



**TAB 2**

## **Report to Convocation September 24, 2015**

---

### **Professional Regulation Committee**

#### **Committee Members**

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

**Purpose of Report: Decision and Information**

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

## TABLE OF CONTENTS

### **For Decision**

Amendments to the Rules of Professional Conduct – Language Rights.....[Tab 2.1](#)

New Process for Administrative Surrender of Licence.....[Tab 2.2](#)

### **For Information**

2016 Lawyer Annual Report .....[Tab 2.3](#)

Professional Regulation Division Quarterly Report.....[Tab 2.4](#)

Alternative Business Structures Working Group Report.....[Tab 2.5](#)

## **COMMITTEE PROCESS**

1. The Professional Regulation Committee (“the Committee”) met on September 10, 2015. In attendance were Malcolm Mercer (Chair), Peter Beach, John Callaghan (by telephone), Suzanne Clément, Janis Criger, Seymour Epstein, Robert F. Evans, Patrick Furlong, Carol Hartman, Jacqueline Horvat, Brian Lawrie, Ross Murray, and Heather Ross. Staff members attending were Lesley Cameron, Terry Knott, James Varro, Naomi Bussin, Eric Smith, Denise McCourtie, and Margaret Drent.

Tab 2.1

FOR DECISION

**PROPOSED AMENDMENTS TO THE *RULES OF PROFESSIONAL CONDUCT* ON  
LANGUAGE RIGHTS**

**MOTION**

2. That Convocation approve the amendments to the *Rules of Professional Conduct* as set out in [Tab 2.1.1](#).

**INTRODUCTION**

3. The Committee is recommending amendments to Rules 3.2-2A and 3.2-2B that deal with language rights. A blackline version of the amendments to the Rules and a version showing changes incorporated into the Rules at [Tabs 2.1.1](#) and [2.1.2](#), respectively.

**RATIONALE**

4. At June 2015 Convocation, when Rules 3.2-2A and 3.2-2B were adopted, the Chair of the Committee agreed to review suggestions for further changes. The recommendations in this report deal with these changes.

**DISCUSSION**

5. Convocation adopted amendments to the Rules of Professional Conduct in June 2015 to implement changes based on the Model Code of Professional Conduct of the Federation of Law Societies of Canada. In October, 2014 Council of the Federation adopted amendments to the Model Code, including new Rules in this area.
6. Prior to the June 2015 amendments, language rights were the subject of Commentary to Rule 2.1-1.
7. Now, Rule 3.2-2A provides that “a lawyer shall, when appropriate, advise a client of the client’s language rights, including the right to proceed in the official language of the client’s choice”. New Rule 3.2-2B provides “when a client wishes to retain a lawyer for representation in the official language of the client’s choice, the lawyer shall not undertake the matter unless the lawyer is competent to provide the required service in that language”.

8. New commentary to the Rules refers to aboriginal language rights. Paragraph [2] provides “the lawyer should also be aware that provincial or territorial legislation may provide additional language rights, including in relation to aboriginal languages”.
9. At Convocation in June, 2015, it was suggested that there be more explicit reference to aboriginal language rights in the Rules. It was also suggested that the reference to “official language of the client’s choice” in Rules 3.2-2A and 3.2-2B could be interpreted as referring only to English and French. The *Official Languages Act* (Canada) provides that English and French are official languages.<sup>1</sup> In contrast, the *Official Languages Act* of the North-West Territories, provides that there are eleven official languages.<sup>2</sup>
10. The Committee considered these issues and proposes that Rule 3.2-2A be amended to provide as follows:

**3.2-2A** A lawyer shall, when appropriate, advise a client of the client’s language rights, including the right to use

(i) the official language of the client’s choice; and

(ii) a language recognized in provincial or territorial legislation as a language in which a matter may be pursued, including, where applicable, aboriginal languages”.
11. The Committee is proposing to refer to a client’s “right to use” a language rather than the client’s “right to proceed” in a language, as the Committee is of the view that this amendment would enhance the readability of the Rules.
12. Rule 3.2-2B continues to emphasize that a lawyer must be competent in the language in the language in which the lawyer provides services to the client. The Committee proposes to amend the Rule 3.2-2B to require the lawyer to obtain the consent of the client in the event that the client wishes to retain a lawyer who is not able to represent him or her in the client’s language of choice. This amendment is intended to provide additional guidance to lawyers.
13. A blackline, showing changes that would be made to the Rules of Professional Conduct, is attached as **Tab 2.1.1**. A clean version is shown at **Tab 2.1.2**.

---

<sup>1</sup> *Official Languages Act*, R.S.C. 1985, c. 31, s. 2, online at <http://laws-lois.justice.gc.ca/eng/acts/o-3.01/>.

<sup>2</sup> *Languages Act*, R.S.N.W.T. 1988, c. 0-1, s. 4, online at <http://www.canlii.org/en/nt/laws/stat/rsnwt-1988-c-o-1/latest/rsnwt-1988-c-o-1.html>.

## BLACKLINE SHOWING CHANGES PROPOSED TO LANGUAGE RIGHTS RULES

### Language Rights

**3.2-2A** A lawyer shall, when appropriate, advise a client of the client's language rights, including the right to use ~~the right to proceed in the official language of the client's choice~~.

(i) the official language of the client's choice; and

(ii) a language recognized in provincial or territorial legislation as a language in which a matter may be pursued, including, where applicable, aboriginal languages.

**3.2-2B** ~~When~~ If a client ~~proposes to use a~~ wishes to retain a lawyer for representation in the ~~official~~ language of his or her ~~the client's~~ choice and, the lawyer is not competent in that language to provide the required services, the lawyer shall not undertake the matter unless he or she ~~the lawyer is~~ otherwise able to competently ~~to~~ provide ~~the those required~~ services and the client consents in writing in that language.

### Commentary

[1] The lawyer should advise the client of the client's language rights as soon as possible.

[2] The choice of ~~official~~ language is that of the client not the lawyer. The lawyer should be aware of relevant statutory and constitutional law relating to language rights including the *Canadian Charter of Rights and Freedoms*, s. 19(1) and Part XVII of the *Criminal Code* regarding language rights in courts under federal jurisdiction and in criminal proceedings. The lawyer should also be aware that provincial or territorial legislation may provide additional language rights, including in relation to aboriginal languages.

[3] When a lawyer considers whether to provide the required services in the language chosen by the client, the lawyer should carefully consider whether it is possible to render those services in a competent manner as required by Rule 3.1-2 and related Commentary.

[New – June, 2015]

## CLEAN VERSION SHOWING CHANGES PROPOSED TO LANGUAGE RIGHTS RULES

### Language Rights

**3.2-2A** A lawyer shall, when appropriate, advise a client of the client's language rights, including the right to use

(i) the official language of the client's choice; and

(ii) a language recognized in provincial or territorial legislation as a language in which a matter may be pursued, including, where applicable, aboriginal languages.

**3.2-2B** If a client proposes to use a language of his or her choice and, the lawyer is not competent in that language to provide the required services, the lawyer shall not undertake the matter unless he or she is otherwise able to competently provide those services and the client consents in writing.

#### Commentary

[1] The lawyer should advise the client of the client's language rights as soon as possible.

[2] The choice of language is that of the client not the lawyer. The lawyer should be aware of relevant statutory and constitutional law relating to language rights including the *Canadian Charter of Rights and Freedoms*, s. 19(1) and Part XVII of the *Criminal Code* regarding language rights in courts under federal jurisdiction and in criminal proceedings. The lawyer should also be aware that provincial or territorial legislation may provide additional language rights, including in relation to aboriginal languages.

[3] When a lawyer considers whether to provide the required services in the language chosen by the client, the lawyer should carefully consider whether it is possible to render those services in a competent manner as required by Rule 3.1-2 and related Commentary.

[New – June, 2015]

FOR DECISION

**NEW PROCESS FOR ADMINISTRATIVE SURRENDER OF LICENCE**

**MOTION**

14. **That Convocation approve in principle a new process which would permit a licensee to surrender their licence in the face of a Law Society investigation or discipline proceeding.**

**RATIONALE**

15. Enhancing the efficiency of the Law Society's discipline process by avoiding or shortening hearings, where appropriate, was one of Convocation's priorities for the 2011-2015 bench term.<sup>1</sup>
16. The proposal would, if approved, permit a licensee to apply to surrender their licence in the face of regulatory proceedings in certain circumstances. If Law Society staff agree, the application would be referred to the summary order bench, who may approve or deny the application. This would be a new administrative process which is distinct from the Tribunal's authority to order a surrender of license in the discipline process.
17. Enabling provisions in the by-laws would be prepared for Convocation's approval at a later date.
18. The advantages of the process are:
  - a. a reduction in time and resources required to terminate a licence;
  - b. the creation of additional options for licensees who may wish to surrender their licence, but cannot do so due to ongoing investigations or discipline; and
  - c. termination of licence in circumstances where it might otherwise be difficult to achieve this result through the disciplinary process
19. The Paralegal Standing Committee considered the proposal at its September 9 meeting and agrees that it be recommended to Convocation for its consideration.

