



TAB 10

## Report to Convocation May 28, 2015

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### Professional Regulation Committee

#### Committee Members

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

**Purpose of Report: Information**

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

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**For Information**

Professional Regulation Division Quarterly Report.....[Tab 10.1](#)

## COMMITTEE PROCESS

1. The Professional Regulation Committee (“the Committee”) met on May 14, 2015. In attendance were Malcolm Mercer (Chair), Paul Schabas (Vice-Chair), Susan Richer (Vice-Chair), John Callaghan, Cathy Corsetti, Seymour Epstein, Robert F. Evans, Julian N. Falconer, Patrick Furlong, Carol Hartman (by telephone), Jacqueline Horvat, Brian Lawrie, Ross Murray, Jan Richardson, and Heather Ross. Benchers (effective May 28, 2015) Peter Beach, Teresa Donnelly, Jonathan M. Rosenthal, and Jerry Udell also attended the meeting. Staff members attending were Zeynep Onen, Jim Varro, Naomi Bussin, Sabreena Delhon, and Margaret Drent.

**FOR INFORMATION**

**PROFESSIONAL REGULATION DIVISION**

**QUARTERLY REPORT**

2. The Professional Regulation Division's Quarterly Report (first quarter 2015), provided to the Committee by Zeynep Onen, the Executive Director of Professional Regulation, appears at [Tab 10.1.1](#). The report includes information on the Division's activities and responsibilities, including file management and monitoring, for the period January to March 2015. The report was also considered by the Paralegal Standing Committee on May 13, 2015.



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# The Professional Regulation Division

**Quarterly Report**  
January – March 2015

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (January 1 – March 31, 2015)

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## **The Quarterly Report**

The Quarterly Report provides a summary of the Professional Regulation Division's complaints activity and achievements during the past quarter, January 1 to March 31, 2015. The purpose of the Quarterly Report is to provide information on the production and work of the Division during the quarter and to explain the factors that may have influenced the Division's performance.

## **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 chart of the Professional Regulation's departments.

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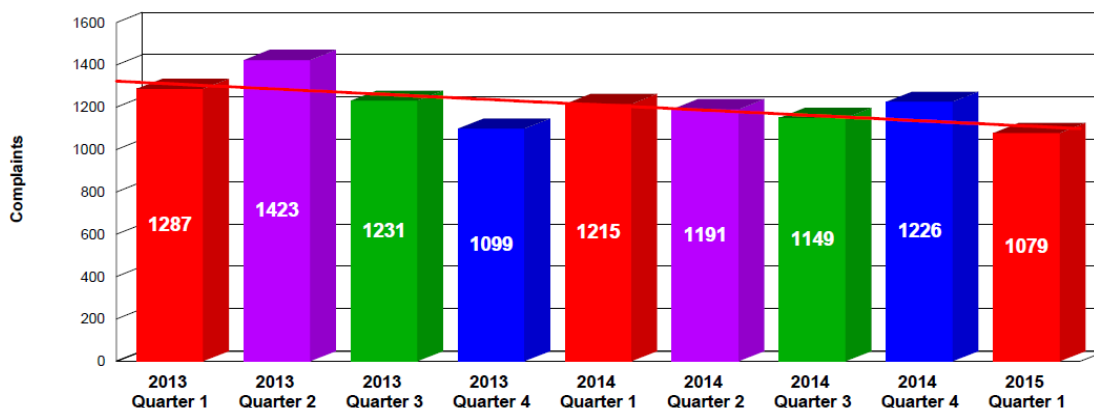
## **SECTION 1**

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

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

**Graph 2A: Complaints<sup>1</sup> Received in the Division**



### Detailed Analysis of Complaints Received in the Division

	Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015
<b>Complaints against Lawyers</b>	912	882	936	1004	962
<b>Lawyer Applicant Cases ★</b>	69	17	25	4	7
<b>Complaints against Licensed Paralegals</b>	150	126	117	150	134
<b>Paralegal Applicant Cases ★</b>	22	118	20	20	33
<b>Complaints against Non-Licensees/Non-Applicants*</b>	62	48	51	48	43
<b>TOTAL</b>	1215	1191	1149	1226	1079

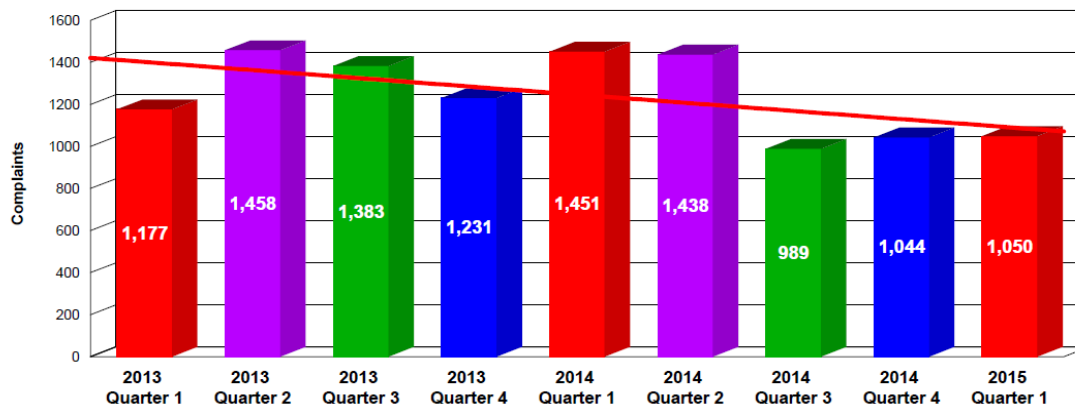
★ Applicant cases include good character cases and UAP complaints

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



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

	Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015
<b>Complaints against Lawyers</b>	1140	1067	780	826	832
<b>Lawyer Applicant Cases ★</b>	13	69	16	14	9
<b>Complaints against Licensed Paralegals</b>	181	134	133	122	125
<b>Paralegal Applicant Cases ★</b>	41	100	22	32	29
<b>Complaints against Non-Licensees/Non-Applicants*</b>	76	68	38	50	55
<b>TOTAL</b>	1451	1438	989	1044	1050

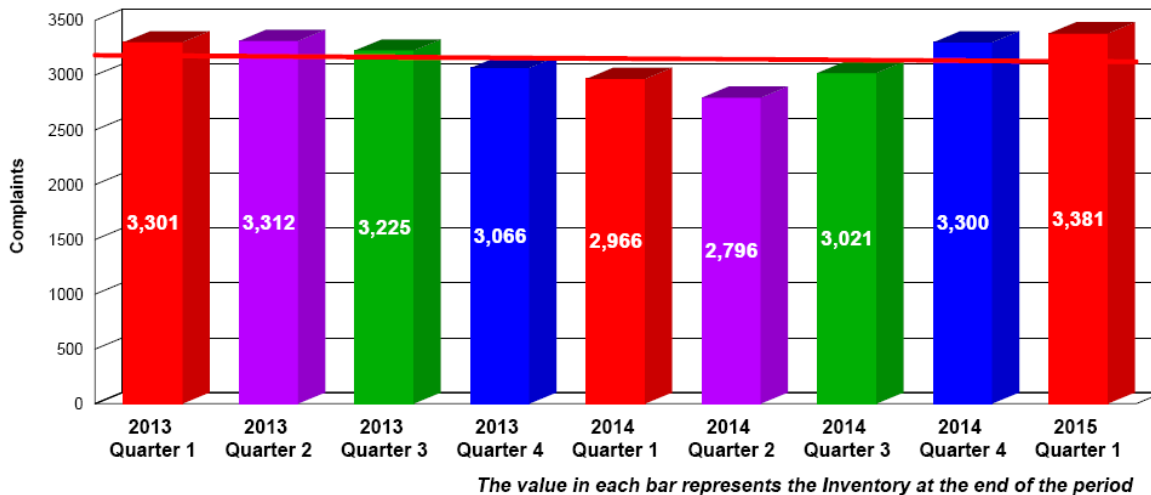
★ Applicant cases include good character cases and UAP complaints

