AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT**

**MOTION**

3. **That Convocation approve two amendments to the Rules of Professional Conduct as set out at [Tab 5.1.1](#).**

**Issue for Consideration**

4. Two minor matters for amendment to the Rules of Professional Conduct were brought to the Law Society's attention by a licensee.
5. The Committee proposes that these amendments, shown at [Tab 5.1.1](#)., be made by Convocation.
6. The first amendment is to remove the first occurrence of the word "with" in Rule 7.2-8 and Rule 7.2-8.1. The purpose of this amendment is to improve the readability of these provisions. The second amendment is to add the required heading "Unrepresented Persons" to Rule 7.2-9.

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RULES OF PROFESSIONAL CONDUCT

1. Proposed amendments to Rules 7.2-8 and Rule 7.2-8.1:

**Communications with a Represented Corporation or Organization**

**7.2-8** A lawyer retained to act on a matter involving a corporation or organization that is represented by a legal practitioner shall not, without the legal practitioner's consent or unless otherwise authorized or required by law, communicate, facilitate communication ~~with~~ or deal with a person

- (a) who is a director or officer, or another person who is authorized to act on behalf of the corporation or organization;
- (b) who is likely involved in decision-making for the corporation or organization or who provides advice in relation to the particular matter;
- (c) whose act or omission may be binding on or imputed to the corporation or organization for the purposes of its ability; or
- (d) who supervises, directs or regularly consults with the legal practitioner and who makes decisions based on the legal practitioner's advice.

**7.2-8.1** If a person described in rule 7.2-8(a), (b), (c) or (d) is represented in the matter by a legal practitioner, the consent of the legal practitioner is sufficient to allow a lawyer to communicate, facilitate communication ~~with~~ or deal with the person.

2. Proposed amendments to Rule 7.2-9 of the Rules of Professional Conduct:

**Unrepresented Persons**

**7.2-9** When a lawyer deals on a client's behalf with an unrepresented person, the lawyer shall:

- (a) [FLSC – not in use]
- (b) take care to see that the unrepresented person is not proceeding under the impression that their interests will be protected by the lawyer; and
- (c) take care to see that the unrepresented person understand that the lawyer is acting exclusively in the interests of the client and accordingly their comments may be partisan.

**FOR INFORMATION**

**PROFESSIONAL REGULATION DIVISION  
QUARTERLY REPORT**

7. The Professional Regulation Division's Quarterly Report (third quarter 2014), provided to the Committee by Zeynep Onen, the Executive Director of Professional Regulation, appears on the following pages. The report includes information on the Division's activities and responsibilities, including file management and monitoring, for the period July to September 2014. This report was also provided to the Paralegal Standing Committee for information on November 11, 2014.



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# The Professional Regulation Division

**Quarterly Report**  
July – September 2014

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (July 1 – September 30, 2014)

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## **The Quarterly Report**

The Quarterly Report provides a summary of the Professional Regulation Division's activities and achievements during the past quarter, July 1 to September 30, 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.



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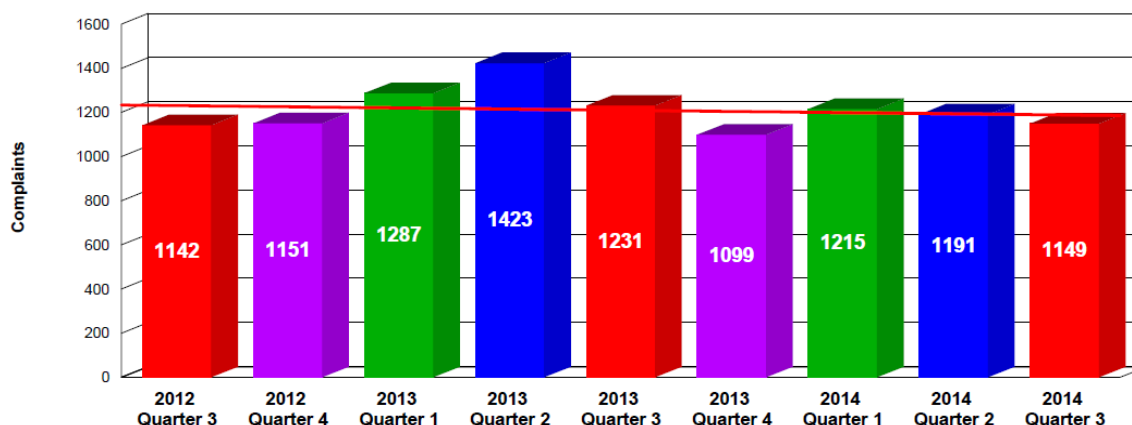
## **SECTION 1**

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

The Law Society of Upper Canada  
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## PERFORMANCE IN THE PROFESSIONAL REGULATION DIVISION

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



The number of new complaints received in the first three quarters of 2014 (3555) decreased by 10% when compared to the number received in the first three quarters of 2013 (3941) and by 2% when compared to the number received in the same period in 2012 (3631). The analysis of new complaints/cases received (below) shows that, in Q3 2014, the number of complaints/cases increased for all groups except paralegal applicant cases when compared to the numbers received in Q2 2014 but decreased for all groups except lawyer applicant cases when compared to the numbers received in Q3 2013.

### Detailed Analysis of Complaints Received in the Division

	Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Complaints against Lawyers</b>	969	886	912	882	936
<b>Lawyer Applicant Cases ★</b>	21	9	69	17	25
<b>Complaints against Licensed Paralegals</b>	143	129	150	126	117
<b>Paralegal Applicant Cases ★</b>	34	21	22	118	20
<b>Complaints against Non-Licensees/Non-Applicants*</b>	64	54	62	48	51
<b>TOTAL</b>	1231	1099	1215	1191	1149

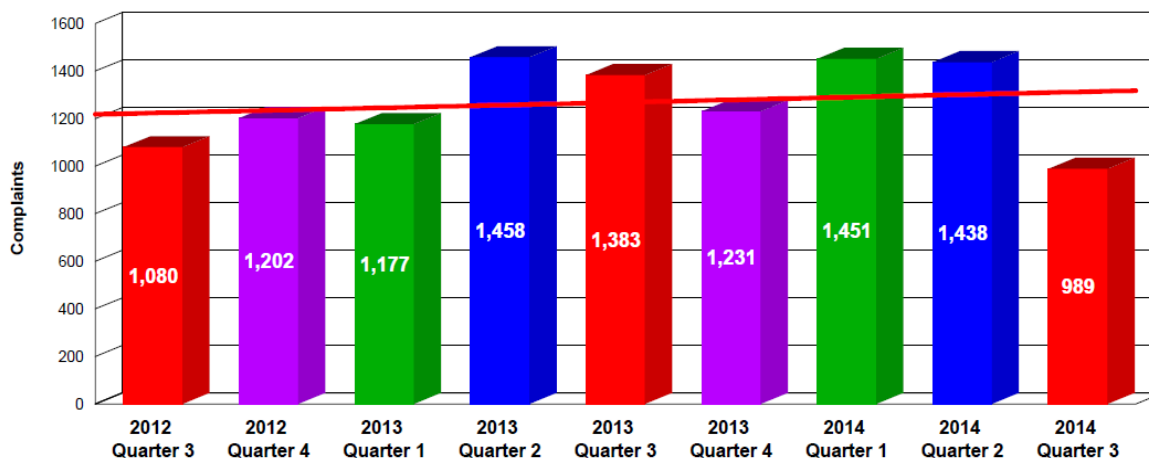
★ Applicant cases include good character cases and UAP complaints

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

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

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



The number of cases closed in the Division in the first three quarters of 2014 (3878) decreased by 3.5% from the number of cases closed in the first three quarters of 2013 (4018) but increased by 4% from the number of cases closed in the same period in 2012 (3726).

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

	Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Complaints against Lawyers</b>	1101	1009	1140	1067	780
<b>Lawyer Applicant Cases ★</b>	31	14	13	69	16
<b>Complaints against Licensed Paralegals</b>	124	131	181	134	133
<b>Paralegal Applicant Cases ★</b>	53	33	41	100	22
<b>Complaints against Non-Licensees/Non-Applicants*</b>	74	44	76	68	38
<b>TOTAL</b>	1383	1231	1451	1438	989

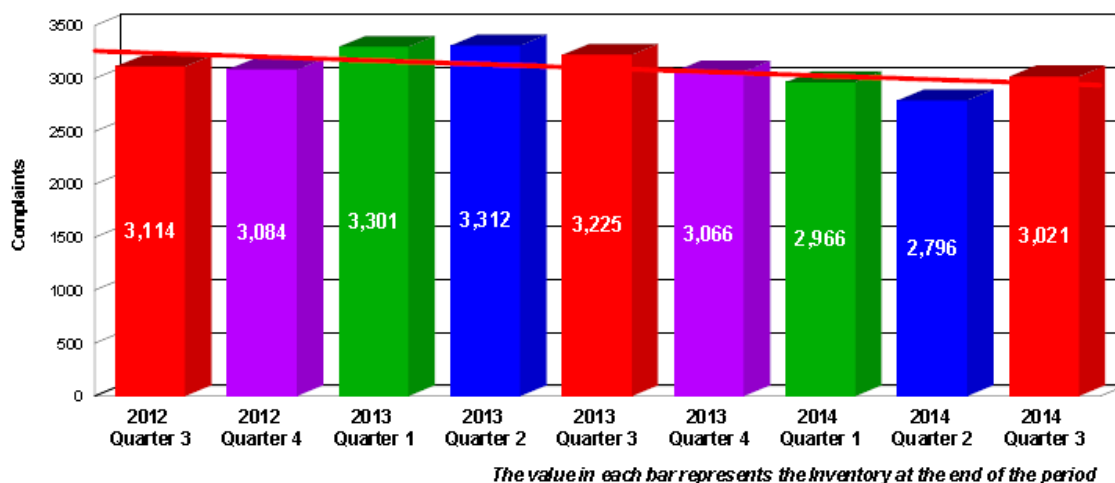
★ Applicant cases include good character cases and UAP complaints

\* 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.

