



TAB 6

## Report to Convocation September 24, 2014

---

### Professional Regulation Committee

#### **Committee Members**

Malcolm Mercer (Chair)  
Paul Schabas (Vice-Chair)  
Susan Richer (Vice-Chair)  
Robert Armstrong  
John Callaghan  
John Campion  
Seymour Epstein  
Robert 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))**

## TABLE OF CONTENTS

### **For Information**

Alternative Business Structures and the Legal Profession in Ontario: A Discussion Paper.....	<a href="#">TAB 6.1</a>
Entity and Compliance-Based Regulation.....	<a href="#">TAB 6.2</a>
2014 Lawyer Annual Report.....	<a href="#">TAB 6.3</a>
Professional Regulation Division Quarterly Report (April-June 2014).....	<a href="#">TAB 6.4</a>

## COMMITTEE PROCESS

1. The Professional Regulation Committee (“the Committee”) met on September 11, 2014. In attendance were Malcolm Mercer (Chair), Paul Schabas (Vice-Chair, by telephone), Susan Richer (Vice-Chair), Robert Armstrong, John Campion, John Callaghan, Robert Evans, Julian Falconer, Patrick Furlong, Carol Hartman, Jacqueline Horvat, Brian Lawrie, Jeffrey Lem, Ross Murray, Jan Richardson, and Heather Ross.
2. Staff members attending were Zeynep Onen, Grant Wedge, Jim Varro, Naomi Bussin, Eric Smith, and Margaret Drent.

## FOR INFORMATION

### ALTERNATIVE BUSINESS STRUCTURES WORKING GROUP

#### Summary

3. The Committee is providing for information a Discussion Paper on Alternative Business Structures (ABS) for the legal profession in Ontario, which will be published on the Law Society website and made available to the professions and others for comment. The discussion paper is at [Tab 6.1.1](#).

#### Rationale

4. In February 2014, Convocation considered a report from the Professional Regulation Committee through its ABS Working Group and approved a discussion with the professions regarding four possible options for alternative business structures. According to the report, notice and invitation to comment on the models would be provided to lawyers, paralegals and others on the Law Society's website and through the *Ontario Reports*.
5. ABS is a strategic priority identified in the 2011-2015 Work Plan (Business Structures and Law Firm Financing) and has been under review and study by the Working Group since 2012.

#### Discussion

6. The Discussion Paper is largely informational. It also identifies issues that have been raised pertaining to ABS. The objective is to provide information in order to support an ongoing discussion about the advisability of ABS by lawyers, paralegals and others.
7. The Working Group has been engaged in this discussion since 2013 both to share information and to identify issues, views and concerns about ABS in Ontario.
8. Following careful consideration of the information, views and opinions received as a result of the Discussion Paper, the Working Group plans to consider next steps in early 2015. Many organizations and associations have asked the Law Society for meetings to discuss ABS. Options for consideration at this point include further studies or surveys to find out more information, and to hold additional regional meetings or symposia to continue the discussion. Given the level of interest among lawyers and paralegals in continuing the discussions, it is the view of the Working Group that these engagements should continue.
9. It is important to note that any decision to pursue ABS as a direction in Ontario would likely require legislative amendment, by-law amendments and the development of structural amendments to the Society's regulatory model.

### **Stakeholder Engagement**

10. The Discussion Document will also be distributed to legal organizations and others who have indicated an interest in this subject.
11. Efforts will be made to accommodate in person meetings if requested by interested parties.

### **Additional Issues**

12. The Paralegal Standing Committee reviewed the Discussion Paper at its September 10, 2014, meeting, and was in agreement with the publication and distribution of the document.



Tab 6.1.1

September 24, 2014

## **ALTERNATIVE BUSINESS STRUCTURES AND THE LEGAL PROFESSION IN ONTARIO: A DISCUSSION PAPER**

---

### **ALTERNATIVE BUSINESS STRUCTURES WORKING GROUP**

#### **Working Group Members**

**Malcolm Mercer, Co-Chair**

**Susan McGrath, Co-Chair**

Constance Backhouse

Marion Boyd

Ross Earnshaw

Susan Elliott

Carol Hartman

Jacqueline Horvat

Brian Lawrie

Jeffrey Lem

Jan Richardson

James Scarfone

Alan Silverstein

Peter Wardle

## TABLE OF CONTENTS

<b>1.0 Purpose</b> .....	4
<b>2. The current state of affairs</b> .....	6
<b>2.1 The Law Society’s mandate</b> .....	6
<b>2.2 Business structures now permitted for lawyers and paralegals</b> .....	7
<b>2.3 Challenges under the current system</b> .....	7
<b>2.4 Availability of unregulated legal services</b> .....	8
<b>3. Considering alternative business structures</b> .....	9
<b>3.1 What are alternative business structures?</b> .....	9
<b>3.2 Why the Law Society is considering the ABS model</b> .....	10
<b>I. Access considerations</b> .....	10
<b>II. Technological considerations</b> .....	12
<b>III. Economic and business considerations</b> .....	14
a. Economic theory .....	14
b. Competition from new business entities.....	14
c. Challenges to sole practitioners and small firms.....	15
<b>IV. Professional and ethical considerations</b> .....	17
a. Reputation of the Profession.....	17
b. Duties to clients and protecting the cause of justice, rule of law and administration of justice.....	17
c. Safeguarding solicitor-client privilege .....	18
<b>V. Implementation considerations</b> .....	19
a. Business entity regulation and subordination of business interests .....	19
b. Conflict between owner and client interests .....	20
c. ABS approval and supervision.....	20

<b>5. Specific ABS models for discussion</b> .....	22
Model #1 .....	22
Model #2:.....	23
Model #3.....	24
Model #4 .....	25
<b>6. Feedback</b> .....	26
<b>Appendix 1</b> .....	27
<b>Developments in Canada</b> .....	27
<b>Appendix II</b> .....	30
<b>Developments abroad</b> .....	30

## 1.0 Purpose

**The Law Society of Upper Canada is seeking input from the public, the legal community and other interested parties on alternative business structures (ABS) as a means for delivering legal services in Ontario.**

**The Law Society is engaged in a process for full consideration of ABS, and this report constitutes a step in that process. The Law Society has not yet decided whether alternative business structures should be permitted in Ontario. This process will help it determine what actions to take, if any, on the issue. The Law Society is interested in hearing differing views on ABS, including challenging perspectives or approaches.**

This document provides context and background to help people understand what alternative business structures are and what allowing them would entail. It also solicits feedback to help the Law Society gather input.

At present, Ontario lawyers and paralegals are subject to restrictions on how to structure their practices. In this discussion paper, the Law Society is seeking views on whether it would be desirable to permit more variety in the forms of ownership and greater latitude in the delivery of legal services, including in association with non-legal professionals and service providers.

The Law Society is considering the ABS model in light of several factors, including apparent gaps in the provision of legal services, the increasing globalization of the legal profession, and advances in technology and developments abroad, that significantly affect how legal services can be delivered.

The level of interest and activity on ABS led the Law Society to create a working group to examine and report on the issue. This discussion is being undertaken at the direction of Convocation, the Law Society's governing body,<sup>1</sup> based on a recommendation of the Working Group to consider different options for how the delivery of legal services might be structured in the future.

On February 27, 2014, the Law Society's Working Group on ABS presented a report that discussed four possible new models for the delivery of legal services in Ontario. Those models, which form the basis for this discussion paper, fall into two categories: On the one hand there are businesses that provide legal services only, and on the other are businesses offering both legal and non-legal services.

There could be no restrictions on ownership of those businesses by people who are not legal professionals, or their ownership could be limited to keep it under 50%.

Any of these models, if adopted, could form the basis for structures that would be regulated by the Law Society for the delivery of legal services. Interested parties are encouraged to review the models and provide comment or suggest alternate models.

We are seeking feedback from as many people as possible, both inside and outside the legal profession, with a view to beginning a dialogue on the issue.

Comments should be sent to the Law Society by December 31, 2014 and may be submitted by email to [address to be provided] or by mail to:

ABS Discussion  
Policy Secretariat  
Law Society of Upper Canada  
Osgoode Hall  
130 Queen Street West  
Toronto, ON M5H 2N6

## 2. The current state of affairs

### 2.1 The Law Society's mandate

In Ontario, the Law Society of Upper Canada regulates the provision of legal services.

In carrying out its functions, duties and powers, the Law Society is required to have regard to certain duties including:<sup>2</sup>

- a duty to maintain and advance the cause of justice and the rule of law.
- a duty to act to facilitate access to justice for the people of Ontario.
- a duty to protect the public interest.

The *Law Society Act* further requires the Law Society to have regard to the principle that:

restrictions on who may provide particular legal services should be proportionate to the significance of the regulatory objectives sought to be realized.<sup>3</sup>

Except as permitted by Law Society bylaws, only individuals licensed by the Law Society may provide legal services or practise law.<sup>4</sup> Section 1(5) of the *Law Society Act* very broadly defines legal services as follows:

For the purposes of this Act, a person provides legal services if the person engages in conduct that involves the application of legal principles and legal judgment with regard to the circumstances or objectives of a person.

The Law Society determines the classes of licences that may be issued, the scope of authorized activities by class of licence, and the terms, conditions and restrictions imposed.<sup>5</sup>

## 2.2 Business structures now permitted for lawyers and paralegals

Only licensed lawyers and paralegals in sole practice or in firms owned and controlled by licensed legal professionals may provide legal services in Ontario<sup>6</sup>. These practices may only provide legal services and services that support or supplement legal services.

The Law Society currently permits lawyers and paralegals to provide legal services through the following business structures:

<b>Business Structure</b>	<b>Legislative or Rule Reference</b>
Sole proprietorship	<i>Rules of Professional Conduct</i> section 1.02, <i>Paralegal Rules of Conduct</i> , section 1.02
Partnership	<i>Rules of Professional Conduct</i> section 1.02, <i>Paralegal Rules of Conduct</i> , section 1.02
Limited liability partnership	<i>Partnerships Act</i> , section 44.2(a) <i>Law Society Act</i> , section 61.1
Professional corporation	<i>Business Corporations Act</i> , section 3.1(2)(a) <i>Law Society Act</i> , section 61.0.1
Multidisciplinary practice	<i>Law Society Act</i> , section 62(0.1)32, Law Society By-Law 7

The *Rules of Professional Conduct* prohibit direct or indirect fee-sharing with people who are not licensed legal professionals, other than in a multidisciplinary practice (MDP) and in inter-jurisdictional law firms. MDPs must be effectively controlled by licensed legal professionals and may only provide additional services that support or supplement the licensed activity. Fees may only be shared within an MDP with MDP partners who provide client services.

## 2.3 Challenges under the current system

In Ontario, clients seeking legal advice turn to practices and firms that are 100% owned by licensed lawyers and/or paralegals and that provide only legal services.

Anecdotally, Ontario lawyers and paralegals have said that their attempts to innovate have been hampered or prevented by the current requirements. For example:

- The ability to access new capital for technology is limited by restrictions on ownership of legal services firms, as they cannot bring technology experts in as partners, or raise funds through the capital markets.
- The ability to offer legal services together with other related services is limited by the restrictions on referral fees and fee-sharing, and the requirement to provide legal services through a professional corporation and not any other type of corporation.
- The ability to reward long-serving employees or to retain high-level managers who are not licensed lawyers or paralegals through partnership or ownership is limited by the restrictions on ownership.

## **2.4 Availability of unregulated legal services**

The Internet has changed the game – and the public’s expectations – with regard to legal services.

There has been significant growth in unregulated legal service providers in Ontario and elsewhere. This growth provides evidence that there is a demand for services not being effectively supplied by traditional legal practices. That these innovations are happening outside traditional legal practices suggests that regulatory restrictions may be unduly constraining innovation. Allowing lawyers and paralegals to provide services directly with people outside the legal profession may stimulate innovation in the provision of legal services and result in a greater range of services for the public.

Permitting innovation must be balanced with appropriate regulatory oversight. Ontarians are not currently protected when they use unregulated services. From a consumer protection perspective, it is therefore preferable that new business structures providing legal services be regulated by the Law Society. This is not always feasible or possible. For example, some unregulated services are provided over the Internet from other jurisdictions.

### **3. Considering alternative business structures**

#### **3.1 What are alternative business structures?**

An alternative business structure, or ABS, is a broad term that includes any form of traditional law firm business structure, as well as alternative means of delivering legal services. These may include, for example:

- non-lawyer or non-paralegal investment or ownership of law firms, including equity financing;
- firms offering legal services together with other professionals offering other types of services; and
- firms offering an expanded range of products and services, such as do-it-yourself automated legal forms, as well as more advanced applications of technology and business processes.

The ABS model has been in place in New South Wales, Australia, since 2001 and in England and Wales since 2012. Some examples of ABS enterprises in other jurisdictions include:

- businesses providing legal services only, with part ownership by a long-term employee or spouse or a business or technology expert;
- businesses providing fixed-fee legal services through retail stores that are easily accessible and convenient to consumers;
- businesses offering legal services together with services related to the area of legal practice, such as social workers, human resources professionals and accountants;
- law firms operating as franchises so they have centralized access to management systems, technology, marketing and other expertise; and
- law firms using equity financing to invest heavily in technology so they can offer new and innovative forms of delivering legal services.

### **3.2 Why the Law Society is considering the ABS model**

The Law Society is interested in determining whether alternative business structures can:

- facilitate greater flexibility in the delivery of legal services;
- foster innovation in the area; and
- improve access to legal services for consumers.

The Law Society also wishes to identify regulatory issues that may arise from services now provided outside of regulatory scrutiny.

Consideration of ABS was identified as one of the priorities for the 2011-2015 term of the Law Society's governing body, and the ABS Working Group has been reviewing extensive research on ABS and communicating with key representatives of the professions and other experts since 2012.

As the Law Society considers alternative business structures – and as it seeks input on whether the ABS model is an option for Ontario – it has identified a series of considerations to help frame the discussion.

They are:

- I. Access considerations
- II. Technological considerations
- III. Economic and business considerations
- IV. Professional and ethical considerations
- V. Implementation considerations

#### **I. Access considerations**

Research shows that many individuals and small businesses in Ontario are now attempting to deal with their legal issues without the assistance of lawyers or paralegals.

- In Canada and elsewhere, in family law, most litigants do not use lawyers - recent studies show 70% are unrepresented;<sup>7</sup>
- In 2009, the federal Department of Justice published *The Legal Problems of Everyday Life* showing that legal advice was sought for less than 15% of justiciable problems in Canada;<sup>8</sup>
- People with legal problems commonly seek assistance from non-lawyers. The above-noted Department of Justice study (of almost 7,000 adults) found that 42.2% of respondents who experienced a personal injury problem consulted an unregulated source of assistance.<sup>9</sup> Employment (35.8%) and housing (33.7%) were the next highest areas in which respondents resorted to non-legal sources of assistance.<sup>10</sup>
- In 2009, the *Ontario Civil Legal Needs Project* found that one-third of low- and middle-income Ontarians did not seek legal assistance for what they regarded as legal problems.<sup>11</sup>
- A recent study of 259 self-represented litigants in family and civil law matters in Ontario, British Columbia and Alberta reported that the most consistently cited reason for self-representation was the inability to afford to retain, or continue to retain, a lawyer.<sup>12</sup>

This research highlights the fact that there are gaps in legal services for many Ontarians. Even middle-income individuals are in many cases not obtaining, or cannot afford, the services of a lawyer or paralegal.

There are two situations in which people tend to seek legal services. They are either looking for help with important but routine issues, such as the purchase of a house or the creation of a will or power of attorney, or they are facing a serious legal problem, such as a personal injury, a criminal charge, or a marriage breakdown.

People are always sensitive to cost. And the more serious the problem, the more legal services are likely to cost. In fact, serious legal problems often cost more than the average person can afford.

For that reason, members of the public may seek services from online service providers such as Legal Zoom, because of cost but also because of their hours, operations, location or client services. People who use online providers are, from

the perspective of the legal profession, lost clients. In other words, the existing business structures are not effectively serving the market.<sup>13</sup>

From the perspective of lawyers and paralegals, people who are currently not seeking their assistance represent a significant market opportunity. More options for ownership of legal practices, and greater association with other service providers, might encourage innovation that would reduce the cost of services and permit greater access.

From the Law Society's perspective, the question is whether existing restrictions can properly be liberalized to facilitate more effective and economical delivery of legal services, where services are not available or accessible at present.

## II. Technological considerations

The practise of law is changing rapidly. In the last 25 to 30 years, technology has significantly changed the way in which legal services are being provided and accessed.

**Technology has changed the way legal services are delivered.** Lawyers and paralegals rely heavily on technology in day-to-day practise. For example, they communicate with clients and others electronically, and use technology to create, store and file documents.

**Technology has changed the expectations of clients.** A recent study by the American Bar Association found that the majority of Americans now look for legal services online.<sup>14</sup> The public has access to far more information (both accurate and inaccurate) about legal issues and legal services. The offer of legal and other services over the Internet has resulted in an explosion of self-help legal remedies available to the public.

**Technology has increased the risks to the public** posed by unregulated service providers.

**Large clients are reducing their use of traditional legal practices** through expanded in-house practices, legal process outsourcing and non-traditional legal practices, all enabled at least in part by technology.

Access to new sources of capital by lawyers and paralegals may allow them to bring in technological innovations that would enhance services to clients.<sup>15</sup> The

potential exists for lawyers and paralegals to use technology to better respond to consumer demands – for example, to develop new tools for interaction with clients, new options for online assistance combined with legal services, and new billing options such as fixed fees.

**Technology may offer financial and other benefits** to lawyers and paralegals, especially those who wish to explore flexible work arrangements or part-time work. It may also help lawyers and paralegals who are newly licensed or who are new to private practice by expanding the employment options available.

Lawyers in jurisdictions that permit ABS have used technology in some of the following ways:

- Establishing franchises that provide centralized infrastructure and assistance with marketing and branding strategies, buying power and practice support.
- Developing systems to better predict the cost of legal services and the suitability of new fixed-fee arrangements for clients in the areas of personal injury, family law and wills.
- Offering online one-stop-shopping for accident management services, including compensation, repairs, replacement vehicles and rehabilitation.
- Establishing large, virtual law firms with a roster of consultant lawyers who work from home on a wide variety of private client matters.

In England and Wales, a 2013 study conducted by the Legal Services Board observed that ABS firms appear to use technology to deliver services to a greater extent than do other firms.

Ninety-one percent of survey respondents indicated that they had a website to deliver information and other services to their customers. In contrast, 52% of other solicitor firms had a website, which they used for advertising. The business affairs, personal injury, employment and family market segments were associated with the highest levels of publicized innovations.<sup>16</sup>

### **III. Economic and business considerations**

#### **a. Economic theory**

Professors Edward Iacobucci and Michael Trebilcock presented at the Law Society's ABS Symposium in October 2013. It was their view that the introduction of the ABS model should facilitate innovation, but would not cause dramatic change to the way in which legal services are provided in Ontario.

In a paper completed for the Law Society in 2013, Professors Iacobucci and Trebilcock applied the "theory of the firm" to the Ontario context to explain that expressly limiting what services may be supplied by legal practices can create economic inefficiencies, as can effectively limiting the nature of expertise available within the firm.<sup>17</sup>

Limiting equity investment can constrain firm development and innovation. If restricted only to debt financing, firm owners are limited by the security that they are willing and able to provide and by the personal risk that they are prepared to assume. Equity financing permits sharing of risk.

The theory also posits that ABS should lead to greater efficiency because there should be lower transaction costs for the provision of complementary services within the firm, rather than referral arrangements between firms. Further, lawyers may benefit from the professional management skills of a non-lawyer owner or manager.

#### **b. Competition from new business entities**

There is significant competition between existing legal practices for legal work. However, this competition is mostly by traditional firms and mostly for traditional legal work.

While permitting alternative business structures may provide opportunities for existing practices to innovate and serve new markets, it is also likely that existing practices will face competition from new kinds of firms.

This happened in both Australia and England, in the personal injury market. In Australia, nearly half of plaintiff's side personal injury work is now conducted by

five large personal-injury firms, two of which are publicly listed on the Australian Stock Exchange. In England, 30% of personal injury work is now conducted through firms using ABS arrangements. Half of those are new firms, and half are existing practices taking advantage of ABS liberalization.<sup>18</sup>

While the Australian and English markets have different market structures and incentives, it is clear that personal injury work has been attractive to firms using ABS models. This increases competition for existing practices, which could result in greater innovation by existing practices (including conversion to ABS models). It also means some firms might merge, lose clients or disappear.

Firms using ABS may have some competitive advantages. With greater capital and size may come a better ability to market services and create a brand. Economies of scale and business/technological innovation might allow for lower prices and/or fixed pricing, as well as better quality assurance.

On the other hand, experience elsewhere shows that legal services provided through the traditional firm model can succeed in providing legal services alongside ABS firms.<sup>19</sup> Some legal services might be better provided under traditional models, and some consumers of legal services may prefer the more personal service that traditional models provide.

### c. Challenges to sole practitioners and small firms

Most legal services are delivered to individuals and small businesses by sole practitioners and small firms.<sup>20</sup> The practitioners in these firms must run their own firms as well as assist clients. They may perform necessary non-legal work within their practices that could be done by others at a lower cost.

Practitioners serving individual clients and small businesses are typically in a highly competitive market.

The traditional solo and small practice model can have inherent limitations. Limited practice volume, business and technological expertise or capital can impair the ability to provide block fees or a wider or different range of services.<sup>21</sup>

The informal consultations undertaken by the ABS Working Group showed that many practitioners enjoy the freedom of being a sole practitioner or in a small firm, but consider the business and marketing aspects of their practice to be a burden. For them, practising, even as a sole practitioner, in a structure that facilitated access to business expertise and infrastructure was attractive.

Sole practitioners and practitioners in small firms may benefit from the advantages associated with participating in a larger entity or organization. These include –

- access to and investment in technology, technological innovations and infrastructure,
- the opportunity to share business costs,
- access to business and other expertise,
- ethical infrastructure,
- association with a known brand, and
- greater market power in dealing with suppliers and other market participants.

For some practitioners, existing private practice models are not attractive. Some would prefer simply to provide legal services rather than market their services to clients or participate in firm management and operations. Some practitioners would prefer to work part-time, including from their homes. ABS based services may provide additional options to respond to these preferences.

New sources of capital from non-lawyers or non-paralegals may permit a law firm to reorganize or expand (which may entail a merger with another firm, opening a new location, or beginning delivery of new types of services or in new practice areas). It may also permit a firm to invest in talent (hiring of new legal and non-legal staff).

All of this may lead to enhanced quality, and may enable a licensed legal professional to scale operations, thereby moving away from the billable hour to alternative fee arrangements.

In New South Wales, Australia and in England and Wales, many of the firms taking advantage of ABS were small or sole practices, and remained so within the ABS environment.

## **IV. Professional and ethical considerations**

### **a. Reputation of the Profession**

Discussion of the ABS model raises the concept of professionalism, and in particular that the liberalization that results from the introduction of alternative business structures may adversely affect the professional reputation of lawyers and paralegals.

For example, it could be argued that allowing legal services to be provided out of a big entity consisting of more than just lawyers and paralegals compromises client protection because professional values are not sufficiently protected. But whether the reputation of the legal professions would be compromised by permitting some legal services to be provided in non-traditional ways is an issue that should be considered, and it raises a number of questions.