\* 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 2C: Total Inventory<sup>3</sup>**



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

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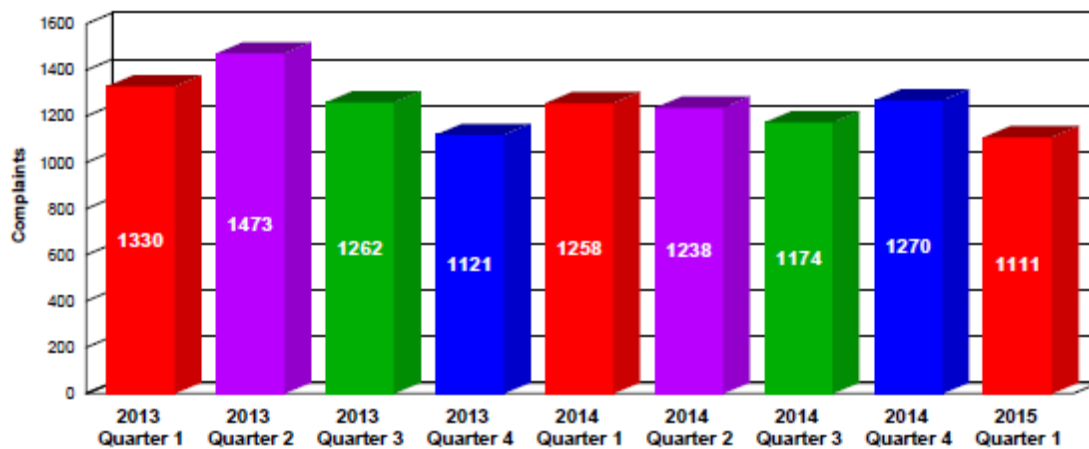
## **SECTION 2**

# **DEPARTMENTAL PERFORMANCE DURING THE QUARTER**

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2.1 – Intake

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

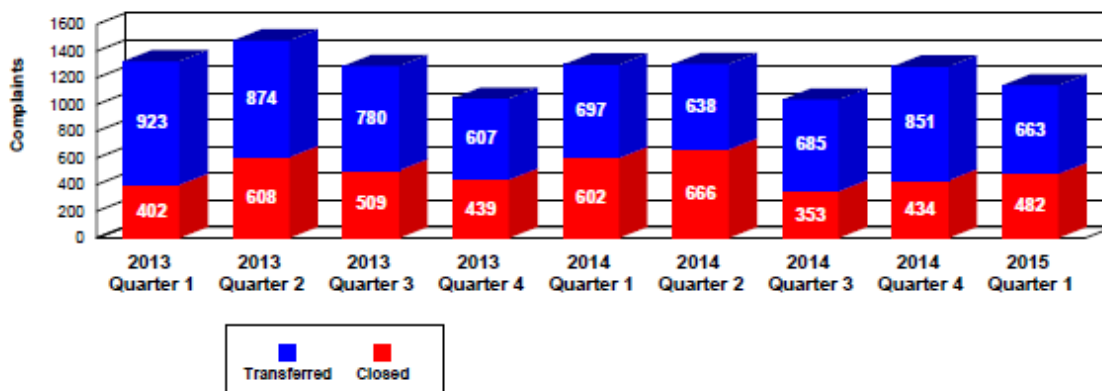


<sup>4</sup> Includes new complaints received and re-opened complaints

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## 2.1 – Intake

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



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

		Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015
<b>Complaints against Lawyers</b>	Closed	489	439	291	342	399
	Transferred	545	482	576	687	525
<b>Lawyer Applicant Cases ★</b>	Closed	7	66	12	7	4
	Transferred	4	12	10	1	3
<b>Complaints against Licensed Paralegals</b>	Closed	58	60	32	41	35
	Transferred	96	79	74	116	97
<b>Paralegal Applicant Cases ★</b>	Closed	22	85	7	21	21
	Transferred	6	30	6	11	10
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	26	16	11	23	23
	Transferred	46	35	19	36	28
<b>TOTAL</b>	Closed	602	666	353	434	482
	Transferred	697	638	685	851	663

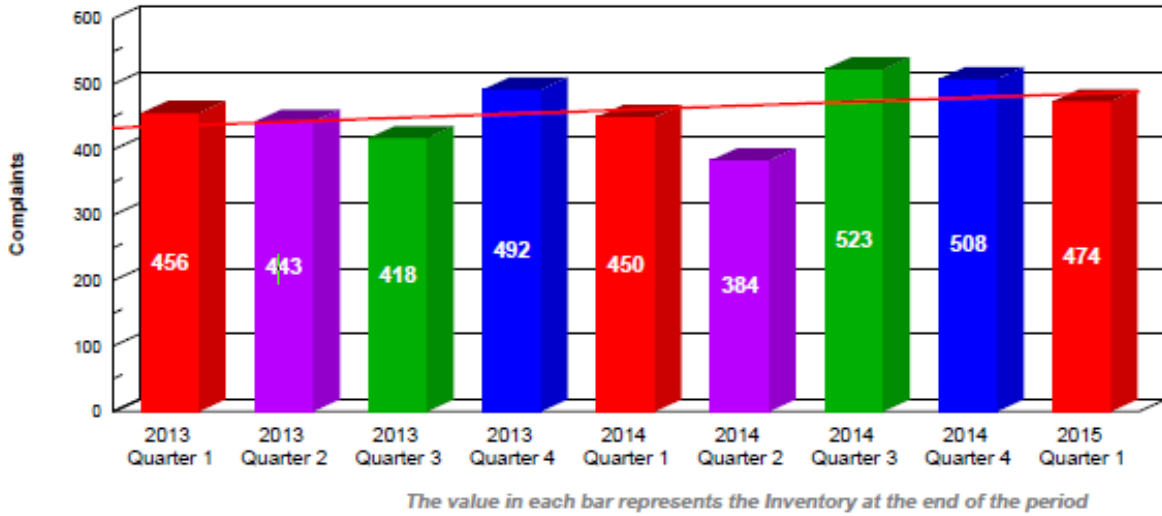
★ Applicant cases include good character cases and UAP complaints