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**Graph 1C: Total Inventory<sup>3</sup>**



The inventory in the Division at the end of Q3 2014 was approximately 8% higher than at the end of Q2 2014 and approximately 6% lower than the inventory in the Division at the end of Q3 2013.

#### Detailed Analysis of Division Inventory

	Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Complaints against Lawyers</b>	2575	2449	2315	2200	2407
<b>Lawyer Applicant Cases ★</b>	29	25	78	26	38
<b>Complaints against Licensed Paralegals</b>	427	398	404	398	391
<b>Paralegal Applicant Cases ★</b>	77	67	42	65	63
<b>Complaints against Non-Licensees/Non-Applicants*</b>	117	127	127	107	122
<b>TOTAL</b>	3225	3066	2966	2796	3021

★ Applicant cases include good character cases and UAP complaints

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

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

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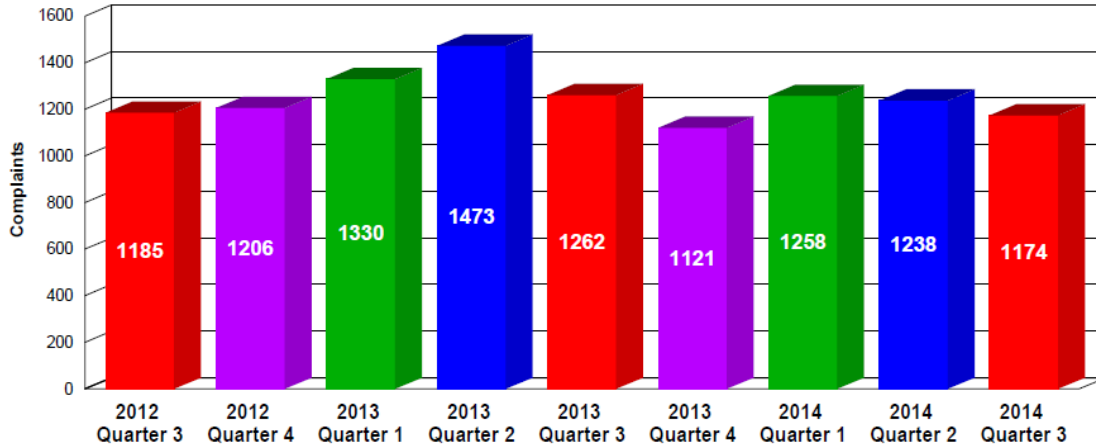
## **SECTION 2**

# **DEPARTMENTAL PERFORMANCE DURING THE QUARTER**

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## 2.1 – Intake

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



The Intake department processes all new regulatory complaints. In Q3 2014, in addition to the 1149 new cases, Intake re-opened 25 complaints which met the threshold for re-opening a closed matter.

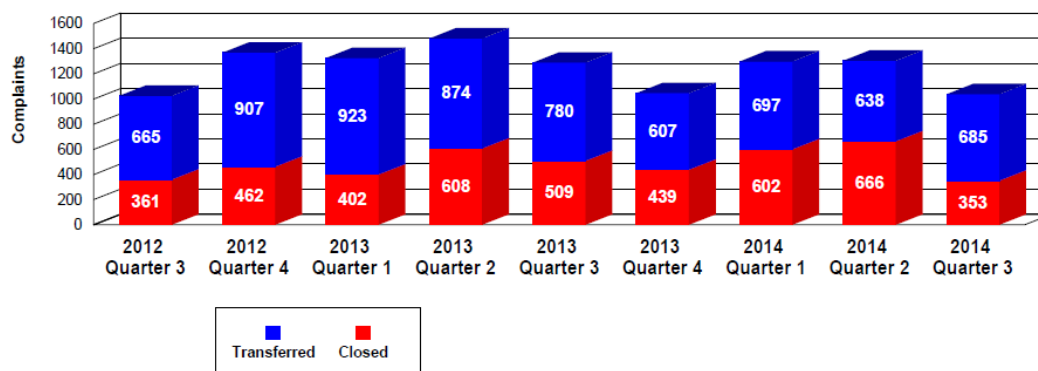
<sup>4</sup> Includes new complaints received and re-opened complaints



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## 2.1 – Intake

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



In the first three quarters of 2014, Intake completed 3632 cases, which represents a 11% decrease over the number of cases completed by the department in the first three quarters of 2013 (4096) but a 4% increase over the number of cases completed by the department in the first half of 2012 (3496).

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

		Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Complaints against Lawyers</b>	Closed	404	368	489	439	291
	Transferred	605	486	545	482	576
<b>Lawyer Applicant Cases ★</b>	Closed	15	5	7	66	12
	Transferred	11	0	4	12	10
<b>Complaints against Licensed Paralegals</b>	Closed	40	35	58	60	32
	Transferred	111	80	96	79	74
<b>Paralegal Applicant Cases ★</b>	Closed	22	10	22	85	7
	Transferred	18	5	6	30	6
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	28	21	26	16	11
	Transferred	35	36	46	35	19
<b>TOTAL</b>	Closed	509	439	602	666	353
	Transferred	780	607	697	638	685

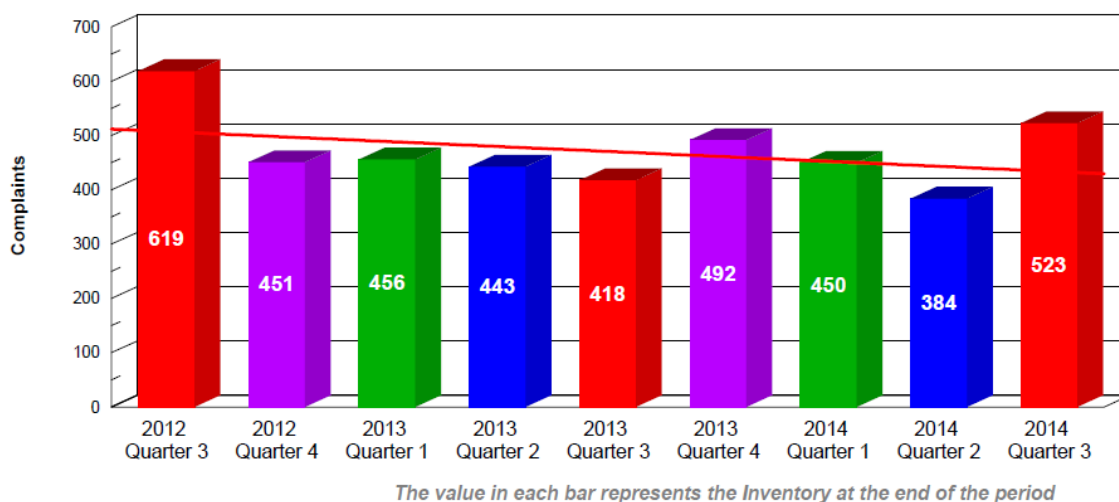
★ Applicant cases include good character cases and UAP complaints

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

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## 2.1 – Intake

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



In Q3 of 2014, the department's inventory increased by 36% from the end of Q2 2014 and by 6% from the end of 2013 (from 492 to 523 cases). As noted in the chart below, Intake's inventory at the end of the quarter consisted mostly of complaints against lawyers.

### Detailed Analysis of Intake Inventory

	Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Complaints against Lawyers</b>	369	415	327	332	423
<b>Lawyer Applicant Cases ★</b>	0	4	62	1	5
<b>Complaints against Licensed Paralegals</b>	36	54	52	40	54
<b>Paralegal Applicant Cases ★</b>	2	9	2	5	12
<b>Complaints against Non-Licensees/Non-Applicants*</b>	11	10	7	6	29
<b>TOTAL</b>	418	492	450	384	523

★ Applicant cases include good character cases and UAP complaints

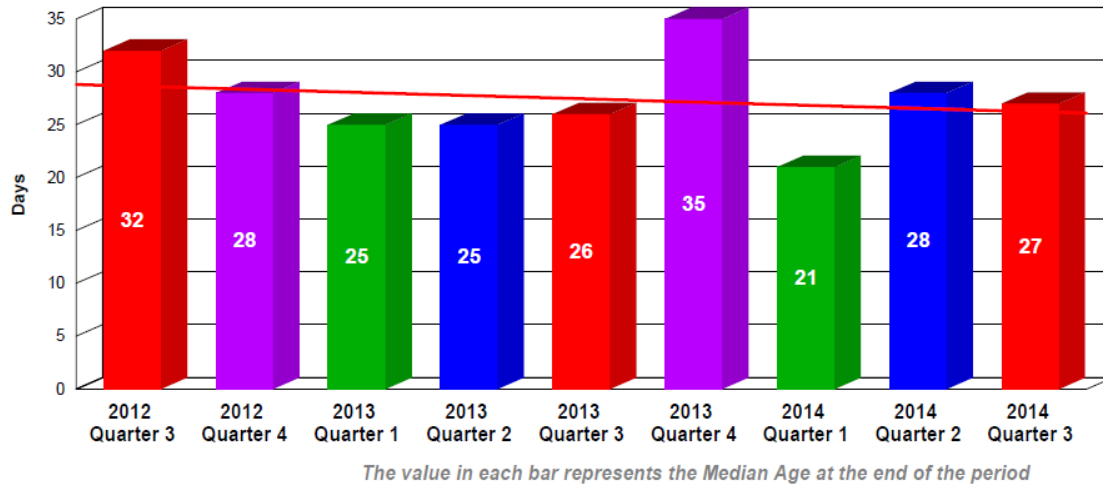
\* For a complete analysis of UAP complaints see section 3.4.