---

<sup>1</sup> Priority Planning Committee Report to Convocation, December 9, 2011, paragraph 6, online at <http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147486341>.



## BACKGROUND

20. Discipline proceedings are the most serious response to lawyer or paralegal misconduct. These proceedings can be lengthy, costly, and only address the specific issues being adjudicated. In that sense, discipline is a blunt instrument.
21. Currently, administrative surrender of licence is not available to licensees who are in the investigation or discipline process. A new process to permit administrative surrender of licence in the face of regulatory proceedings would be distinct from other types of surrender of licence. A surrender of licence without discipline penalty has a number of advantages, including certainty, finality, timeliness and efficiency.
22. There are some licensees who have engaged in misconduct and are not interested in practising law or providing legal services in the future. Their conduct might not result in licence revocation through the discipline process, but they may be willing to surrender their licence voluntarily, outside of the discipline process. In some circumstances, the public interest may not require a prosecution. Licensees may not be well suited to the practice of law, or they may be close to retirement and experiencing difficulty in their practice after an unblemished career. The public may be better served by removing the licensee from practice than by pursuing a finding of misconduct.
23. The Law Society would use such a process in a manner consistent with its duties to protect the public interest and to act in a timely, open and efficient manner.
24. The following describes the proposed surrender process. It does not require changes to the Law Society Act and could be implemented with changes to the By-Laws. While the process would save resources, its suitability in a given case would not be based on expediency, but protection of the public interest.

## DISCUSSION

25. Two principles guide this proposal.
26. In considering an application for surrender of licence in the context of the Law Society's duty to ensure public confidence in its ability to regulate the profession, the first principle would be to ensure that the information to be published about the decision is sufficient to enable the public to understand the allegations and the reasons for granting the licensee permission to surrender their licence.
27. The second principle to be considered by the Society upon receipt of an application for surrender of licence is whether the surrender process is in the public interest in the

particular case. Factors to be considered would include

- a. the need to complete the investigation; and
- b. the public interest in a full hearing of the allegations.

### **Surrender Process**

28. The three key stages in the proposed process are
  - a. consideration by Law Society staff, which may involve negotiation with the licensee, and ensuring that the application is complete;
  - b. referral to the decision-maker, who would be the summary order benchler;
  - c. publication of a record of the decision, including an agreed statement of facts.
29. The process would be relevant to circumstances in which a licensee has engaged in misconduct and is not interested in practicing law or providing legal services in the future. Their conduct might not result in licence revocation through the discipline process, but some may be willing to voluntarily surrender their license, outside the discipline process.
30. The Society would use the process in a manner that is consistent with its duty to protect the public interest as well as to act in a timely, open and efficient manner.
31. A circumstance in which a licensee is failing to respond to, or cooperate with, the Law Society would not generally be appropriate for this process.

### **Description of the Process**

32. Any licensee who is under investigation or is the subject of discipline hearings may apply to surrender their license under this process.
33. To initiate the process, the licensee would submit a written application to surrender to the Law Society on a prescribed form, which requires the licensee to provide certain information.
34. The licensee and the Law Society would have to agree on a written description of the facts. This written description would be part of the application record. If the application is accepted, the statement of facts would be public, and the statement or a summary would be published on the Law Society's website.
35. As part of its consideration of a licensee's application to surrender, it would be

recommended that the licensee receive Independent Legal Advice.

36. The Society would have the ability to seek costs as part of the surrender process. These costs might be sought at the time of surrender, or be payable prior to any application for licensing in the future. It is possible that imposition of costs may discourage some licensees from reapplying for their licence following surrender.
37. The application to surrender would be considered, in writing only, by the summary order bench. The question for decision would be whether the application is accepted or rejected. In making this decision, the summary order bench would take into consideration the need to ensure public confidence in the Law Society and the protection of the public in the public interest.
38. If the application is accepted, the surrender would be processed by the Law Society as a licence surrender in the normal course. If the application is refused, the investigation and/or discipline proceeding would continue in the normal course. There is no appeal from this decision.
39. The fact that the licensee has been granted permission to surrender their licence, and an agreed statement of facts, would be published and available in the public register.
40. If a licensee granted permission to surrender wishes to apply for a license in the future, they would have to meet certain conditions to be described in by-laws.

#### Current Regulatory Framework and Required Amendments

41. Section 30 (1) of the Law Society Act provides that a licensee may apply to the Law Society to surrender their licence in accordance with the by-laws. Section 62(0.1)35 of the Act provides that Convocation may make by-laws governing applications to surrender a licence under s. 30.
42. Part III of By-Law 4 currently provides a regulatory framework for an application to surrender a licence, but does not address the proposed process. Under subsection 26(3) of the By-Law, the Society cannot consider an application for surrender if the applicant is the subject of an audit, investigation, search or seizure by the Law Society, or is a party to a discipline proceeding. Amendment to Part III of By-Law 4 would be required to permit a licensee to surrender in these circumstances, if the proposal is approved.
43. Part III of By-Law 8 governs the information that is made available regarding licensees on the public register. This would require amendment.

44. Part II of By-Law 4 specifies current requirements for licensing. The Committee will consider new By-law requirements that may be appropriate for those who have surrendered a licence under this proposal and subsequently reapply to the Society for licensing. For example, a time restriction following the surrender may be considered appropriate.

## FOR INFORMATION

## 2015 LAWYER ANNUAL REPORT

## Summary

45. The amended 2015 Lawyer Annual Report and the 2015 Class L3 Canadian Legal Advisor Annual Report, shown at [TAB 2.3.1](#) and [2.3.2](#), are provided for Convocation's information.
46. Subsection 5(1) of By-Law 8 requires 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 reporting form is called the Lawyer Annual Report.
47. The major substantive change to the 2015 Lawyer Annual Report and Class L3 Canadian Legal Advisor Annual Report involves the Law Foundation of Ontario (LFO) Form 1 questions, solely relating to mixed trust accounts, being incorporated into Section G – Financial Reporting as part of Question 5B. The mixed trust account information was previously collected separately by both the Law Society and the LFO. The Law Society did not previously collect the information contained in Questions 5B(i), (ii), (iii), (iv) and (v).

## Reasons for the Change

48. Subsections 57(1) and 57(3) of the *Law Society Act* require that all interest from money held in a mixed trust account be paid to the Law Foundation of Ontario (LFO). Subsection 2(1) of Regulation 709 of the Revised Regulations of Ontario requires a licensee to file a report (Form 1) with the LFO with respect to every mixed trust account by March 31 each year.
49. LFO's main source of revenue is interest received from licensees' mixed trust accounts. The LFO collects information annually about mixed trusts accounts using the Form 1. The Form 1 is currently filed electronically through the LSUC Portal, usually at the same time that a licensee submits his/her annual report.
50. The Form 1 process is the primary way that the LFO ensures that all mixed trust accounts are being reported.
51. The integration of Form 1 into the annual report process is expected to increase compliance with the Law Foundation's information requirements and help ensure that interest revenue from mixed trust accounts is directed to the LFO. Additionally, integration will:
  - a. facilitate the ability of licensees to fulfill statutory obligations;
  - b. reduce the number of follow-up emails and calls that are made each year to licensees who have failed to file a separate Form 1;

- c. ease the reporting burden of licensees by eliminating a second mandatory report with partially overlapping information;
- d. capture more complete and accurate data while using fewer resources.
- e. promote increased compliance by financial institutions; and
- f. support processes to ensure revenues to the LFO are maximized for access to justice objectives.



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

### Introduction Page

#### **YOUR 2015 LAWYER ANNUAL REPORT IS DUE MARCH 31, 2016.**

This report is based on the calendar year ending December 31, 2015, and is due by March 31, 2016. 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.

Your responses to Section G, relating to mixed trust accounts, will be shared with the Law Foundation of Ontario (LFO).

**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 Licensee 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.

**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.**

**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 portlet.

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

## 2015 Lawyer Annual Report

### Section A IDENTIFICATION

Populated from Law Society records as at December 2015.

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

**Licensee Information:**

Law Society Number:

Year of Call:

**Mailing Information\*:**

*\*As at December 2015*

Name:

Address:

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 portlet 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.**





The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer 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 (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)

- ☐ ASL or LSQ (Sign Language)
- ☐ Bulgarian
- ☐ Czech
- ☐ English
- ☐ French
- ☐ Gujarati
- ☐ Hungarian
- ☐ Korean
- ☐ Macedonian
- ☐ Persian
- ☐ Punjabi
- ☐ Serbian
- ☐ Spanish
- ☐ Urdu

- ☐ Albanian
- ☐ Cantonese
- ☐ Danish
- ☐ Estonian
- ☐ German
- ☐ Hebrew
- ☐ Italian
- ☐ Latvian
- ☐ Mandarin
- ☐ Polish
- ☐ Romanian
- ☐ Slovak
- ☐ Swedish
- ☐ Yiddish

- ☐ Arabic
- ☐ Croatian
- ☐ Dutch
- ☐ Finnish
- ☐ Greek
- ☐ Hindi
- ☐ Japanese
- ☐ Lithuanian
- ☐ Norwegian
- ☐ Portuguese
- ☐ Russian
- ☐ Slovene
- ☐ Ukrainian

☐ Other - Please specify: \_\_\_\_\_



## 2015 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, 2015) regardless of changes during the 2015 calendar year.
2. **Your response to this question will not be used to change your status.** To review or update your current status, you must use the Change of Information portlet in the LSUC Portal.