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

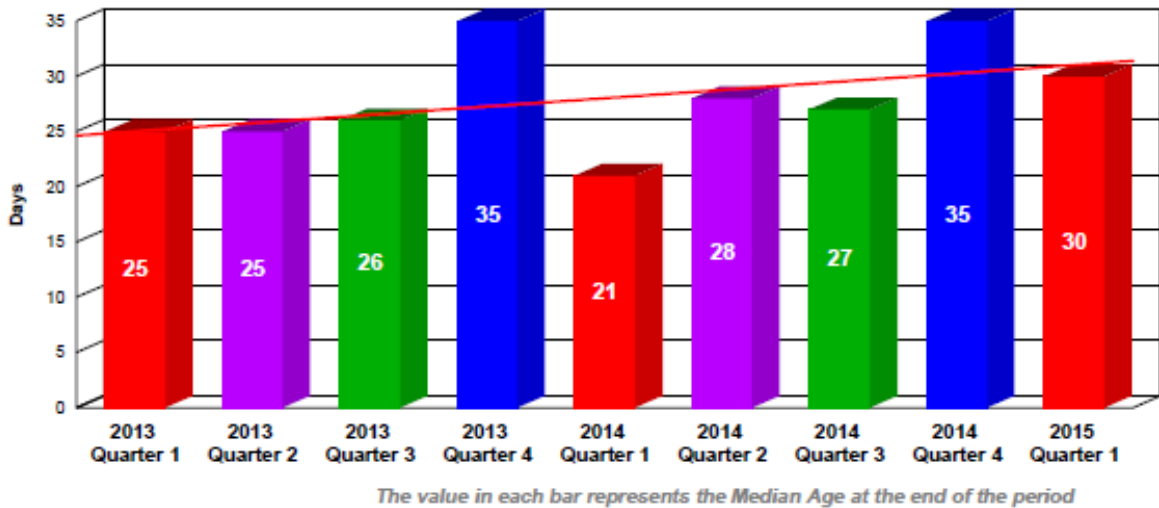
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**2.1 – Intake**

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



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

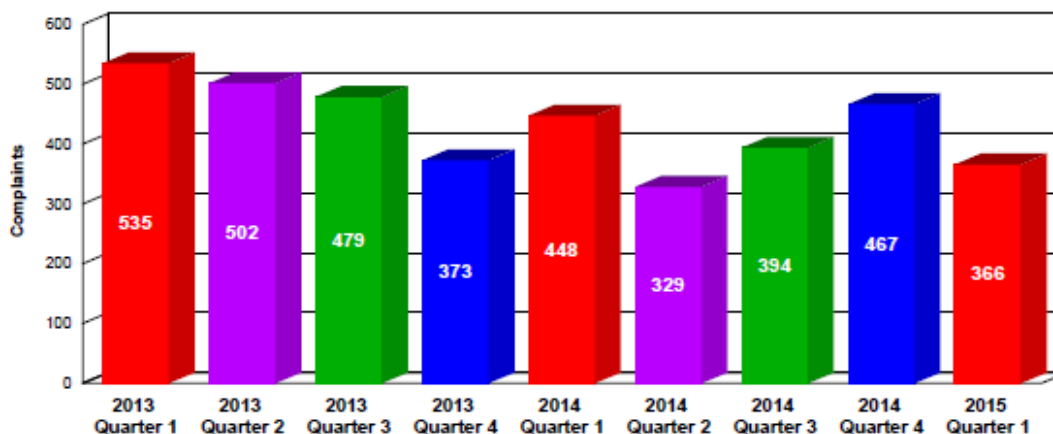




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## 2.2 – Complaints Resolution

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



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

	Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015
<b>Complaints against Lawyers</b>	375	295	346	410	325
<b>Lawyer Applicant Cases ★</b>	0	0	0	0	0
<b>Complaints against Licensed Paralegals</b>	72	34	48	210	41
<b>Paralegal Applicant Cases ★</b>	0	0	0	0	0
<b>Complaints against Non-Licensees/Non-Applicants*</b>	1	0	0	2	1
<b>TOTAL</b>	448	329	394	467	367

★ Applicant cases include good character cases and UAP complaints

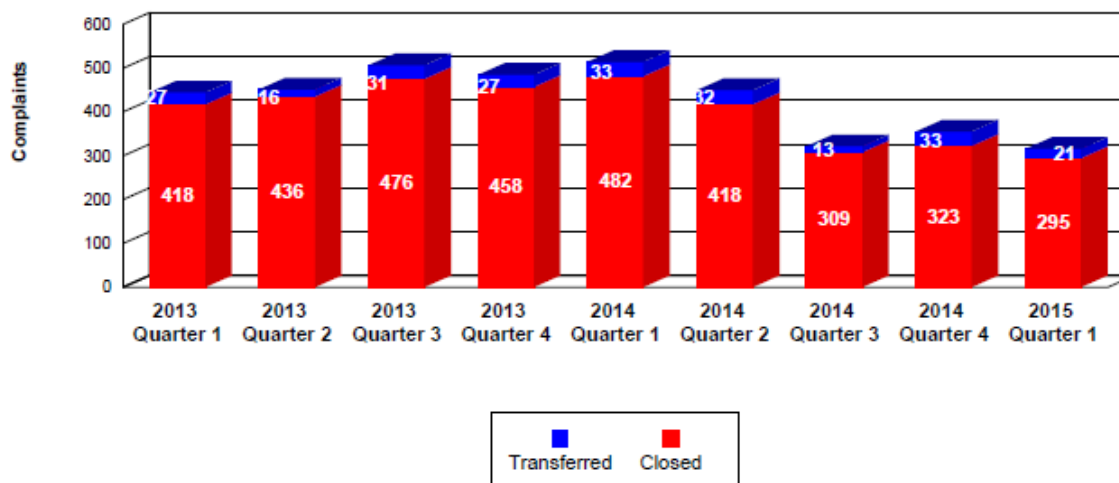
\* For a complete analysis of UAP complaints see section 3.4.

<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**



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

		Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015
<b>Complaints against Lawyers</b>	Closed	416	389	273	286	265
	Transferred	25	30	13	28	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	66	29	36	37	30
	Transferred	8	2	0	5	8
<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	0	0	0	0	0
<b>TOTAL</b>	Closed	482	418	309	323	295
	Transferred	33	32	13	33	21

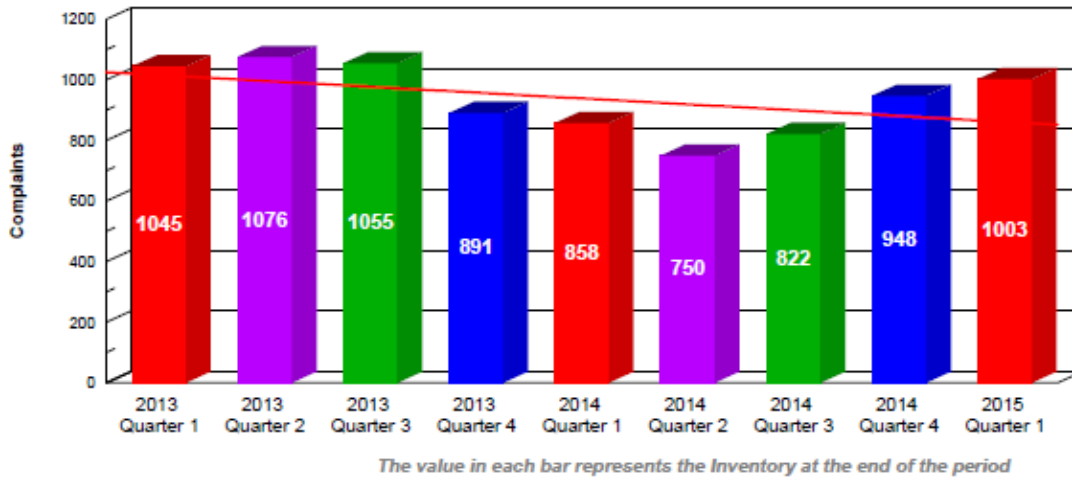
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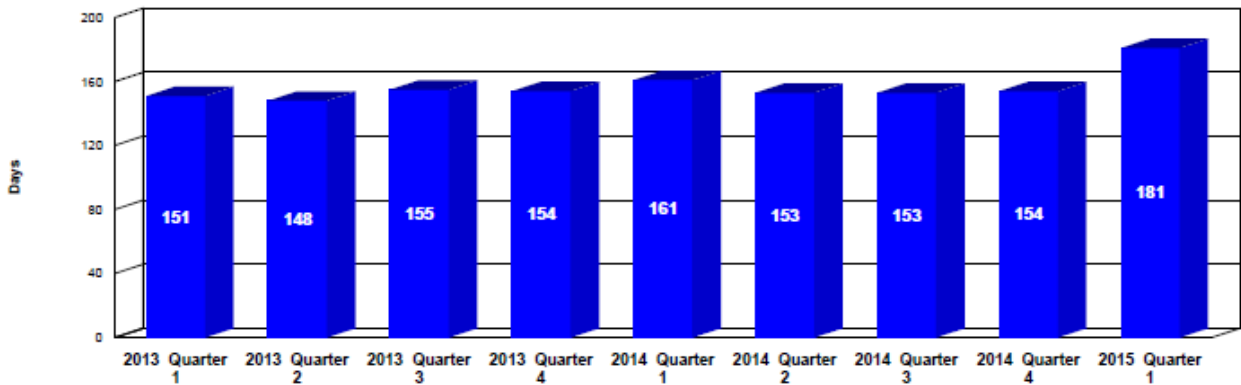
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## 2.2 – Complaints Resolution