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## 2.1 – Intake

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

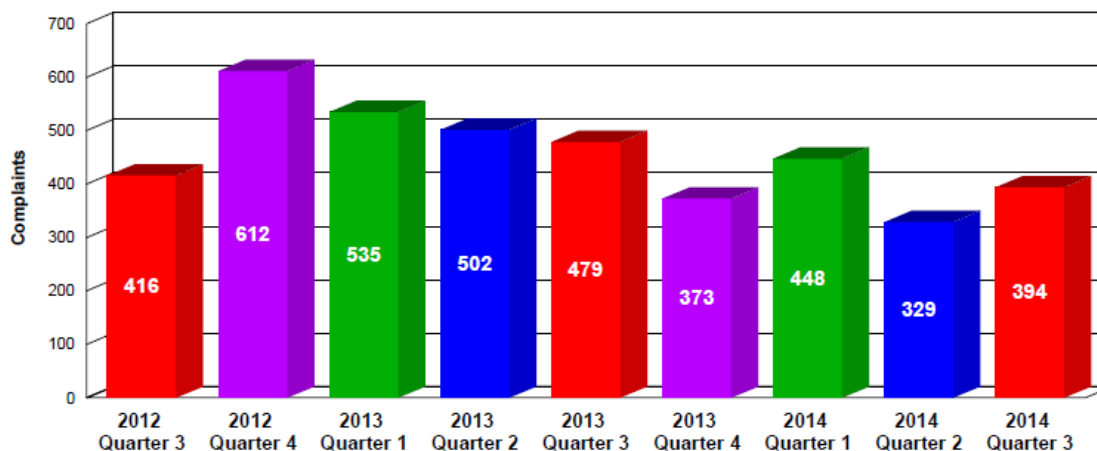


Intake's median age is below the department's 30-day target, indicating a timely case process.

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## 2.2 – Complaints Resolution

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



While the input of new cases received in the department in Q3 2014 increased over the input in Q2 2014 (by approximately 20%). When compared to the input of cases received in the same period in the last two years, the input received in the first three quarters of 2014 (1174) is a 23% decrease from the input received in the first three quarters of 2013 (1516) and a 9% decrease from the input received in the same period in 2012 (1287).

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

	Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Complaints against Lawyers</b>	418	330	375	295	346
<b>Lawyer Applicant Cases ★</b>	0	0	0	0	0
<b>Complaints against Licensed Paralegals</b>	60	43	72	34	48
<b>Paralegal Applicant Cases ★</b>	0	0	0	0	0
<b>Complaints against Non-Licensees/Non-Applicants*</b>	1	0	1	0	0
<b>TOTAL</b>	479	373	448	329	394

★ Applicant cases include good character cases and UAP complaints

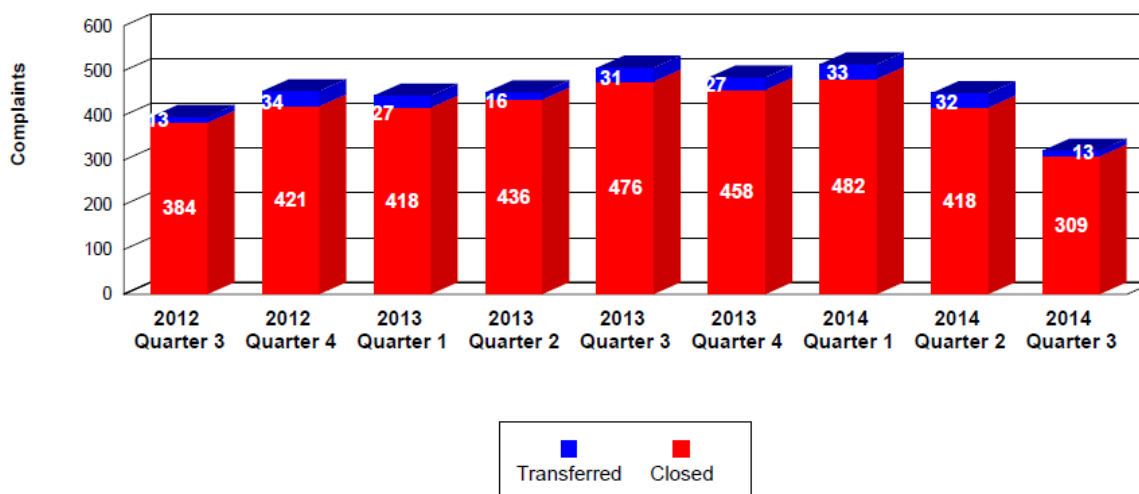
\* For a complete analysis of UAP complaints see section 3.4.

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

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## 2.2 – Complaints Resolution

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



The number of cases completed in the first three quarters of 2014 by Complaints Resolution (1287) decreased by approximately 8% over the number of cases completed in the first three quarters of 2013 (1404) and the number of cases completed in the first three quarters of 2012 (1394).

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

		Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Complaints against Lawyers</b>	Closed	434	405	416	389	273
	Transferred	23	22	25	30	13
<b>Lawyer Applicant Cases★</b>	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
<b>Complaints against Licensed Paralegals</b>	Closed	42	53	66	29	36
	Transferred	7	5	8	2	0
<b>Paralegal Applicant Cases★</b>	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	0	0	0	0	0
	Transferred	1	0	0	0	0
<b>TOTAL</b>	Closed	476	458	482	418	309
	Transferred	31	27	33	32	13

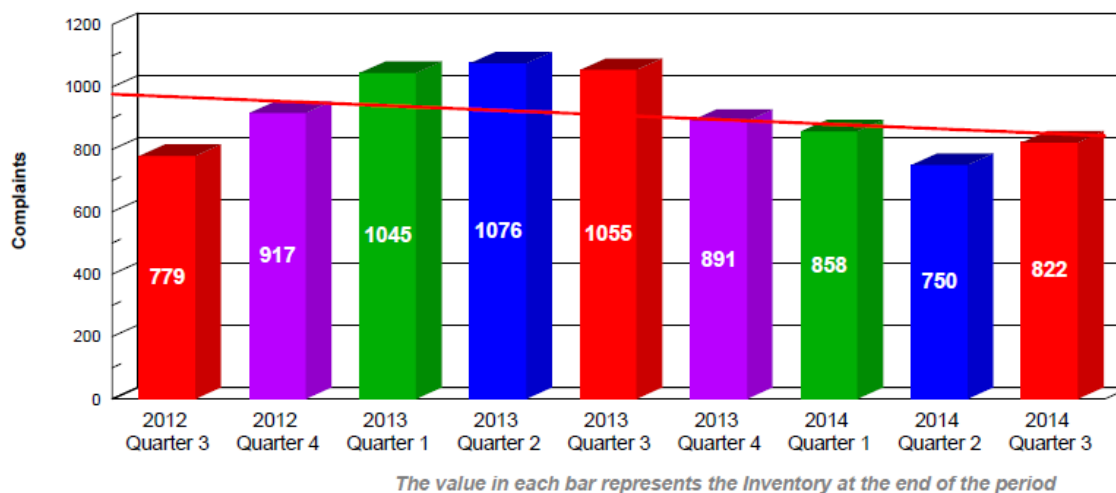
★ Applicant cases include good character cases and UAP complaints

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

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## 2.2 – Complaints Resolution

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



In Q3 2014, the department's inventory increased by approximately 10% from the end of Q2 2014. However, since the beginning of the year, the inventory has decreased by 22%, from 1055 to 822 cases. The inventory continues to consist mostly of complaints against lawyers.