It is worth discussing whether these questions stem from ABS or whether they are related to the changing nature of legal practice and consumer needs. Some changes are already occurring, without the adoption of ABS. For example, is the reputation of lawyers in traditional personal-injury litigation firms or real estate practices materially harmed by delivering legal services via the Internet or through a retail store, as they do now? Does it make a difference if the owners are not lawyers or paralegals? Would the involvement of non-lawyers in ownership of some law firms compromise the reputations of traditional law firms? Would such concerns be weighty enough to prohibit a lawyer or paralegal from operating from a shopping centre or over the Internet or to entirely prohibit investment by those who are not lawyers or paralegals?

### **b. Duties to clients and protecting the cause of justice, rule of law and administration of justice**

Legal service regulation ensures that clients have competent, independent legal representation provided with candour and confidentiality. It also protects society by ensuring that legal services are provided with fidelity to the cause of justice, the rule of law and the administration of justice. These professional values would have to be safeguarded in any move to liberalize ownership or structure including ABS.

Many of those who are sceptical of ABS express particular concern about protection of these professional values.<sup>22</sup> On the other hand, ABS proponents do not dismiss the importance of these professional values, but rather believe that these values can be properly protected in an ABS model.<sup>23</sup>

### c. Safeguarding solicitor-client privilege

Protection of solicitor-client privilege is essential to any consideration of the ABS model.

Communications covered by solicitor-client privilege are protected from disclosure and are inadmissible in court. Solicitor-client privilege has been part of the common law for over 500 years and plays a critical role in the operation of the legal system.<sup>24</sup> It is now a constitutional right protected under the *Canadian Charter of Rights and Freedoms*.<sup>25</sup> The concept of solicitor-client privilege is complex and continues to evolve.

The ABS model broadens the scope of the traditional solicitor-client relationship, which could negatively impact solicitor-client privilege if steps are not taken to protect it.

Determining whether communications are protected by solicitor-client privilege can be more complicated in an alternative business structure, for both lawyers and clients. For example, only communications for the purpose of seeking or giving legal advice are protected by solicitor-client privilege. Privilege does not attach to non-legal advice such as business advice. Privilege only attaches to communications that are intended to be confidential.

When lawyers provide legal services jointly with other types of services, or own law firms jointly with non-lawyers, additional steps would be required to ensure that privileged communications continued to be protected.

Jurisdictions that have adopted ABS reforms have considered the protection of solicitor-client privilege.

In New South Wales, Australia and in England and Wales, the issue of solicitor-client privilege in an ABS setting was addressed through legislation. Australia's *Legal Profession Act*, 2004, section 143(3) expressly provides that the law relating to client legal privilege (or other professional privilege) is not excluded or

otherwise affected because an Australian legal practitioner is acting in the capacity of an officer or employee of an incorporated legal practice.

In England and Wales, under section 190 of the *Legal Services Act 2007*, privilege applies to communications made by an ABS, provided that the communications are made through, or under the supervision of, a relevant lawyer.

If the Law Society were to take steps to permit changes to current business structures, the issue of privilege would need to be addressed. Legislative amendments may be required to expressly provide that the law on solicitor-client privilege is not affected by the introduction of new business structures. Other measures that might assist in protecting privilege could include:

- requiring an ABS to disclose in writing which services are legal services and which are non-legal services, and declaring that privilege applies only to those communications whose purpose is to seek or give legal advice;
- creating a prohibition against causing or inducing a lawyer or paralegal to contravene his or her professional obligations, the *Rules of Professional Conduct* or any other relevant legislative or regulatory enactments; and
- recognizing that a lawyer's professional obligations would prevail over any other legislative provisions in case of a conflict.

## **V. Implementation considerations**

### **a. Business entity regulation and subordination of business interests**

The experience of other jurisdictions that have implemented ABS is an important source of information for the Law Society. Australia has 13 years of ABS experience. This provides valuable information as to how ABS could be implemented, and what might follow implementation.

Key to the Australian experience has been the requirement that legal practices, as well as lawyers, subordinate their interests (including those of their owners) to the interests of their clients and to the interests of the rule of law and the administration of justice.

As well as requiring subordination of interests, legal practices are regulated in Australia and England, in addition to regulation of legal practitioners. Professional liability insurance is mandatory for a business using the ABS model.

To encourage and support ethical infrastructures within ABS entities, Australia also initiated a firm regulation approach when ABS was introduced. Overall, reports of the Australian experience are positive.<sup>26</sup> They emphasize that the introduction of ABS has in fact helped enhance ethical culture in ABS firms.

## b. Conflicting interests

Conflicts between owner interests and client interests are a concern.

The ABS Working Group suggested that the interests of all material ABS owners should be treated as interests of the ABS for conflicts purposes. As an example, an ABS could not accept material investment from an adverse party in litigation, as that would create a conflict with the interests of the ABS client. Similarly, a material interest in a legal practice by a lender, insurer or broker could be considered to be a conflicting ABS interest with respect to the interest of a real estate purchaser.

The ABS Working Group noted that professional independence must be maintained in both litigation and transactional matters. A question to be considered is whether banning all non-lawyer ownership is necessary to safeguard professional independence. On the other hand, it could be argued that this position is too broad and that focused conflicts rules and fiduciary law can effectively address these issues. It is worth examining whether some types of business structures raise risks to the public that cannot be adequately addressed through regulation and should not be permitted by the Law Society.

## c. ABS approval and supervision

Alternative business structures have been adopted in England and Wales, as well as Australia. Each of those jurisdictions takes a different approach to approval and supervision.

In Australia<sup>27</sup>, no prior approval is required for the establishment of an incorporated legal practice in which non-lawyer shareholding is permitted. There

is no prior evaluation of the suitability of the shareholders to have an ownership interest. However, the board of directors must include at least one director who is a lawyer, with the legal practice being under the management of the legal practitioner director.

The legal practitioner director must establish appropriate management systems for the legal practice. If the legal practitioner director ceases to be a director or is removed by the legal services regulator, a new legal services practitioner must be appointed within seven days. It is an offence to continue to provide legal services for more than seven days without a legal practitioner director. This approach has been effective in regulating ABS in Australia to date.

The English approach is different. An English ABS must receive prior approval from the regulator. The regulator<sup>28</sup> considers the suitability of the proposed owners of the ABS as well as its proposed activities and management. Rather than the legal practice being under the responsibility of a legal practitioner director, the English ABS is itself a regulated entity subject to regulatory obligations,<sup>29</sup> scrutiny and discipline.

A compliance officer for legal practice<sup>30</sup> must be appointed who is responsible for “creating a culture of compliance throughout a firm, becoming its focal point for the identification of risk, and the key point of contact for the SRA (Solicitors Regulation Authority)”.<sup>31</sup> According to some observers, the English approach has also been effective in protecting the public, although the ABS model has only been permitted in England since 2012, while alternative business structures have been permitted in Australia since 2001.<sup>32</sup> There has been some criticism of England’s SRA approach as being slow and expensive.<sup>33</sup>

## 5. Specific ABS models for discussion

To help stimulate discussion, the following models illustrate how alternative business structures could be set up. Some of the possible benefits and concerns associated with each model have been listed, but these are by no means exhaustive and are provided only to initiate the discussions.

The Law Society has made no decision on ABS. In addition to feedback on these models, it welcomes comment on why people might prefer other ABS models, or the status quo.

### Model #1

**Business entities providing legal services only in which individuals and entities who are not licensed by the Law Society can have up to 49 per cent ownership.**

Under this model, the lawyer or paralegal would maintain majority ownership of the business entity, and would be responsible for its provision of legal services.

#### Potential benefits

- This ownership structure might generate an increase in the equity capital available to the firm without compromising control of the business by licensed legal professionals.
- It could permit key employees to be rewarded by equity participation, the most common form of ABS in jurisdictions that have adopted it.
- The provision of legal services would remain under the control and supervision of lawyers and paralegals, minimizing concerns about professionalism.

#### Possible concerns

- Investors may not be interested in assuming minority ownership in a law firm without a commensurate degree of control over the decisions regarding the business. They may not perceive sufficient potential growth in the business to justify an equity investment in which the investor may only obtain a minority interest.

- Allowing an infusion of up to 49% more equity capital may not provide the resources necessary to achieve material innovation in the delivery of legal services.

**Model #2:**

**Business entities providing legal services only with no restrictions on ownership by individuals and entities who are not licensed by the Law Society.**

Under this model, the business would be free to seek capital in any way it sees fit, but it would only provide legal services. Though the business owners need not be legal professionals, the provision of legal services would remain under the control and supervision of licensed lawyers or paralegals.

Potential benefits

- Increased capitalization could be directed at enhancing the delivery of legal services.
- As the business would provide only legal services, the potential risks of conflicts, breach of confidentiality and loss of privilege that might exist in a multidisciplinary/service environment would be minimal.
- The requirement that legal professionals control and supervise the provision of legal services, together with entity regulation, should effectively ensure the proper delivery of legal services.
- The licensed legal professionals within the ABS and the provision of legal services by the entity would be clearly subject to Law Society rules and sanctions.

Possible concerns

- The importance of preserving solicitor-client privilege would require that owners who are not legal professionals not be permitted to access confidential information about the identity of clients and the work being done for them.

- These limitations may be more restrictive than is required to protect the public interest, an issue that the Law Society is required to consider under the *Law Society Act*.<sup>34</sup>
- Continued restrictions on permissible services may continue to impede innovation by lawyers and paralegals. Innovation may emerge largely in the unregulated sphere, putting the public potentially at risk.

### **Model #3**

**Business entities providing both legal and non-legal services (except those identified as posing a regulatory risk) in which individuals and entities who are not licensed by the Law Society would be permitted up to 49 per cent ownership.**

In this model, up to 49% non-licensee ownership in an entity is permitted, where the entity provides both legal services and non-legal services. Any type of services may be provided by the entity, except for those identified by the Law Society as posing a risk.<sup>35</sup>

#### Potential benefits

- Liberalized ownership may permit increased capitalization of the entity to enhance the delivery of legal services.
- Given its mandate to protect the public interest, the Law Society would assess the risks involved in permitting any type of ABS and impose appropriate restrictions.
- Regulating the provision of legal services through the business entity rather than through direct supervision requirements could assist in encouraging further innovation.

#### Possible concerns

- The structure may not lead to the full range of innovation that might result from unrestricted ownership.
- This model will require attention to the avoidance of conflicts and the protection of confidentiality and privilege, as the services of both licensed

legal professionals and non-licensed people would be permitted to be delivered within the ABS.

#### **Model #4**

**Business entities providing both legal and non-legal services (except those identified as posing a regulatory risk) in which individuals and entities who are not licensed by the Law Society would be permitted unlimited ownership.**

In this model, the non-legal services would not be subject to restriction, except where the Law Society has identified a sufficient regulatory risk<sup>36</sup>.

#### Potential benefits

- Unrestricted ownership by people who are not licensed legal professionals might increase the entity's access to capital.
- This could encourage innovation and the development of new ways to deliver legal services which otherwise would be more likely to emerge in the unregulated sphere.

#### Possible concerns

- This model would require attention to the avoidance of conflicts and the protection of confidentiality and privilege, as non-legal services would be permitted to be delivered within the ABS.
- Independence of the provision of the legal services might be affected, due to conflict between the business goals of the entity and the provision of professional services of lawyers and paralegals. Prioritizing the duties of a lawyer or paralegal to the client, the administration of justice and the Law Society would have to be specifically addressed.

## **6. Feedback**

### **The Law Society would like to hear your views on alternative business structures.**

We are seeking feedback from as many people as possible, both inside and outside the legal profession, with a view to beginning a dialogue on ABS.

Please provide your comments by December 31, 2014, as indicated earlier in this document, so that the Law Society can consider next steps.

We would appreciate you providing your name, contact information and your reason or reasons for being interested in the issue. We are interested in both general comments about the appropriateness of the ABS model for Ontario, as well as specific comments about particular considerations or issues, or about the four models presented in this paper.

## Appendix 1

### Developments in Canada

In Canada, 14 provincial and territorial law societies regulate their members in the public interest. Certain law societies restrict the delivery of legal services to sole practitioners and lawyers practising in partnership or through a professional corporation.

#### Quebec

The Barreau du Québec, aside from traditional forms of practice, permits an advocate to practise law in a limited-liability partnership, a professional corporation and a multidisciplinary practice. Regulations require law firms in these practices to provide a detailed undertaking, as follows:

- The business entity must ensure that members who engage in professional activities within the firm have a working environment that permits compliance with any law applicable to the carrying out of professional activities.
- The business entity must ensure that the partnership, corporation and all persons who comprise the partnership, corporation, or are employed there, are in compliance with legislation and regulations.

In Quebec, ownership of professional corporations practising law, for example, is open to members of other regulated professions and to others as long as at least 50% of the voting shares of the professional corporation are owned by lawyers or other regulated professionals.<sup>37</sup>

#### Nova Scotia

Since 2005, the Nova Scotia Barristers' Society has had express statutory authority to regulate law firms.

- Complaints may be made to the regulator regarding a law firm for professional misconduct.

- Law firms must designate a lawyer to receive communications from the Barristers' Society and assist with investigations.
- A firm found guilty of professional misconduct may be fined, and if a Law Society discipline panel makes an adverse finding against a law firm, the panel may order any other condition as is appropriate; and
- An inter-jurisdictional law firm must comply with all law firm regulations, and a practising lawyer may only practise law as a member of an inter-jurisdictional law firm if the firm complies with the Nova Scotia Barristers' Society regulations.<sup>38</sup>

The Nova Scotia Barristers' Society is in the midst of a large-scale consultation on ABS, based on a 2013 strategic framework. The Society wants to develop a proactive, risk-focused and principles-based regulatory regime that focuses on results rather than rules. The Society is conducting a survey of the profession as well as holding a workshop and engaging in extensive discussions with stakeholders.

### British Columbia

The Law Society of British Columbia permits multidisciplinary practices (MDPs). In June 2012, the Law Society approved rules changes to allow paralegals (supervised by lawyers) to perform additional duties. The Law Society, B.C. Supreme Court and B.C. Provincial Court have also embarked on a two-year pilot project to permit designated paralegals to appear in court.<sup>39</sup>

British Columbia has also given preliminary consideration to alternative business structures. In October 2011, its Independence and Self-Governance Advisory Committee presented a report entitled *Alternative Business Structures in the Legal Profession: Preliminary Discussion and Recommendations*. That committee concluded that:

- The current practice model does not seem to be working in a way that allows people who need to access legal advice to obtain it in an affordable way;
- While the regulator must be prepared to give alternative structures serious consideration, core values of the legal profession and important rights that

clients who need legal advice are entitled to expect must not be lost in a rush to adopt new ideas;

- Where benefits to the consumer can be attained with proper regulation to ensure that professional values are not lost, the regulator must develop proper regulation to allow for changes to the profession through which improved access to legal services can be attained.<sup>40</sup>

Since the release of the report, statutory amendments have been made that confer new powers on the Law Society of B.C. to regulate law firms, similar to those available to the regulator in Nova Scotia. The *Legal Profession Amendment Act, 2012* provides that the Law Society of B.C. may:

- receive complaints against law firms;
- investigate law firms;
- commence a discipline hearing against a law firm; and
- if a Law Society discipline panel makes an adverse finding against a law firm, discipline the firm by reprimand, fine, or other order or condition as is appropriate.<sup>41</sup>

### Saskatchewan

On July 1, 2014, amendments to the *Legal Profession Act* came into force allowing the Law Society of Saskatchewan to regulate law firms where appropriate.<sup>42</sup>

## Appendix II

### Developments abroad

#### Australia and New South Wales

Australia was an early adopter of ABS regulation. Since 2000, New South Wales has permitted full incorporation of law practices. Other Australian states and territories have implemented similar reforms. Legal practices may incorporate under ordinary company law without any restrictions on who may own shares or on what type of business may be carried on.<sup>43</sup> In May 2007, Australia was the first jurisdiction in the world to permit the public listing of a law firm. Slater & Gordon, a national firm, was listed on the Australian Stock Exchange.<sup>44</sup> The firm now employs 1,350 people in 69 locations with a focus on personal injury and class action litigation on the plaintiff side.<sup>45</sup>

The New South Wales regulatory system is based in part on entity regulation. The Office of the Legal Services Commissioner (OLSC) in New South Wales may audit incorporated legal practices (ILPs) for their compliance pursuant to the *Legal Profession Act 2004* and the *Legal Profession Regulations 2005*. ILPs are encouraged to complete annual voluntary self-assessments regarding the entity's ethical and management infrastructures. Each ILP must have a legal practitioner director responsible for implementing "appropriate management systems". This term is not defined in the legislation, although the OLSC has developed 10 objectives of a sound legal practice with which ILPs must comply.<sup>46</sup> Failure by the legal practitioner to implement appropriate management systems could be the basis of a finding of professional misconduct.<sup>47</sup>

The approach taken by New South Wales is outcomes-based. Rather than requiring ILPs to adhere to proscriptive regulations and requirements, regulation is based on their own systems. ILPs have the freedom to structure their practices in new and innovative ways that are suitable to them, as long as their systems comply with the 10 principles of appropriate management systems.

In addition, the approach in New South Wales is based on an assessment of the risk posed by each ILP. The requirement to implement and maintain "appropriate management systems" is complemented by a comprehensive risk-profiling program and audit, or practice review program that is conducted by the OLSC.<sup>48</sup>

## England and Wales

Rapid changes are taking place in England and Wales in how legal services are regulated and provided to the public. In July 2003, Sir David Clementi was appointed to carry out an independent review of the regulatory framework for legal services in England and Wales. Following his report, which recommended major reforms to the regulation of legal services in England and Wales, the *Legal Services Act 2007* (LSA) was enacted. Under the LSA, the objectives of the regulation of legal services have been broadened. In addition to protecting the public interest and improving access to justice, the regulation of legal services also seeks to protect and promote consumer interests and competition. The LSA expressly permits the provision of legal services through ABS models in support of these objectives.

Under the LSA, legal activities are regulated by eight separate approved regulators. ABSs may be approved by certain approved regulators. The first ABS entities were approved by the Council of Licensed Conveyancers in October 2011, and by the Solicitors Regulatory Authority (SRA) in early 2012. As of June 2014, 308 ABSs have been approved.<sup>49</sup>

As in Australia, ABSs in England and Wales are regulated in part through entity regulation. For example, in order to be approved by the SRA, ABS applicants need to provide the following information:

- the firm's regulatory history and the type of legal work to be conducted;
- business practices (including policies and procedures, the applicant's proposals to meet the regulatory objectives and proposed governance structure), details of personnel, indemnity insurance, client money (including how the applicant protects client money); and
- a suitability declaration.

The SRA assesses ABS applicants and maintains the authority to deny ABS licences.

ABSs approved to date have varied in size, structure and expertise. Some of the entities include:

- An insurance defence firm (Keoghs LLP), which became an ABS and obtained a 22.5% private investment from LDC, a part of Lloyds Banking Group;
- Russell Jones & Walker, a 425-person, 10-location firm with most of its revenue earned from personal injury matters, which was acquired by Australia's Slater & Gordon, and converted into an ABS;
- Natalie Gamble and Associates, a firm with expertise in fertility law offering related services such as donor conception and adoption;<sup>50</sup>
- Winn Solicitors, an accident management firm whose services include compensation, repairs, replacement vehicles and rehabilitation;<sup>51</sup>

New business structures were introduced in England and Wales as part of regulatory reform that included entity and outcomes-based regulation. The overall objective was to permit greater latitude for regulated entities to organize their delivery of legal services and their business models to permit flexibility to enhance competition.

### The United States

In the United States, only the District of Columbia permits limited non-lawyer ownership or management of law firms, similar to the Law Society's multidisciplinary partnership model.

In 2009, the American Bar Association (ABA) established the ABA Commission on Ethics 20/20 to review the ABA Model Rules of Professional Conduct and American models of lawyer regulation in the context of the globalization of legal services and technological advancements. In November 2009, the Commission's Preliminary Issues Outline noted that "core principles of client and public protection [can] be satisfied while simultaneously permitting U.S. lawyers and law firms to participate on a level playing field in a global legal services marketplace that includes the increased use of one or more forms of alternative business structures."<sup>52</sup>

The Commission established a working group on alternative business structures to study this issue. By June 2011, the ABA decided against certain forms of ABSs, including MDPs, publicly traded law firms, and passive non-lawyer

investment or ownership of law firms. Although the ABA working group continued to consider a proposal to permit non-lawyer employees of a firm to have a minority financial interest in the firm and share in the firm's profits, in April 2012, the Commission announced that it would not propose changes to ABA policy prohibiting non-lawyer ownership of law firms. In 2014, the ABS announced that it would be establishing a Commission on the Future of Legal Services.

Despite the current regulatory restrictions in law firm ownership structures, more aggressive efforts are being taken by several U.S.-based companies seeking to reshape how certain legal products and legal services are delivered to consumers in the United States and globally. Such private corporate innovators include, for example:

- Rocket Lawyer and Legal Zoom, which have developed websites that combine do-it-yourself legal form services and traditional legal services to serve individuals and corporate clients.
- Axiom Law, which offers in-house counsel legal secondments, legal outsourcing services, and project management expertise, and which recently obtained a further \$28 million in funding from a growth equity firm.

There are also pressures by traditional law firms seeking to compete in broader legal services markets. For example, the New York law firm of Jacoby & Myers commenced litigation in 2011 to challenge regulations in New York, New Jersey and Connecticut prohibiting non-lawyer ownership in law firms. In October 2012, the firm began marketing online legal forms in addition to providing traditional legal services provided by an attorney.

---

<sup>1</sup> The Law Society of Upper Canada is governed by a board of directors, who are known as benchers. This board includes lawyers, paralegals and lay persons (non-lawyers and non-paralegals). Benchers gather most months in a meeting called Convocation to make policy decisions and to deal with other matters related to the governance of Ontario's paralegals and lawyers.

<sup>2</sup> *Law Society Act*, R.S.O. 1990, c. L.8, s. 4.2

<sup>3</sup> *Law Society Act*, R.S.O. 1990, c. L.8, s. 4.2

<sup>4</sup> *Law Society Act*, R.S.O. 1990, c. L.8, ss. 26.1(1) and 26.1(5)

<sup>5</sup> *Law Society Act*, R.S.O. 1990, c. L.8, s. 27(1)

<sup>6</sup> Multidisciplinary partnerships are a limited exception to this general statement.

<sup>7</sup> See for example, Julie Macfarlane, "The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants", available at [http://www.lsuc.on.ca/uploadedFiles/For\\_the\\_Public/About\\_the\\_Law\\_Society/Convocation\\_Decisions/2014/Self-represented\\_project.pdf](http://www.lsuc.on.ca/uploadedFiles/For_the_Public/About_the_Law_Society/Convocation_Decisions/2014/Self-represented_project.pdf), p. 33.

<sup>8</sup> *Legal Problems of Everyday Life: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians*, (Ottawa: Department of Justice, 2009), p. 56. Available at [http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr07\\_la1-rr07\\_aj1/rr07\\_la1.pdf](http://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr07_la1-rr07_aj1/rr07_la1.pdf)

<sup>9</sup> *Ibid.*, p. 59.