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



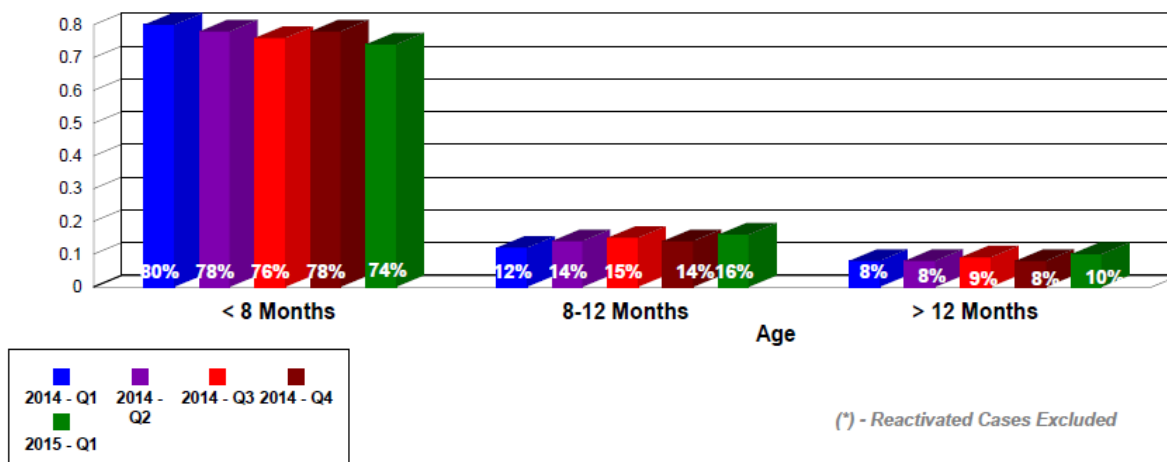
**Graph 2.2D: Complaints Resolution - Median Age of Complaints**



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## 2.2 – Complaints Resolution

Graph 2.2E: Complaints Resolution – Aging of Complaints



	<8 months	8 to 12 months	>12 months
<b>Q1 2014</b>	635 cases involving 584 subjects	96 cases involving 88 subjects	62 cases involving 53 subjects
<b>Q2 2014</b>	534 cases involving 487 subjects	100 cases involving 95 subjects	53 cases involving 42 subjects
<b>Q3 2014</b>	574 cases involving 521 subjects	114 cases involving 106 subjects	67 cases involving 54 subjects
<b>Q4 2014</b>	673 cases involving 620 subjects	120 cases involving 112 subjects	73 cases involving 60 subjects
<b>Q1 2015</b>	679 cases involving 625 subjects	147 cases involving 137 subjects	94 cases involving 70 subjects

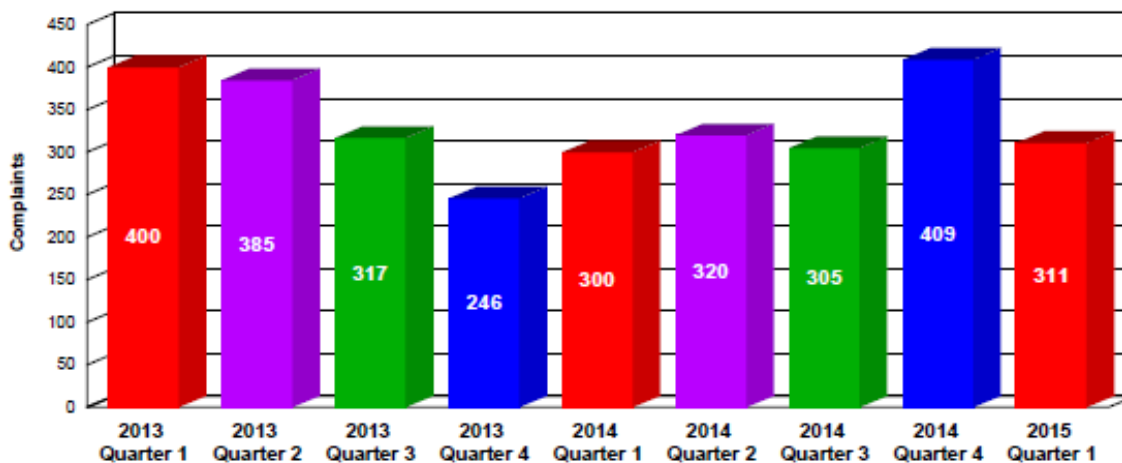
Cases which have been in the process longer than 12 months are closely monitored. In almost all instances, the case is in this category due to reasons beyond the control of the Law Society. Cases are usually older than 12 months in Complaints Resolution for the following reasons:

- Newer complaints against the lawyer/paralegal are received. In some cases existing cases await the completion of younger cases relating to the same licensee;
- Delays on the part of licensees in providing representations and in responding to the investigators' requests. In a number of instances, the Summary Hearing process is required;
- Delays on the part of complainants in responding to licensee's representations and to investigators' requests for additional information; and
- New issues raised by the complainant requiring additional investigation.