December 31, 2015 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



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

### Section C ALLOCATION OF PRACTICE (To be completed by all lawyers practising law but not in private practice in 2015.)

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 Lawyer Annual Report (LAR) 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%.



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

**Section D AREAS OF PRACTICE (To be completed by all lawyers resident in Ontario in 2015, 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 2015, and those resident and practising outside of Canada throughout 2015, should omit this section and proceed to Section E.)**

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

### NOTES ABOUT THIS SECTION:

- Questions in this section relate only to your law practice while resident in Ontario in 2015. "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.
- Where exact information is not available to respond to the questions under this heading, provide your best approximation.
- In estimating the approximate percentage of time in each question, your response should include:
  - time spent by non-lawyer staff on your behalf, and
  - your docketed and undocketed time, combined.
- 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.
- 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.
- 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.
- \*Refer to the LAR Guide for definitions.

### 1. Canadian Law Practice – Ontario

- a) Did you practise law relating to Ontario Law in 2015?

If "Yes" to a):

Yes

☐

No

☐

- 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 2015 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	_____ %

Law Society Number

Licensee Name

6



## 2015 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 2015?

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 2015 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%.



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

### 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 2015, 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 2015 (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 2015, 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 Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

The total for the 5 rows should be 100%.		
d) Did you act on a real estate transaction in 2015?  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 2015.</b>		
i. I declare that I complied in 2015 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 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 2015 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 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 2015 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 of the <i>Rules</i> , except in the limited circumstances set out at Rule 3.4-16.9.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
iv. I declare that I complied in 2015 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 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 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 <u>Update on Mortgage Fraud</u> and webpage entitled <u>Fighting Real Estate Fraud</u> , and LawPRO's <u>Fraud Fact Sheet</u> and webpage entitled <u>Avoid a Claim</u> .	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"/>



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

### 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 2015?

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).**





The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

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

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

#### NOTES ABOUT THIS SECTION:

- For further assistance in completing this section, refer to The Bookkeeping Guide for Lawyers available on our website at [www.lsuc.on.ca](http://www.lsuc.on.ca).
- \*Refer to the LAR 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 2015? 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 2015, 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 2015, 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 2015, 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 2015, 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 2015, 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 ☐

Law Society Number

Licensee Name

11



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

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

v) The total dollar value as at December 31, 2015 of all separate\* bank accounts and investments\* for the estates 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.**

b) i) In 2015, 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 2015, 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, 2015 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 2015, 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 2015, 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 ☐

Law Society Number

Licensee Name

12

The Law Society of  
Upper CanadaBarreau  
du Haut-Canada

## 2015 Lawyer Annual Report

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, 2015 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 of the *Rules*.

a) i) At any time in 2015, 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 2015, 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.



## 2015 Lawyer Annual Report

### 5. Mortgage Transactions

In 2015, 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 2015, did you act for a lender, lending money through a mortgage broker?

Yes ☐ No ☐

b) i) In 2015, 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 2015, approximately how many private mortgage\* loans were advanced?

\_\_\_\_\_

iii) In 2015, 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 2015, 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 2015, 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 2015, 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 ☐



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

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

Yes ☐ No ☐ N/A ☐

ii) In 2015, 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?

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 2015?

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 2015?

\_\_\_\_\_

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).



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

### Section G FINANCIAL REPORTING

To be completed by:

- All sole practitioners;
- All partners, employees, associates and counsel of law firms;
- All lawyers employed by Legal Aid Ontario who are responsible for general\*, trust\* and/or mixed trust\* accounts; and
- All other lawyers who held or continued to hold client monies or property from a former legal practice in Ontario.

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

#### NOTES ABOUT THIS SECTION:

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

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

a) During the filing year, did either you or your firm operate a trust\* or mixed trust\* account in Ontario? Yes ☐ No ☐

b) During the filing year, 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. During the filing year, were you a sole practitioner, or were you the lawyer responsible for filing the trust\* account information on behalf of other licensees 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 licensees, you must also submit a Financial Filing Declaration. Your report is not considered complete without submitting the Financial Filing Declaration.

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



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer 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 LICENSEE'S NAME & LAW SOCIETY NUMBER

a) FINANCIAL FILING LICENSEE'S NAME: \_\_\_\_\_

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

The Designated Financial Filing Licensee that you have named is responsible for submitting the Financial Filing Declaration to report the firm's financial information on your behalf. Your Lawyer Annual Report will not be considered complete without the submission of the **Financial Filing Declaration by the licensee 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 the filing year, 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

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

Law Society Number

Licensee Name

17



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

<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. 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.			





The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

### 5A. Comparison of Trust Bank Reconciliations and Trust Listing of Client Liabilities as at December 31, 2015.

Trust Reconciliation and Comparison To refer to a sample reconciliation in the "Guide" <a href="#">click here.</a>	December 31, 2015 Balances
(i) The total dollar value of mixed* trust bank accounts	\$
(ii) The total dollar value of separate* interest bearing trust accounts or income generating trust accounts/investments*	+ \$
(iii) The total dollar value of separate* estate and/or power of attorney* accounts and investments* Include the total dollar value indicated in questions F 3a)v), F 3b)v) and/or F 3c)iv) (if any)	+ \$
(iv) <b>TOTAL</b> of i) to iii)	=
(v) Total outstanding deposits (if any)	+
(vi) Total bank/posting errors (if any)	+/-
(vii) Total outstanding cheques (if any)	-
(viii) <b>Reconciled Bank Balance</b>	=
(ix) <b>Total Client Trust Liabilities</b> (Client Trust Listing)	-
(x) <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 (viii) and the Total Client Trust Liabilities (ix), provide a written explanation below.</p>	



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

### 5B. Trust Accounts

- This question must be answered if you operated a trust and/or mixed trust account at any time during the filing year (2015 calendar year).
- A licensee who receives money in trust for a client shall immediately pay the money into an account at a chartered bank, provincial savings office, credit union or a league to which the *Credit Unions and Caisses Populaires Act*, 1994 applies or registered trust corporations, to be kept in the name of the licensee, or the name of the firm of licensees of which the licensee is a partner, through which the licensee practises law or provides legal services or by which the licensee is employed, and designated as a trust account.
- A mixed trust account is a trust account holding, or intended to hold, trust funds for more than one client. Mixed trust accounts are governed by subsection 57(1) of the *Law Society Act*, which requires any interest payable on a mixed trust account to be paid to the Law Foundation of Ontario.

Financial Institution Name	Transit Number	Trust Account Number	Branch Address	Account Holder Name	Is this a mixed trust account?
SAMPLE Royal Bank of Canada	0652	1234567	123 Main Street Oakville, ON L6J 7M4	Smith Jones LLP	Yes <input type="checkbox"/> No <input type="checkbox"/>
					Yes <input type="checkbox"/> No <input type="checkbox"/>

(i) Has this financial institution (at any time) been directed to pay interest on this account to the Law Foundation of Ontario (applicable to mixed trust accounts only)?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
(ii) Was this account opened during the filing year?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>If “Yes” to ii):</b>  Date account was opened:	____ / ____ MM / DD
(iii) Was this account closed during the filing year?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>If “Yes” to iii):</b>  Date account was closed:	____ / ____ MM / DD
(iv) If the account was closed, was the balance of the closed account transferred to the Law Society of Upper Canada’s Unclaimed Trust Fund?	Yes <input type="checkbox"/> No <input type="checkbox"/>
(v) Was there at least one transaction in this account during the filing year?	Yes <input type="checkbox"/> No <input type="checkbox"/>

Law Society Number

Licensee Name

20



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

If you are filing your Lawyer Annual Report by paper and if you have multiple trust accounts, please contact By-Law Administration Services at [bylawadmin@lsuc.on.ca](mailto:bylawadmin@lsuc.on.ca) or (416) 947-3315 for an additional form, or enter the information in the space provided at the end of this Section.