<sup>10</sup> *Ibid.*

<sup>11</sup> Available at [http://www.lsuc.on.ca/media/may3110\\_oclnreport\\_final.pdf](http://www.lsuc.on.ca/media/may3110_oclnreport_final.pdf), p. 23.

<sup>12</sup> Julie Macfarlane, "The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants", p. 8.

<sup>13</sup> Michael Trebilcock, Anthony Duggan and Lorne Sossin, eds. *Middle Income Access to Justice*, (Toronto/Buffalo/London: University of Toronto Press, 2012), Part 2: "Defining the Problem: What are the Unmet Legal Needs?"

<sup>14</sup> [http://www.abajournal.com/news/article/survey\\_finds\\_people\\_in\\_need\\_of\\_legal\\_representation\\_turn\\_to\\_the\\_internet/](http://www.abajournal.com/news/article/survey_finds_people_in_need_of_legal_representation_turn_to_the_internet/), <http://blog.larrybodine.com/2014/01/articles/tech/most-consumers-go-online-to-look-for-an-attorney/>

<sup>15</sup> Frank H. Stephen, *Lawyers, Markets and Regulation* (Cheltenham, U.K./Northampton, Mass.: Edward Elgar), p. 131.

<sup>16</sup> Legal Services Board, (*Evaluation: Changes in Competition in Different Legal Markets*), supra note 7, paragraph 3.14 and Part IV. (Overview).

<sup>17</sup> Edward M. Iacobucci and Michael J. Trebilcock in "An Economic Analysis of Alternative Business Structures for the Practice of Law", p. 23, September 20, 2013.

---

<sup>18</sup> Solicitors Regulation Authority, “Research on Alternative Business Structures (ABSs): Findings from surveys with ABSs and applicants that withdrew from the licensing process”, May 2014, p.12

<sup>19</sup> In Australia, approximately 30% of solicitor firms are now ILPs although few are non-traditional practices. The number of firms and the number of practising solicitors have increased (information provided by the Office of the Legal Services Commissioner, New South Wales, Australia).

<sup>20</sup> LSUC Final Report of the Sole Practitioner and Small Firm Task Force, 2005, online at <http://www.lsuc.on.ca/media/convmar05solepractitioner.pdf> , particularly paragraphs 36 to 37 and 39 to 41. See also, Noel Semple, “Access to Justice: Is Legal Services Regulation Blocking the Path?” (2013).

<sup>21</sup> This issue is described by Gillian K. Hadfield in “The Cost of Law: Promoting Access to Justice Through the (Unincorporate) Practice of Law”, *International Review of Law and Economics* 39 (2014).

<sup>22</sup> Bruce Robinson, “When Lawyers Don’t Get All the Profits: Non-Lawyer Ownership of Legal Services, Access, and Professionalism”. Available at [ssrn.com/abstract=2487878](http://ssrn.com/abstract=2487878).

<sup>23</sup> Ted Schneyer, “Thoughts on the Compability of Recent Reforms with U.S. Traditions in Regulating Law Practice”, 2009, *J. Prof. Law.* 13.

<sup>24</sup> *Blank v. Canada (Minister of Justice)*, [2006] 2 S.C.R. 319, 26.

<sup>25</sup> *Lavallee, Rackel & Heintz v. Canada (Attorney General)*; *White, Ottenheimer & Baker v. Canada (Attorney General)*; *R. v. Fink* [2002] 3 S.C.R. 209.

<sup>26</sup> There have been numerous reports about the Australian experience, including studies indicating that the adoption of an outcomes focused approach has reduced complaints. See for example, Susan Fortney and Tahlia Gordon, “Adopting Law Firm Management Systems to Survive and Thrive: A Study of the Australian Approach to Management-Based Regulation”, Hofstra University School of Law Legal Studies Research Paper No. 13-02 (2013).

<sup>27</sup> [www.olsc.nsw.gov.au/olsc/lsc\\_incorp.html](http://www.olsc.nsw.gov.au/olsc/lsc_incorp.html)

<sup>28</sup> The Solicitors Regulation Authority is the regulator for solicitors. The approach taken by the SRA is described in this section.

<sup>29</sup> The English Outcomes-Focused Regulation is analogous to the Australian Appropriate Management Systems.

<sup>30</sup> A compliance officer for finance and administration is also required by the SRA.

<sup>31</sup> [www.sra.org.uk/solicitors/colp-cofa.page](http://www.sra.org.uk/solicitors/colp-cofa.page)

<sup>32</sup> See for example, Solicitors Regulation Authority, “Research on Alternative Business Structures (ABSs): Findings from surveys with ABSs and applicants that withdrew from the licensing process”, May 2014 and Legal Services Board Report, October 2013, starting at page 63 – <https://research.legalservicesboard.org.uk/wp-content/media/Changes-in-competition-in-market-segments-REPORT.pdf>

<sup>33</sup> *Ibid.*

---

<sup>34</sup> *Law Society Act*, R.S.O. 1990, c.L.8, s 4.2

<sup>35</sup> The Law Society is mandated by section 4.2 of the *Law Society Act* to protect the public interest, but also to ensure that restrictions on who may provide particular legal services should be proportional to the significance of the regulatory objectives sought to be realized. The Working Group recognizes that there may be types of services or business that should be restricted due to risk. The Law Society would develop criteria governing the assessment of sufficient regulatory risk. This is the approach adopted in New South Wales, where the *Legal Profession Act 2004* (section 135) provides that an incorporated legal practice must not conduct a managed investment scheme and that the regulations may prohibit an incorporated legal practice from providing a service or conducting a business, of a kind specified by the regulation.

<sup>36</sup> Please see discussion in previous footnote.

<sup>37</sup> Regulation respecting the practise of the profession of advocate within a limited liability partnership or joint-stock company and in multidisciplinary, RRQ, c B-1, r 9.

<sup>38</sup> *Legal Profession Act*, S.N.S. 2004, c. 28.

<sup>39</sup> The term “designated paralegal” in this context refers to a paralegal who can perform additional duties under a lawyer’s supervision (see <http://www.lawsociety.bc.ca/newsroom/highlights.cfm#c2663>).

<sup>40</sup> Law Society of British Columbia, *Alternative Business Structures in the Legal Profession*: Preliminary Discussion and Recommendations, October 2011, pp. 21-22.

<sup>41</sup> *Legal Profession Act*, S.B.C. 1998, c. 9.

<sup>42</sup> *Legal Profession Act, 1990*, S.S., c. L.10.1, s. 10, online at <http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/L10-1.pdf>.

<sup>43</sup> Susan Fortney and Tahlia Gordon, “Adopting Law Firm Management Systems to Survive and Thrive: A Study of the Australian Approach to Management-Based Regulation”, supra note 23.

<sup>44</sup> Integrated Legal Holdings became the second listed firm on the ASX on August 17, 2008.

<sup>45</sup> Noel Semple, “Access to Justice: Is Legal Services Regulation Blocking the Path?” Since then, two other firms have been listed on the Australian Stock Exchange.

<sup>46</sup> The 10 areas are negligence, communication, delay, liens/file transfers, cost disclosure/billing practices/termination of retainer, conflict of interests, records management, undertakings, supervision of practice and staff, and trust account regulations. Susan Fortney and Tahlia Gordon, “Adopting Law Firm Management Systems to Survive and Thrive: A Study of the Australian Approach to Management-Based Regulation”, supra note 23, p. 15.

<sup>47</sup> *Legal Profession Act 2004*, (NSW), s. 140(5).

<sup>48</sup> Susan Fortney and Tahlia Gordon, “Adopting Law Firm Management Systems to Survive and Thrive: A Study of the Australian Approach to Management-Based Regulation”, supra note 23 at 11.

<sup>49</sup> Dan Bindman, “ABSs top 300 mark with latest licensees demonstrating variety of new legal breed”, *Legal Futures*, April 16, 2014, <http://www.legalfutures.co.uk/latest-news/abs-top-300-mark-latest-licencees-demonstrating-variety-new-legal-breed>

---

<sup>50</sup> [www.nataliegambleassociates.co.uk](http://www.nataliegambleassociates.co.uk)

<sup>51</sup> <http://www.winnsolicitors.com/>.

<sup>52</sup> ABA Commission on Ethics 20/20, *Issues Paper Concerning Alternative Business Structures* (April 5, 2011).

## FOR INFORMATION

### ENTITY AND COMPLIANCE-BASED REGULATION

#### Issues Under Consideration

13. This report provides an update to Convocation on the Committee's work on entity and compliance-based regulatory models.
14. On February 27, 2014, Convocation approved the development of a framework for the regulation of firms, including entities, providing legal services, and the Law Society's consideration of the implementation of compliance-based regulation.<sup>1</sup>
15. If adopted, firm or entity regulation would provide the authority to regulate firms and other entities providing legal services in addition to the Law Society's current authority in the *Law Society Act*. Compliance-based regulation is an outcomes-focused approach to regulation. The regulator sets out expected outcomes and provides flexibility to firms as to how the outcomes are achieved.
16. At its September 11, 2014, meeting, the Committee began its introduction to the topics remitted to it by Convocation. After considering reports, the Committee directed Law Society staff to develop models for entity and compliance-based regulation for its consideration and comment. The Committee also expressed an interest in hearing from experts in firm and compliance based regulation to improve its understanding of the regulatory models.
17. The Paralegal Standing Committee also discussed these matters at its meeting on September 10, 2014.

---

<sup>1</sup> The report may be accessed on the Law Society's web page at [http://lsuc.on.ca/uploadedFiles/For\\_the\\_Public/About\\_the\\_Law\\_Society/Convocation\\_Decisions/2014/convfeb2014\\_PRC\(1\).pdf](http://lsuc.on.ca/uploadedFiles/For_the_Public/About_the_Law_Society/Convocation_Decisions/2014/convfeb2014_PRC(1).pdf).

**FOR INFORMATION**

**2014 LAWYER ANNUAL REPORT**

**Issue**

18. The amended 2014 Lawyer Annual Report and the 2014 Class L3 Canadian Legal Advisor Annual Report are shown at **TAB 6.3.1** and **6.3.2**, respectively, for Convocation's information.

**Rationale**

19. Subsections 5(1)(a) and 5(1)(b) of By-Law 8 require that every licensee file a report with the Law Society by March 31 of each year, in respect of the licensee's professional business during the preceding year; and the licensee's other activities during the preceding year related to the licensee's practice of law or the provision of legal services. The By-Law provides that the report shall be in a form provided by the Society.

**Summary of the Amendments**

20. The substantive amendments to the 2014 Lawyer Annual Report (**TAB 6.3.1**) are as follows:
  - a. The Privacy Option question, which sought licensees' consent to disclose their names, business addresses, and emails to professional legal associations, organizations, and institutions, formerly found within Section A – Identification, has been removed in its entirety.
  - b. The self-identification questions following Section A - Identification, Question 3, within the electronic form, were modified to reflect the decision of the Equity and Aboriginal Issues Committee, presented to Convocation for information in February 2013, with further minor changes made in May 2014. (**TAB 6.3.3**).
  - c. All lawyer licensees who act on a real estate transaction in 2014 will be required to complete the mandatory Real Estate Declaration at Section D – Areas of Practice, Question 4(e). The Real Estate Declaration was approved by Convocation in February 2013.
  - d. A mandatory question has been added to the 2014 Lawyer Annual Report about membership in any other regulated body. The wording of the additional question is:

***Are you now a member of another professional/regulatory/governing body in any jurisdiction?***

***e. If the answer is yes, please identify the professional/regulatory/governing body.***

21. With respect to the mandatory question above, obtaining information about membership in other regulated bodies would assist the Law Society to share with or obtain information from other regulators in the course of an investigation, subject to confidentiality considerations.
22. Sharing of information between law societies is one of the National Discipline Standards adopted by Convocation in February 2014.<sup>1</sup>
23. A number of other law societies currently ask for this information
24. The substantive amendments to the 2014 Class L3 Licence Canadian Legal Advisor Annual Report (**TAB 6.3.2**) are described below:
  - a. The Privacy Option question, which sought licensees' consent to disclose their names, business addresses, and emails to professional legal associations, organizations, and institutions, formerly found within Section A – Identification, has been removed in its entirety.
  - b. The self-identification questions following Section A - Identification, Question 3, within the electronic form, were modified to reflect the decision of the Equity and Aboriginal Committee, presented to Convocation for information in February 2013, with further minor changes made in May 2014 (**TAB 6.3.3**).
  - c. A proposal has been made to add a mandatory question to be asked in the 2014 Class L3 Licence Canadian Legal Advisor Annual Report about membership in any other regulated body. The question is described above in paragraph 4 of this report.

---

<sup>1</sup> Information sharing among Law Societies is referred to in paragraph 16 of the National Discipline Standards, which provides that “there is an ability to share information about a lawyer who is a member of another law society with that other law society when an investigation is underway in a manner that protects solicitor-client privilege, or there is an obligation on the lawyer to disclose to all law societies of which he/she is a member that there is an investigation underway.”



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2014 Lawyer Annual Report

### Introduction Page

#### **YOUR 2014 LAWYER ANNUAL REPORT IS DUE MARCH 31, 2015.**

This report is based on the calendar year ending December 31, 2014, and is due by March 31, 2015. Failure to complete and file the report within 60 days of the due date will result in a late filing fee and a summary order suspending your licence until such time as this report is filed and the late filing fee is paid.

Your responses to Sections A to D will be shared with the Lawyers' Professional Indemnity Company (LAWPRO), which may rely on this information for the purposes of your professional indemnity insurance.

**GUIDE:** For definitions or assistance in completing this report, click the "Guide" button in the "Additional Information Menu" at the top of this page. For quick reference, you can also access relevant parts of the Guide within each section of the report.

**FINANCIAL FILING DECLARATION (FFD):** Only the Designated Financial Filing Partner for each firm should submit the Financial Filing Declaration. A single Financial Filing Declaration is required from each firm. The Financial Filing Declaration is available for filing at the end of Section G or by clicking on the "FFD" button in the "Attachments Menu". The FFD will not submit automatically with your report; you must ensure that you submit your FFD once you have completed it.

You do not have to submit the FFD at the same time as your Lawyer Annual Report.

**FORM 1: REPORT TO THE LAW FOUNDATION OF ONTARIO:** To complete and submit this form online, click on the "Form 1 - Report to The Law Foundation" button in the "Attachments Menu". Questions about completing this form and questions concerning interest on mixed trust accounts should be directed to The Law Foundation at (416) 598-1550 or by email at [form1@lawfoundation.on.ca](mailto:form1@lawfoundation.on.ca).

You must file a Form 1 if client trust monies were held in a mixed trust account during the reporting year and you are responsible for the account or you are the Designated Financial Filing Partner.

**If you are not able to submit the Form 1 online,** click [here](#) for a printable copy. Once completed it should be sent directly to The Law Foundation at the address found on the form.

You do not have to submit the Form 1 at the same time as your Lawyer Annual Report.

The Form 1 is due by **March 31, 2015**.

**BY-LAWS:** To reference the applicable by-law, click on the "By-Laws" button in the "Additional Information Menu" at the top of this page.

**BLANK DRAFT FORM:** To download a draft reference copy, click on the "Blank Draft Form" button found at the top of this page.

**The draft reference copy cannot be submitted.**



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2014 Lawyer Annual Report

**NOTE:** Your session will time out automatically after 45 minutes of inactivity. You must save your changes frequently to avoid losing any information you have entered in your report. Use the "Save" button found in the "Navigation Menu" or at the bottom of each section.

To log out of the LSUC Portal, click on "Log Out" at the top of this page. Please ensure you have saved your changes first; or, if you wish to move to a different area in the LSUC Portal, save your changes and then click on the relevant tab found at the top of this page.

If you require filing assistance, contact By-Law Administration Services at (416) 947-3315 or at (800) 668-7380 ext. 3315 or by email at [bylawadmin@lsuc.on.ca](mailto:bylawadmin@lsuc.on.ca).



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2014 Lawyer Annual Report

### Section A IDENTIFICATION

Populated from Law Society records as at December 2014.

Questions about this section? Click [here](#).

**Licensee Information:**

Law Society Number:

Year of Call:

**Mailing Information\*:**

*\*As at December 2014*

Name:

Address:

City, Province:

Postal Code:

Email:

Assistant/Administrator Email: (optional)

---

(If you wish your confirmation email to be sent to you and someone else, enter the email address here.)

Phone:

Status:

**Is the information above current? If not, update our records online by selecting the Change of Information tab after you have logged out and/or completed filing your annual report. By-Law 8 requires licensees to notify the Law Society immediately after any change in contact information.**



**1. Bencher Election Privacy Option (non-mandatory response)**

During the bencher election, many candidates want to communicate with voters by email.

Check the box if you give the Law Society permission to provide your email address for bencher election campaigning purposes:

**2. Provision of Legal Services in French (non-mandatory response)**

- a) Can you communicate with your clients and provide legal advice to them in the French language? Yes  No
- b) Can you communicate with your clients, provide legal advice to them, and represent them in the French language? Yes  No

**3. Other Languages (non-mandatory response)**

- |   |                                     |                                     |
|---|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> ASL or LSQ (Sign Language) | <input type="checkbox"/> Albanian   | <input type="checkbox"/> Arabic     |
| <input type="checkbox"/> Bulgarian                  | <input type="checkbox"/> Cantonese  | <input type="checkbox"/> Croatian   |
| <input type="checkbox"/> Czech                      | <input type="checkbox"/> Danish     | <input type="checkbox"/> Dutch      |
| <input type="checkbox"/> English                    | <input type="checkbox"/> Estonian   | <input type="checkbox"/> Farsi      |
| <input type="checkbox"/> Finnish                    | <input type="checkbox"/> French     | <input type="checkbox"/> German     |
| <input type="checkbox"/> Greek                      | <input type="checkbox"/> Gujarati   | <input type="checkbox"/> Hebrew     |
| <input type="checkbox"/> Hindi                      | <input type="checkbox"/> Hungarian  | <input type="checkbox"/> Italian    |
| <input type="checkbox"/> Japanese                   | <input type="checkbox"/> Korean     | <input type="checkbox"/> Latvian    |
| <input type="checkbox"/> Lithuanian                 | <input type="checkbox"/> Macedonian | <input type="checkbox"/> Mandarin   |
| <input type="checkbox"/> Norwegian                  | <input type="checkbox"/> Polish     | <input type="checkbox"/> Portuguese |
| <input type="checkbox"/> Punjabi                    | <input type="checkbox"/> Romanian   | <input type="checkbox"/> Russian    |
| <input type="checkbox"/> Serbian                    | <input type="checkbox"/> Slovak     | <input type="checkbox"/> Slovene    |
| <input type="checkbox"/> Spanish                    | <input type="checkbox"/> Swedish    | <input type="checkbox"/> Ukrainian  |
| <input type="checkbox"/> Urdu                       | <input type="checkbox"/> Yiddish    |                                     |

Other - Please specify: \_\_\_\_\_



## 2014 Lawyer Annual Report

### Section B YEAR END STATUS (To be completed by all licensees.)

Questions about this section? Click [here](#).

#### NOTES ABOUT THIS SECTION:

1. Choose only one status (your status on December 31, 2014) regardless of changes during the 2014 calendar year.
2. **Your response to this question will not be used to change your status.** To review or update your current status, please use the Change of Information tab in the LSUC Portal.

December 31, 2014 Status (Select only ONE)		Mandatory Sections	Complete if Applicable
A sole practitioner, practising alone in Ontario	<input type="checkbox"/>	DEFGH	
A sole practitioner, practising in Ontario with one or more lawyers as employees	<input type="checkbox"/>	DEFGH	
A sole practitioner, practising in Ontario with one or more lawyers in shared facilities	<input type="checkbox"/>	DEFGH	
A partner in a law partnership in Ontario	<input type="checkbox"/>	DEFGH	
An employee/associate/counsel in a law firm in Ontario	<input type="checkbox"/>	DEFGH	
In House Counsel Insured by LawPRO	<input type="checkbox"/>	EF H	CDG
In House Counsel Not Insured by LawPRO	<input type="checkbox"/>	EF H	CDG
Employed by Legal Aid Ontario or a community legal clinic	<input type="checkbox"/>	EF H	CDG
Employed in government in Ontario	<input type="checkbox"/>	EF H	CDG
Employed in education in Ontario	<input type="checkbox"/>	EF H	CDG
Employed other in Ontario (not practising law)	<input type="checkbox"/>	EF H	CDG
A lawyer practising law outside of Ontario	<input type="checkbox"/>	EF H	CDG
Employed other outside of Ontario (not practising law)	<input type="checkbox"/>	EF H	CDG
Emeritus lawyer providing pro bono legal services through Pro Bono Law Ontario	<input type="checkbox"/>	EF H	CDG
Not working or on parental leave or unemployed	<input type="checkbox"/>	EF H	CDG
Suspended	<input type="checkbox"/>	EF H	CDG
In a situation not covered above (specify your status in the area below)	<input type="checkbox"/>	EF H	CDG



## 2014 Lawyer Annual Report

### Section C ALLOCATION OF PRACTICE (To be completed by all lawyers practising law but not in private practice in 2014.)

Questions about this section? Click [here](#).

#### NOTES ABOUT THIS SECTION:

1. Complete Section C only if you engaged in the practice of law\* in respect of Ontario law (whether Provincial or Federal) during the course of your employment or engagement. Complete Section C only in respect of such services. Complete regardless of where you were resident.
2. "Employer" includes a corporation or other entity employing you, as well as affiliated, controlled, and subsidiary companies of that corporation or other entity.
3. "Affiliated", "controlled" and "subsidiary" companies are as defined in the *Securities Act*, R.S.O. 1990, c.S.5.
4. \* Refer to the Guide for definitions.

What approximate percentage of the time spent practising law was devoted to:

The practice of law for outside third parties on your employer's behalf (e.g. employer's clients, customers, etc.) \_\_\_\_\_

The practice of law for outside third parties not on your employer's behalf \_\_\_\_\_

The practice of law directly for your employer \_\_\_\_\_

**Total:** \_\_\_\_\_

The total for the 3 rows should be 100%.



## 2014 Lawyer Annual Report

**Section D AREAS OF PRACTICE (To be completed by all lawyers resident in Ontario in 2014, who engaged in the practice of law, whether in private practice or otherwise. Other lawyers, including those resident and practising in Canada, but outside of Ontario throughout 2014, and those resident and practising outside of Canada throughout 2014, should omit this section and proceed to Section E.)**

Questions about this section? Click [here](#).

### NOTES ABOUT THIS SECTION:

1. Questions in this section relate only to your law practice while resident in Ontario in 2014. "Resident" as used in this section has the same meaning given to it for the purposes of the *Income Tax Act* (Canada), R.S.C., 1985, c.1.
2. Where exact information is not available to respond to the questions under this heading, provide your best approximation.
3. In estimating the approximate percentage of time in each question, your response should include:
  - a. time spent by non-lawyer staff on your behalf, and
  - b. your docketed and undocketed time, combined.
4. If you were engaged in the practice of law\* other than in private practice, unless otherwise noted, your responses should be based upon the whole of your practice, whether for your employer or for others.
5. Do not include ADR or litigation activities in the categories of "Corporate/Commercial Law" and "Real Estate Law" for the first two questions in this section. ADR and litigation activities should be reflected under "ADR/Mediation Services" and "Civil Litigation" respectively for these noted categories.
6. In the category of "ADR/Mediation Services" for the first two questions in this section, indicate the percentage of time spent as a mediator or other role as an intermediary.
7. \*Refer to the Guide for definitions.