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## 2.3 – Investigations

**Graph 2.3A: Investigations - Input**



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

	Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015
<b>Complaints against Lawyers</b>	190	201	240	296	210
<b>Lawyer Applicant Cases ★</b>	4	12	10	2	3
<b>Complaints against Licensed Paralegals</b>	55	42	30	65	60
<b>Paralegal Applicant Cases ★</b>	6	30	6	11	11
<b>Complaints against Non-Licensees/Non-Applicants*</b>	45	35	19	35	27
<b>TOTAL</b>	300	320	305	409	311

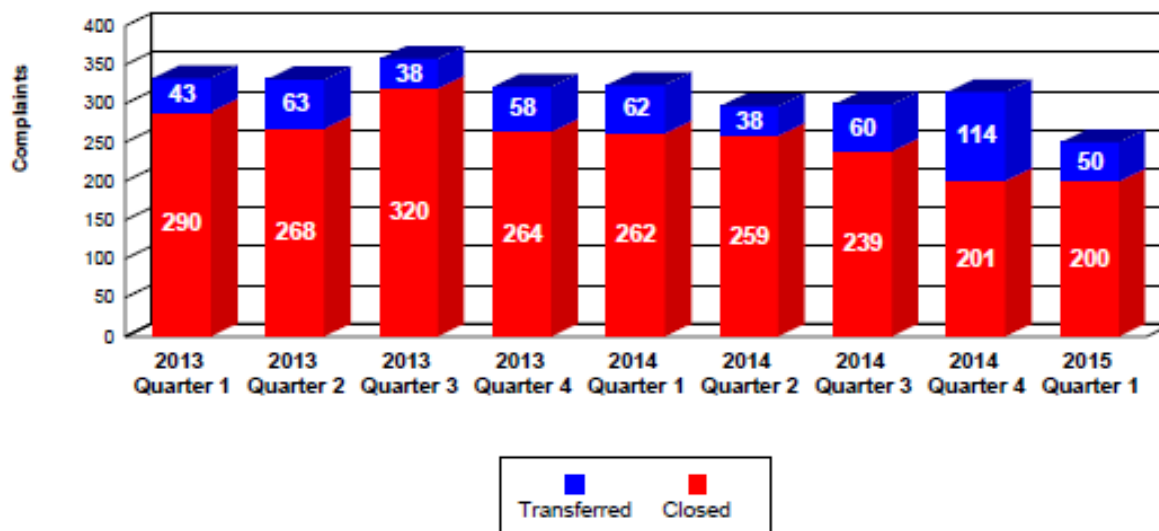
★ Applicant cases include good character cases and UAP complaints

\* 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**



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

		Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015
<b>Complaints against Lawyers</b>	Closed	158	166	147	122	121
	Transferred	45	31	48	90	27
<b>Lawyer Applicant Cases ★</b>	Closed	5	3	4	6	5
	Transferred	1	1	0	0	0
<b>Complaints against Licensed Paralegals</b>	Closed	38	32	51	37	48
	Transferred	5	1	11	20	17
<b>Paralegal Applicant Cases ★</b>	Closed	13	8	10	11	5
	Transferred	1	1	0	4	4
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	48	50	27	25	21
	Transferred	10	4	0	0	2
<b>TOTAL</b>	Closed	262	259	239	201	200
	Transferred	62	38	59	114	50

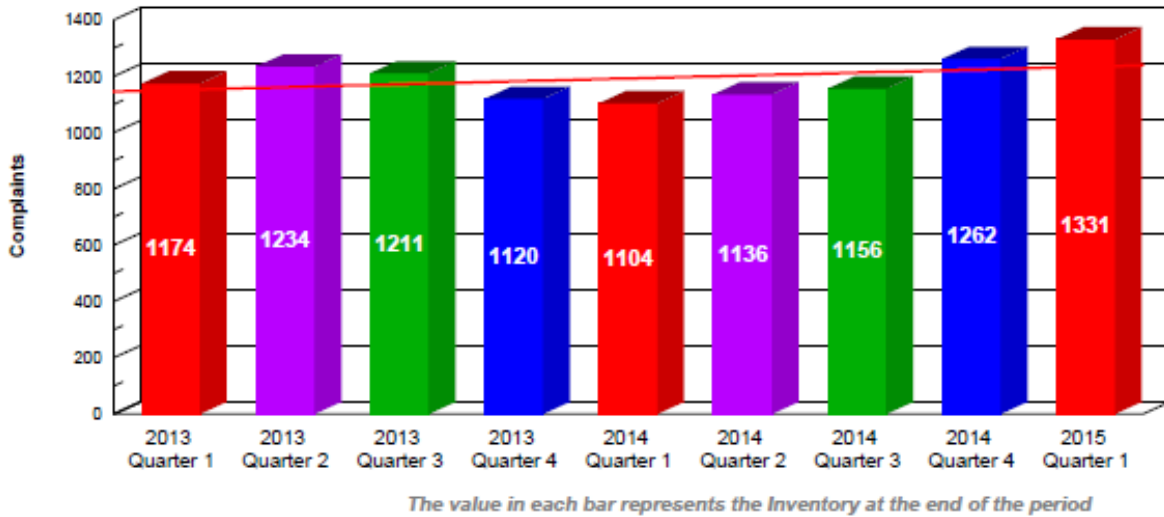
★ Applicant cases include good character cases and UAP complaints

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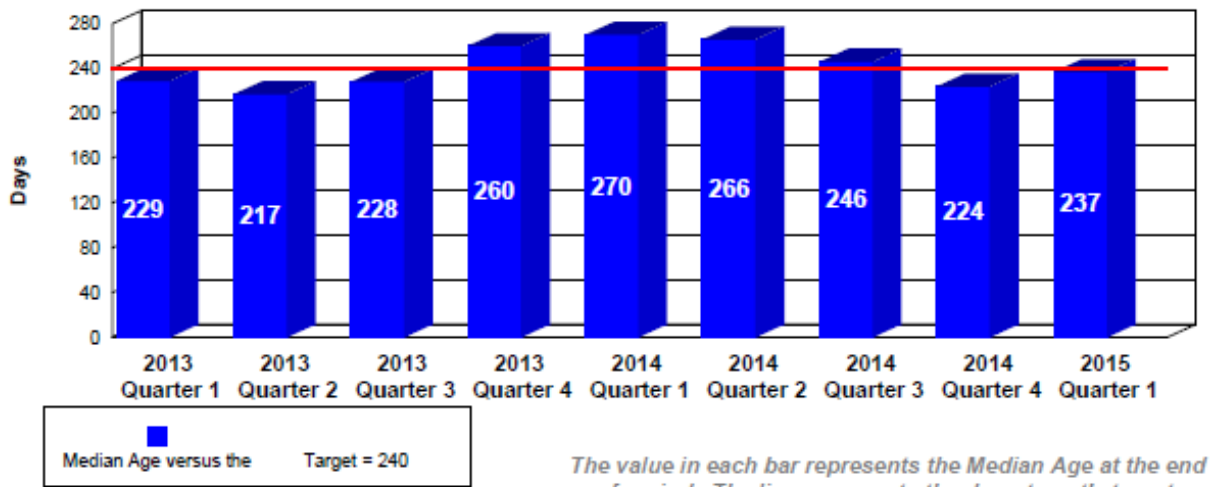
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## 2.3 – Investigations