### Detailed Analysis of Complaint Resolution's Inventory

	Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Complaints against Lawyers</b>	928	811	779	669	727
<b>Lawyer Applicant Cases ★</b>	0	0	0	0	0
<b>Complaints against Licensed Paralegals</b>	127	80	78	80	94
<b>Paralegal Applicant Cases ★</b>	0	0	0	0	0
<b>Complaints against Non-Licensees/Non-Applicants*</b>	0	0	1	1	1
<b>TOTAL</b>	1055	891	858	750	822

★ Applicant cases include good character cases and UAP complaints

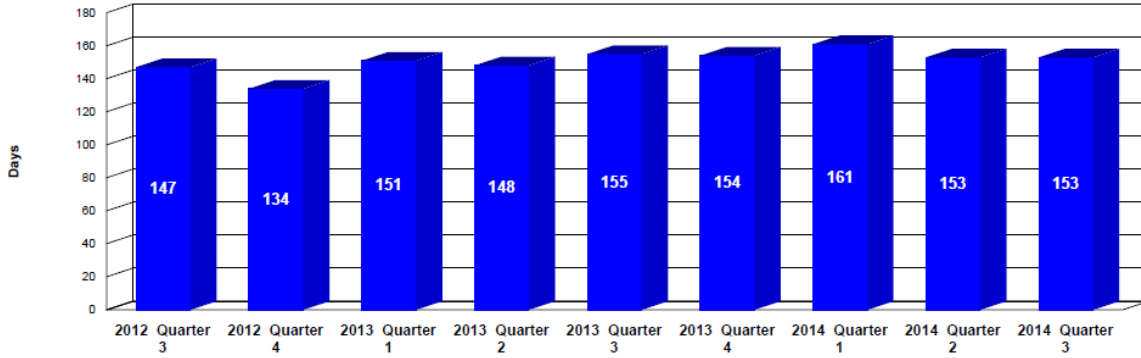
\* For a complete analysis of UAP complaints see section 3.4.

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## 2.2 – Complaints Resolution

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

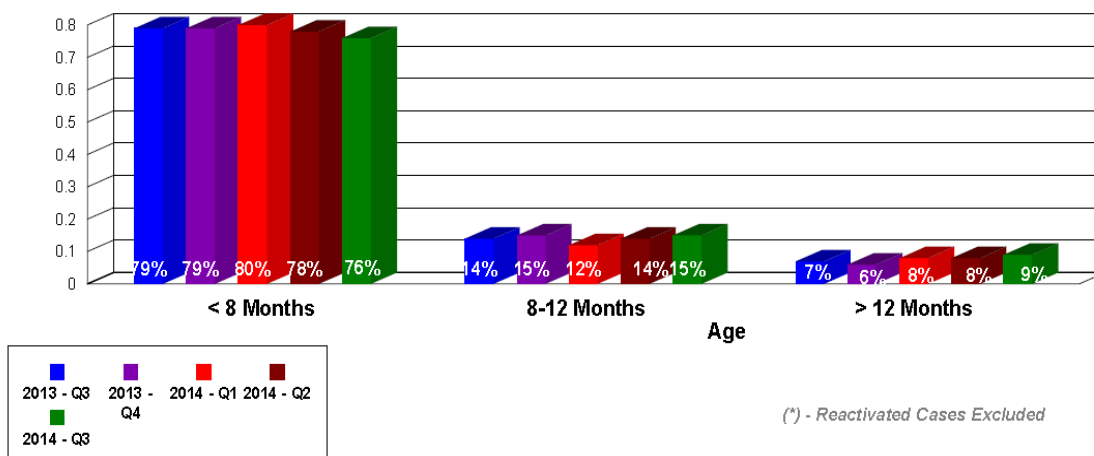


The department's median age remains within the department's target range of 150-170 days.

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## 2.2 – Complaints Resolution

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



The above graph sets out the spectrum of aging in the department’s inventory (excluding reactivated cases) at the end of each of the 5 quarters displayed. Excluding reactivated cases, Complaints Resolution’s department inventory at the end of Q3 2014 was 755 cases involving 681 subjects. The age distribution of those cases was:

Less than 8 months	574 cases involving 521 subjects
8 to 12 months	114 cases involving 106 subjects
More than 12 months	67 cases involving 54 subjects

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>Q3 2013</b>	780 cases involving 693 subjects	142 cases involving 127 subjects	67 cases involving 47 subjects
<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

The goal is to reduce the proportion of cases in the older time frames and increase the proportion of cases in the youngest time frame. However, it is recognized that there will always be cases that are older than 12 months in Complaints Resolution for the following reasons:

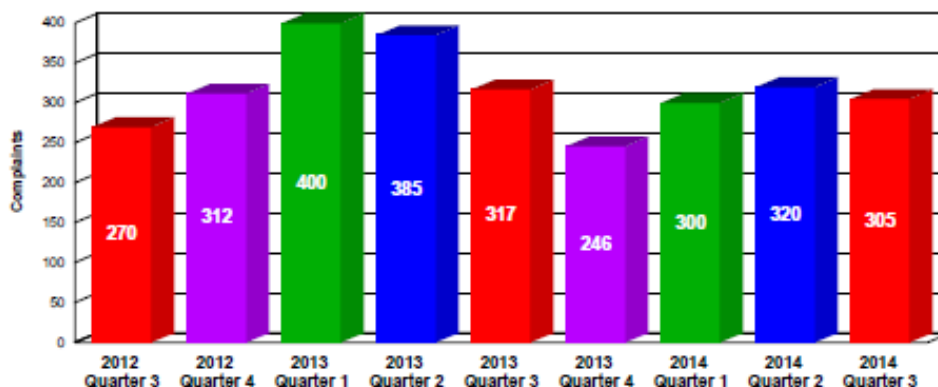
- Newer complaints against the lawyer/paralegal are received. In some cases existing cases await the completion of younger cases relating to the same licensee;
- Delays on the part of licensees in providing representations and in responding to the investigators’ requests. In a number of instances, the 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



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## 2.3 –Investigations

**Graph 2.3A: Investigations - Input**



The input of cases into the Investigations department in the first three quarters of 2014 (925) decreased by approximately 16% from the input in the first three quarters of 2013 (1102) but is approximately the same as the input in the first three quarters of 2012 (933).

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

	Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Complaints against Lawyers</b>	197	164	190	201	240
<b>Lawyer Applicant Cases ★</b>	11	0	4	12	10
<b>Complaints against Licensed Paralegals</b>	54	40	55	42	30
<b>Paralegal Applicant Cases ★</b>	19	6	6	30	6
<b>Complaints against Non-Licensees/Non-Applicants*</b>	36	36	45	35	19
<b>TOTAL</b>	317	246	300	320	305

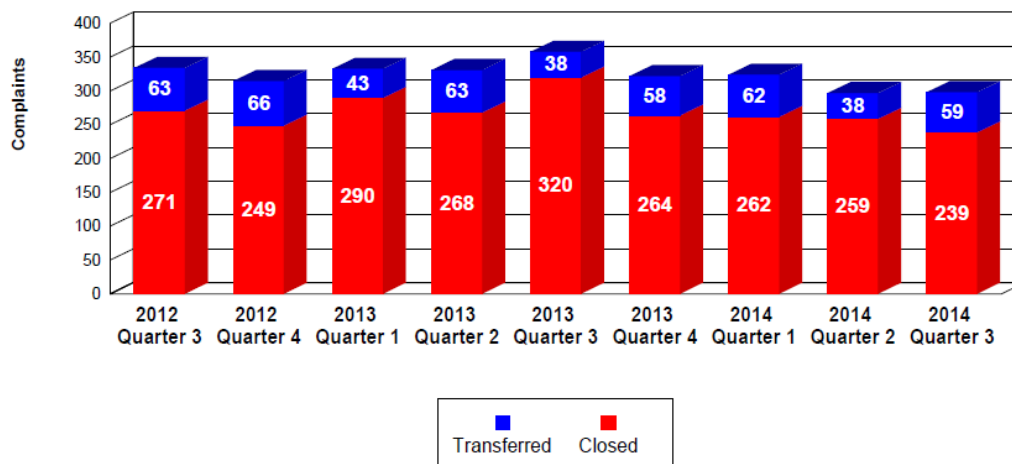
★ Applicant cases include good character cases and UAP complaints

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

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## 2.3 –Investigations

**Graph 2.3B Investigations - Complaints Closed and Transferred Out**



The number of cases closed/transferred out of the department in the first three quarters of 2014 (919 cases) was approximately 10% lower than the number completed in the first three quarters of 2013 (1022) and approximately 4% lower than the number completed in the first three quarters of 2012 (959 cases).