### 1. Canadian Law Practice – Ontario

a) Did you practise law relating to Ontario Law in 2014? Yes  No

**If "Yes" to a):**

b) Describe that portion of your law practice most directly relating to Ontario, by indicating the approximate percentage of time devoted by you while resident in Ontario in 2014 to each area of law listed below:

Aboriginal Law	_____ %	ADR/Mediation Services (see Notes 5 & 6 above)	_____ %
Administrative Law	_____ %	Bankruptcy & Insolvency Law	_____ %
Civil Litigation – Plaintiff	_____ %	Civil Litigation – Defendant	_____ %
Construction Law	_____ %	Corporate/Commercial Law (see Note 5 above)	_____ %
Criminal/Quasi Criminal Law	_____ %	Employment/Labour Law	_____ %
Environmental Law	_____ %	Family/Matrimonial Law	_____ %
Franchise Law	_____ %	Immigration Law	_____ %
Intellectual Property Law	_____ %	Real Estate Law (see Note 5 above)	_____ %
Securities Law	_____ %	Tax Law	_____ %
Wills, Estates, Trusts Law	_____ %	Workplace Safety & Insurance Law	_____ %



## 2014 Lawyer Annual Report

Other \_\_\_\_\_%

**Total:** \_\_\_\_\_%

Question 1b) must total 100%.

### 2. Canadian Law Practice – Other than Ontario

a) Did you practise law relating to Canadian jurisdictions other than Ontario in 2014? Yes  No

**If "Yes" to a):**

b) Describe that portion of your law practice most directly relating to Canadian jurisdictions other than Ontario, by indicating the approximate percentage of time devoted by you while resident in Ontario in 2014 to each area of law listed below.

Aboriginal Law	_____%	ADR/Mediation Services (see Notes 5 & 6 above)	_____%
Administrative Law	_____%	Bankruptcy & Insolvency Law	_____%
Civil Litigation – Plaintiff	_____%	Civil Litigation - Defendant	_____%
Construction Law	_____%	Corporate/Commercial Law (see Note 5 above)	_____%
Criminal/Quasi Criminal Law	_____%	Employment/Labour Law	_____%
Environmental Law	_____%	Family/Matrimonial Law	_____%
Franchise Law	_____%	Immigration Law	_____%
Intellectual Property Law	_____%	Real Estate Law (see Note 5 above)	_____%
Securities Law	_____%	Tax Law	_____%
Wills, Estates, Trusts Law	_____%	Workplace Safety & Insurance Law	_____%
Other	_____%		
<b>Total:</b>	_____%		

Question 2b) must total 100%.



**3. Canadian Law Practice - Other than Ontario**

What percentage of your total Canadian law practice relates most directly to Canadian jurisdictions other than Ontario? \_\_\_\_\_%

**4. Details of Real Estate Practice (if applicable)**

a) Of the time you devoted to your overall real estate practice in 2014, what approximate percentage of the time related to:

Purchases and mortgages	_____%	Sales	_____%
Development/land use	_____%	Residential landlord/tenant	_____%
Commercial leasing	_____%	Mortgage remedies work	_____%
Other	_____%		
<b>Total:</b>	_____%		

The total for the 7 rows should be 100%.

b) Of the time you devoted to your overall residential real estate practice in 2014 (including urban and non-urban, combined), what approximate percentage of the time related to:

**--Non-Condominiums--**

Residential single unit dwellings	_____%	Residential multiple unit dwellings of 4 units or less	_____%
Residential multiple unit dwellings of more than 4 units	_____%		

**--Condominiums--**

Residential	_____%
<b>Total:</b>	_____%

The total for the 4 rows should be 100%.

c) Of the time you devoted to conveyancing-related work, including mortgage work in 2014, what approximate percentage of the time related to:

Residential urban (i.e. within town/city limits)	_____%	Residential non-urban	_____%
Commercial	_____%	Industrial	_____%
Other	_____%		
<b>Total:</b>	_____%		

The total for the 5 rows should be 100%.



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2014 Lawyer Annual Report

d) Did you act on a real estate transaction in 2014?  If "Yes" to d), complete e).	Yes <input type="checkbox"/>	No <input type="checkbox"/>
--	------------------------------	-----------------------------

<b>e) Real Estate Declaration – To be completed by all lawyers who acted on a real estate transaction in 2014.</b>		
i. I declare that I complied in 2014 with my professional obligations to not permit anyone to use my lawyer's e-reg™ diskette/key and to not disclose to anyone my personalized e-reg™ pass phrase, as set out at Rule 6.1-5 [formerly Rule 5.01(3)] of the <i>Rules of Professional Conduct</i> ("Rules") and at subsection 6(2) of By-Law 7.1.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
ii. I declare that I complied in 2014 with my professional obligations to directly supervise non-lawyers to whom I assign permissible tasks and functions and to not assign to non-lawyers tasks requiring a lawyer's skill or judgment, as set out at Section 6.1 [formerly Rule 5.01] of the <i>Rules</i> and in Part I of By-Law 7.1.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
iii. I declare that I complied in 2014 with my professional obligation to not act for both a transferor and a transferee in the transfer of title to real property, as set out at Rule 3.4-16.7 [formerly Rule 2.04.0] of the <i>Rules</i> , except in the limited circumstances set out at Rule 3.4-16.9 [formerly Rule 2.04.1(3)].	Yes <input type="checkbox"/>	No <input type="checkbox"/>
iv. I declare that I complied in 2014 with my professional obligation, when acting in permissible circumstances for both a borrower and a lender in a mortgage or loan transaction, to disclose in writing to the borrower and lender, before the advance or release of mortgage or loan funds, all material information that is relevant to the transaction, as set out at Rule 3.4-15 [formerly Rule 2.04(6.1)] of the <i>Rules</i> and discussed further in the Commentary to the rule.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
v. I acknowledge my professional obligation, in the practice of real estate law, to not act or do anything or omit to do anything to assist a client, a person associated with a client or any other person to facilitate dishonesty, fraud, crime, or illegal conduct, as set out at Rules 3.2-7 and 3.2-7.1 [formerly Rules 2.02(5) and 2.02(5.0.1)] of the <i>Rules</i> , and discussed further in the Commentary to the rules, which I have read. I am aware that the Law Society and LawPRO offer many resources about real estate fraud, including the Law Society's <a href="#">Update on Mortgage Fraud</a> and webpage entitled <a href="#">Fighting Real Estate Fraud</a> , and LawPRO's <a href="#">Fraud Fact Sheet</a> and webpage entitled <a href="#">Avoid a Claim</a> .	Yes <input type="checkbox"/>	No <input type="checkbox"/>
vi. I declare that I complied with my obligation under the Electronic Land Registration Agreement to obtain evidence of proper authorization from the owner of the land or holder of an interest in the land that has directed the registration, prior to the submission of the document for registration in the electronic land registration system.	Yes <input type="checkbox"/>	No <input type="checkbox"/>



**Section E SELF-STUDY (To be completed by all licensees regardless of status.)**

Questions about this section? Click [here](#).

**NOTES ABOUT THIS SECTION:**

1. Refer to the "Additional Information Menu" above and click on "Guide" for more information about self-study.
2. The annual minimum expectation is 50 hours of self-study.
3. For the purposes of this section, self-study means self-directed reading or research using print materials, electronic or otherwise.
4. CPD hours must be reported in the CPD section of the LSUC Portal by December 31<sup>st</sup> of each calendar year.

**1. Self-Study**

a) Did you undertake any self-study during 2014? Yes  No

**If "Yes" to a),** answer b) to d).

**If "No" to a),** you may provide an explanation in the area at the end of this section.

b) Approximate total number of self-study hours spent on **file specific** reading or research: \_\_\_\_\_

c) Approximate total number of self-study hours spent on **general** reading or research: \_\_\_\_\_

d) Indicate below the tools used, overall, for all types of self-study. Check all that apply:

☛ Printed Material

☛ Internet

☛ Other

**If required, use the area below to provide further information about your Self-Study (Section E).**



**Section F INDIVIDUAL LAWYER QUESTIONS (To be completed by all licensees regardless of status.)**

Questions about this section? Click [here](#).

**NOTES ABOUT THIS SECTION:**

1. For further assistance in completing this section, refer to the Bookkeeping Guide available at [www.lsuc.on.ca](http://www.lsuc.on.ca).
2. \*Refer to the Guide for definitions.

**1. Cash Transactions - All lawyers must report on large cash transactions regardless of jurisdiction of practice.**

a) Did you receive cash\* in an aggregate amount equivalent to \$7,500 CDN or more in respect of any one client file in 2014? Yes  No

**If "Yes" to a):**

b) Was the cash solely for legal fees and/or client disbursements\*? Yes  No

**If "No" to b),** provide full particulars below with respect to compliance with Part III of By-Law 9 (Cash Transactions).

**2. Trust Funds/Property - 2a), 2b) and 2c) must be answered.**

a) In 2014, did you receive\* trust funds\* and/or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

b) In 2014, did you disburse\* (payout), or did you have signing authority to disburse, trust funds\* or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

c) In 2014, did you hold\* trust funds\* or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

**3. Estates and Power(s) of Attorney - 3a), 3b) and 3c) must be answered.**

a) i) In 2014, did you act as an estate trustee\* in Ontario? Yes  No

**If "Yes" to i),** answer ii), iii) & iv).

ii) Were you an estate trustee\* only for related\* persons in Ontario? Yes  No

iii) In 2014, the total number of estates in which you were an estate trustee\* was: \_\_\_\_\_ N/A

iv) As estate trustee\* for any estate, did you receive\*, hold\*, or disburse\* estate funds or estate property? Yes  No

**If "Yes" to iv),** answer v), vi) & vii).

v) The total dollar value as at December 31, 2014 of all separate\* bank accounts and investments\* for the estates referred to in iv) was: \$ \_\_\_\_\_ N/A

12345A

Lawyer's Name

12



2014 Lawyer Annual Report

vi) Were books and records maintained in accordance with By-Law 9, or other applicable rules/statutes? Yes  No  N/A

vii) Was the total dollar value indicated in v) recorded in the firm's accounting records? Yes  No  N/A

**If "No" to vii),** provide a written explanation in the text box at the end of this section.

b) i) In 2014, did you exercise a power of attorney\* for property in Ontario? Yes  No

**If "Yes" to i),** answer ii), iii) & iv).

ii) Did you exercise the power(s) of attorney\* for property only for related\* persons in Ontario? Yes  No

iii) In 2014, the total number of persons for whom you exercised a power of attorney\* was: \_\_\_\_\_ N/A

iv) In exercising the power(s) of attorney\* for any person, did you receive\*, hold\*, or disburse\* the donors' funds or property? Yes  No

**If "Yes" to iv),** answer v), vi) & vii).

v) The total dollar value as at December 31, 2014 of all separate\* bank accounts and investments\* for the power(s) of attorney\* referred to in iv) was: \$ \_\_\_\_\_ N/A

vi) Were books and records maintained in accordance with By-Law 9, or other applicable rules/statutes? Yes  No  N/A

vii) Was the total dollar value indicated in v) recorded in the firm's accounting records? Yes  No  N/A

**If "No" to vii),** provide a written explanation in the text box at the end of this section.

c) i) In 2014, did you control\* estate assets as a solicitor, and not as an estate trustee, in Ontario? (Only the lawyer responsible for the estate should answer "Yes".) Yes  No

**If "Yes" to i),** answer ii) & iii).

ii) In 2014, the total number of estate files open at any time during the year in which you were a solicitor with control\* over estate assets, but not an estate trustee was: \_\_\_\_\_ N/A



iii) As a solicitor, did you receive\*, hold\*, or disburse\* estate funds or estate property?

Yes  No

If "Yes" to iii), answer iv), v) & vi).

iv) The total dollar value as at December 31, 2014 of all separate\* bank accounts and investments\* for the estate files referred to in iii) was:

\$ \_\_\_\_\_ N/A

v) Were books & records maintained in accordance with By-Law 9?

Yes  No  N/A

vi) Was the total dollar value indicated in iv) recorded in the firm's accounting records?

Yes  No  N/A

If "No" to vi), provide a written explanation in the text box at the end of this section.

**4. Borrowing from Clients - 4a) and 4b) must be answered.**

**Note:** If your borrowing was/is from a lending institution, financial institution, insurance company, trust company or any similar corporation whose business includes lending money to members of the public, answer "No" to i) and "N/A" to ii).

See Rules 3.4-31 to 3.4-33 [formerly Rule 2.06(4), Commentary and Rule 2.06(5)] of the *Rules*.

a) i) At any time in 2014, were you personally indebted to a client or person who at the time of borrowing was or had been your client or a client of a firm for which you were then practising law?

Yes  No

If "Yes" to i):

ii) Was the client or person a related\* person as defined in the *Income Tax Act* (Canada)?

Yes  No  N/A

If "Yes" to i), provide full particulars below. Include the name of the lender and of the borrower, the amount of the loan, the security provided, and particulars of independent legal advice or independent legal representation obtained by the lender.

b) At any time in 2014, was your spouse or a corporation, syndicate or partnership in which either you or your spouse has, or both of you have, directly or indirectly, a substantial interest, indebted to a client or person who at the time of borrowing was or had been your client or a client of a firm in which you were then practising law?

Yes  No

If "Yes" to b), provide full particulars below. Include the name of the lender and of the borrower, the amount of the loan, the security provided, and particulars of independent legal advice or independent legal representation obtained by the lender.




---

**5. Mortgage Transactions**

In 2014, did you either directly or indirectly through a related person\* or corporation\*, hold\* mortgages or other charges on real property in trust for clients or other persons? Yes  No

**6. Private Mortgages - 6a) and 6b) must be answered. Refer to the Guide for Private Mortgage reporting information.**

a) In 2014, did you act for a lender, lending money through a mortgage broker? Yes  No

b) i) In 2014, did you act for, or receive money from, a lender who was lending money secured by a charge, or charges, on real property, except for transactions listed in subsection 24(2) of By-Law 9? (Note: For the exception in subsection 24 (2)(a)(i), funds loaned through RRSPs and RSPs belong to the plan holder, not the financial institution.) Yes  No

**If "Yes" to i):**

ii) In 2014, approximately how many private mortgage\* loans were advanced? \_\_\_\_\_

iii) In 2014, the approximate total dollar value of private mortgage\* loans advanced was: \$ \_\_\_\_\_

**7. Client Identification - All lawyers must answer questions 7a) and 7b).**

a) i) In 2014, when you provided professional services to clients, did you obtain and record identification information for every (each) client and any third party, in accordance with Part III of By-Law 7.1? Yes  No  N/A

**If "No" to i), answer ii).**

ii) In 2014, when you provided professional services to clients, were you exempt from the requirement to obtain and record identification information for every (each) client and any third party, in accordance with Part III of By-Law 7.1? Yes  No  N/A

**If "No" to ii), provide an explanation below.**

b) i) In 2014, when you engaged in or gave instructions in respect of the receiving, paying or transferring of funds, did you obtain information to verify the identity of each client, and additional identification information for a client that is an organization, and any third party, in accordance with Part III of By-Law 7.1? Yes  No  N/A

**If "No" to i), answer ii).**



## 2014 Lawyer Annual Report

ii) In 2014, when you engaged in or gave instructions in respect of the receiving, paying or transferring of funds, were you exempt from the requirement to obtain information to verify the identity of each client, and additional identification information for a client that is an organization, and any third party, in accordance with Part III of By-Law 7.1?

Yes  No  N/A

If "No" to ii), provide an explanation below.

### 8. Pro Bono Legal Services

**(Pro bono legal services means the provision of legal services to persons of limited means or to charitable or not-for-profit organizations without expectation of a fee from the client.)**

a) Did you provide pro bono legal services in Ontario in 2014?

Yes  No

If "Yes" to a), complete b) and c).

b) How many hours did you devote to pro bono legal services in Ontario in 2014?

\_\_\_\_\_

c) Did you provide pro bono legal services for Pro Bono Law Ontario (PBLO) sponsored programs?

Yes  No

### 9. Membership in other Regulatory Bodies

a) Are you now a member of another professional/regulatory/governing body in any jurisdiction?

Yes  No

If "Yes" to a), please identify the professional/regulatory/governing body.

\_\_\_\_\_

If required, use the area below to provide further information about your Individual Lawyer Questions (Section F).



## Section G FINANCIAL REPORTING

To be completed by:

- All sole practitioners, partners/employees/associates/counsel of law firms;
- Lawyers employed by Legal Aid responsible for general (non-trust) accounts or trust accounts; and
- All other lawyers who held or continued to hold client monies or property from a former legal practice in Ontario as at December 31, 2014.

Questions about this section? Click [here](#).

### NOTES ABOUT THIS SECTION:

1. For further assistance in completing this section, refer to the Bookkeeping Guide available at [www.lsuc.on.ca](http://www.lsuc.on.ca).
2. \* Refer to the Guide for definitions.

#### 1. Trust and General (Non-Trust) Accounts - 1a) and 1b) must be answered.

- a) As at December 31, 2014, did either you or your firm operate a trust\* account in Ontario? Yes  No
- b) As at December 31, 2014, did either you or your firm operate a general\* (non-trust) account in Ontario? Yes  No

If "Yes" to a), proceed to question 2.

If "No" to a) and "Yes" to b), proceed to question 4, and then proceed to Section H.

If "No" to both a) and b), proceed to Section H.

2. As at December 31, 2014, were you a sole practitioner, or were you the lawyer responsible for filing the trust account information on behalf of your firm in Ontario? Yes  No

If "Yes" to 2, proceed to questions 4 through 11.

**NOTE about Financial Filing Declaration (FFD):** If you are reporting financial information on behalf of other lawyers and/or paralegals in your firm, you must also submit a Financial Filing Declaration.

Your report is not considered complete without submitting the Financial Filing Declaration.

**NOTE about Form 1: Report to The Law Foundation:** If you answered "Yes" to question 2, you must complete and submit the Form 1.

If "No" to 2, complete the "Designated Financial Filing Option" (question 3) below.



**3. Designated Financial Filing Option**

This option is available to you if you are not responsible for filing trust account information.

Indicate on lines a) and b) below who will be reporting the firm's financial information on your behalf, then proceed to Section H.

**ENTER DESIGNATED FINANCIAL FILING PARTNER'S NAME & LAW SOCIETY NUMBER**

a) **FINANCIAL FILING PARTNER'S NAME:** \_\_\_\_\_

b) **Law Society Number:** \_\_\_\_\_  
(e.g. 12345A or P12345)

The filing partner you have named is responsible for filing the Financial Filing Declaration to report the firm's financial information on your behalf. Your report will not be considered complete without the submission of the **Financial Filing Declaration by the person you have named.**

**4. Firm Records**

Were financial records for all your firm's trust\* accounts (mixed\*, separate\*, estates, power(s) of attorney\* and other interest generating investments\*) and/or general\* (non-trust) bank accounts maintained throughout 2014, on a current basis, in accordance with all applicable sections in By-Law 9? Yes  No

If "No" to 4, indicate below which areas were deficient and provide an explanation for each.

**COMPLETE THIS CHART ONLY IF YOU ANSWERED "NO" ABOVE.  
COMPLETE ONLY THOSE AREAS WHERE YOU WERE DEFICIENT.**

<b>By-Law 9: Financial Transactions and Records</b>	<b>By-Law 9 Sections 18, 19 &amp; 20 (Maintain)</b>	<b>By-Law 9 Section 22 (Current)</b>	<b>Explanation for Deficiency</b>
<b>1. Trust Receipts Journal</b> <i>Subsection 18(1)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>2. Trust Disbursements Journal</b> <i>Subsection 18(2)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3. Clients' Trust Ledger</b> <i>Subsection 18(3)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>4. Trust Transfer Journal</b> <i>Subsection 18(4)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>5. General Receipts Journal</b> <i>Subsection 18(5)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>6. General Disbursements Journal</b> <i>Subsection 18(6)</i>	<input type="checkbox"/>	<input type="checkbox"/>	



2014 Lawyer Annual Report

<b>7. Fees Book or Chronological Billing File</b> <i>Subsection 18(7)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>8. Trust Bank Comparison **</b> <i>Subsection 18(8)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>9. Valuable Property Record</b> <i>Subsection 18(9)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>10. Source documents including deposit slips, bank statements and cashed cheques</b> <i>Subsection 18(10)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>11. Electronic Trust Transfer Requisitions and Confirmations</b> <i>Subsection 18(11) and Section 12 (Form 9A)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>12. Teranet Authorizations and Confirmations</b> <i>Subsection 18(12) and Section 15 (Form 9B)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>13. Duplicate Cash Receipts Book for all cash received</b> <i>Section 19</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>14. Records for mortgages held in trust</b> <i>Section 20</i>	<input type="checkbox"/>	<input type="checkbox"/>	
** Trust comparisons are to be completed within 25 days of the effective date of the monthly trust reconciliation.			

**5. Comparison of Trust Bank Reconciliations and Trust Listing of Client Liabilities as at December 31, 2014.**

Name and address of financial institution(s) where trust account(s) is (are) held and account number(s):

12345A

Lawyer's Name

19



## 2014 Lawyer Annual Report

FINANCIAL INSTITUTION NAME: ADDRESS: TRANSIT/ACCOUNT NUMBER:

Reconciliation To refer to a sample reconciliation in the "Guide" <a href="#">click here.</a>	December 31, 2014 Balances
a) The total dollar value of mixed* trust bank accounts	\$
b) The total dollar value of separate* interest bearing trust accounts or income generating trust accounts/investments*	+ \$
c) The total dollar value of separate* estate and/or power of attorney* accounts and investments* Include the total dollar value indicated in questions F 3 a) v), F 3 b) v) and/or F 3 c) iv) (if any)	+ \$
d) <b>TOTAL</b> of a) to c)	=
e) Total outstanding deposits (if any)	+
f) Total bank/posting errors (if any)	+/-
g) Total outstanding cheques (if any)	-
h) <b>Reconciled Bank Balance</b>	=
i) <b>Total Client Trust Liabilities</b> (Client Trust Listing)	-
j) <b>Difference between Reconciled Bank Balance and Total Client Trust Liabilities</b>	=

If there is a difference between the Reconciled Bank Balance (h) and the Total Client Trust Liabilities (i), provide a written explanation below.