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

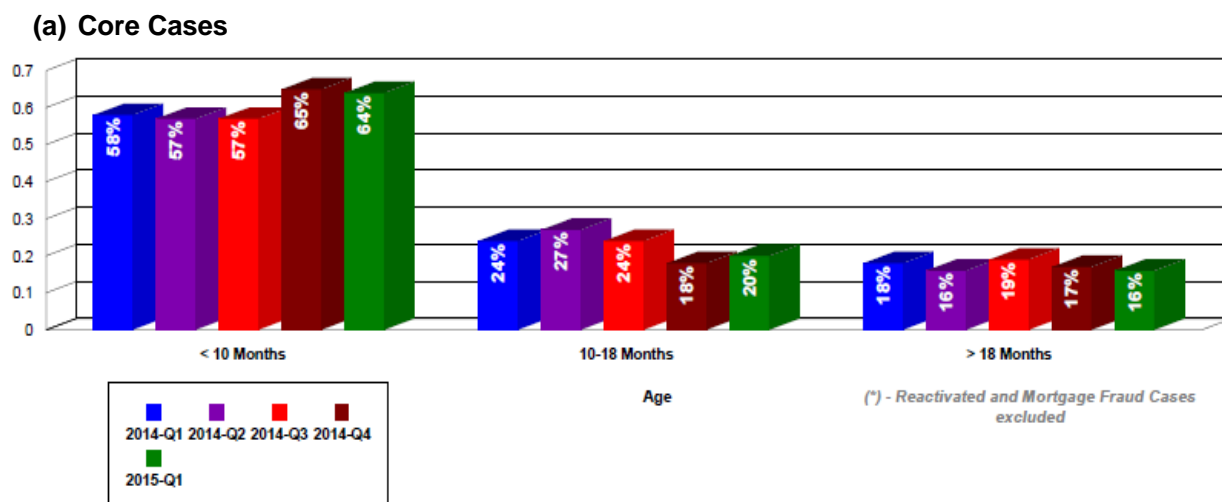


**Graph 2.3D: Investigations - Median Age of All Complaints**



## 2.3 – Investigations

Graph 2.3E: Investigations – Aging of Complaints



	<10 months	10 to 18 months	>18 months
Q1 2014	544 cases involving 451 subjects	227 cases involving 160 subjects	165 cases involving 122 subjects
Q2 2014	549 cases involving 433 subjects	256 cases involving 178 subjects	160 cases involving 120 subjects
Q3 2014	540 cases involving 395 subjects	223 cases involving 180 subjects	180 cases involving 124 subjects
Q4 2014	693 cases involving 451 subjects	193 cases involving 152 subjects	181 cases involving 119 subjects
Q1 2015	740 cases involving 476 subjects	226 cases involving 186 subjects	185 cases involving 125 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:

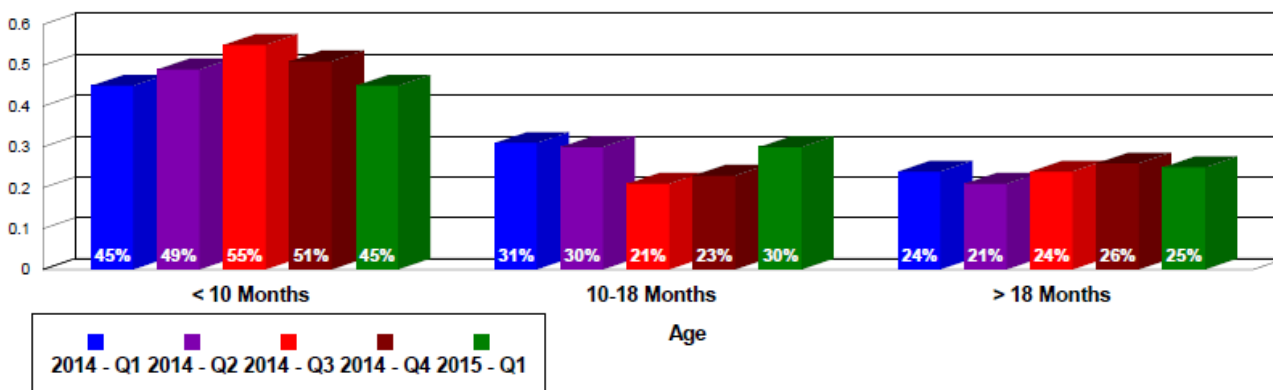
- The investigator has to wait for evidence from a third party (i.e. not the complainant or the licensee/subject), for example psychiatric evaluation, court transcripts, or a key witness;
- Newer complaints are received against the licensee/subject. In order to move forward together to the Proceedings 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.



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## 2.3 – Investigations

### (b) Mortgage Fraud Cases



	<10 months	10 to 18 months	>18 months
<b>Q1 2014</b>	40 cases involving 33 subjects	28 cases involving 23 subjects	21 cases involving 19 subjects
<b>Q2 2014</b>	49 cases involving 41 subjects	30 cases involving 24 subjects	21 cases involving 19 subjects
<b>Q3 2014</b>	61 cases involving 46 subjects	23 cases involving 19 subjects	26 cases involving 21 subjects
<b>Q4 2014</b>	57 cases involving 41 subjects	26 cases involving 23 subjects	29 cases involving 26 subjects
<b>Q1 2015</b>	46 cases involving 32 subjects	31 cases involving 28 subjects	26 cases involving 23 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 for Investigation	Active at end of Quarter
Q1 2013	71	29	59	11
Q2 2013	60	26	51	5
Q3 2013	69	27	46	9
Q4 2013	60	20	41	11
<b>Total for 2013</b>	<b>260</b>	<b>102</b>	<b>197</b>	<b>11</b>
Q1 2014	64	26	51	6
Q2 2014	52	15	38	7
Q3 2014	44	13	21	20
Q4 2014	63	23	44	21
<b>Total for 2014</b>	<b>223</b>	<b>77</b>	<b>154</b>	<b>21</b>
Q1 2015	45	22	37	11

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

	New Investigations	Closed <sup>6</sup> Investigations	Inventory at Quarter End
Q1 2013	59	62	128
Q2 2013	51	36	143
Q3 2013	46	58	129
Q4 2013	40	31	137
<b>Totals: 2013</b>	<b>197</b>	<b>187</b>	
Q1 2014	51	66	122
Q2 2014	38	82	82
Q3 2014	21	29	74
Q4 2014	44	29	90
<b>Totals: 2014</b>	<b>154</b>	<b>206</b>	
Q1 2015	37	26	101

**Graph 2.4C: UAP Enforcement Actions**

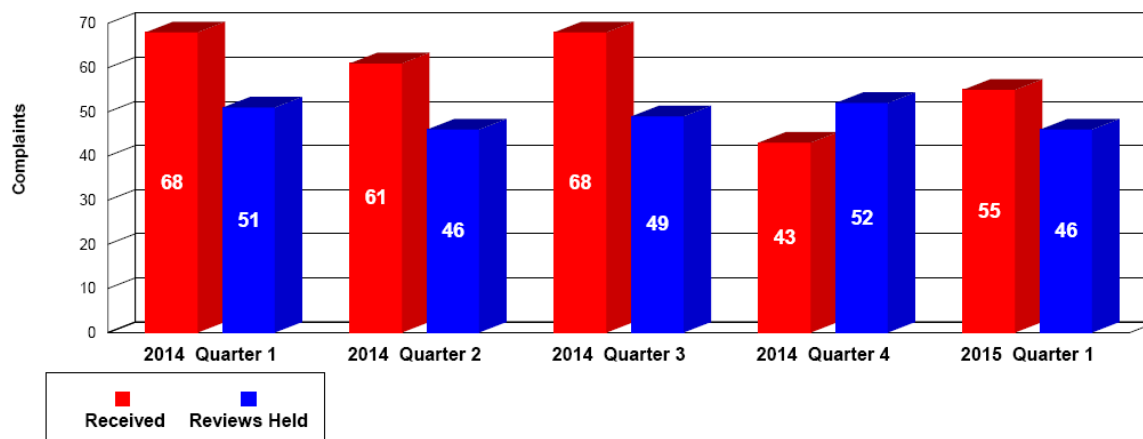
There were no new UAP enforcement matters commenced in Q1 2015. As at March 31, 2015, there were 3 active UAP matters.