### 6. Answer all questions as at December 31, 2015.

- a) i) What is the total number of mixed\* trust bank accounts referred to in 5A(i)? \_\_\_\_\_
- ii) Of the total mixed\* trust bank account balance recorded in 5A(i), 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 5A(ii)? \_\_\_\_\_
- c) What is the total number of separate\* estate and/or power of attorney\* accounts and investments\* referred to in 5A(iii)? \_\_\_\_\_

### 7. Overdrawn Accounts

- a) During 2015, 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, 2015? Yes ☐ No ☐
- If "No" to b):**
- c) The total dollar value of overdrawn clients' trust ledger account(s) as at December 31, 2015 was: \$ \_\_\_\_\_
- d) The total number of overdrawn clients' trust ledger account(s) as at December 31, 2015 was: \_\_\_\_\_

### 8. Outstanding Deposits

- a) During 2015, 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, 2015? Yes ☐ No ☐
- If "No" to b):**
- c) The total dollar value of outstanding trust account deposits as at December 31, 2015 was: \$ \_\_\_\_\_

Law Society Number

Licensee Name

21



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Lawyer Annual Report

d) The total number of outstanding trust account deposits as at December 31, 2015 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? Yes ☐ No ☐

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

b) The total dollar value of these account balances as at December 31, 2015 was: \$\_\_\_\_\_

c) The total number of client trust ledger accounts that remained unchanged\* for the entire year as at December 31, 2015 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.



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

## 2015 Lawyer Annual Report

If required, use the area below to provide further information about your Financial Reporting (Section G), including details of any additional trust or mixed trust accounts.

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

I am the lawyer filing this 2015 Lawyer 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

Barreau  
du Haut-Canada

## 2015 Class L3 Licence Canadian Legal Advisor Annual Report

**YOUR 2015 CLASS L3 LICENCE CANADIAN LEGAL ADVISOR ANNUAL REPORT IS DUE MARCH 31, 2016.**

This report is based on the calendar year ending December 31, 2015, and is due by March 31, 2016. 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 Section G, relating to mixed trust accounts, will be shared with the Law Foundation of Ontario (LFO).

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

**FINANCIAL FILING DECLARATION (FFD):** Only the Designated Financial Filing Licensee 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.

**BY-LAWS:** The applicable by-laws are available in your 2015 Class L3 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).



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Class L3 Licence Canadian Legal Advisor Annual Report

### Section A IDENTIFICATION

Populated from Law Society records as at December 2015.

**Licensee Information:**

Law Society Number:

Year of Call:

**Mailing Information\*:**

Name:

Address:

City, Province:

Postal Code:

Email:

Phone:

Status:

\*As at December 2015

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



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Class L3 Licence Canadian Legal Advisor Annual Report

### 1. Benchers Election Privacy Option (non-mandatory response)

During the benchers 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 benchers 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)

- ☐ ASL or LSQ (Sign Language)
- ☐ Bulgarian
- ☐ Czech
- ☐ English
- ☐ French
- ☐ Gujarati
- ☐ Hungarian
- ☐ Korean
- ☐ Macedonian
- ☐ Persian
- ☐ Punjabi
- ☐ Serbian
- ☐ Spanish
- ☐ Urdu

- ☐ Albanian
- ☐ Cantonese
- ☐ Danish
- ☐ Estonian
- ☐ German
- ☐ Hebrew
- ☐ Italian
- ☐ Latvian
- ☐ Mandarin
- ☐ Polish
- ☐ Romanian
- ☐ Slovak
- ☐ Swedish
- ☐ Yiddish

- ☐ Arabic
- ☐ Croatian
- ☐ Dutch
- ☐ Finnish
- ☐ Greek
- ☐ Hindi
- ☐ Japanese
- ☐ Lithuanian
- ☐ Norwegian
- ☐ Portuguese
- ☐ Russian
- ☐ Slovene
- ☐ Ukrainian

☐ Other - Please specify: \_\_\_\_\_





The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 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, 2015) regardless of changes during the 2015 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 portlet in the LSUC Portal.

December 31, 2015 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%	



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 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 2015?

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).**



## 2015 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 completing this section, refer to The Bookkeeping Guide for Lawyers available on our website at [www.lsuc.on.ca](http://www.lsuc.on.ca).
- \*Refer to the Lawyer Annual Report (LAR) 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 2015? 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 2015, 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 2015, 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 2015, 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 2015, 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 2015, did you exercise a power of attorney\* for property in Ontario? Yes ☐ No ☐

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

The Law Society of  
Upper CanadaBarreau  
du Haut-Canada

## 2015 Class L3 Licence Canadian Legal Advisor Annual Report

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

c) i) In 2015, 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 of the *Rules of Professional Conduct*.

a) i) At any time in 2015, 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 2015, 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



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Class L3 Licence Canadian Legal Advisor Annual Report

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

- a) i) In 2015, 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 2015, 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 2015, 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 2015, 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 2015?

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 2015?

\_\_\_\_\_

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

Yes ☐ No ☐



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

## 2015 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).



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 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;
- All partners, employees, associates and counsel of law firms; and
- All other lawyers who held or continued to hold client monies or property from a former legal practice in Ontario.

### NOTES ABOUT THIS SECTION:

1. For further assistance in the completion of this section, refer to The Bookkeeping Guide for Lawyers 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) During the filing year, did either you or your firm operate a trust\* account or mixed\* trust account for client matters in Ontario? Yes ☐ No ☐
- b) During the filing year, 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. During the filing year, were you a sole practitioner, or were you the lawyer responsible for filing the trust\* account information on behalf of other licensees in Ontario?

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 licensees, you must also submit a Financial Filing Declaration. Your report is not considered complete without submitting the Financial Filing Declaration.

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



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 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 LICENSEE'S NAME & LAW SOCIETY NUMBER

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

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

The Designated Financial Filing Licensee that you have named is responsible for submitting the Financial Filing Declaration to report the firm's financial information on your behalf. Your Class L3 Licence Canadian Legal Advisor Annual Report will not be considered complete without the submission of the **Financial Filing Declaration by the licensee 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 the filing year, 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**

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

12345A

Name

11





The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 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.

### 5A. Comparison of Trust Bank Reconciliations and Trust Listing of Client Liabilities as at December 31, 2015.

Trust Reconciliation and Comparison To refer to a sample reconciliation in the "Guide" <a href="#">click here.</a>	December 31, 2015 Balances
(i) The total dollar value of mixed* trust bank accounts	\$
(ii) The total dollar value of separate* interest bearing trust accounts or income generating trust accounts/investments*	+ \$



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Class L3 Licence Canadian Legal Advisor Annual Report

(iii) The total dollar value of separate* estate and/or power of attorney* accounts and investments*	+ \$
(iv) <b>TOTAL</b> of i) to iii)	=
(v) Total outstanding deposits (if any)	+
(vi) Total bank/posting errors (if any)	+/-
(vii) Total outstanding cheques (if any)	-
(viii) <b>Reconciled Bank Balance</b>	=
(ix) <b>Total Client Trust Liabilities</b> (Client Trust Listing)	-
(x) <b>Difference between Reconciled Bank Balance and Total Client Trust Liabilities</b>	=

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

### 5B. Trust Accounts

- This question must be answered if you operated a trust and/or mixed trust account at any time during the filing year (2015 calendar year).
- A licensee who receives money in trust for a client shall immediately pay the money into an account at a chartered bank, provincial savings office, credit union or a league to which the *Credit Unions and Caisses Populaires Act*, 1994 applies or registered trust corporations, to be kept in the name of the licensee, or the name of the firm of licensees of which the licensee is a partner, through which the licensee practises law or provides legal services or by which the licensee is employed, and designated as a trust account.
- A mixed trust account is a trust account holding, or intended to hold, trust funds for more than one client. Mixed trust accounts are governed by subsection 57(1) of the *Law Society Act*, which requires any interest payable on a mixed trust account to be paid to the Law Foundation of Ontario.



## 2015 Class L3 Licence Canadian Legal Advisor Annual Report

Financial Institution Name	Transit Number	Trust Account Number	Branch Address	Account Holder Name	Is this a mixed trust account?
<i>SAMPLE</i> <i>Royal Bank of Canada</i>	<i>0652</i>	<i>1234567</i>	<i>123 Main Street</i> <i>Oakville, ON L6J 7M4</i>	<i>Smith Jones LLP</i>	Yes <input type="checkbox"/> No <input type="checkbox"/>
					Yes <input type="checkbox"/> No <input type="checkbox"/>

(i) Has this financial institution (at any time) been directed to pay interest on this account to the Law Foundation of Ontario (applicable to mixed trust accounts only)?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
(ii) Was this account opened during the filing year?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>If “Yes” to ii):</b>  Date account was opened:	 ____ / ____ MM / DD
(iii) Was this account closed during the filing year?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>If “Yes” to iii):</b>  Date account was closed:	 ____ / ____ MM / DD
(iv) If the account was closed, was the balance of the closed account transferred to the Law Society of Upper Canada’s Unclaimed Trust Fund?	Yes <input type="checkbox"/> No <input type="checkbox"/>
(v) Was there at least one transaction in this account during the filing year?	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>If you are filing your Lawyer Annual Report by paper and if you have multiple trust accounts, please contact By-Law Administration Services at <a href="mailto:bylawadmin@lsuc.on.ca">bylawadmin@lsuc.on.ca</a> or (416) 947-3315 for an additional form, or enter the information in the space provided at the end of this Section.</b>	

### 6. NOT APPLICABLE TO CLASS L3 LICENCE

### 7. Overdrawn Accounts

- a) During 2015, did your records, at any month end, disclose overdrawn clients' trust ledger account(s) for client matters in Ontario? Yes ☐ No ☐



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

## 2015 Class L3 Licence Canadian Legal Advisor Annual Report

### If "Yes" to a):

- b) Were the account(s) corrected by December 31, 2015?