**6. Answer all questions as at December 31, 2014.**

a) i) What is the total number of mixed\* trust bank accounts referred to in 5a)? \_\_\_\_\_

12345A

Lawyer's Name

20



2014 Lawyer Annual Report

ii) Of the total mixed\* trust bank account balance recorded in 5a), what is the estimated value of estate assets? \$ \_\_\_\_\_

b) What is the total number of separate\* interest bearing trust accounts or income generating trust accounts/investments\* referred to in 5b)? \_\_\_\_\_

c) What is the total number of separate\* estate and/or power of attorney\* accounts and investments\* referred to in 5c)? \_\_\_\_\_

**7. Overdrawn Accounts**

a) During 2014, did your records at any month end disclose overdrawn clients' trust ledger account(s)? Yes  No

**If "Yes" to a):**

b) Were the account(s) corrected by December 31, 2014? Yes  No

**If "No" to b):**

c) The total dollar value of overdrawn clients' trust ledger account(s) as at December 31, 2014 was: \$ \_\_\_\_\_

d) The total number of overdrawn clients' trust ledger account(s) as at December 31, 2014 was: \_\_\_\_\_

**8. Outstanding Deposits**

a) During 2014, did your records at any month end disclose outstanding trust account deposits, not deposited the following business day? Yes  No

**If "Yes" to a):**

b) Were the account(s) corrected by December 31, 2014? Yes  No

**If "No" to b):**

c) The total dollar value of outstanding trust account deposits as at December 31, 2014 was: \$ \_\_\_\_\_

d) The total number of outstanding trust account deposits as at December 31, 2014 was: \_\_\_\_\_

**9. Unchanged Client Trust Ledger Account Balances**

a) Were there client trust ledger account balances that were unchanged\* (i.e. had no Yes  No



activity) for the entire year?

**If "Yes" to a):**

- b) The total dollar value of these account balances as at December 31, 2014 was: \$ \_\_\_\_\_
- c) The total number of client trust ledger accounts that remained unchanged\* for the entire year as at December 31, 2014 was: \_\_\_\_\_
- d) Were any of the unchanged\* client trust ledger account balances for the registration of mortgage discharges? Yes  No

**If "Yes" to d):**

- e) The total number of unchanged\* client trust ledger account balances held for the registration of mortgage discharges was: \_\_\_\_\_

**10. Unclaimed Client Trust Ledger Account Balances**

- a) Of the amounts identified in question 9, were any unclaimed\* for two years or more? (Refer to Section 59.6 of the *Law Society Act*) Yes  No  N/A

**If "Yes" to a):**

- b) The total dollar value of the unclaimed\* client trust ledger account balances was: \$ \_\_\_\_\_
- c) The total number of unclaimed\* client trust ledger accounts was: \_\_\_\_\_

**11. Financial Filing Declaration (FFD)**

Will you be filing the above financial information on behalf of any other lawyers and/or paralegals? Yes  No

Sole practitioners practising alone in Ontario do not need to file the FFD.

**If required, use the area below to provide further information about your Financial Reporting (Section G).**

**Section H CERTIFICATION AND SUBMISSION (To be completed by all licensees.)**





## 2014 Class L3 Licence Canadian Legal Advisor Annual Report

**YOUR 2014 CLASS L3 LICENCE CANADIAN LEGAL ADVISOR ANNUAL REPORT IS DUE MARCH 31, 2015.**

This report is based on the calendar year ending December 31, 2014, and is due by March 31, 2015. Failure to complete and file the report within 60 days of the due date will result in a late filing fee and a summary order suspending your licence until such time as this report is filed and the late filing fee is paid.

**GUIDE:** For definitions or assistance in completing this report, see the enclosed Guide.

**FINANCIAL FILING DECLARATION (FFD):** Only the Designated Financial Filing Partner for each firm should submit the Financial Filing Declaration. A single Financial Filing Declaration is required from each firm. The Financial Filing Declaration is enclosed.

You do not have to submit the FFD at the same time as your Annual Report.

### **FORM 1: REPORT TO THE LAW FOUNDATION:**

Questions about completing this form and questions concerning interest on mixed trust accounts should be directed to The Law Foundation at (416) 598-1550 or email [form1@lawfoundation.on.ca](mailto:form1@lawfoundation.on.ca).

You must file a Form 1 if client trust monies were held in a mixed trust account during the reporting year and you are responsible for the account or you are the Designated Financial Filing Partner.

Once completed it should be mailed directly to The Law Foundation at the address found at the top of the form.

You do not have to submit the Form 1 at the same time as your Annual Report.

The Form 1 is due March 31, 2015.

**BY-LAWS:** The applicable by-laws are available in your 2014 L3 class Licence Canadian Legal Advisor Annual Report package or on our website, for your reference.

If you require assistance, contact By-Law Administration Services at (416) 947-3315 or at (800) 668-7380 ext. 3315 or by email at [bylawadmin@lsuc.on.ca](mailto:bylawadmin@lsuc.on.ca).



## 2014 Class L3 Licence Canadian Legal Advisor Annual Report

### Section A IDENTIFICATION

Populated from Law Society records as at December 2014.

**Licensee Information:**

Law Society Number:

Year of Call:

**Mailing Information\*:**

Name:

Address:

City, Province:

Postal Code:

Email:

Phone:

Status:

\*As at December 2014

**Is the information above current? If not, update our records online by selecting the Change of Information tab in the LSUC Portal. By-Law 8 requires licensees to notify the Law Society immediately after any change in contact information.**



**2014 Class L3 Licence  
Canadian Legal Advisor Annual Report**

**1. Bencher Election Privacy Option (non-mandatory response)**

During the bencher election, many candidates want to communicate with voters by email.

**Check the box if you give the Law Society permission to provide your email address for bencher election campaigning purposes:**

**2. Provision of Legal Services in French and English (non-mandatory response)**

a) Can you communicate with your clients and provide legal advice to them in both the French and English languages? Yes  No

b) Can you communicate with your clients, provide legal advice to them, and represent them in both the French and English languages? Yes  No

**3. Other Languages (non-mandatory response)**

- |   |                                     |                                     |
|---|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> ASL or LSQ (Sign Language) | <input type="checkbox"/> Albanian   | <input type="checkbox"/> Arabic     |
| <input type="checkbox"/> Bulgarian                  | <input type="checkbox"/> Cantonese  | <input type="checkbox"/> Croatian   |
| <input type="checkbox"/> Czech                      | <input type="checkbox"/> Danish     | <input type="checkbox"/> Dutch      |
| <input type="checkbox"/> English                    | <input type="checkbox"/> Estonian   | <input type="checkbox"/> Farsi      |
| <input type="checkbox"/> Finnish                    | <input type="checkbox"/> French     | <input type="checkbox"/> German     |
| <input type="checkbox"/> Greek                      | <input type="checkbox"/> Gujarati   | <input type="checkbox"/> Hebrew     |
| <input type="checkbox"/> Hindi                      | <input type="checkbox"/> Hungarian  | <input type="checkbox"/> Italian    |
| <input type="checkbox"/> Japanese                   | <input type="checkbox"/> Korean     | <input type="checkbox"/> Latvian    |
| <input type="checkbox"/> Lithuanian                 | <input type="checkbox"/> Macedonian | <input type="checkbox"/> Mandarin   |
| <input type="checkbox"/> Norwegian                  | <input type="checkbox"/> Polish     | <input type="checkbox"/> Portuguese |
| <input type="checkbox"/> Punjabi                    | <input type="checkbox"/> Romanian   | <input type="checkbox"/> Russian    |
| <input type="checkbox"/> Serbian                    | <input type="checkbox"/> Slovak     | <input type="checkbox"/> Slovene    |
| <input type="checkbox"/> Spanish                    | <input type="checkbox"/> Swedish    | <input type="checkbox"/> Ukrainian  |
| <input type="checkbox"/> Urdu                       | <input type="checkbox"/> Yiddish    |                                     |

Other - Please specify: \_\_\_\_\_



## 2014 Class L3 Licence Canadian Legal Advisor Annual Report

### Section B YEAR END STATUS (To be completed by all licensees.)

#### NOTES ABOUT THIS SECTION:

1. Choose only one status (your status as a Canadian Legal Advisor in Ontario on December 31, 2014) regardless of changes during the 2014 calendar year.
2. **Your response to this question will not be used to change your status.** To review or update your status, please use the Change of Information tab in the LSUC Portal.

December 31, 2014 Status (Select only ONE)		Mandatory Sections	Complete if Applicable
Canadian Legal Advisor practising in Ontario	<input type="checkbox"/>	DEFGH	
Canadian Legal Advisor prohibited from practising in Ontario (pursuant to subsection 4.1 of By-Law 4)	<input type="checkbox"/>	EFH	DG
Canadian Legal Advisor suspended in Ontario	<input type="checkbox"/>	EFH	DG
In a situation not covered above (specify your status in the area below)	<input type="checkbox"/>	EFH	DG

### Section C – NOT APPLICABLE TO A CLASS L3 LICENCE

### Section D AREAS OF PRACTICE (Complete if you engaged in the practice of law in Ontario, whether in private practice or otherwise.)

#### NOTE ABOUT THIS SECTION:

Where exact information is not available, provide your best approximation.

1. Indicate the percentages of time you devoted as a lawyer in Ontario to each area of practice.	
a) The Laws of Canada	_____
b) The Laws of Quebec	_____
c) Public International Law	_____
<b>Total:</b>	_____
Question 1 must total 100%	



## 2014 Class L3 Licence Canadian Legal Advisor Annual Report

### Section E SELF-STUDY (To be completed by all licensees.)

#### NOTES ABOUT THIS SECTION:

1. The annual minimum expectation is 50 hours of law related self-study. Canadian Legal Advisors can complete self-study in Ontario or Quebec.
2. For the purposes of this section, self-study means self-directed reading or research using print materials, electronic or otherwise.
3. CPD hours must be reported in the CPD section of the LSUC Portal by December 31<sup>st</sup> of each calendar year.

#### 1. Self-Study

a) Did you undertake any self-study during 2014?

Yes

No

If "Yes" to a), answer b) to d).

If "No" to a), you may provide an explanation in the area at the end of this section.

b) Approximate total number of self-study hours spent on **file specific** reading or research: \_\_\_\_\_

c) Approximate total number of self-study hours spent on **general** reading or research: \_\_\_\_\_

d) Indicate below the tools used, overall, for all types of self-study. Check all that apply:

Printed Material

Internet

Other

If required, use the area below to provide further information about your Self-Study (Section E).



## 2014 Class L3 Licence Canadian Legal Advisor Annual Report

### Section F INDIVIDUAL LAWYER QUESTIONS (To be completed by all licensees in Ontario.)

#### NOTES ABOUT THIS SECTION:

- For further assistance in the completion of this section, refer to The Lawyer Bookkeeping Guide.
- \*Refer to the Guide for definitions.

#### 1. Cash Transactions – All lawyers must report on large cash transactions regardless of jurisdiction of practice.

- a) Did you receive cash\* in an aggregate amount equivalent to \$7,500 CDN or more in respect of any one client file in 2014? Yes  No

**If "Yes" to a):**

- b) Was the cash solely for legal fees and/or client disbursements\*? Yes  No

**If "No" to b),** provide full particulars below with respect to compliance with Part III of By-Law 9, (Cash Transactions).

#### 2. Trust Funds/Property - 2a), 2b) and 2c) must be answered.

- a) In 2014, did you receive\* trust funds\* and/or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

- b) In 2014, did you disburse\* (payout), or did you have signing authority to disburse, trust funds\* or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

- c) In 2014, did you hold\* trust funds\* or trust property\* on behalf of your firm in connection with the practice of law in Ontario? Yes  No

#### 3. Estates and Power(s) of Attorney - 3a), 3b) and 3c) must be answered.

- a) i) In 2014, did you act as an estate trustee\* in Ontario? Yes  No

**If "Yes" to i), answer ii).**

- ii) Were you an estate trustee\* only for related\* persons in Ontario? Yes  No

- b) i) In 2014, did you exercise a power of attorney\* for property in Ontario? Yes  No

**If "Yes" to i), answer ii).**

- ii) Did you exercise the power(s) of attorney\* for property only for related\* persons in Ontario? Yes  No



**2014 Class L3 Licence  
Canadian Legal Advisor Annual Report**

- c) i) In 2014, did you control\* estate assets as a solicitor/legal counsel, and not as an estate trustee, in Ontario? Yes  No

(Only the lawyer responsible for the estate should answer "Yes".)

**4. Borrowing from Clients resident in Ontario - 4a) and 4b) must be answered.**

**Note:** If your borrowing was/is from a lending institution, financial institution, insurance company, trust company or any similar corporation whose business includes lending money to members of the public, answer "**No**" to i) and "**N/A**" to ii).

See Rules 3.4-31 to 3.4-33 [formerly Rule 2.06(4), Commentary, and Rule 2.06(5)] of the *Rules of Professional Conduct*.

- a) i) At any time in 2014, were you personally indebted to a client or person resident in Ontario who at the time of borrowing was or had been your client or a client of a firm in which you were then practising law? Yes  No

**If "Yes" to i):**

- ii) Was the client or person a related person as defined in the *Income Tax Act* (Canada), R.S.C., 1985, c.1? Yes  No  N/A

**If "Yes" to i),** provide full particulars below. Include the name of the lender and of the borrower, the amount of the loan, the security provided, and particulars of independent legal advice or independent legal representation obtained by the lender.

- b) At any time in 2014, was your spouse or a corporation, syndicate or partnership in which either you or your spouse has, or both of you have, directly or indirectly, a substantial interest, indebted to a client or person resident in Ontario who at the time of borrowing was or had been your client or a client of a firm in which you were then practising law? Yes  No

**If "Yes" to b),** provide full particulars below. Include the name of the lender and of the borrower, the amount of the loan, the security provided, and particulars of independent legal advice or independent legal representation obtained by the lender.

5. NOT APPLICABLE TO A CLASS L3 LICENCE

6. NOT APPLICABLE TO A CLASS L3 LICENCE



**2014 Class L3 Licence  
Canadian Legal Advisor Annual Report**

**7. Client Identification – All lawyers must answer questions 7a) and 7b).**

a) i) In 2014, when you provided professional services to clients, did you obtain and record identification information for every (each) client and any third party, in accordance with Part III of By-Law 7.1? Yes  No  N/A

**If "No" to i), answer ii).**

ii) In 2014, when you provided professional services to clients, were you exempt from the requirement to obtain and record identification information for every (each) client and any third party, in accordance with Part III of By-Law 7.1? Yes  No  N/A

**If "No" to ii), provide an explanation below.**

b) i) In 2014, when you engaged in or gave instructions in respect of the receiving, paying or transferring of funds, did you obtain and record information to verify the identity of each client, and additional identification information for a client that is an organization, and any third party, in accordance with Part III of By-Law 7.1? Yes  No  N/A

**If "No" to i), answer ii).**

ii) In 2014, when you engaged in or gave instructions in respect of the receiving, paying or transferring of funds, were you exempt from the requirement to obtain information to verify the identity of each client, and additional identification information for a client that is an organization, and any third party, in accordance with Part III of By-Law 7.1? Yes  No  N/A

**If "No" to ii), provide an explanation below.**

**8. Pro Bono Legal Services**

**(Pro bono legal services means the provision of legal services to persons of limited means or to charitable or not-for-profit organizations without expectation of a fee from the client.)**

a) Did you provide pro bono legal services in Ontario in 2014? Yes  No

**If "Yes" to a), complete b) and c).**

b) How many hours did you devote to pro bono legal services in Ontario in 2014? \_\_\_\_\_

c) Did you provide pro bono legal services for Pro Bono Law Ontario (PBLO) sponsored programs? Yes  No



**2014 Class L3 Licence  
Canadian Legal Advisor Annual Report**

**9. Membership in other Regulatory Bodies**

a) Are you now a member of another professional/regulatory/governing body in any jurisdiction? Yes  No

If "Yes" to a), please identify the professional/regulatory/governing body. \_\_\_\_\_

**If required, use the area below to provide further information about your Individual Lawyer Questions (Section F).**



**2014 Class L3 Licence  
Canadian Legal Advisor Annual Report**

**Section G FINANCIAL REPORTING** Answer the following questions as they relate to clients resident in Ontario. To be completed by:

- All sole practitioners, partners/employees/associates/counsel of law firms;
- Lawyers employed by Legal Aid Ontario responsible for general (non-trust) accounts or trust accounts; and
- All other lawyers who held or continued to hold client monies or property from a former legal practice in Ontario as at December 31, 2014.

**NOTES ABOUT THIS SECTION:**

1. For further assistance in the completion of this section, refer to The Lawyer Bookkeeping Guide available on our website at [www.lsuc.on.ca](http://www.lsuc.on.ca).
2. \* Refer to the Guide for definitions.

**1. Trust and General (Non-Trust) Accounts - 1a) and 1b) must be answered.**

a) As at December 31, 2014, did either you or your firm operate a trust\* account for client matters in Ontario? Yes  No

b) As at December 31, 2014, did either you or your firm operate a general\* (non-trust) account for client matters in Ontario? Yes  No

**If "Yes" to a),** proceed to question 2.

**If "No" to a) and "Yes" to b)** proceed to question 4, and then proceed to Section H.

**If "No" to both a) and b)** proceed to Section H.

Yes  No

2. As at December 31, 2014, were you a sole practitioner or were you the lawyer responsible for filing the Ontario trust account information on behalf of your firm?

**If "Yes" to 2,** proceed to questions 4 through 11.

**NOTE about Financial Filing Declaration (FFD):** If you are reporting financial information on behalf of other lawyers and/or licensed paralegals in your firm, you must also submit a Financial Filing Declaration.

Your report is not considered complete without the submission of the Financial Filing Declaration.

**NOTE about FORM 1: Report to The Law Foundation:** If you answered "Yes" to question 2, you must complete and submit the Form 1.

**If "No" to 2,** complete the "Designated Financial Filing Option" (question 3) below.



**2014 Class L3 Licence  
Canadian Legal Advisor Annual Report**

**3. Designated Financial Filing Option**

**This option is available to you if you are not responsible for filing trust account information.**

Indicate on lines a) and b) below who will be reporting the firm's financial information on your behalf, then proceed to Section H.

**ENTER DESIGNATED FINANCIAL FILING PARTNER'S NAME & LAW SOCIETY NUMBER**

a) **FINANCIAL FILING PARTNER'S NAME** \_\_\_\_\_

b) **Law Society Number (e.g. 12345A or P12345)** \_\_\_\_\_

The filing partner you have named is responsible for filing the Financial Filing Declaration to report the firm's financial information on your behalf. Your annual report will not be considered complete without the submission of the **Financial Filing Declaration by the person you have named.**

**4. Firm Records**

For your clients resident in Ontario, were financial records for all your firm's trust\* accounts (mixed\*, separate\*, estates, power(s) of attorney\* and other interest generating investments\*) and/or general\* (non-trust) bank accounts maintained throughout 2014, on a current basis, in accordance with all applicable sections in By-Law 9? Yes  No

If "No" to 4), indicate below which areas were deficient and provide an explanation for each.

**COMPLETE THIS CHART ONLY IF YOU ANSWERED "NO" ABOVE.  
COMPLETE ONLY THOSE AREAS WHERE YOU WERE DEFICIENT.**

<b>By-Law 9: Financial Transactions and Records</b>	<b>By-Law 9 Sections 18, 19 &amp; 20 (Maintain)</b>	<b>By-Law 9 Section 22 (Current)</b>	<b>Explanation for Deficiency</b>
<b>1. Trust Receipts Journal</b> <i>Subsection 18(1)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>2. Trust Disbursements Journal</b> <i>Subsection 18(2)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>3. Clients' Trust Ledger</b> <i>Subsection 18(3)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>4. Trust Transfer Journal</b> <i>Subsection 18(4)</i>	<input type="checkbox"/>	<input type="checkbox"/>	

12345A

Name

11



**2014 Class L3 Licence  
Canadian Legal Advisor Annual Report**

<b>5. General Receipts Journal</b> <i>Subsection 18(5)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>6. General Disbursements Journal</b> <i>Subsection 18(6)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>7. Fees Book or Chronological Billing File</b> <i>Subsection 18(7)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>8. Trust Bank Comparison **</b> <i>Subsection 18(8)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>9. Valuable Property Record</b> <i>Subsection 18(9)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>10. Source documents including deposit slips, bank statements and cashed cheques</b> <i>Subsection 18(10)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>11. Electronic Trust Transfer Requisitions and Confirmations</b> <i>Subsection 18(11) and Section 12 (Form 9A)</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>12. NOT APPLICABLE TO CLASS L3 LICENCE</b>			
<b>13. Duplicate Cash Receipts Book for all cash received</b> <i>Section 19</i>	<input type="checkbox"/>	<input type="checkbox"/>	
<b>14. NOT APPLICABLE TO CLASS L3 LICENCE</b>			
** Trust comparisons are to be completed within 25 days of the effective date of the monthly trust reconciliation.			

**5. Comparison of Trust Bank Reconciliations and Trust Listing of Client Liabilities as at December 31, 2014.**  
Name and address of financial institution(s) where trust account(s) is (are) held and account number(s) for client matters in Ontario:

**FINANCIAL INSTITUTION NAME:      ADDRESS:      TRANSIT/ACCOUNT NUMBER:**



## 2014 Class L3 Licence Canadian Legal Advisor Annual Report

<b>Reconciliation</b> A sample reconciliation is available in the Guide.	<b>December 31, 2014 Balances</b>
a) The total dollar value of mixed* trust bank accounts	\$
b) The total dollar value of separate* interest bearing trust accounts or income generating trust accounts/investments*	+ \$
c) The total dollar value of separate* estate and/or power of attorney* accounts and investments*	+ \$
d) <b>TOTAL</b> of a) to c)	=
e) Total outstanding deposits (if any)	+
f) Total bank/posting errors (if any)	+/-
g) Total outstanding cheques (if any)	-
h) <b>Reconciled Bank Balance</b>	=
i) <b>Total Client Trust Liabilities (Client Trust Listing)</b>	-
j) <b>Difference between Reconciled Bank Balance and Total Client Trust Liabilities</b>	=
<p><u>If there is a difference</u> between the Reconciled Bank Balance (<b>h</b>) and the Total Client Trust Liabilities (<b>i</b>), provide a written explanation below.</p>	

### 6. NOT APPLICABLE TO CLASS L3 LICENCE

### 7. Overdrawn Accounts

- a) During 2014, did your records, at any month end, disclose overdrawn clients' trust ledger account(s) for client matters in Ontario?

Yes  No

**If "Yes" to a):**

- b) Were the account(s) corrected by December 31, 2014?

Yes  No

**If "No" to b):**

- c) The total dollar value of overdrawn clients' trust ledger account(s) as at December 31, 2014 was:

\$ \_\_\_\_\_



**2014 Class L3 Licence  
Canadian Legal Advisor Annual Report**

d) The total number of overdrawn clients' trust ledger account(s) as at December 31, 2014 was: \_\_\_\_\_

**8. Outstanding Deposits**

a) During 2014, did your records, at any month end, disclose outstanding trust account deposits, not deposited the following business day for client matters in Ontario? Yes  No

**If "Yes" to a):**

b) Were the account(s) corrected by December 31, 2014? Yes  No

**If "No" to b):**

c) The total dollar value of outstanding trust account deposits as at December 31, 2014 was: \$ \_\_\_\_\_

d) The total number of outstanding trust account deposits as at December 31, 2014 was: \_\_\_\_\_

**9. Unchanged Client Trust Ledger Account Balances**

a) Were there client trust ledger account balances that were unchanged\*(i.e. had no activity) for the entire year for client matters in Ontario? Yes  No

**If "Yes" to a):**

b) The total dollar value of these account balances as at December 31, 2014 was: \$ \_\_\_\_\_

c) The total number of client trust ledger accounts that remained unchanged\* for the entire year as at December 31, 2014 was: \_\_\_\_\_

**10. Unclaimed Client Trust Ledger Account Balances**

a) Of the amounts identified in question 9, were any unclaimed\* for two years or more for client matters in Ontario? (Refer to subsection 59.6 of the *Law Society Act*) Yes  No  N/A

**If "Yes" to a):**

b) The total dollar value of the unclaimed\* client trust ledger account balances was: \$ \_\_\_\_\_

c) The total number of unclaimed\* client trust ledger accounts was: \_\_\_\_\_



## 2014 Class L3 Licence Canadian Legal Advisor Annual Report

### 11. Financial Filing Declaration (FFD)

Will you be filing the above financial information on behalf of any other lawyers and/or paralegals?