<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)**



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

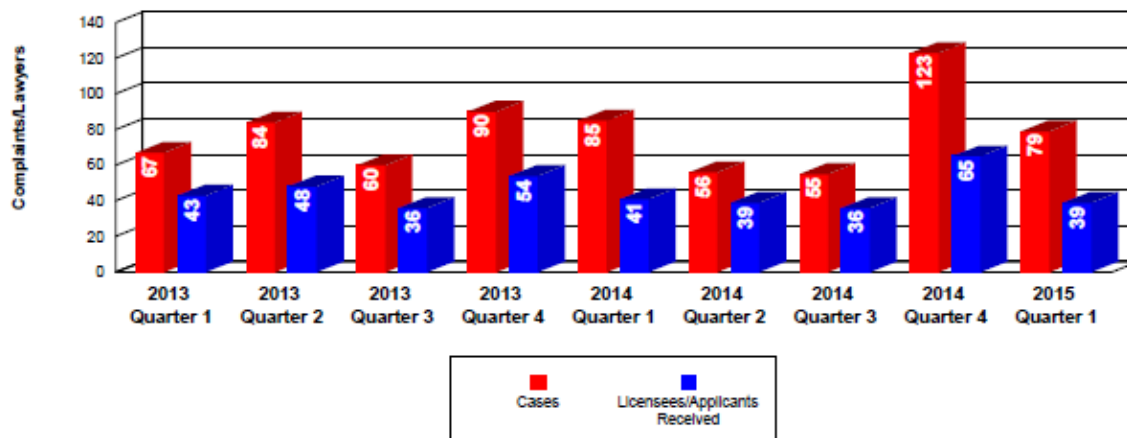
Quarter	Decisions Rendered	Files to Remain Closed	Files Referred Back to PRD
Q1 2013	40	38 (95 %)	2 (5 %)
Q2 2013	55	49 (89%)	6 (11%)
Q3 2013	43	40 (93%)	3 (7%)
Q4 2013	67	65 (97%)	2 (3%)
<b>Total 2013</b>	<b>205</b>	<b>192 (94%)</b>	<b>13 (6%)</b>
Q1 2014	51	50(98%)	1(2%)
Q2 2014	36	33(92%)	3(8%)
Q3 2014	30	29(97%)	1(3%)
Q4 2014	50	48 (98%)	2 (2%)
<b>Total 2014</b>	<b>167</b>	<b>160(96%)</b>	<b>7(4%)</b>
Q1 2015	39	37 (95%)	2 (5%)

Of the 39 decisions rendered in Q1 2015, the Commissioner referred 2 files back to Professional Regulation. In one case, the Commissioner was not satisfied that the decision to close was reasonable and referred the case back with a recommendation for further investigation. In the other case, while he found the Law Society's decision to close to be reasonable, the Commissioner referred the case back with a recommendation that the Law Society consider new information that had been provided by the Complainant at the review meeting.

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## 2.6 – Discipline

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



### Detailed Analysis of New Cases Received in Discipline

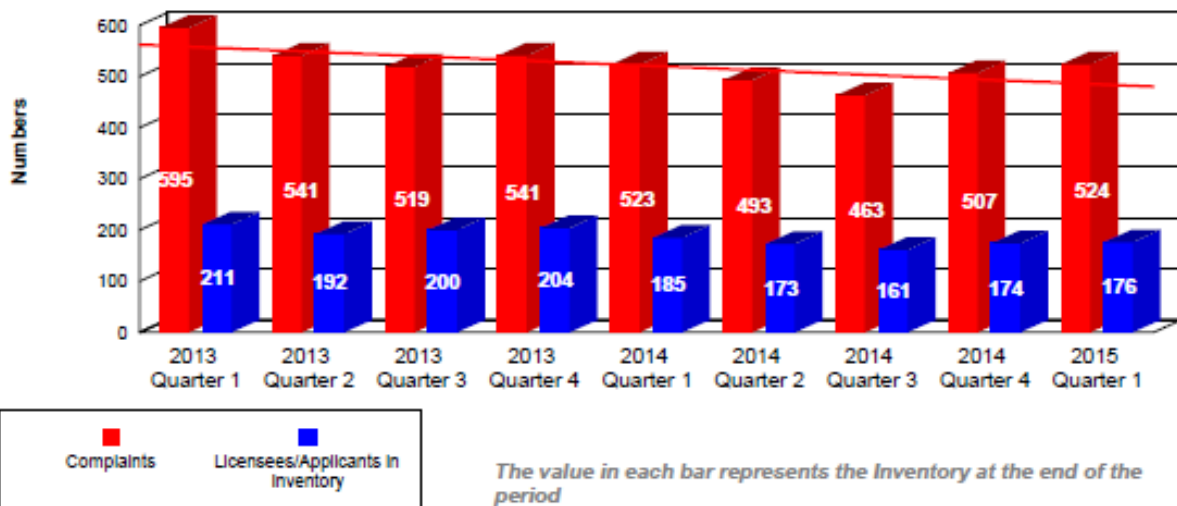
		Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015
<b>Lawyers</b>	Cases	72	46	49	100	50
	Lawyers	32	33	33	52	26
<b>Lawyer Applicants</b>	Cases	0	1	0	0	0
	Lawyer Applicants	0	1	0	0	0
<b>Licensed Paralegals</b>	Cases	12	8	6	20	29
	Licensed Paralegals	8	4	3	10	12
<b>Paralegal Applicants</b>	Cases	1	1	0	3	1
	Paralegal Applicants	1	1	0	3	1
<b>TOTAL</b>	Cases	85	56	55	65	39
	Licensees & Applicants	41	39	36	123	82

<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**

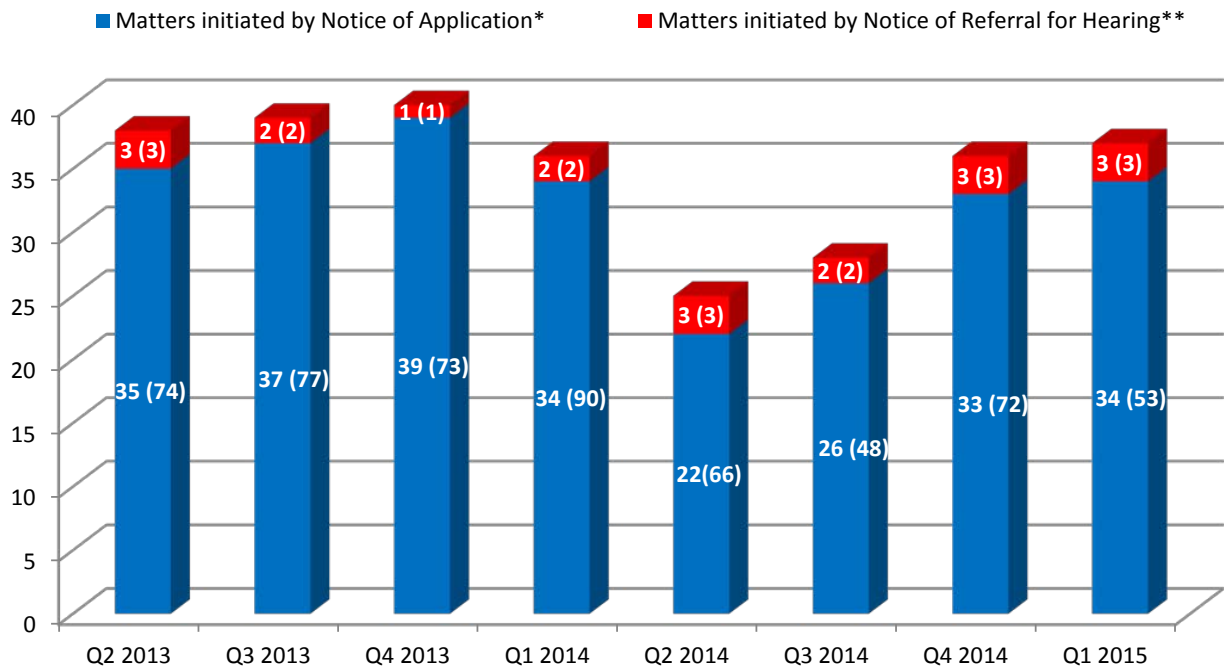
**Graph 2.6B: Discipline – Department Inventory<sup>8</sup>**



<sup>8</sup> Consists primarily of complaints and lawyers/applicants that are in scheduling and are with the Hearing Division or on appeal.