Yes ☐ No ☐

### If "No" to b):

- c) The total dollar value of overdrawn clients' trust ledger account(s) as at December 31, 2015 was:

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

- d) The total number of overdrawn clients' trust ledger account(s) as at December 31, 2015 was:

\_\_\_\_\_

### 8. Outstanding Deposits

- a) During 2015, 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, 2015?

Yes ☐ No ☐

### If "No" to b):

- c) The total dollar value of outstanding trust account deposits as at December 31, 2015 was:

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

- d) The total number of outstanding trust account deposits as at December 31, 2015 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, 2015 was:

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

- c) The total number of client trust ledger accounts that remained unchanged\* for the entire year as at December 31, 2015 was:

\_\_\_\_\_



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

## 2015 Class L3 Licence Canadian Legal Advisor Annual Report

### 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:

\_\_\_\_\_

### 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), including details of any additional trust or mixed trust accounts.**

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

I am the lawyer filing this 2015 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

Tab 2.4

**FOR INFORMATION**

**PROFESSIONAL REGULATION DIVISION QUARTERLY REPORT**

52. The Professional Regulation Division Quarterly Report (second quarter 2015), provided to the Committee by Lesley Cameron, Active Executive Director of the Professional Regulation Division, appears at [Tab 2.4.1](#). The report, which was also reviewed by the Paralegal Standing Committee on September 9, 2015 includes information on the Division's activities and responsibilities, including file management and monitoring, for the period April to June 2015.



The Law Society of  
Upper Canada

Barreau  
du Haut-Canada

# **The Professional Regulation Division**

## **Quarterly Report**

April – June 2015

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

---

## **The Quarterly Report**

The Quarterly Report provides a summary of the Professional Regulation Division's complaints activity and achievements during the past quarter, April 1 to June 30, 2015. The purpose of the Quarterly Report is to provide information on the production and work of the Division during the quarter and to explain the factors that may have influenced the Division's performance.

## **The Professional Regulation Division**

Professional Regulation is responsible for responding to complaints against licensees, including the resolution, investigation and prosecution of complaints which are within the jurisdiction provided under the *Law Society Act*. In addition the Professional Regulation provides trusteeship services for the practices of licensees who are incapacitated by legal or health reasons. Professional Regulation also includes the Compensation Fund which compensates clients for losses suffered as a result of the wrongful acts of licensees.

See Appendices for a case flow chart describing the complaints process as well as a chart of the Professional Regulation's departments.



The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

---

## INDEX

	Page
<b>SECTION 1 – DIVISIONAL PERFORMANCE DURING THE QUARTER</b>	<b>5</b>
<b>PERFORMANCE IN THE PROFESSIONAL REGULATION DIVISION</b>	<b>6</b>
Graph 2A: Complaints Received in the Division	6
Graph 2B: Complaints Closed in the Division	7
Graph 2C: Total Inventory	8
Graph 2D: Median Age of Closed Complaints	8
<b>SECTION 2 – DEPARTMENT PERFORMANCE DURING THE QUARTER</b>	<b>9</b>
<b>2.1 – Intake</b>	<b>10</b>
Graph 2.1A: Input	10
Graph 2.1B: Complaints Closed and Transferred Out	11
Graph 2.1C: Department Inventory	12
Graph 2.1D: Median Age of Active Complaints	12
Graph 2.1E: Median Age of Closed Complaints	13
<b>2.2 – Complaints Resolution</b>	<b>14</b>
Graph 2.2A: Input	14
Graph 2.2B: Complaints Closed and Transferred Out	15
Graph 2.2C: Department Inventory	16
Graph 2.2D: Median Age of Active Complaints	16
Graph 2.2E: Aging of Active Complaints	17
Graph 2.2F: Median Age of Completed Complaints	18
<b>2.3 – Investigations</b>	<b>19</b>
Graph 2.3A: Input	19
Graph 2.3B: Complaints Closed and Transferred Out	20
Graph 2.3C: Department Inventory	21
Graph 2.3D: Median Age of Complaints	21
Graph 2.3E: Aging of Active Complaints – Core Cases and Mortgage Fraud Cases	22
Graph 2.3F: Median Age of Completed Complaints	24
<b>2.4 – Unauthorized Practice (UAP)</b>	<b>25</b>
Graph 2.4A: Unauthorized Practice Complaints in Intake	25
Graph 2.4B: Unauthorized Practice Investigations (in Complaints Resolution & Investigations)	25
Graph 2.4C: UAP Enforcement Actions	25
<b>2.5 – Complaints Review Commissioner</b>	<b>26</b>
Graph 2.5A: Reviews Requested and Files Reviewed (by Quarter)	26
Graph 2.5B: Decisions Rendered, by Quarter	26

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

---

<b>2.6 – Discipline</b>	<b>27</b>
Graph 2.6A: Input	27
Graph 2.6B: Department Inventory	28
Graph 2.6C: Inventory of Discipline Matters	28
Graph 2.6D: Notices Issued in the Hearing Division	29
Graph 2.6E: Completed Matters in the Hearing Division	30
Graph 2.6F: Age of Completed Matters in the Hearing Division	31
Graph 2.6G: Appeals and Judicial Reviews	32
 <b>SECTION 3 – APPENDICES</b>	 <b>33</b>
The Professional Regulation Complaint Process	34
Professional Regulation Organization Chart	35

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

---

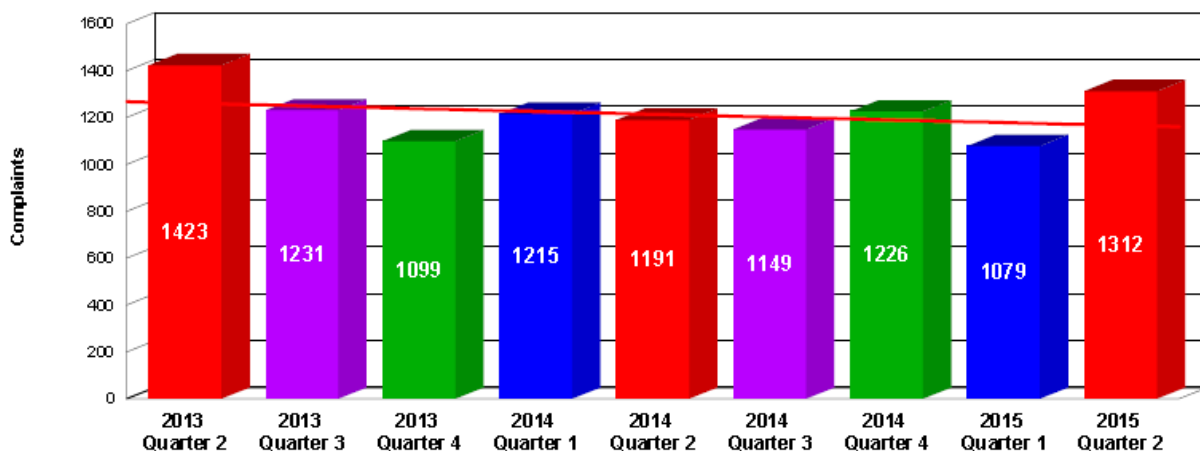
## **SECTION 1**

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

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## PERFORMANCE IN THE PROFESSIONAL REGULATION DIVISION

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



### Detailed Analysis of Complaints Received in the Division

	Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015
<b>Complaints against Lawyers</b>	882	936	1004	862	946
<b>Lawyer Applicant Cases ★</b>	17	25	4	7	62
<b>Complaints against Licensed Paralegals</b>	126	117	150	134	158
<b>Paralegal Applicant Cases ★</b>	118	20	20	33	96
<b>Complaints against Non-Licensees/Non-Applicants*</b>	48	51	48	43	50
<b>TOTAL</b>	1191	1149	1226	1079	1312

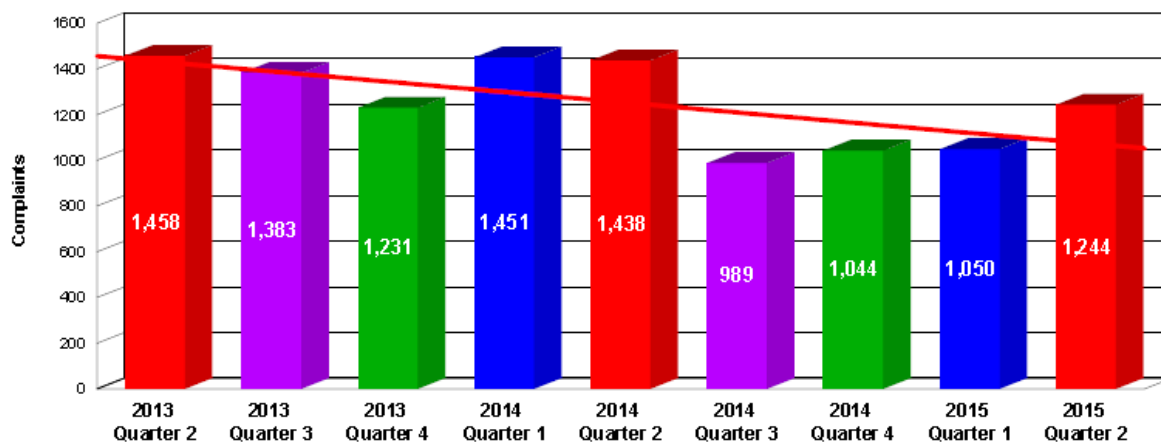
★ Applicant cases include good character cases and UAP complaints