Yes  No

Sole practitioners practising alone in Ontario do not need to file the FFD.

**If required, use the area below to provide further information about your Financial Reporting (Section G).**

### Section H CERTIFICATION (To be completed by all licensees.)

I am the lawyer filing this 2014 Class L3 Licence Canadian Legal Advisor Annual Report. I have reviewed the matters reported, and the information contained herein is complete, true and accurate. I acknowledge that it is professional misconduct to make a false or misleading reporting to the Law Society of Upper Canada.

\_\_\_\_\_  
Signature

\_\_\_\_ / \_\_\_\_ / \_\_\_\_  
DD MM YYYY



The Law Society of  
Upper Canada

\*12345A

*The Law Society is committed to promoting equality and diversity in the legal profession and to enhancing legal services provided by and for Aboriginal, Francophone and equality-seeking communities. The following questions will help the Law Society to better understand demographic trends, to develop programs and initiatives within the mandate of the Law Society and to promote equality and diversity in the profession.*

*The question is voluntary and the information collected will be kept confidential. The information will only be available in aggregate form and will not be used to identify the demographic identity of individual lawyers and paralegals.*

**1. Are you Francophone?**

- Yes
- No
  
- I do not wish to answer

**2. Are you an Aboriginal person? (select all that apply)**

- First Nations, Status Indian, Non-Status Indian
- Inuk (Inuit)
- Métis
- Other – Specify \_\_\_\_\_
- No, not an Aboriginal person
  
- I do not wish to answer

**3. Are you of the following race or ethnic origin? (select all that apply)**

- Arab
- Black (e.g. African-Canadian, African, Caribbean)
- Chinese
- East-Asian (e.g. Japanese, Korean)
- Latin American, Hispanic
- South Asian (e.g. Indo-Canadian, Indian Subcontinent)
- South-East Asian (e.g. Vietnamese, Cambodian, Thai, Filipino)
- West Asian (e.g. Iranian, Afghan)
- White
- Other – Specify \_\_\_\_\_
  
- I do not wish to answer

**4. What is your religion or creed? (select all that apply)**

- Atheist
- Buddhist
- Hindu
- Jewish
- Muslim
- Protestant
- Roman Catholic
- Other Catholic, such as Eastern Orthodox and Ukrainian Catholic
- Sikh
- Other religion – Specify \_\_\_\_\_
- No religion
  
- I do not wish to answer

**5. Do you have a disability?**

- Yes
- No
  
- I do not wish to answer

**6. Are you transgender, transsexual, gay, lesbian or bisexual? (Select all that apply)**

- Transgender
- Transsexual
- Gay
- Lesbian
- Bisexual
- Other – Specify \_\_\_\_\_
- No
  
- I do not wish to answer

*For further information or inquiries about the Law Society's initiatives to promote equality and diversity in the profession, please contact the Equity Initiatives Department:*

Telephone: (416) 947-3300 ext. 2153      Toll-free: 1-800-668-7380 ext. 2153  
Fax: (416) 947-3983      E-mail: [equity@lsuc.on.ca](mailto:equity@lsuc.on.ca)

## **FOR INFORMATION**

### **PROFESSIONAL REGULATION DIVISION QUARTERLY REPORT**

25. The Professional Regulation Division Quarterly Report (second quarter 2014), provided to the Committee by Zeynep Onen, Executor Director of the Professional Regulation Division, appears on the following pages. The report includes information on the Division's activities and responsibilities, including file management and monitoring, for the period April-June 2014.



The Law Society of  
Upper Canada | Barreau  
du Haut-Canada

# The Professional Regulation Division

## Quarterly Report

April – June 2014

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

---

## **The Quarterly Report**

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

## INDEX

	Page
<b>SECTION 1 – REPORT HIGHLIGHTS</b>	<b>5</b>
<b>Highlights of Quarterly Performance</b>	<b>6</b>
The Division	6
Complaints Resolution	6
Investigations	6
Discipline	6
 <b>SECTION 2 – DIVISIONAL PERFORMANCE DURING THE QUARTER</b>	 <b>7</b>
<b>PERFORMANCE IN THE PROFESSIONAL REGULATION DIVISION</b>	<b>8</b>
Graph 2A: Complaints Received in the Division	8
Graph 2B: Complaints Closed in the Division	9
Graph 2C: Total Inventory	10
 <b>SECTION 3 – DEPARTMENT PERFORMANCE DURING THE QUARTER</b>	 <b>11</b>
<b>3.1 – Intake</b>	<b>12</b>
Graph 3.1A: Input	12
Graph 3.1B: Complaints Closed and Transferred Out	13
Graph 3.1C: Department Inventory	14
Graph 3.1D: Median Age of Complaints	15
 <b>3.2 – Complaints Resolution</b>	 <b>16</b>
Graph 3.2A: Input	16
Graph 3.2B: Complaints Closed and Transferred Out	17
Graph 3.2C: Department Inventory	18
Graph 3.2D: Median Age of Complaints	19
Graph 3.2E: Aging of Complaints	20
 <b>3.3 – Investigations</b>	 <b>21</b>
Graph 3.3A: Input	21
Graph 3.3B: Complaints Closed and Transferred Out	22
Graph 3.3C: Department Inventory	23
Graph 3.3D: Median Age of Complaints	24
Graph 3.3E: Aging of Complaints – Core Cases and Mortgage Fraud Cases	25
 <b>3.4 – Unauthorized Practice (UAP)</b>	 <b>27</b>
Graph 3.4A: Unauthorized Practice Complaints in Intake	27
Graph 3.4B: Unauthorized Practice Investigations (in Complaints Resolution & Investigations)	28
Graph 3.4C: UAP Enforcement Actions	28

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

---

<b>3.5 – Complaints Review Commissioner</b>	<b>29</b>
Graph 3.5A: Reviews Requested and Files Reviewed (by Quarter)	29
Graph 3.5B: Status of Files Reviewed in each Quarter	29
Graph 3.5C: Decisions Rendered, by Quarter and Active Inventory	30
<b>3.6 – Discipline</b>	<b>31</b>
Graph 3.6A: Input	31
Graph 3.6B: Department Inventory	32
Graph 3.6C: Notices Issued	33
Graph 3.6D: Completed Matters	34
Graph 3.6E: Appeals	25
<b>SECTION 4 – APPENDICES</b>	<b>36</b>
The Professional Regulation Complaint Process	37
Professional Regulation Organization Chart	38

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

---

# **SECTION 1**

## **REPORT HIGHLIGHTS**

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

---

## Highlights of Quarterly Performance

### **The Division**

The Law Society's intake of new cases has tended to fluctuate during the past three years such that predicting future trends has become more difficult. During the first two quarters of 2014, the Law Society received fewer new cases than the first half of 2013. Reviews of the nature of the incoming cases and environmental scans have failed to disclose a reason for the fluctuations. It is expected that the intake of new cases in 2014 will be lower than in 2013, which was a year in which the Law Society experienced significant increases. As a result of the lower intake of cases in 2014, the Division's inventory has reduced.

### **Complaints Resolution**

The Complaints Resolution department received a significantly reduced new caseload in the first six months of 2014 in part due to the reduced overall intake, and also through diversions in cases to permit the department to complete its older cases. These case management efforts have been successful in reducing the department's inventory to levels that are more sustainable and more current.

### **Investigations**

During this period the Investigations department received fewer new cases than in the same period in 2013. As with Complaints Resolution (above) this is due in part to strategies to divert cases to permit timely completion of matters already in the inventory. The reduced intake is also a reflection of the reduced overall intake for the Division. The department has been engaged in a project to complete complex cases that are ongoing on a priority bases.

### **Discipline**

There was a slight decrease in the inventory of cases in Discipline during this period when compared with the same period in 2013. At the end of the period there were 185 licensees or applicants with files in the department relating to 523 complaints. Twenty-five notices were issued in the second quarter to commence new proceedings, and thirty-four matters were completed with decisions of the Hearing or Appeal Division. There were 13 appeals commenced including five new appeals to Divisional Court.

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

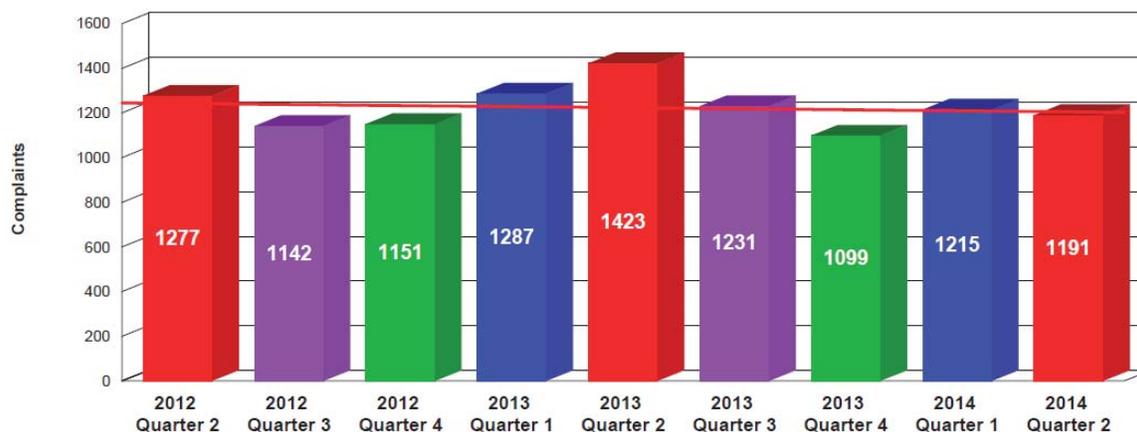
---

## **SECTION 2**

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

## PERFORMANCE IN THE PROFESSIONAL REGULATION DIVISION

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



The number of new complaints received in the first half of 2014 (2406) decreased by 11% when compared to the number received in the first half of 2013 (2710) and by 3% when compared to the number received in the first half of 2012 (2489). The analysis of new complaints/cases received (below) shows that, in Q2 2014, the number of complaints/cases decreased for all groups when compared to the numbers received in Q1 2014 and in Q2 2013.

### Detailed Analysis of Complaints Received in the Division

	Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Complaints against Lawyers</b>	1026	969	886	912	882
<b>Lawyer Applicant Cases★</b>	67	21	9	69	17
<b>Complaints against Licensed Paralegals</b>	152	143	129	150	126
<b>Paralegal Applicant Cases★</b>	121	34	21	22	118
<b>Complaints against Non-Licensees/Non-Applicants*</b>	57	64	54	62	48
<b>TOTAL</b>	1423	1231	1099	1215	1191

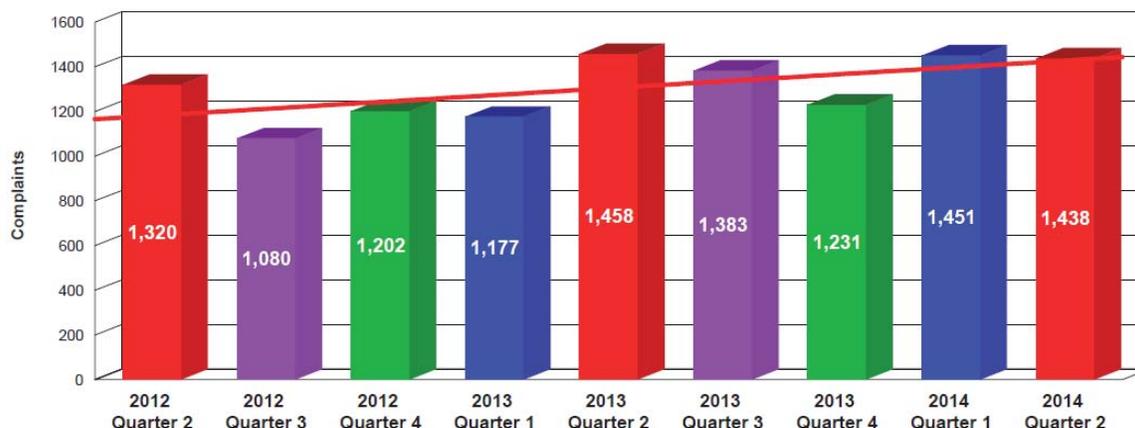
★ Applicant cases include good character cases and UAP complaints

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

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

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

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



The number of cases closed in the Division in the first half of 2014 (2889) increased by 10% from the number of cases closed in the first half of 2013 (2635) and by 9% from the number of cases closed in the first half of 2012 (2646).

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

	Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Complaints against Lawyers</b>	1118	1101	1009	1140	1067
<b>Lawyer Applicant Cases★</b>	64	31	14	13	69
<b>Complaints against Licensed Paralegals</b>	127	124	131	181	134
<b>Paralegal Applicant Cases★</b>	83	53	33	41	100
<b>Complaints against Non-Licensees/Non-Applicants*</b>	66	74	44	76	68
<b>TOTAL</b>	1458	1383	1231	1451	1438

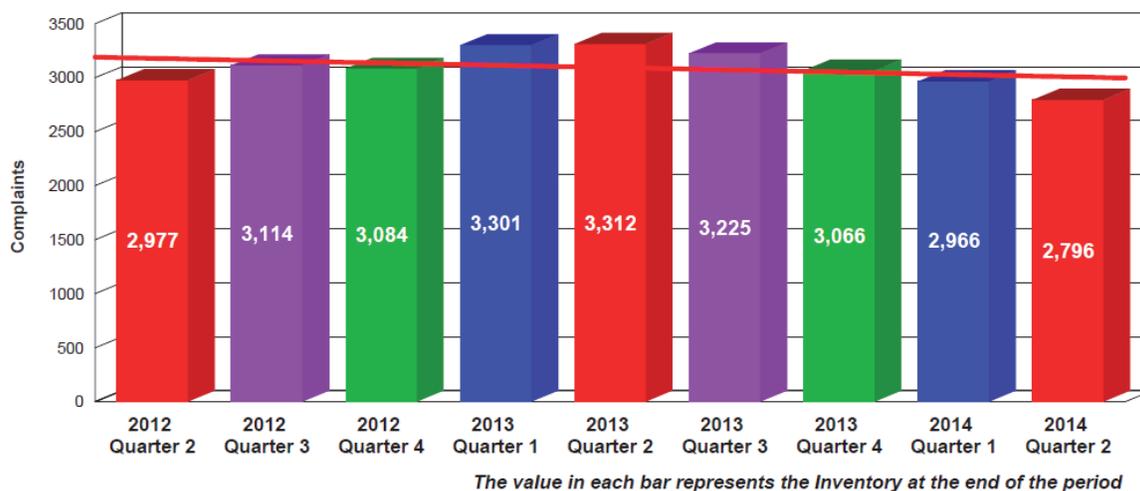
★ Applicant cases include good character cases and UAP complaints

\* 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.

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

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



The inventory in the Division at the end of Q2 2014 was approximately 6% lower than at the end of Q1 2014 and approximately 16% lower than the inventory in the Division at the end of Q2 2013. The breakdown of the inventory in the chart below demonstrates that decreases since the end of Q2 2013 have occurred in the inventory of complaints against all groups.

#### Detailed Analysis of Division Inventory

	Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Complaints against Lawyers</b>	2656	2575	2449	2315	2200
<b>Lawyer Applicant Cases★</b>	39	29	25	78	26
<b>Complaints against Licensed Paralegals</b>	404	427	398	404	398
<b>Paralegal Applicant Cases★</b>	91	77	67	42	65
<b>Complaints against Non-Licensees/Non-Applicants*</b>	122	117	127	127	107
<b>TOTAL</b>	3312	3225	3066	2966	2796

★ 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.

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

---

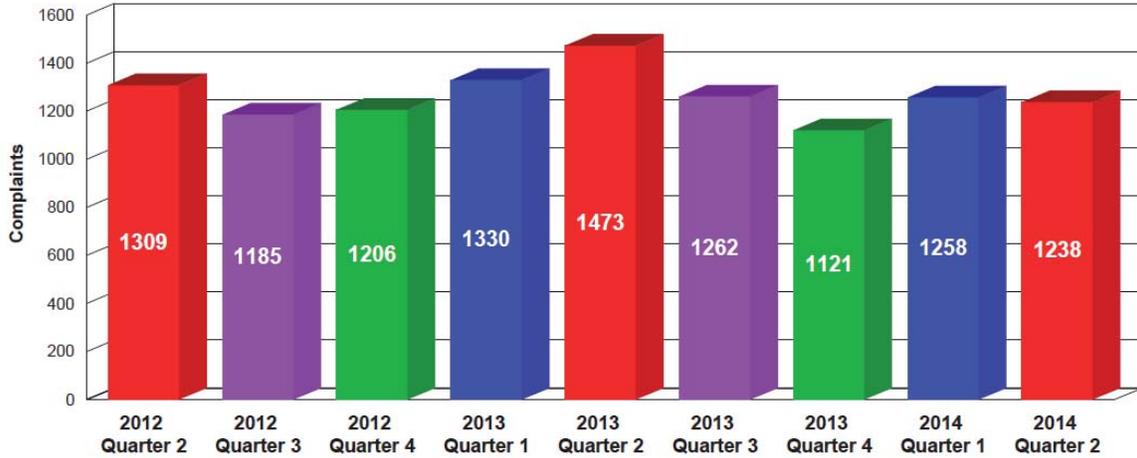
## **SECTION 3**

# **DEPARTMENTAL PERFORMANCE DURING THE QUARTER**

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

### 3.1 – Intake

**Graph 3.1A: Intake - Input<sup>4</sup>**



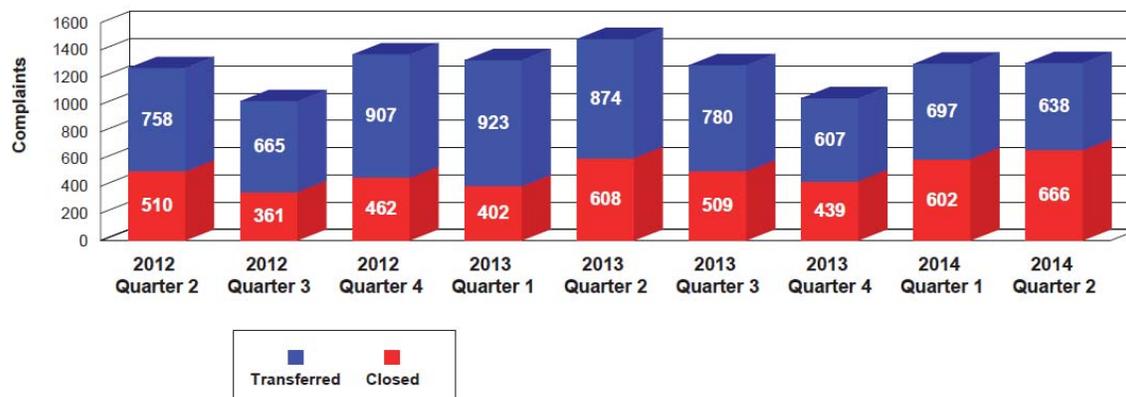
The Intake department processes all new regulatory complaints. In Q2 2014, in addition to the 1191 new cases, Intake re-opened 47 complaints which met the threshold for re-opening a closed matter.

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

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

### 3.1 – Intake

**Graph 3.1B: Intake - Complaints Closed and Transferred Out**



In the first half of 2014, Intake completed 2603 cases, which represents a 7% decrease over the number of cases completed by the department in the first half of 2013 (2807) but a 5% increase over the number of cases completed by the department in the first half of 2012 (2470).

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

		Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Complaints against Lawyers</b>	Closed	425	404	368	489	439
	Transferred	639	605	486	545	482
<b>Lawyer Applicant Cases★</b>	Closed	45	15	5	7	66
	Transferred	18	11	0	4	12
<b>Complaints against Licensed Paralegals</b>	Closed	39	40	35	58	60
	Transferred	127	111	80	96	79
<b>Paralegal Applicant Cases★</b>	Closed	69	22	10	22	85
	Transferred	45	18	5	6	30
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	30	28	21	26	16
	Transferred	45	35	36	46	35
<b>TOTAL</b>	Closed	608	509	439	602	666
	Transferred	874	780	607	697	638

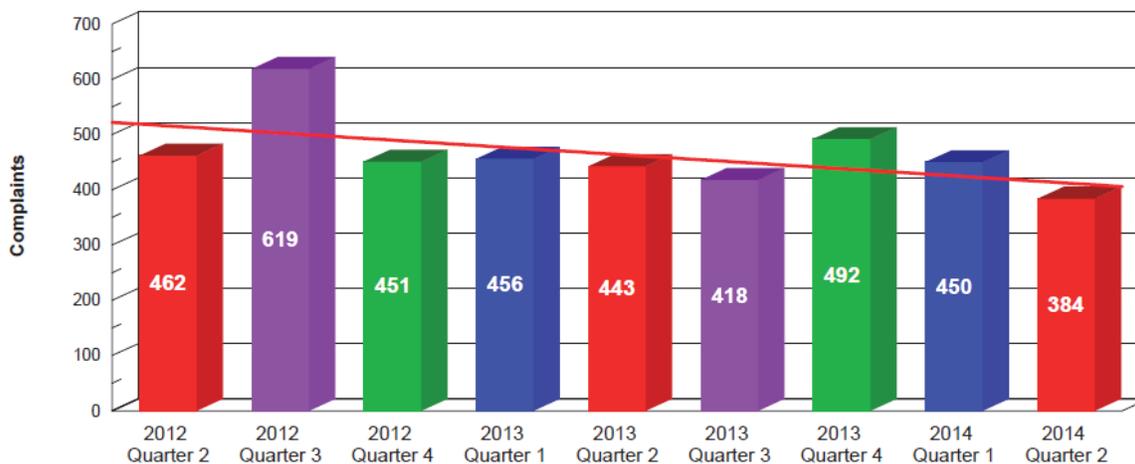
★ Applicant cases include good character cases and UAP complaints

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

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

### 3.1 – Intake

**Graph 3.1 C: Intake - Department Inventory**



*The value in each bar represents the Inventory at the end of the period*

In Q2 of 2014, the department's inventory decreased by 15% from the end of Q1 2014 and by 22% from the end of 2013 (from 492 to 384 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

	Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Complaints against Lawyers</b>	384	369	415	327	332
<b>Lawyer Applicant Cases★</b>	5	0	4	62	1
<b>Complaints against Licensed Paralegals</b>	44	36	54	52	40
<b>Paralegal Applicant Cases★</b>	6	2	9	2	5
<b>Complaints against Non-Licensees/Non-Applicants*</b>	4	11	10	7	6
<b>TOTAL</b>	443	418	492	450	384

★ Applicant cases include good character cases and UAP complaints

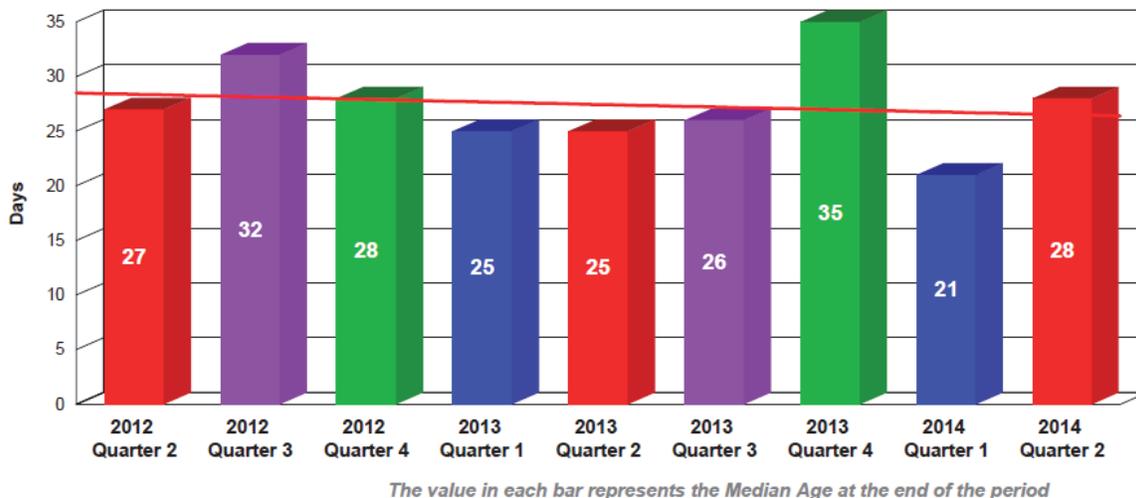
\* For a complete analysis of UAP complaints see section 3.4.