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

		Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Complaints against Lawyers</b>	Closed	194	183	158	166	147
	Transferred	32	46	45	31	48
<b>Lawyer Applicant Cases ★</b>	Closed	14	9	5	3	4
	Transferred	0	0	1	1	0
<b>Complaints against Licensed Paralegals</b>	Closed	39	27	38	32	51
	Transferred	4	10	5	1	11
<b>Paralegal Applicant Cases ★</b>	Closed	31	22	13	8	10
	Transferred	2	0	1	1	0
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	42	23	48	50	27
	Transferred	0	2	10	4	0
<b>TOTAL</b>	Closed	320	264	262	259	239
	Transferred	38	58	62	38	59

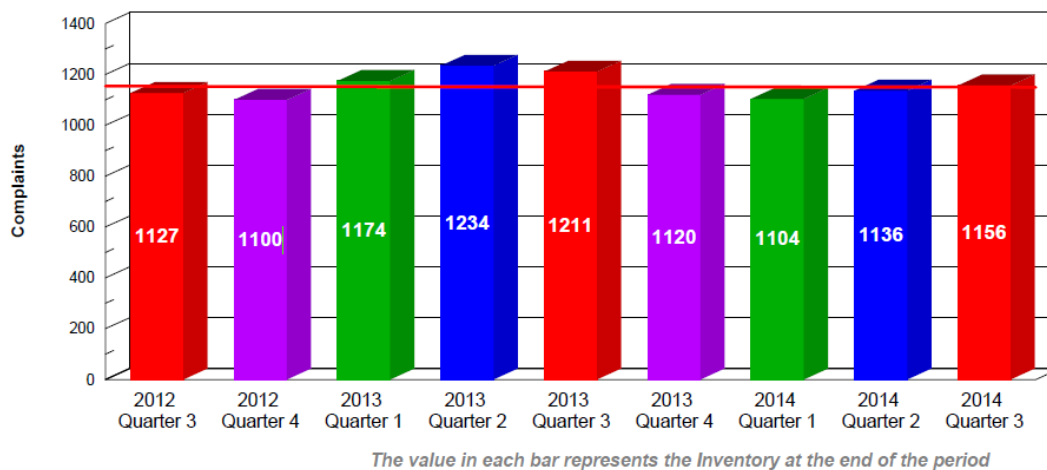
★ Applicant cases include good character cases and UAP complaints

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

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## 2.3 – Investigations

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



As the input of cases (305) into the department exceeded the number of cases completed by the department in Q3 2014 (298), Investigations' inventory increased slightly (by approximately 2%) from 1136 cases at the end of Q2 2014 to 1156 cases at the end of Q3 2014. However, the department's inventory at the end of Q3 2014 (1156) was approximately 5% lower than its inventory at the end of Q3 2013 (1211).

### Detailed Analysis of Investigations Inventory

	Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Complaints against Lawyers</b>	837	759	750	761	816
<b>Lawyer Applicant Cases ★</b>	28	20	15	23	31
<b>Complaints against Licensed Paralegals</b>	200	202	219	227	196
<b>Paralegal Applicant Cases ★</b>	52	36	28	49	45
<b>Complaints against Non-Licensees/Non-Applicants*</b>	94	103	92	76	68
<b>TOTAL</b>	1211	1120	1104	1136	1156

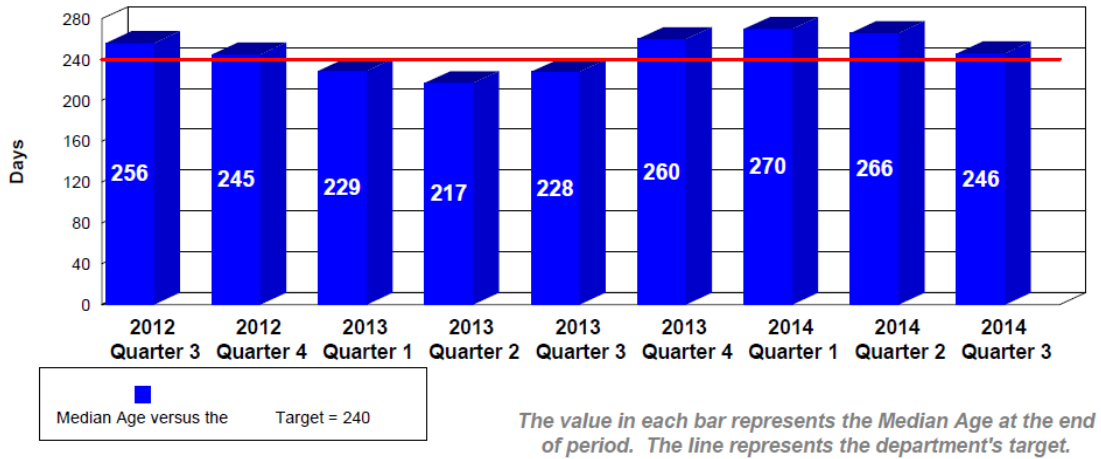
★ Applicant cases include good character cases and UAP complaints

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

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## 2.3 – Investigations

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

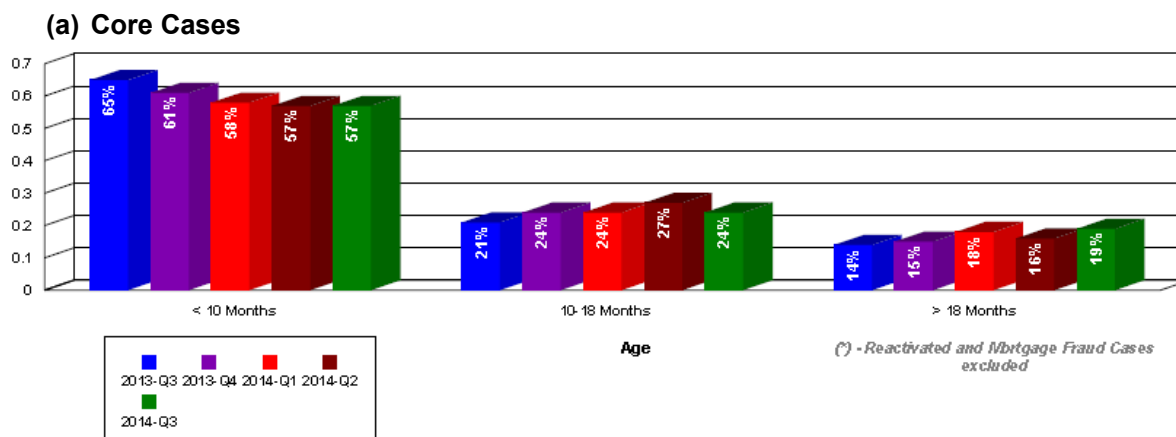


Investigations' median age at the end of Q3 2014 decreased by approximately 8% from the median age at the end of Q2 2014, decreasing from 266 days to 246 days.

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## 2.3 – Investigations

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



The above graph sets out the spectrum of aging in the department’s inventory (excluding reactivated and mortgage fraud cases) at the end of each of the 5 quarters displayed. The inventory of Investigations at the end of the third quarter of 2014, excluding reactivated and mortgage fraud cases, was 943 cases involving 699 subjects. The distribution of those cases was:

Less than 10 months	540 cases involving 395 subjects
10 to 18 months	223 cases involving 180 subjects
More than 18 months	180 cases involving 124 subjects

The chart below compares the department’s age distribution of core cases for the past 5 quarters:

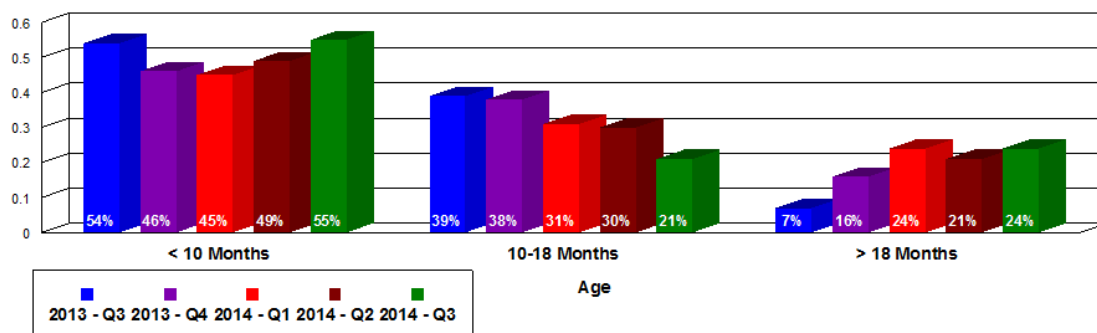
	<10 months	10 to 18 months	>18 months
<b>Q3 2013</b>	662 cases involving 490 subjects	214 cases involving 179 subjects	150 cases involving 111 subjects
<b>Q4 2013</b>	591 cases involving 451 subjects	228 cases involving 177 subjects	147 cases involving 109 subjects
<b>Q1 2014</b>	544 cases involving 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

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



The above graph sets out the spectrum of aging in the department’s mortgage fraud case inventory at the end of each of the 5 quarters displayed. The inventory of mortgage fraud cases at the end of the third quarter of 2014 was 110 cases involving 86 subjects. The distribution of those cases was:

Less than 10 months	61 cases involving 46 subjects
10 to 18 months	23 cases involving 19 subjects
More than 18 months	26 cases involving 21 subjects

The chart below compares the department’s age distribution of mortgage fraud cases for the past 5 quarters:

	<10 months	10 to 18 months	>18 months
<b>Q3 2013</b>	46 cases involving 37 subjects	33 cases involving 30 subjects	6 cases involving 6 subjects
<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

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.