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

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

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

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



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

	Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015
<b>Complaints against Lawyers</b>	1067	780	826	832	937
<b>Lawyer Applicant Cases ★</b>	69	16	14	9	60
<b>Complaints against Licensed Paralegals</b>	134	133	122	125	122
<b>Paralegal Applicant Cases ★</b>	100	22	32	29	75
<b>Complaints against Non-Licensees/Non-Applicants*</b>	68	38	50	55	50
<b>TOTAL</b>	1438	989	1044	1050	1244

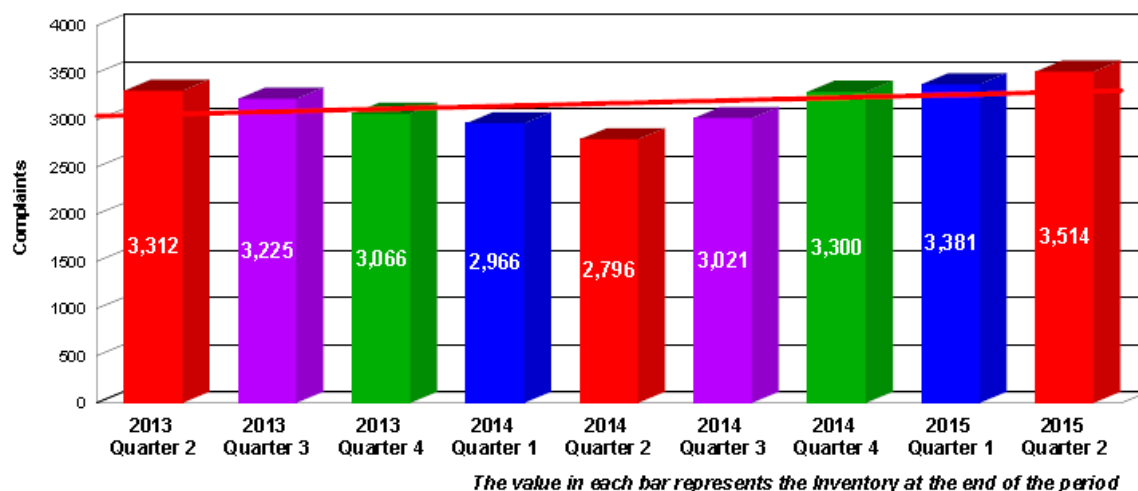
★ Applicant cases include good character cases and UAP complaints

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

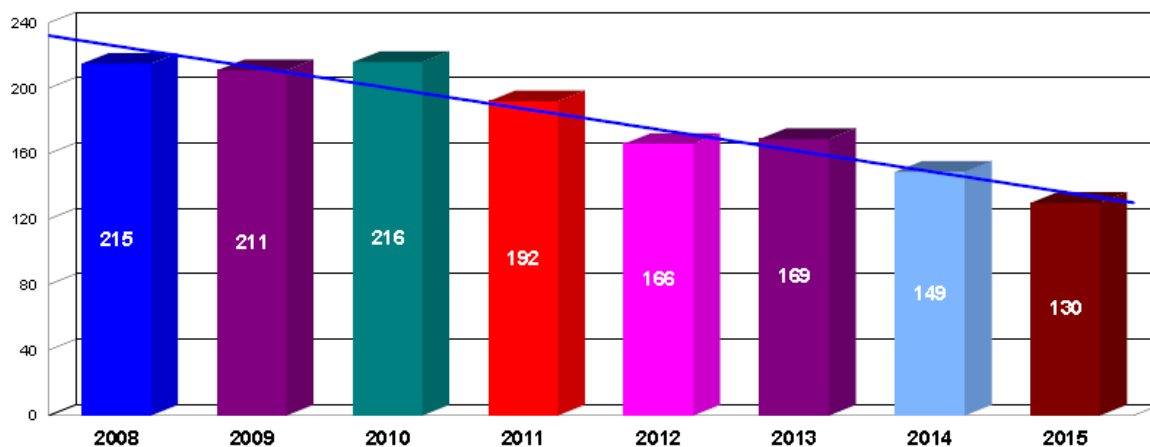
<sup>2</sup> This graph includes all complaints closed in Intake, Complaints Resolution, Investigations and Discipline.

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2015)

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



**Graph 2D: Median Age of Closed Complaints (days)<sup>3</sup>**



2015 – as of June 30

<sup>3</sup> These graphs do not include active complaints (enforcement matters) in the Monitoring & Enforcement Department.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

---

## **SECTION 2**

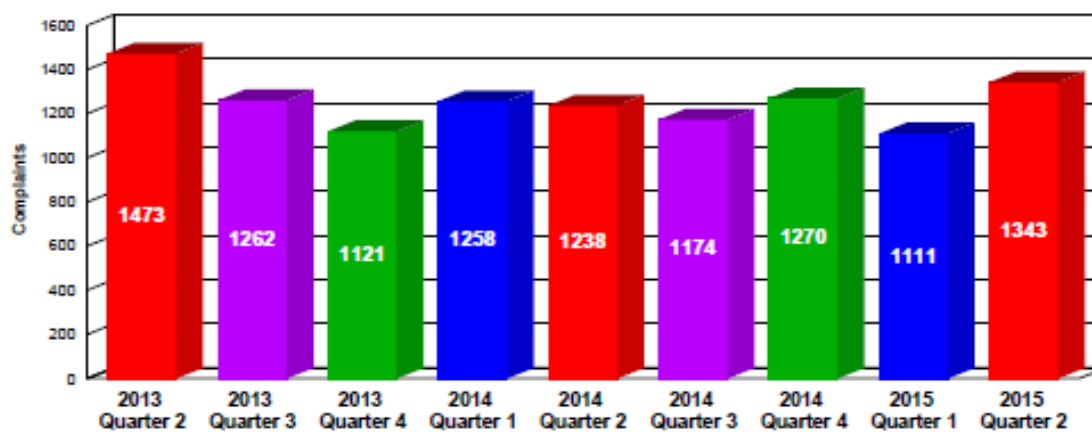
### **DEPARTMENTAL PERFORMANCE DURING THE QUARTER**

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

---

## 2.1 – Intake

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



---

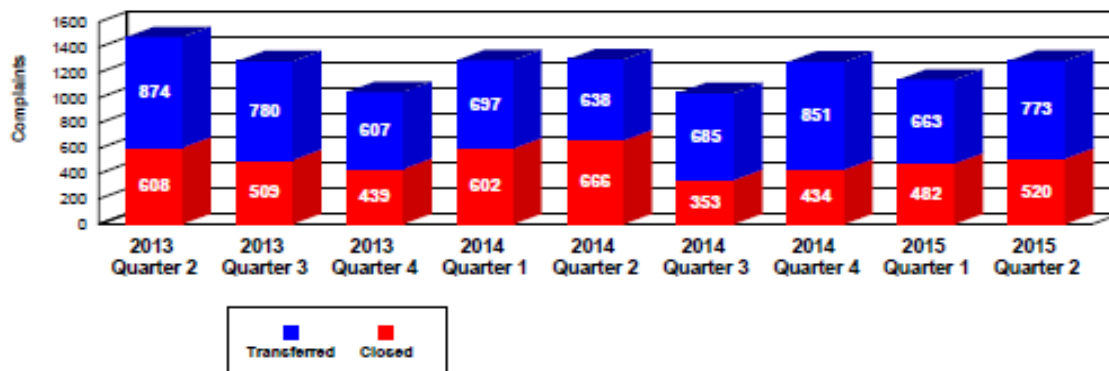
<sup>4</sup> Includes new complaints received and re-opened complaints



The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## 2.1 – Intake

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



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

		Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015
<b>Complaints against Lawyers</b>	Closed	439	291	342	399	354
	Transferred	482	576	687	525	562
<b>Lawyer Applicant Cases ★</b>	Closed	66	12	7	4	52
	Transferred	12	10	1	3	11
<b>Complaints against Licensed Paralegals</b>	Closed	60	32	41	35	34
	Transferred	79	74	116	97	127
<b>Paralegal Applicant Cases ★</b>	Closed	85	7	21	21	65
	Transferred	30	6	11	10	32
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	16	11	23	23	15
	Transferred	35	19	36	28	41
<b>TOTAL</b>	Closed	666	353	434	482	520
	Transferred	638	685	851	663	773