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

---

### 3.1 – Intake

**Graph 3.1D: Intake - Median Age of Complaints**

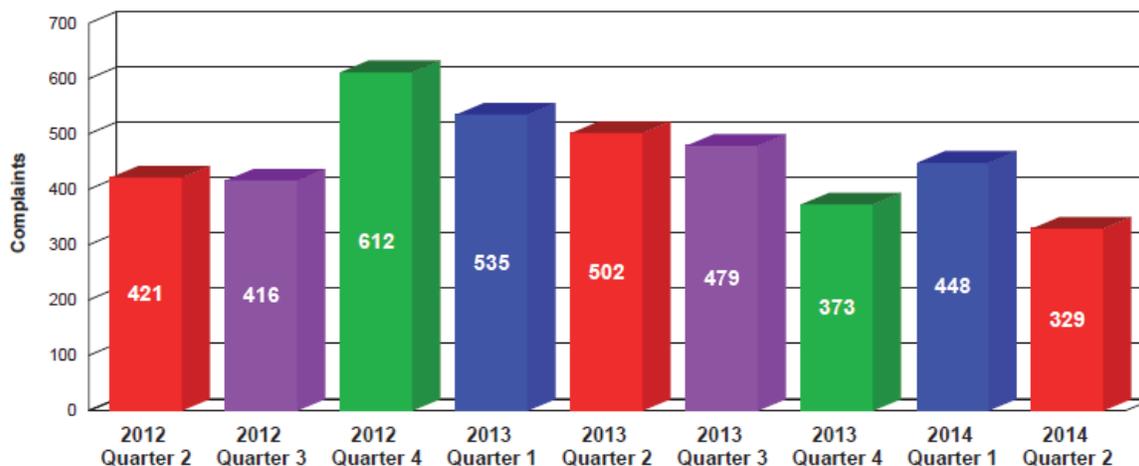


Intake’s median age is below the department’s 30-day target, indicating a timely case process.

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

## 3.2 – Complaints Resolution

**Graph 3.2A: Complaints Resolution – Input<sup>5</sup>**



The input of cases into Complaints Resolution in the first half of 2014 (777) decreased by 25% from the input received in the first half of 2013 (1037) and by 11% from the input received in the first half of 2012 (871).

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

	Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Complaints against Lawyers</b>	443	418	330	375	295
<b>Lawyer Applicant Cases★</b>	0	0	0	0	0
<b>Complaints against Licensed Paralegals</b>	59	60	43	72	34
<b>Paralegal Applicant Cases★</b>	0	0	0	0	0
<b>Complaints against Non-Licensees/Non-Applicants*</b>	0	1	0	1	0
<b>TOTAL</b>	502	479	373	448	329

★ Applicant cases include good character cases and UAP complaints

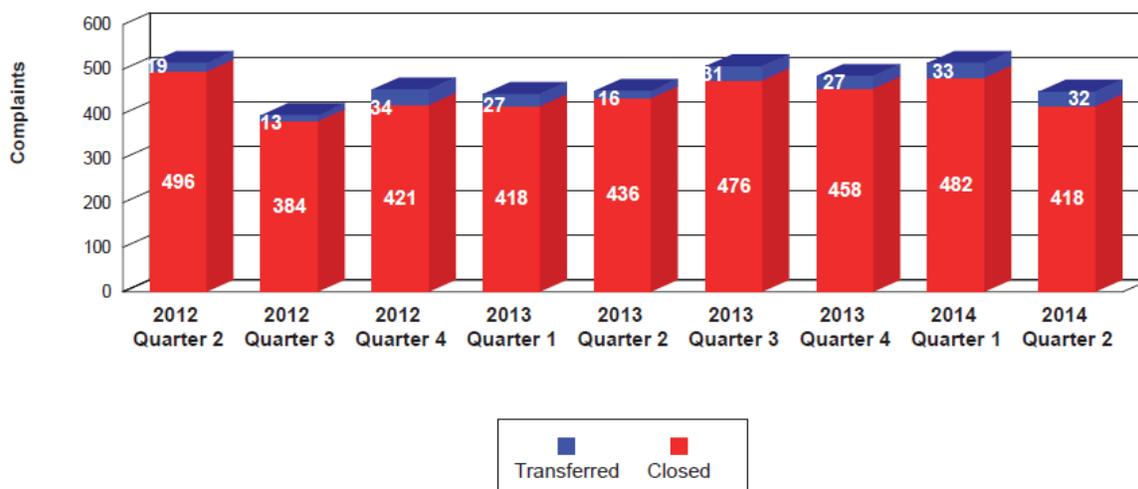
\* For a complete analysis of UAP complaints see section 3.4.

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

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

## 3.2 – Complaints Resolution

**Graph 3.2B: Complaints Resolution - Complaints Closed and Transferred Out**



The number of cases completed in the first half of 2014 by Complaints Resolution (965) increased by approximately 8% over the number of cases completed in the first half of 2013 (897) but decreased by approximately 3.5% from the number of cases completed in the first half of 2012 (1000).

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

		Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Complaints against Lawyers</b>	Closed	408	434	405	416	389
	Transferred	14	23	22	25	30
<b>Lawyer Applicant Cases★</b>	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
<b>Complaints against Licensed Paralegals</b>	Closed	28	42	53	66	29
	Transferred	2	7	5	8	2
<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	1	0	0	0
<b>TOTAL</b>	Closed	436	476	458	482	418
	Transferred	16	31	27	33	32

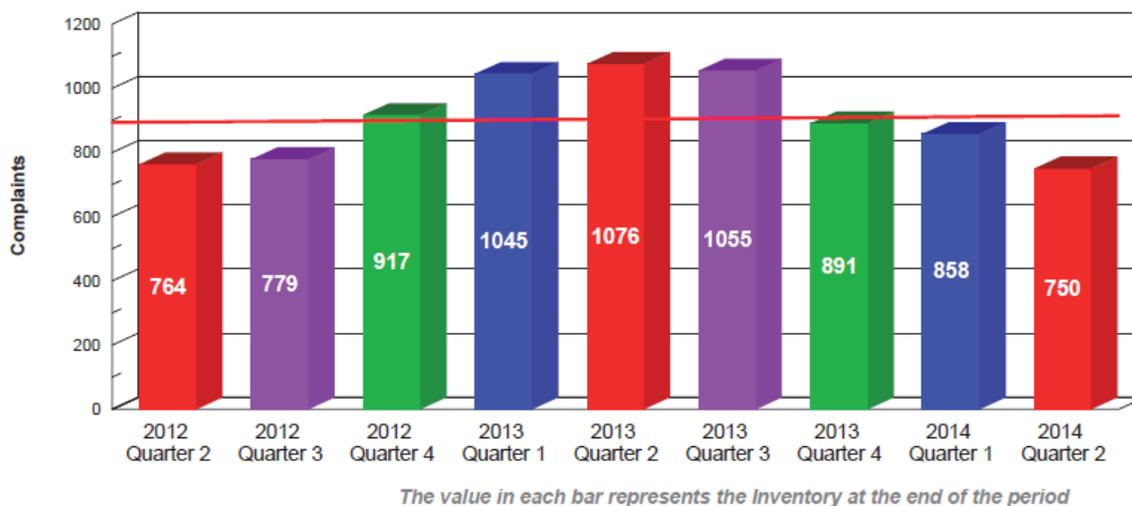
★ Applicant cases include good character cases and UAP complaints

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

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

## 3.2 – Complaints Resolution

**Graph 3.2C: Complaints Resolution – Department Inventory**



Since a high of 1076 cases at the end of Q2 2013, the department's inventory has decreased by 30% to 750 cases at the end of Q2 2014. The inventory continues to consist mostly of complaints against lawyers.

### Detailed Analysis of Complaint Resolution's Inventory

	Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Complaints against Lawyers</b>	959	928	811	779	669
<b>Lawyer Applicant Cases★</b>	0	0	0	0	0
<b>Complaints against Licensed Paralegals</b>	117	127	80	78	80
<b>Paralegal Applicant Cases★</b>	0	0	0	0	0
<b>Complaints against Non-Licensees/Non-Applicants*</b>	0	0	0	1	1
<b>TOTAL</b>	1076	1055	891	858	750

★ Applicant cases include good character cases and UAP complaints

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

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

---

### 3.2 – Complaints Resolution

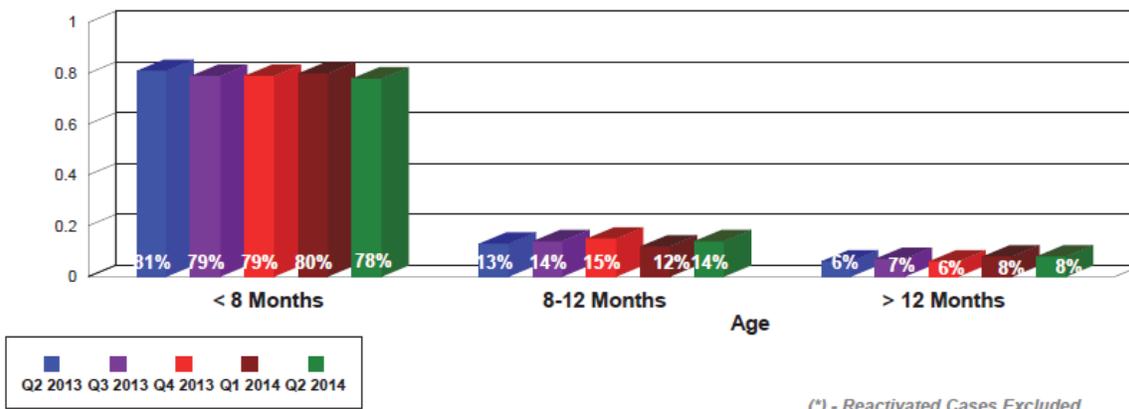
**Graph 3.2D: Complaints Resolution - Median Age of Complaints**



The department's median age decreased from the previous quarter and remains within the department's target range of 150-170 days.

### 3.2 – Complaints Resolution

**Graph 3.2E: 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 Q2 2014 was 687 cases involving 624 subjects. The age distribution of those cases was:

Less than 8 months	534 cases involving 487 subjects
8 to 12 months	100 cases involving 95 subjects
More than 12 months	53 cases involving 42 subjects

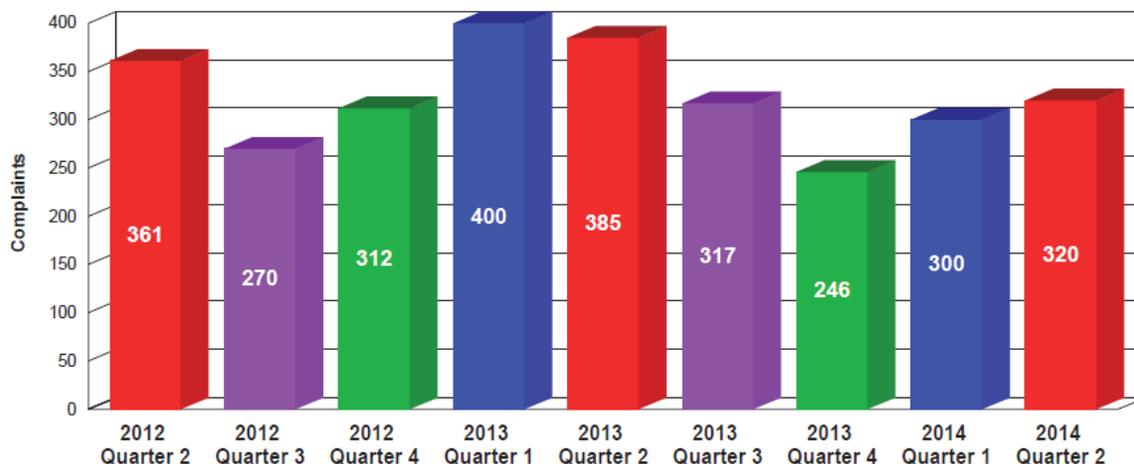
The goal is to reduce the proportion of cases in the older time frames and increase the proportion of cases in the youngest time frame. However, it is recognized that there will always be cases that are older than 12 months in Complaints Resolution for the following reasons:

- 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

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

### 3.3 – Investigations

**Graph 3.3A: Investigations - Input**



The input of cases into the Investigations department in the first half of 2014 (620) decreased by 21% from the input in the first half of 2013 (785) and by 7% from the first half of 2012 (663).

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

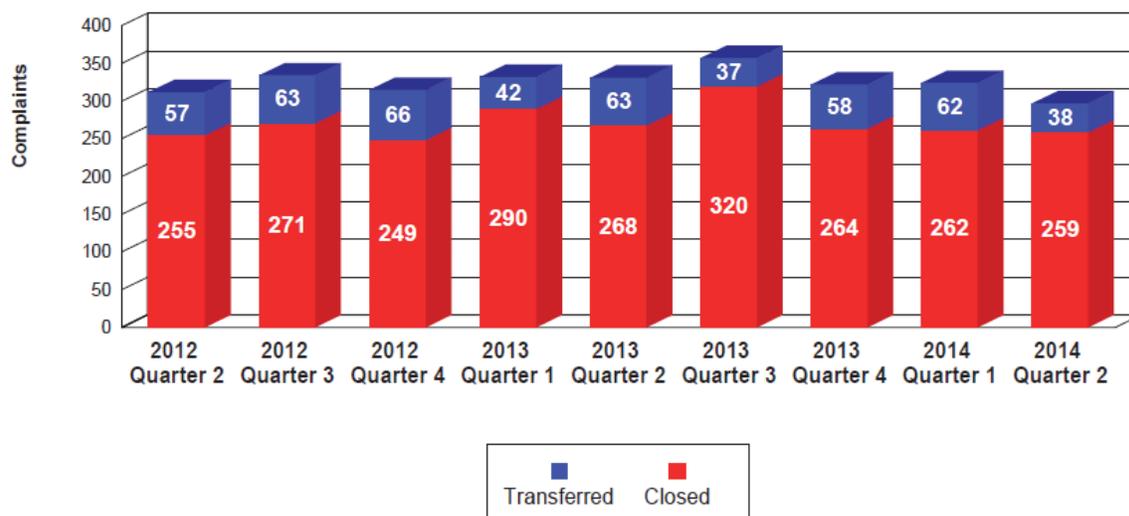
	Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Complaints against Lawyers</b>	208	197	164	190	201
<b>Lawyer Applicant Cases★</b>	18	11	0	4	12
<b>Complaints against Licensed Paralegals</b>	69	54	40	44	42
<b>Paralegal Applicant Cases★</b>	45	19	6	6	30
<b>Complaints against Non-Licensees/Non-Applicants*</b>	45	36	36	45	35
<b>TOTAL</b>	<b>385</b>	<b>317</b>	<b>246</b>	<b>300</b>	<b>320</b>

★ Applicant cases include good character cases and UAP complaints

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

### 3.3 – Investigations

**Graph 3.3B Investigations - Complaints Closed and Transferred Out**



The number of cases closed/transferred out of the department in the first half of 2014 (621 cases) was approximately 6% lower than the number completed in the first half of 2013 (663) but almost the same as the number completed in the first half of 2012 (625 cases).

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

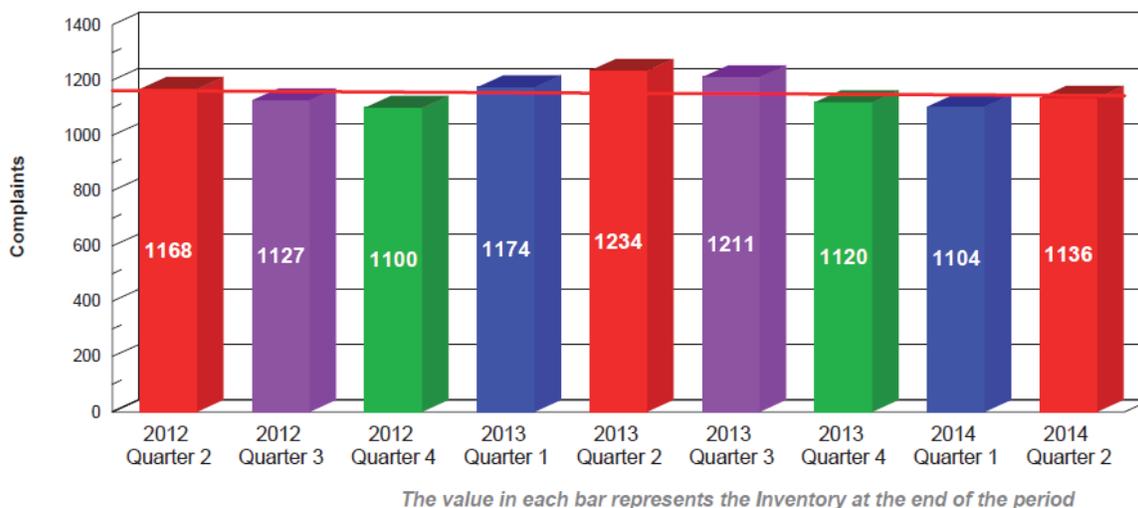
		Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Complaints against Lawyers</b>	Closed	171	194	183	158	166
	Transferred	45	32	46	45	31
<b>Lawyer Applicant Cases★</b>	Closed	17	14	9	5	3
	Transferred	0	0	0	1	1
<b>Complaints against Licensed Paralegals</b>	Closed	39	39	27	38	32
	Transferred	17	4	10	5	1
<b>Paralegal Applicant Cases★</b>	Closed	12	31	22	13	8
	Transferred	1	2	0	1	1
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	29	42	23	48	50
	Transferred	0	0	2	10	4
<b>TOTAL</b>	Closed	268	320	264	262	259
	Transferred	63	38	58	62	38

★ Applicant cases include good character cases and UAP complaints

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

### 3.3 – Investigations

**Graph 3.3C: Investigations – Department Inventory**



As the input of cases (320) into the department exceeded the number of cases completed by the department in Q2 2014 (297), Investigations' inventory increased slightly (by 3%) from 1104 cases at the end of Q1 2014 to 1136 cases at the end of Q2 2014. However, the department's inventory at the end of Q2 2014 (1136) was approximately 8% less than its inventory at the end of Q2 2013 (1234)

#### **Detailed Analysis of Investigations Inventory**

	Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Complaints against Lawyers</b>	851	837	759	750	761
<b>Lawyer Applicant Cases★</b>	31	28	20	15	23
<b>Complaints against Licensed Paralegals</b>	186	200	202	219	227
<b>Paralegal Applicant Cases★</b>	64	52	36	28	49
<b>Complaints against Non-Licensees/Non-Applicants*</b>	102	94	103	92	76
<b>TOTAL</b>	1234	1211	1120	1104	1136

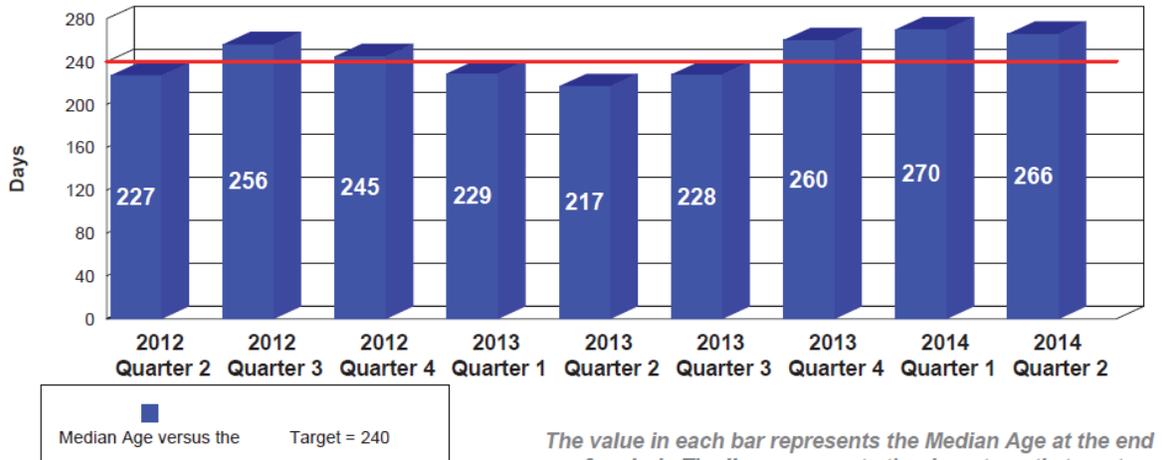
★ Applicant cases include good character cases and UAP complaints

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

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

### 3.3 – Investigations

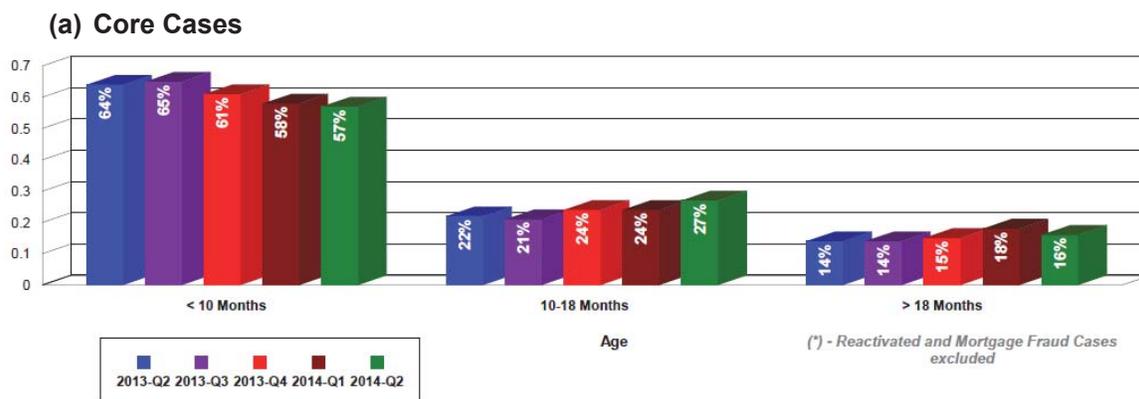
**Graph 3.3D: Investigations - Median Age of All Complaints**



Investigations' median age at the end of Q2 2014 was slightly lower than the median age at the end of Q1 2014, decreasing from 270 days to 266 days.