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## 2.4 – Unauthorized Practice (UAP)

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

Quarter	New	Closed/Transferred			Active at end of Quarter
		Closed	Transfer to CR	Transfer to INV	
<b>Totals: 2008</b>	337	122	50	168	
<b>Totals: 2009</b>	445	165	86	192	
<b>Q1 2010</b>	94	42	0	76	36
<b>Q2 2010</b>	89	32	0	69	32
<b>Q3 2010</b>	67	32	1	50	29
<b>Q4 2010</b>	80	45	0	54	18
<b>Totals - 2010 (+ POL)</b>	330* (398)	151	1	249	
<b>Q1 2011 (+ POL)</b>	61 (74)	24	0	41	20
<b>Q2 2011 (+ POL)</b>	61 (84)	20	1	54	12
<b>Q3 2011 (+ POL)</b>	70 (80)	27	0	49	28
<b>Q4 2011 (+ POL)</b>	63 (83)	16	1	62	15
<b>Totals – 2011 (+POL)</b>	255 (321)	87	2	206	
<b>Q1 2012 (+ POL)</b>	77(91)	16	0	61	17
<b>Q2 2012 (+POL)</b>	58 (80)	22	0	49	6
<b>Q3 2012 (+POL)</b>	41 (44)	16	0	27	11
<b>Q4 2012 (+POL)</b>	80 (84)	32	0	45	19
<b>Totals – 2012 (+POL)</b>	256 (299)	86	0	182	
<b>Q1 2013 (+POL)</b>	71(93)	29	0	59	11
<b>Q2 2013 (+POL)</b>	60(66)	26	0	51	5
<b>Q3 2013 (+POL)</b>	69 (81)	27	0	46	9
<b>Q4 2013 (+POL)</b>	60(71)	20	0	41	11
<b>Totals – 2013 (+POL)</b>	260 (311)	102	0	197	11
<b>Q1 2014 (+POL)</b>	64(76)	26	0	51	6
<b>Q2 2014 (+POL)</b>	52(63)	15	0	38	7
<b>Q3 2014 (+POL)</b>	44(49)	13	0	21	20

\* In response to the number of UAP complaints being received in the division, a new allegation of “Practising Outside the Scope of Licence” (“POL”) was added to the division’s case management system in Q1 2010. This allows for improved identification of the nature of these complaints. In Q3 2014, complaints alleging practicing outside the scope of licence were received in a total of 5 cases. Prior to Q1 2010, these would have been included in the UAP figures.

As noted in the chart above, in the first three quarters of 2014, the Division received 20% fewer UAP complaints (160) than it did in the same period in 2013 (200).

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## 2.4 – Unauthorized Practice (UAP)

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

	New		Closed <sup>6</sup>		Inventory	
	CR	INV	CR	INV	CR	INV
<b>Totals: 2008</b>	52	171	64	126	106	
<b>Totals: 2009</b>	77	187	48	138	168	
<b>Totals: 2010</b>	1	249	28	190	124	
<b>Q1 2011</b>	0	41	0	61	0	104
<b>Q2 2011</b>	1	54	0	56	1	102
<b>Q3 2011</b>	0	49	0	45	1	106
<b>Q4 2011</b>	1	62	0	26	1	139
<b>Totals: 2011</b>	2	206	0	188	140	
<b>Q1 2012</b>	0	61	1	45	0	156
<b>Q2 2012</b>	0	49	0	65	0	140
<b>Q3 2012</b>	0	27	0	41	0	120
<b>Q4 2012</b>	0	45	0	34	0	131
<b>Totals: 2012</b>	0	182	1	185	131	
<b>Q1 2013</b>	0	59	0	62	0	128
<b>Q2 2013</b>	0	51	0	36	0	143
<b>Q3 2013</b>	0	46	0	58	0	129
<b>Q4 2013</b>	0	40	0	31	0	137
<b>Totals: 2013</b>	0	197	0	187	137	
<b>Q1 2014</b>	0	51	0	66	0	122
<b>Q2 2014</b>	0	38	0	82	0	82
<b>Q3 2014</b>	0	21	0	29	0	74

As more UAP investigations were completed in Q3 2014 (29) than were received (21), the inventory of UAP cases in Investigations was reduced from 82 cases at the end of Q2 2014 to 74 cases at the end of Q3 2014.

### Graph 2.4C: UAP Enforcement Actions

As at September 30, 2014, there were 4 open UAP matters; in two matters, permanent injunctions are being sought; in 1 matter an appeal of an injunction has been filed by the non-licensuree; and in 1 matter, a motion brought for breach of an injunction is ongoing.

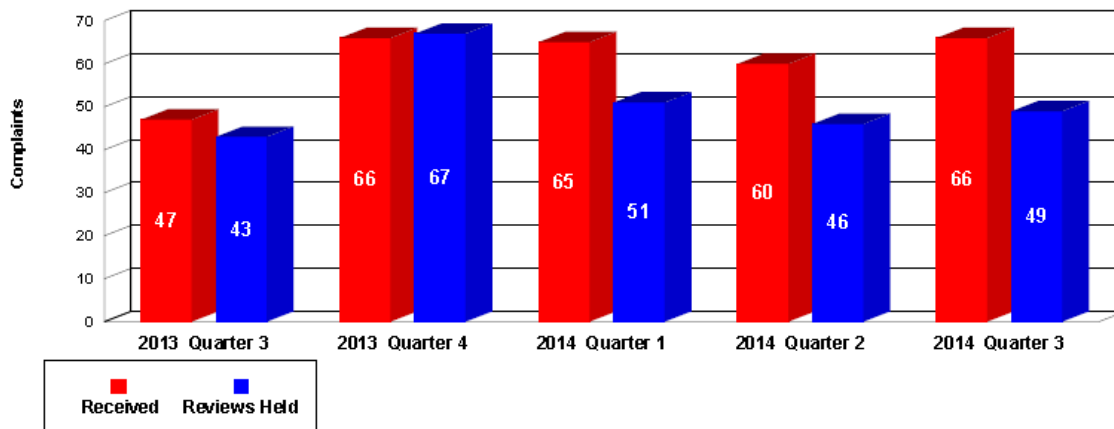
<sup>6</sup> “Closed” refers to completed investigations and therefore consists of both those investigations that were closed by the Law Society and those that were referred for prosecution/injunctive relief.



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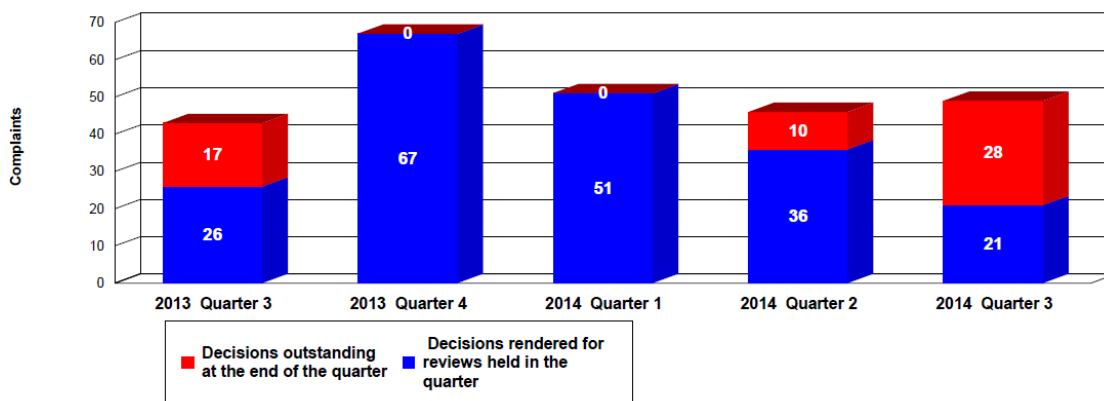
## 2.5 – Complaints Resolution Commissioner

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



In the first 3 quarters of 2014, the Complaints Resolution Commissioner received 191 requests for review of cases closed in either Investigations or Complaints Resolution, a 22% increase from the number of requests received in the same period in 2013 (157) and a 5% decrease from the number of requests received in the first three quarters of 2012 (202). The Commissioner reviewed 146 cases in the first three quarters of 2014, a 6% increase from the number reviewed in the same period in 2013 (138) and about 18% less than were reviewed in the first three quarters of 2012 (178).

**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 third quarter of 2014, the Commissioner rendered decisions in 21 of the 49 cases reviewed in that quarter. As at September 30, 2014, there were 28 decisions outstanding from reviews conducted in Quarter 3 and 1 decision outstanding from reviews conducted in Quarter 2.

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## 2.5 – Complaints Resolution Commissioner

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

Quarter	Decisions Rendered (# of decisions where review in previous quarter(s))	Files to Remain Closed	Files Referred Back to PRD
<b>Total 2009</b>	194	174 (90%)	20 (10%)
<b>Total 2010</b>	193	160 (83%)	33 (17%)
<b>Total 2011</b>	260	248 (95%)	12 (5%)
Q1 2012	36	32 (89%)	4 (11%)
Q2 2012	50	48 (96%)	2 (4%)
Q3 2012	67	63 (94%)	4 (6%)
Q4 2012	89	81 (91%)	8(9%)
<b>Total 2012</b>	242	224 (93%)	18 (7%)
Q1 2013	40	38 (95 %)	2 (5 %)
Q2 2013	55	49 (89%)	6 (11%)
Q3 2013	43	40 (93%)	3 (7%)
Q4 2013	67	65 (97%)	2 (3%)
<b>Total 2013</b>	205	192 (94%)	13 (6%)
Q1 2014	51	50(98%)	1(2%)
Q2 2014	36	33(92%)	3(8%)
Q3 2014	30	29(97%)	1 (3%)

Of the 30 decisions rendered in Q3 2014, the Commissioner referred 1 file back to Professional Regulation. While he was satisfied that the decision to close was reasonable, he recommended that the Law Society investigate another issue. As of the date of this Quarterly Report, the Director's decision remains outstanding with respect to this file.