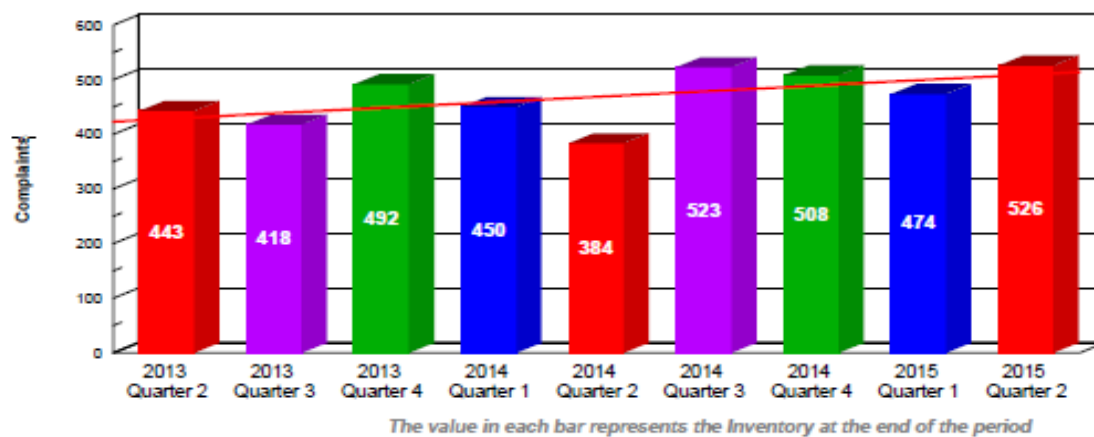
★ Applicant cases include good character cases and UAP complaints

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

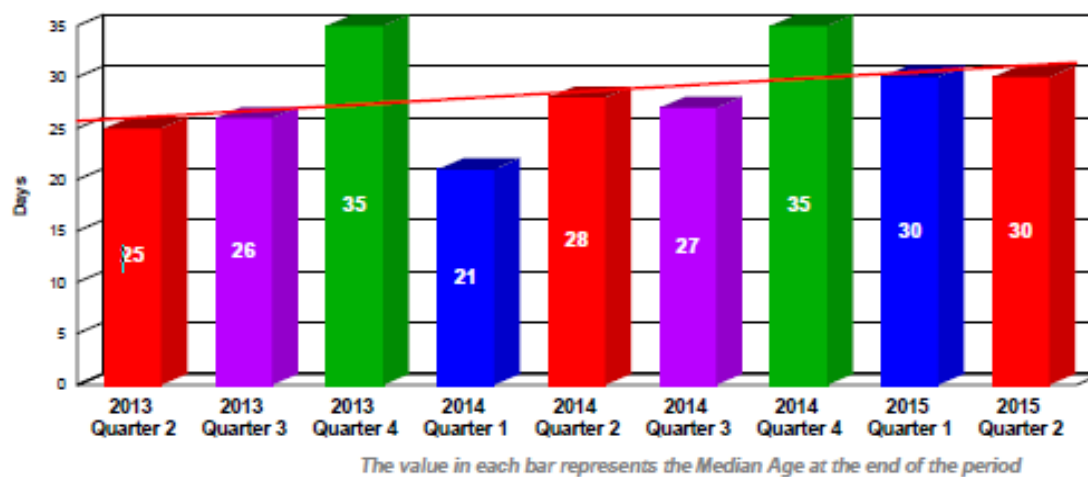
The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2015)

## 2.1 – Intake

**Graph 2.1 C: Department Inventory**



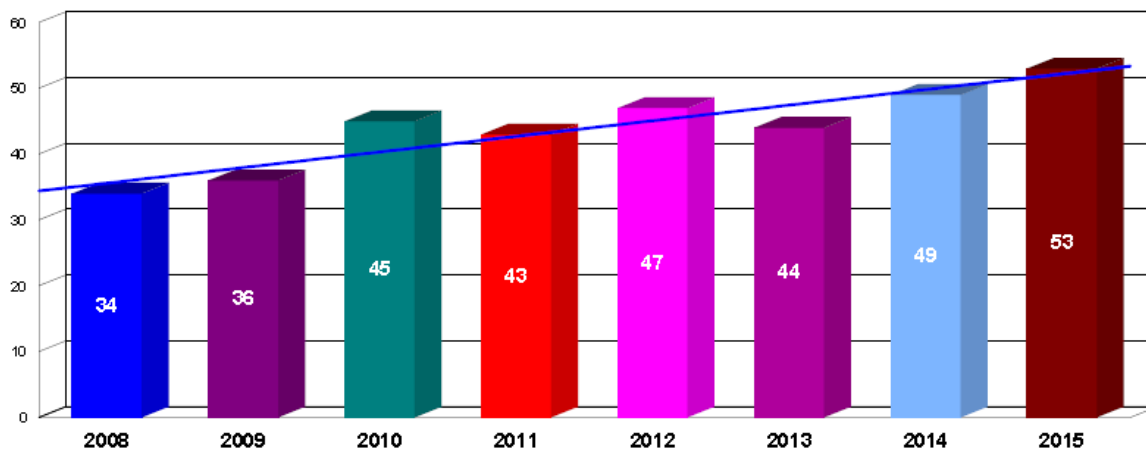
**Graph 2.1D: Median Age of Active Complaints**



The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## 2.1 – Intake

**Graph 2.1E: Median Age of Closed Complaints (days)**

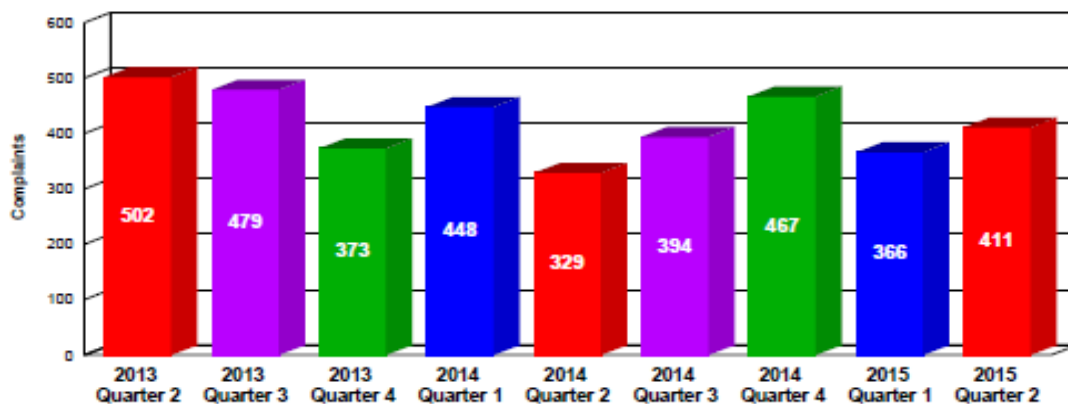


2015 – as at June 30

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## 2.2 – Complaints Resolution

**Graph 2.2A: Input<sup>5</sup>**



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

	Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015
<b>Complaints against Lawyers</b>	295	346	410	325	352
<b>Lawyer Applicant Cases ★</b>	0	0	0	0	0
<b>Complaints against Licensed Paralegals</b>	34	48	56	41	59
<b>Paralegal Applicant Cases ★</b>	0	0	0	0	0
<b>Complaints against Non-Licensees/Non-Applicants*</b>	0	0	1	1	0
<b>TOTAL</b>	329	394	467	367	411

★ Applicant cases include good character cases and UAP complaints

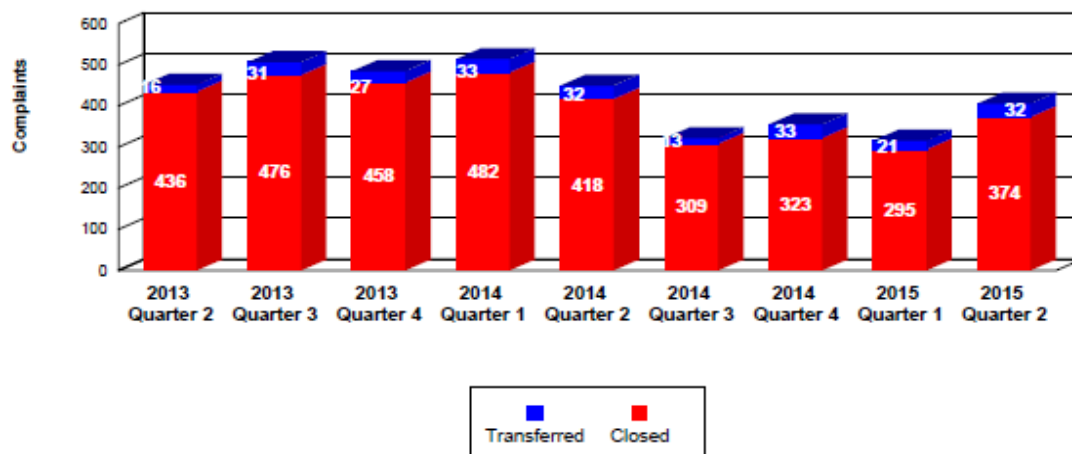
\* For a complete analysis of UAP complaints see section 3.4.