## 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 include licensing (including re-licensing matters), reinstatement and restoration matters.

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 Q1 2015, 34 Notices of Application were issued (relating to 53 cases) and 3 Notices of Referral for Hearing were issued (relating to 3 cases).

With respect to the 34 Notices of Application<sup>9</sup>/Notices of Motion for Interim Suspension Order and 3 Notices of Referral for Hearing (licensing matters) which were issued in Q1 2015:

- 84% were issued within 60 days of PAC Authorization;
- 86% were issued within 90 days of PAC Authorization.

<sup>9</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 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015
<b>Conduct Hearings</b>	Lawyers	30	21*	23	30	14
	Paralegal Licensees	10	6	4	3	6
<b>Interlocutory Suspension Hearings/Orders</b>	Lawyers	2	3	2	4	2
	Paralegal Licensees	-	-	-	3	1
<b>Capacity Hearings</b>	Lawyers	1	-	-	1	2
	Paralegal Licensees	-	-	-	-	-
<b>Competency Hearings</b>	Lawyers	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-
<b>Non-Compliance Hearings</b>	Lawyers	-	1*	-	-	-
	Paralegal Licensees	-	-	-	-	-
<b>Reinstatement / Terms Dispute</b>	Lawyers	2	-	1	1	1
	Paralegal Licensees	-	-	1	-	-
<b>Restoration</b>	Lawyers	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-
<b>Licensing Hearings**</b>	Lawyer Applicants	-	1	-	1	2
	Paralegal Applicants	1	2	1	-	3
<b>TOTAL NUMBER OF HEARINGS</b>	Lawyers*	35	25	26	37	21
	Paralegals*	11	8	6	6	10
	<b>TOTAL</b>	<b>46</b>	<b>33</b>	<b>32</b>	<b>43</b>	<b>31</b>

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

\*\* including Readmission

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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 2010 to 2014 and the first quarter of 2015.

Quarter/Year	Appeal Division	Divisional Court	Court of Appeal
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	23	14 appeals; 5 judicial reviews	4 motions for leave
2015 1 <sup>st</sup> Quarter	6	1 appeal; 1 judicial review	3 motions for leave

As of March 31, 2015, there are 10 appeals pending before the Appeal Division, 2 appeals in which the Appeal Division has reserved on judgment, 2 appeals before the Appeal Division that have been adjourned sine die and 5 appeals in which costs or penalty decisions remained outstanding.

With respect to matters before the Divisional Court, there are 8 appeals and 6 judicial review matters pending. There are 4 motions for leave to appeal pending in the Court of Appeal.



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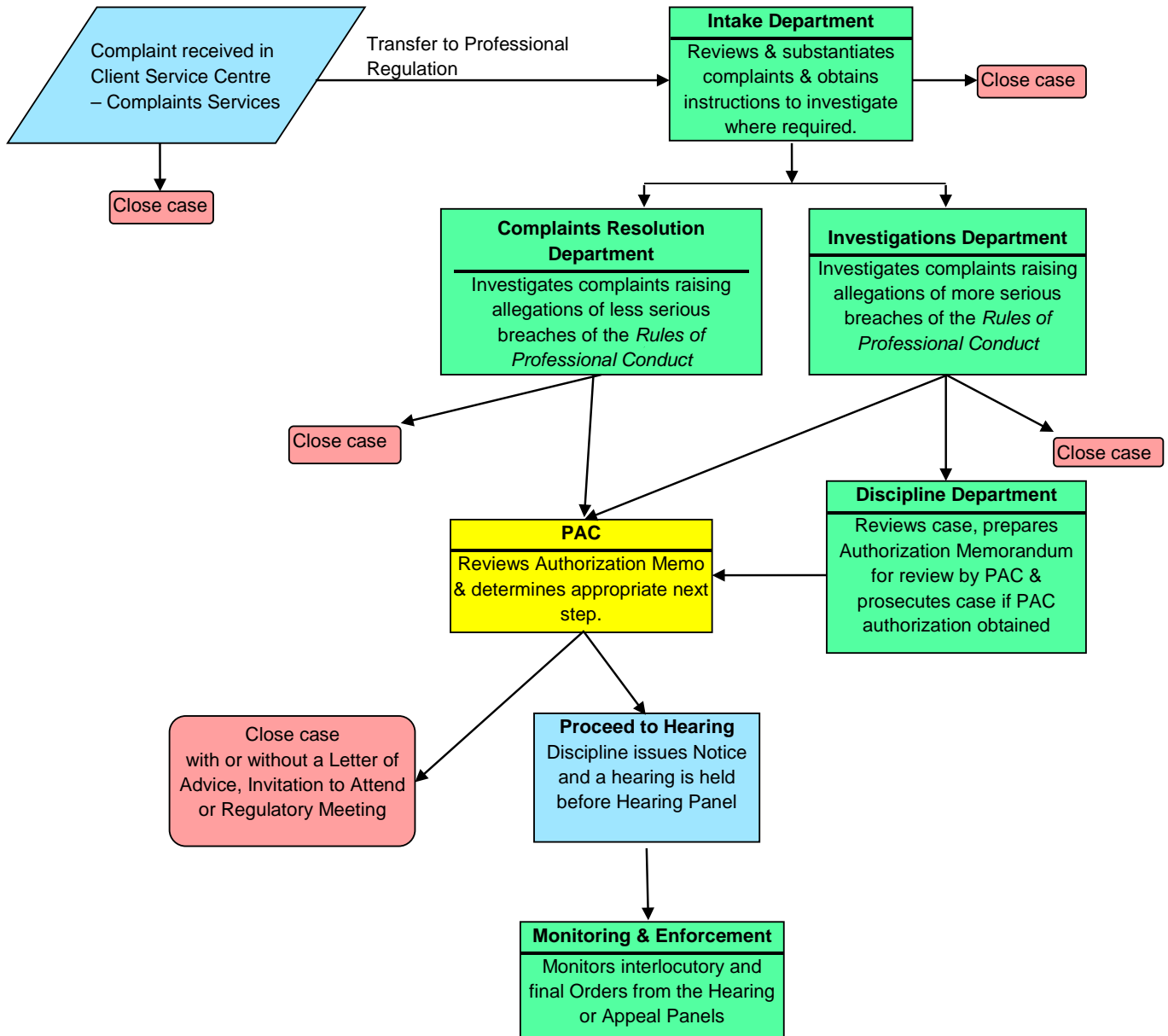
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## **SECTION 3**

## **APPENDICES**

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## The Professional Regulation Complaint Process



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**PROFESSIONAL REGULATION ORGANIZATIONAL CHART**