### Active Inventory

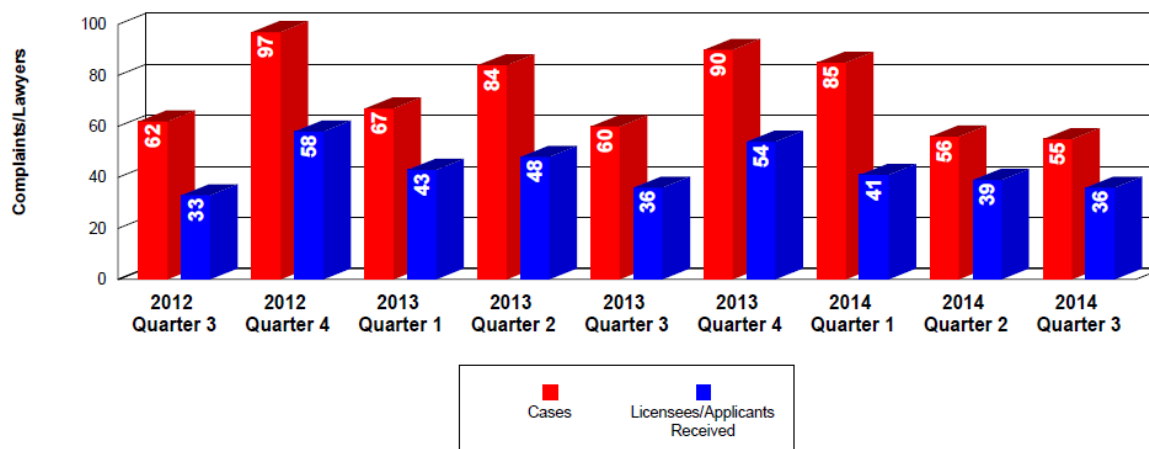
As at September 30, 2014, the Office of the Complaints Resolution Commissioner had an inventory of 160 files:

Request received; awaiting preparation of CRC materials	69 files
Review Meeting Scheduled	54 files
In Abeyance	8 files
Awaiting for Decision	29 files

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## 2.6 – Discipline

**Graph 2.6A: Discipline - Input<sup>7</sup>**



As noted in the chart below, in Q3 2014, the department received complaints from various departments involving 33 lawyers (relating to 49 cases) and 3 licensed paralegals (relating to 6 cases).

### Detailed Analysis of New Cases Received in Discipline

		Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Lawyers</b>	Cases	50	76	72	46	49
	Lawyers	27*	43*	32*	33*	33*
<b>Lawyer Applicants</b>	Cases	0	0	0	1	0
	Lawyer Applicants	0	0	0	1*	0
<b>Licensed Paralegals</b>	Cases	8	14	12	8	6
	Licensed Paralegals	8*	11*	8*	4*	3*
<b>Paralegal Applicants</b>	Cases	2	0	1	1	0
	Paralegal Applicants	1*	0*	1*	1*	0
<b>TOTAL</b>	Cases	60	90	85	56	55
	Licensees & Applicants	36*	54*	41*	39*	36*

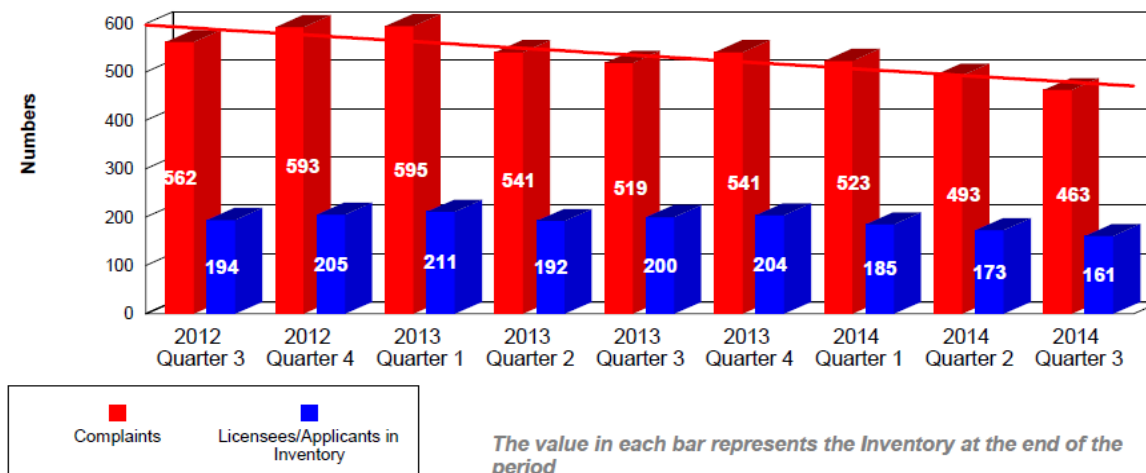
\* The number of new Lawyers and Paralegals cited represents the number coming into the department each quarter. However, there may, in fact, already be cases involving the licensee/applicant in the department.

<sup>7</sup> “Input” refers to complaints that were transferred into Discipline from various other departments during the specific quarter. Includes new complaints/cases received in Discipline and the lawyers/applicants to which the new complaints relate.

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## 2.6 – Discipline

**Graph 2.6B: Discipline – Department Inventory**



This graph shows the total number of licensees/applicants and related complaints that are in the Discipline process at the end of each of the last 9 quarters. At the end of Q3 2014, the department's inventory of licensee/applicants (161) was approximately 19% lower than at the end of Q3 2013 (200) and 17% lower than at the end of Q3 2012 (194).

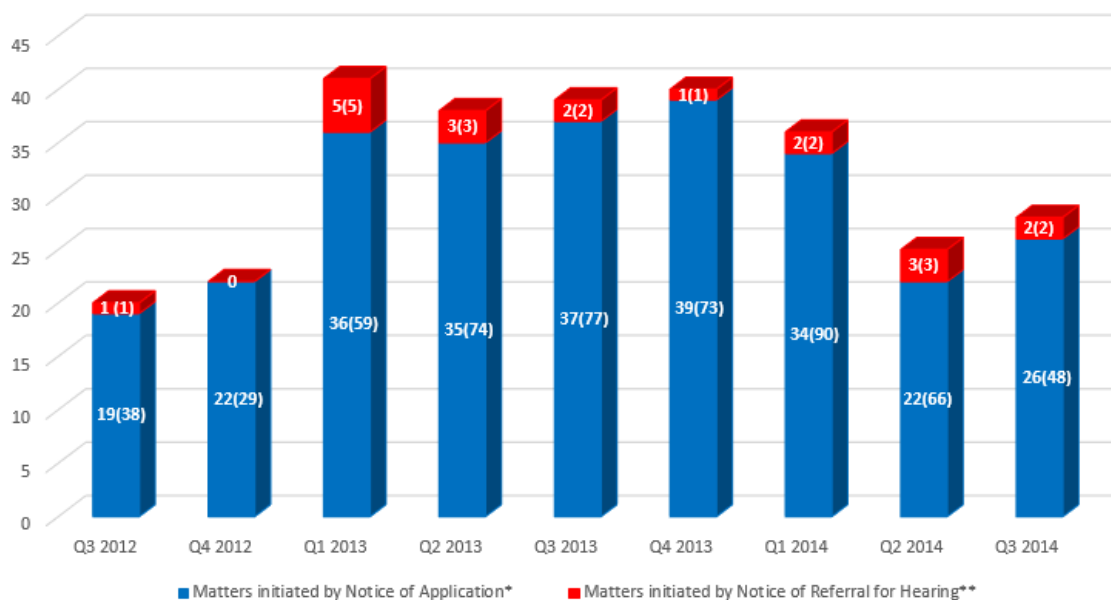
### Detailed Analysis of Discipline's Inventory

		Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Lawyers</b>	Cases	433	458	454	430	412
	Lawyers	164	169	156	149	142
<b>Lawyer Applicants</b>	Cases	1	1	0	1	1
	Lawyer Applicants	1	1	0	1	1
<b>Licensed Paralegals</b>	Cases	62	60	52	51	44
	Licensed Paralegals	26	26	22	18	15
<b>Paralegal Applicants</b>	Cases	23	22	17	11	6
	Paralegal Applicants	9	8	7	5	3
<b>TOTAL</b>	Cases	519	541	523	493	463
	Licensees & Applicants	200	204	185	173	161

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## 2.6 – Discipline

**Graph 2.6C: Discipline - Notices 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 Q3 2014, 26 Notices of Application were issued (relating to 48 cases) and 2 Notices of Referral for Hearing were issued (relating to 2 cases).

With respect to the 26 Notices of Application<sup>8</sup>/Notices of Motion for Interim Suspension Order which were issued in Q3 2014:

- 18 were issued less than 1 month after PAC authorization;
- 5 were issued between 1 and 2 months after PAC authorization; and
- 3 were issued more than 2 months after PAC authorization.

<sup>8</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).