### 3.3 – Investigations

Graph 3.3E: 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 second quarter of 2014, excluding reactivated and mortgage fraud cases, was 965 cases involving 731 subjects. The distribution of those cases was:

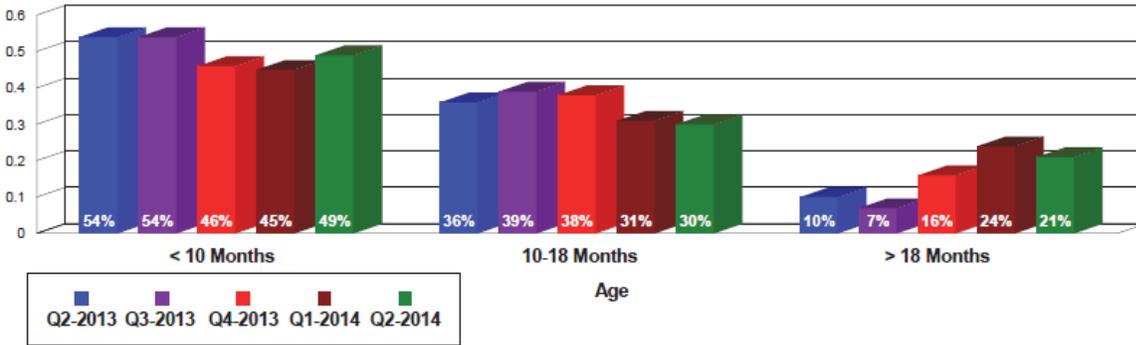
Less than 10 months	549 cases involving 433 subjects
10 to 18 months	256 cases involving 178 subjects
More than 18 months	160 cases involving 120 subjects

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.

### 3.3 – 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 second quarter of 2014 was 100 cases involving 84 subjects. The distribution of those cases was:

Less than 10 months	49 cases involving 41 subjects
10 to 18 months	30 cases involving 24 subjects
More than 18 months	21 cases involving 19 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.

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

### 3.4 – Unauthorized Practice (UAP)

Graph 3.4A: 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

\* 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 2014 Q2, complaints alleging practicing outside the scope of licence were received in a total of 11 cases. Prior to Q1 2010, these would have been included in the UAP figures.

As noted in the chart above, in the first half of 2014, the Division received 12% fewer UAP complaints (116) than it did in the same period in 2013 (131).

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

### 3.4 – Unauthorized Practice (UAP)

**Graph 3.4B: 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

As more UAP investigations were completed in Q2 2014 (82) than were received (38), the inventory of UAP cases in Investigations was reduced from 122 cases at the end of Q1 2014 to 82 cases at the end of Q2 2014.

#### Graph 3.4C: UAP Enforcement Actions

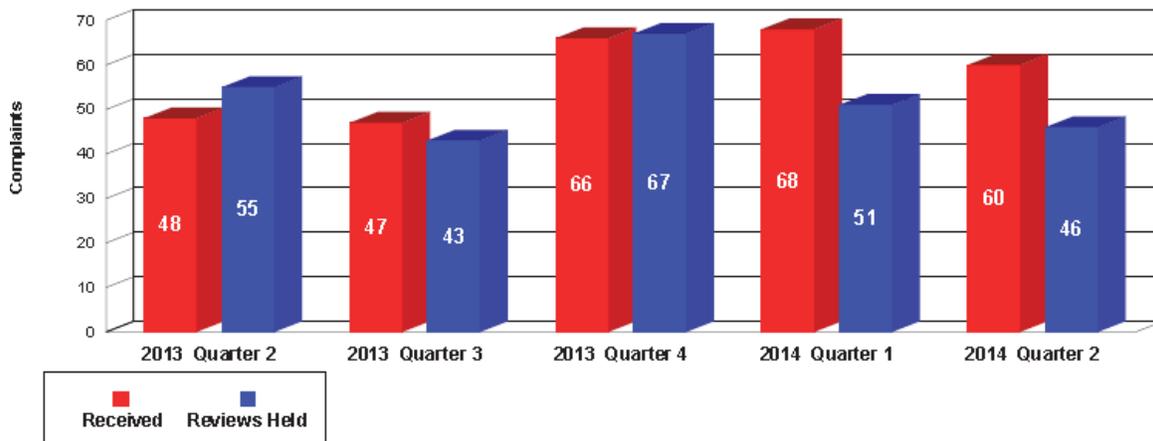
As at June 30, 2014, there were 5 open UAP matters; in four matters, permanent injunctions are being sought; in another matter, a motion brought for breach of an injunction is ongoing.

<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.

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

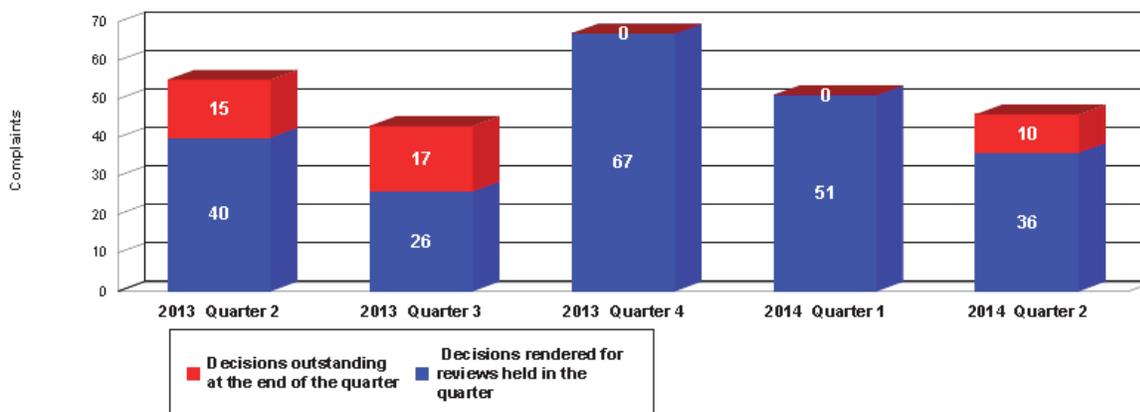
### 3.5 – Complaints Resolution Commissioner

**Graph 3.5A: Reviews Requested and Files Reviewed (by Quarter)**



In the first half of 2014, the Complaints Resolution Commissioner received 128 requests for review of cases closed in either Investigations or Complaints Resolution, a 16% increase from the number of requests received in the same period in 2013 (110) and a 12% decrease from the number of requests received in the first half of 2012 (146). The Commissioner reviewed 97 cases in the first half of 2014; almost the same number as were reviewed in 2013 (95) and about 8% less than were reviewed in the first half of 2012 (106).

**Graph 3.5B: 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 second quarter of 2014, the Commissioner rendered decisions in 36 of the 46 cases reviewed in that quarter. As at June 30, 2014, there were 10 decisions outstanding.

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

### 3.5 – Complaints Resolution Commissioner

**Graph 3.5C: 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%)

Of the 36 decisions rendered in Q2 2014, the Commissioner referred 3 files back to Professional Regulation. With respect to 2 of these files, the Commissioner recommended further investigation as he was not satisfied that the decision to close was reasonable. With respect to the third file, while he found the Law Society's decision to close the case to be reasonable, the Commissioner referred the case back to consider new information provided by the complainant at the review meeting.

As of the date of this Quarterly Report, The Director's decisions remain outstanding with respect to the 2 files referred back with a recommendation for further investigation.

#### Active Inventory

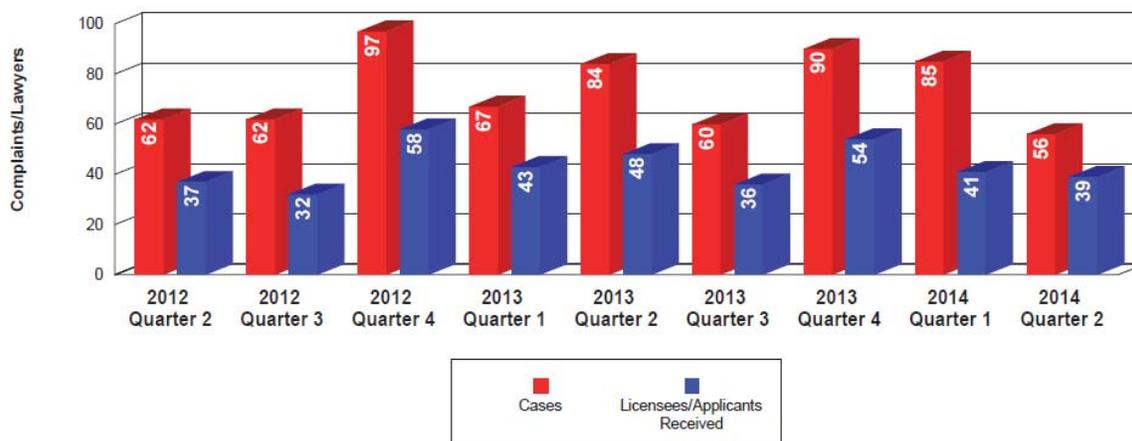
As at June 30, 2014, the Office of the Complaints Resolution Commissioner had an inventory of 139 files:

Request received; awaiting preparation of CRC materials	69 files
Review Meeting Scheduled	44 files
Ready for Scheduling	1 file
In Abeyance	15 files
Awaiting for Decision	10 files

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

### 3.6 – Discipline

**Graph 3.6A: Discipline - Input<sup>7</sup>**



As noted in the chart below, in Q2 2014, the department received complaints from various departments involving 33 lawyers (relating to 45 cases), 4 licensed paralegals (relating to 8 cases), 1 lawyer applicant and 1 paralegal applicant.

#### Detailed Analysis of New Cases Received in Discipline

		Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Lawyers</b>	Cases	65	50	76	72	45
	Lawyers	36*	27*	43*	32*	33*
<b>Lawyer Applicants</b>	Cases	0	0	0	0	1
	Lawyer Applicants	0	0	0	0	1*
<b>Licensed Paralegals</b>	Cases	18	8	14	12	8
	Licensed Paralegals	11*	8*	11*	8*	4*
<b>Paralegal Applicants</b>	Cases	1	2	0	1	1
	Paralegal Applicants	1*	1*	0*	1*	1*
<b>TOTAL</b>	Cases	84	60	90	90	61
	Licensees & Applicants	48*	36*	54*	41*	39*

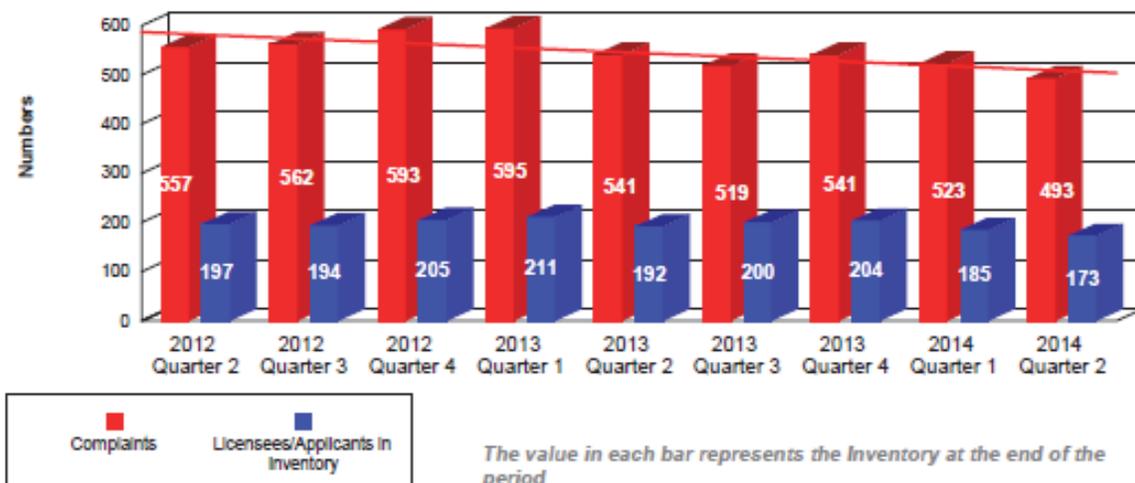
\* The number of new Lawyers and Paralegals cited represents the number coming into the department each quarter. However, there may, in fact, already be cases involving the licensee/applicant in the department.

<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.

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

### 3.6 – Discipline

**Graph 3.6B: Discipline – Department Inventory<sup>8</sup>**



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 Q2 2014, the department's inventory of licensee/applicants (173) was approximately 10% lower than at the end of Q2 2013 (192) and 12% lower than at the end of Q2 2012 (197).

#### Detailed Analysis of Discipline's Inventory

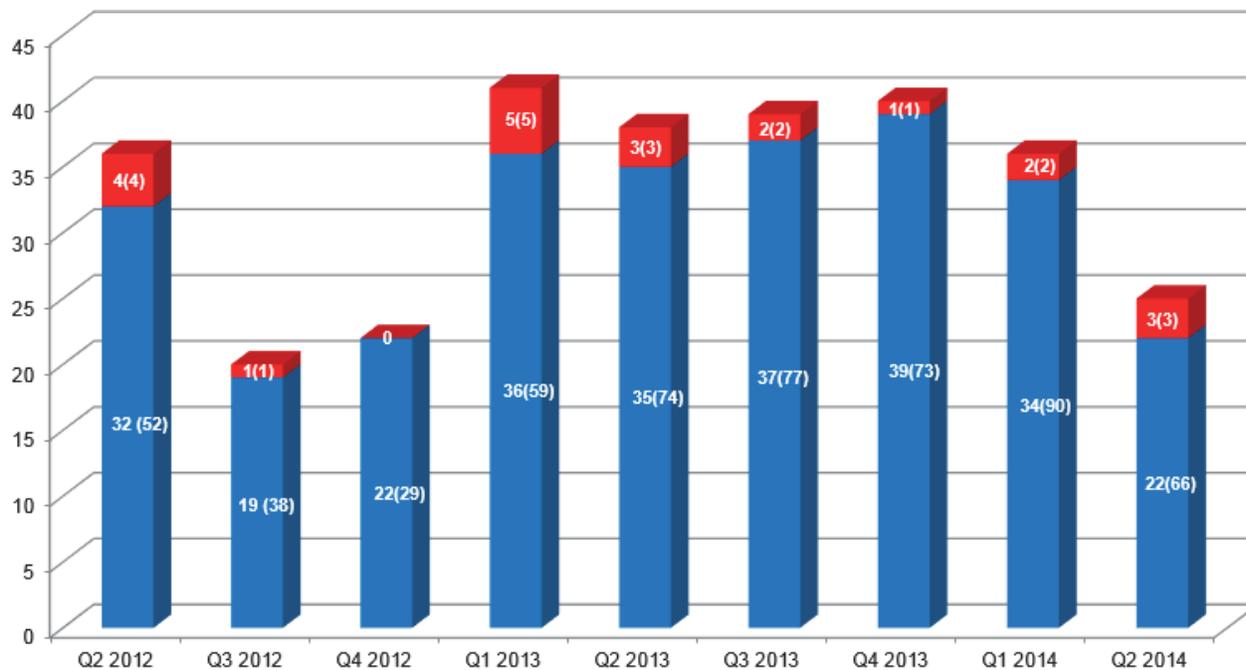
		Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Lawyers</b>	Cases	460	433	458	454	430
	Lawyers	160	164	169	156	151
<b>Lawyer Applicants</b>	Cases	3	1	1	0	1
	Lawyer Applicants	3	1	1	0	1
<b>Licensed Paralegals</b>	Cases	57	62	60	52	51
	Licensed Paralegals	20	26	26	22	18
<b>Paralegal Applicants</b>	Cases	21	23	22	17	11
	Paralegal Applicants	9	9	8	7	5
<b>TOTAL</b>	Cases	541	519	541	523	493
	Licensees & Applicants	192	200	204	185	175

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

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

### 3.6 – Discipline

**Graph 3.6C: 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 Q2 2014, 22 Notices of Application were issued (relating to 66 cases) and 3 Notices of Referral for Hearing were issued (relating to 3 cases).

With respect to the 22 Notices of Application<sup>9</sup>/Notices of Motion for Interim Suspension Order which were issued in Q2 2014: All 22 were issued less than 1 month after 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).

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

### 3.6 – Discipline

Graph 3.6D: Discipline – Completed Matters

		Q1 2013	Q2 2013	Q3 2013	Q4 2013	Q1 2014	Q2 2014
<b>Conduct Hearings</b>	Lawyers	20	32	18	24	30	21
	Paralegal Licensees	4	2	3	9	10	6
<b>Interlocutory Suspension Hearings/Orders</b>	Lawyers	-	1	-	2	2	3
	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*
	Paralegal Licensees	-	-	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
<b>TOTAL NUMBER OF HEARINGS</b>	Lawyers	22	35	20	27	35	26
	Paralegals	5	3	5	9	11	8
	<b>TOTAL</b>	<b>27</b>	<b>38</b>	<b>25</b>	<b>36</b>	<b>46</b>	<b>34</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.

### 3.6 – Discipline

#### Graph 3.6F: 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 half 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
2014 2 <sup>nd</sup> Quarter	8 <sup>10</sup>	5 appeals; 1 judicial review	1 motion for leave

As of June 30, 2014, there are 10 appeals pending before the Appeal Division, 1 motion for an extension of time in which to file an appeal, 5 appeals in which the Appeal Division has reserved on judgment, 1 appeal before the Appeal Division that has been adjourned sine die and 2 appeals 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 12 appeals and 2 judicial review matters pending. There is one motion for leave to appeal pending in the Court of Appeal.

In the second quarter of 2014, 4 appeals before the Appeal Division were completed. All appeals were launched by licensees:

- With respect to 2 appeals, the Appeal Division dismissed the appeals with costs to the Law Society.
- With respect to 1 appeal, the Appeal Division allowed the appeal, substituting a 7 month suspension for the penalty imposed by the Hearing Division (permission to surrender licence).
- With respect to the 4<sup>th</sup> appeal, the Appeal Division upheld the Hearing Panel's decision and order with respect to all but 2 of the particulars, ordering a re-hearing of the two particulars before the Hearing Division. The Appeal Division also ordered that, if the Law Society decided not to re-prosecute the 2 particulars, the Appeal Division would determine the appropriate penalty on the remaining particulars. Subsequently, the Appeal Division heard submissions on penalty and ordered that, based on the remaining particulars, revocation was the appropriate disposition. The Appeal Division also ordered that the costs payable to the Law Society imposed by the Hearing Division be reduced to \$75,000 and that \$30,000 in costs for the appeal also be paid to the Law Society.

<sup>10</sup> 1 of the matters is a motion seeking an extension of time in which to file an appeal.

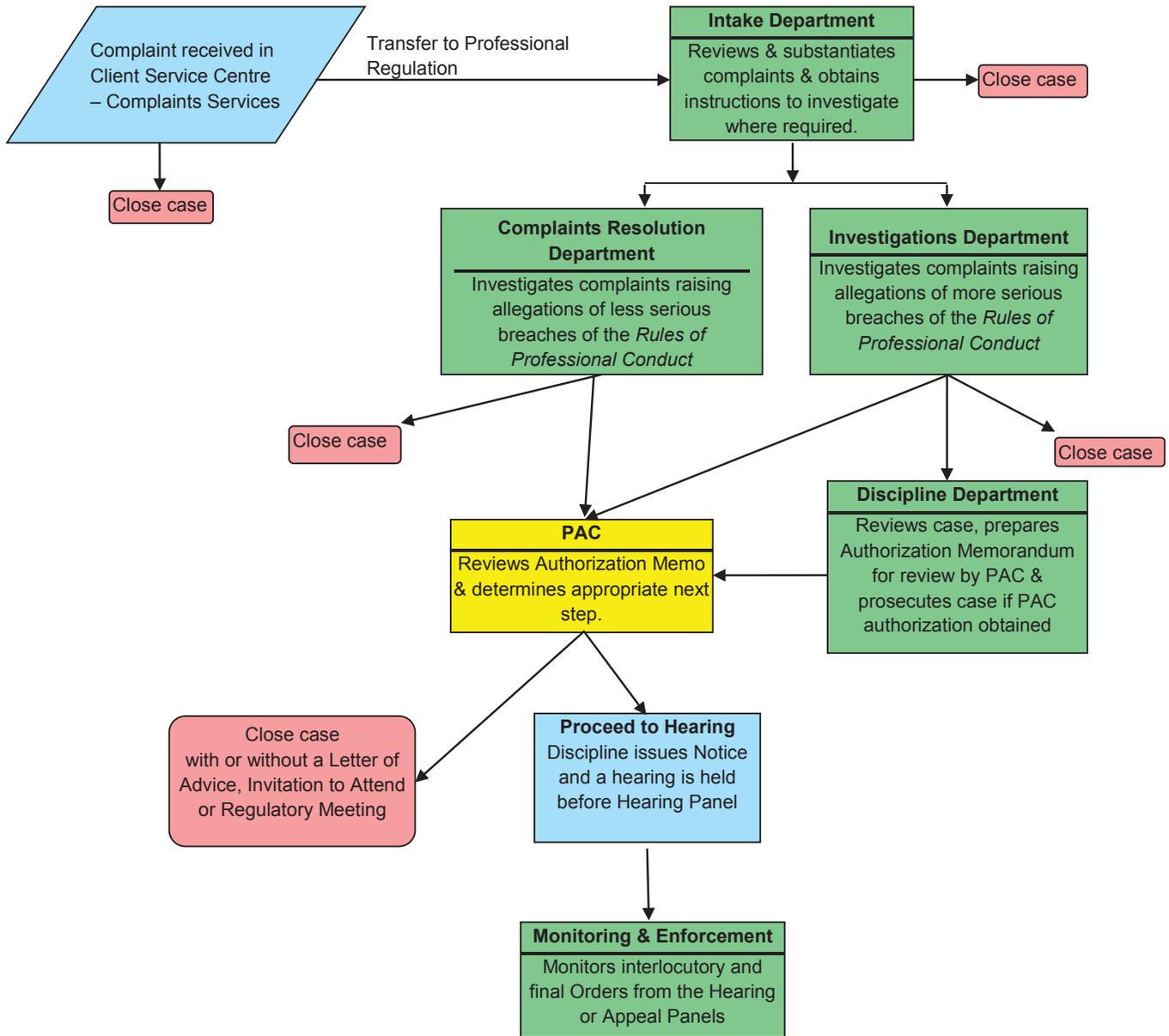
The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2014)

---

## **SECTION 4**

## **APPENDICES**

## The Professional Regulation Complaint Process



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

---

**PROFESSIONAL REGULATION ORGANIZATIONAL CHART**