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## 2.6 – Discipline

Graph 2.6D: Discipline – Completed Matters

		Q1 2013	Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014	Q3 2014
<b>Conduct Hearings</b>	Lawyers	20	32	18	24	30	21	23
	Paralegal Licensees	4	2	3	9	10	6	4
<b>Interlocutory Suspension Hearings/Orders</b>	Lawyers	-	1	-	2	2	3	2
	Paralegal Licensees	-	-	-	-	-	-	-
<b>Capacity Hearings</b>	Lawyers	1	-	-	1	1	-	-
	Paralegal Licensees	-	-	-	-	-	-	-
<b>Competency Hearings</b>	Lawyers	-	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-	-
<b>Non-Compliance Hearings</b>	Lawyers	-	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-	-
<b>Reinstatement Hearings</b>	Lawyers	1	-	-	-	2	1*	1
	Paralegal Licensees	-	-	1	-	-	-	1
<b>Restoration</b>	Lawyers	-	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-	-
<b>Licensing Hearings (including Readmission)</b>	Lawyer Applicants	-	2	2	-	-	1	-
	Paralegal Applicants	1	1	1	-	1	2	1
<b>TOTAL NUMBER OF HEARINGS</b>	Lawyers	22	35	20	27	35	26	26
	Paralegals	5	3	5	9	11	8	6
	<b>TOTAL</b>	<b>27</b>	<b>38</b>	<b>25</b>	<b>36</b>	<b>46</b>	<b>34</b>	<b>32</b>

\* The Q2 2014 reinstatement matter was heard at the same time as a conduct matter. For the purposes of this report it is only being counted with the reinstatement matters.

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## 2.6 – Discipline

### Graph 2.6F: Discipline – Appeals

The following chart sets out the number of appeals filed with the Appeal Division, the Divisional Court or the Court of Appeal in the calendar years 2008 to 2013 and the first three quarters of 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>9</sup>	5 appeals; 1 judicial review	1 motion for leave
3 <sup>rd</sup> Quarter	7	2 appeals	2 motions for leave

As of September 30, 2014, there are 14 appeals pending before the Appeal Division, 4 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 has rendered a decision except on the issue of costs.

With respect to matters before the Divisional Court, there are 11 appeals and 2 judicial review matters pending. There are two motions for leave to appeal pending in the Court of Appeal.

In the third quarter of 2014, 6 appeals before the Appeal Division were completed. In addition, 1 motion for an extension of time in which to file an appeal was completed. With respect to the appeals,

- 4 appeals were launched by licensees.
  - In 3 of the appeals, the Appeal Division dismissed the appeals.
  - In 1 of the appeals, the Appeal Division allowed the appeal, reducing the period of suspension from 8 months to 2 months and reducing the costs ordered by the Hearing Division from \$6000 to \$2000.
- 2 appeals were launched by the Law Society. In both appeals, the Appeal Division granted the appeals in part and ordered new hearings before differently constituted panels of the Hearing Division.

<sup>9</sup> 1 of the matters is a motion seeking an extension of time in which to file an appeal.

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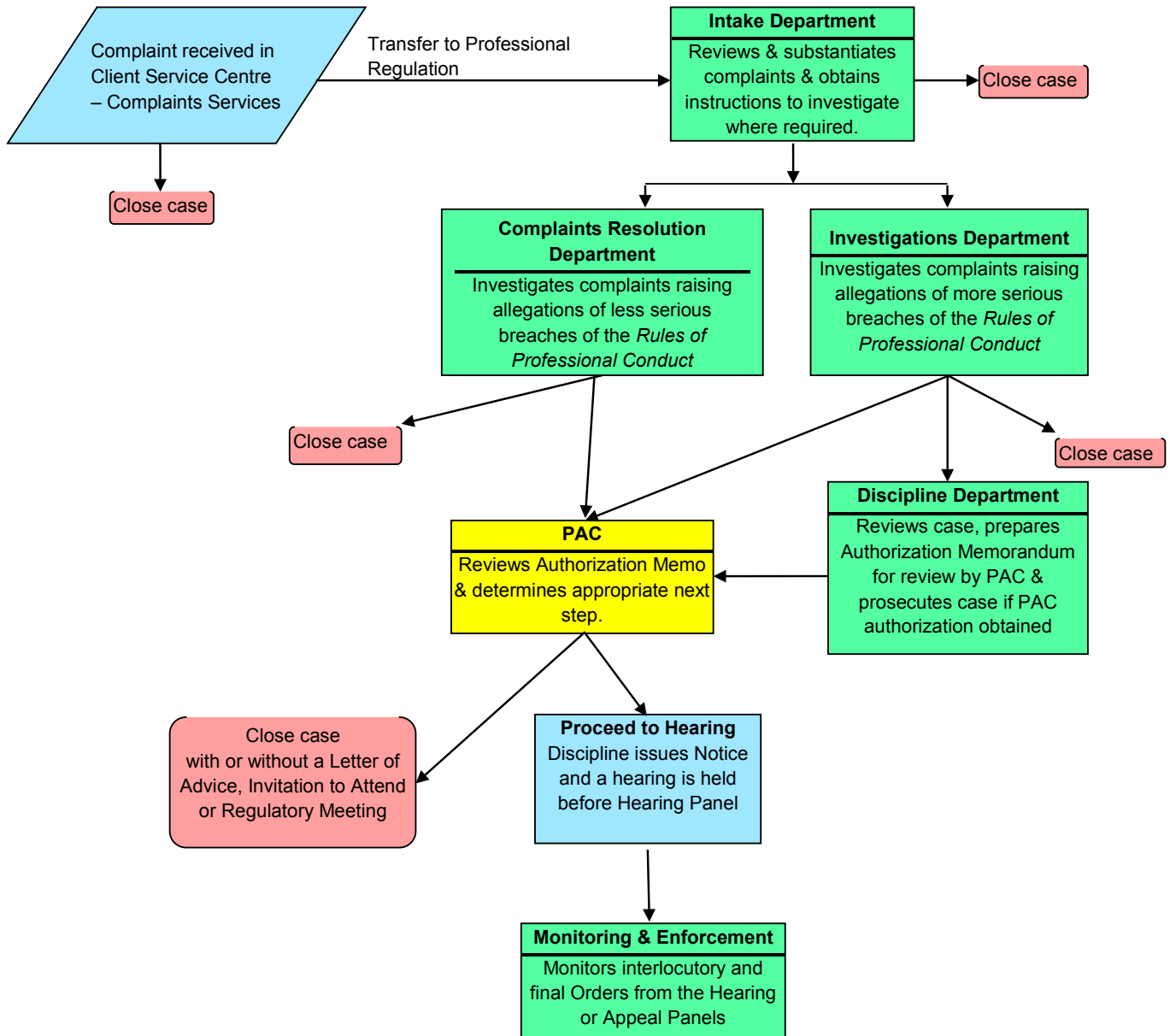
## **SECTION 3**

## **APPENDICES**



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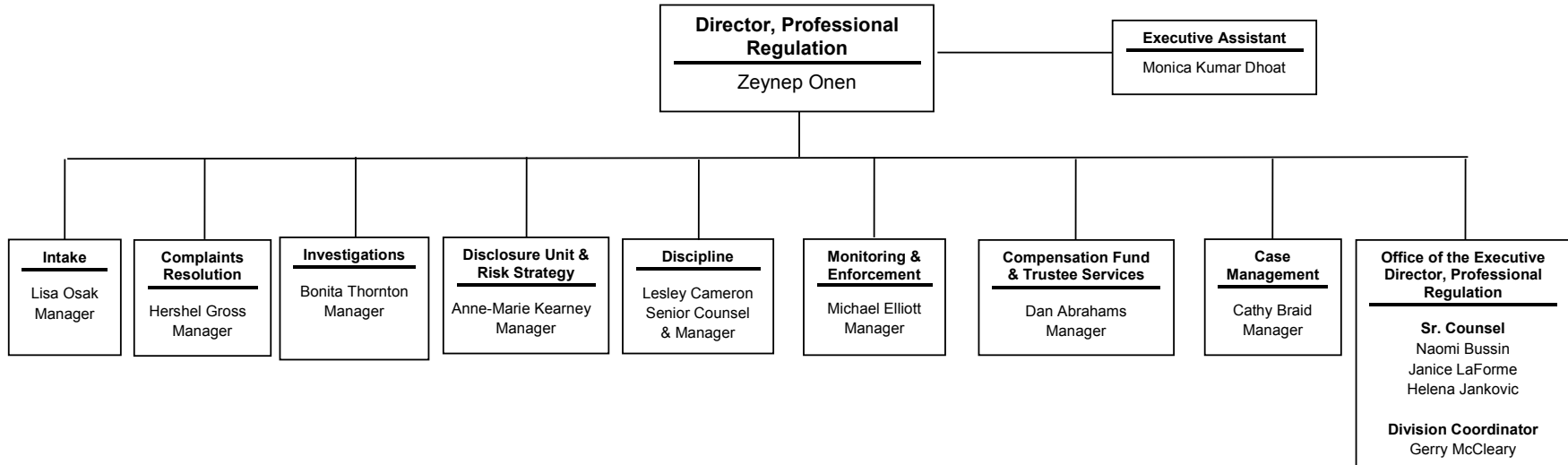
## The Professional Regulation Complaint Process



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**PROFESSIONAL REGULATION ORGANIZATIONAL CHART**



*THIS SECTION CONTAINS  
IN CAMERA MATERIAL*