<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, 2015)

## 2.2 – Complaints Resolution

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



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

		Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015
<b>Complaints against Lawyers</b>	Closed	389	273	286	265	329
	Transferred	30	13	28	13	25
<b>Lawyer Applicant Cases★</b>	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
<b>Complaints against Licensed Paralegals</b>	Closed	29	36	37	30	45
	Transferred	2	0	5	8	7
<b>Paralegal Applicant Cases★</b>	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
<b>Complaints against Non-Licensees/Non-Applicants*</b>	Closed	0	0	0	0	0
	Transferred	0	0	0	0	0
<b>TOTAL</b>	Closed	418	309	323	295	374
	Transferred	32	13	33	21	32

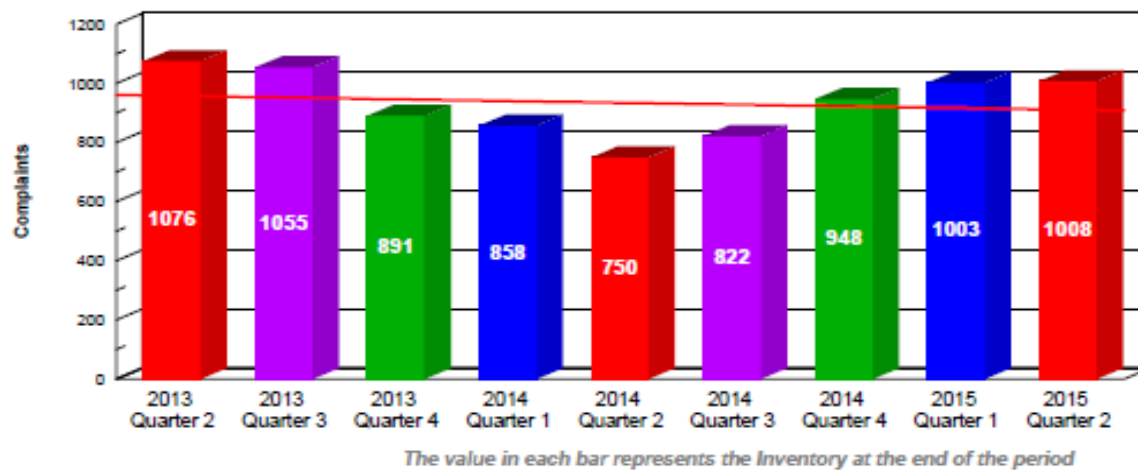
★ Applicant cases include good character cases and UAP complaints

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

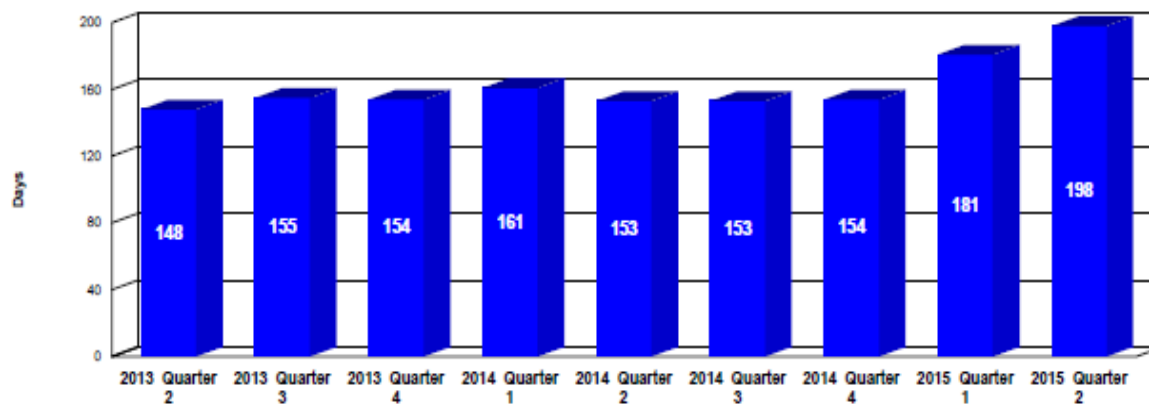
The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## 2.2 – Complaints Resolution

**Graph 2.2C: Department Inventory**



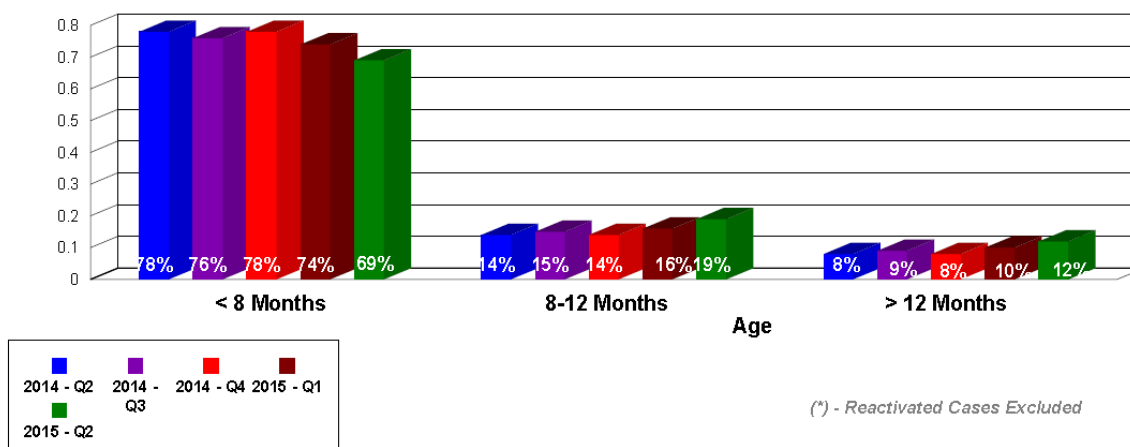
**Graph 2.2D: Median Age of Active Complaints**



The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## 2.2 – Complaints Resolution

**Graph 2.2E: Aging of Active Complaints**



	<8 months	8 to 12 months	>12 months
<b>Q2 2014</b>	534 cases involving 487 subjects	100 cases involving 95 subjects	53 cases involving 42 subjects
<b>Q3 2014</b>	574 cases involving 521 subjects	114 cases involving 106 subjects	67 cases involving 54 subjects
<b>Q4 2014</b>	673 cases involving 620 subjects	120 cases involving 112 subjects	73 cases involving 60 subjects
<b>Q1 2015</b>	679 cases involving 625 subjects	147 cases involving 137 subjects	94 cases involving 70 subjects
<b>Q2 2015</b>	627 cases involving 579 subjects	177 cases involving 168 subjects	107 cases involving 78 subjects

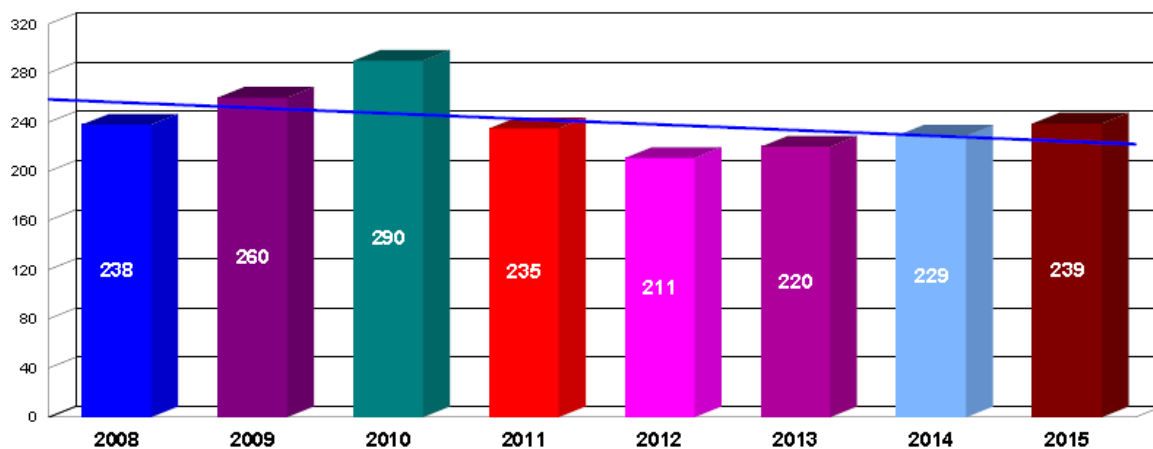
Cases which have been in the process longer than 12 months are closely monitored. In almost all instances, the case is in this category due to reasons beyond the control of the Law Society. Cases are usually older than 12 months in Complaints Resolution for the following reasons:

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

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## 2.2 – Complaints Resolution

**Graph 2.2F: Median Age of Completed<sup>6</sup> Complaints**



2015 – as at June 30

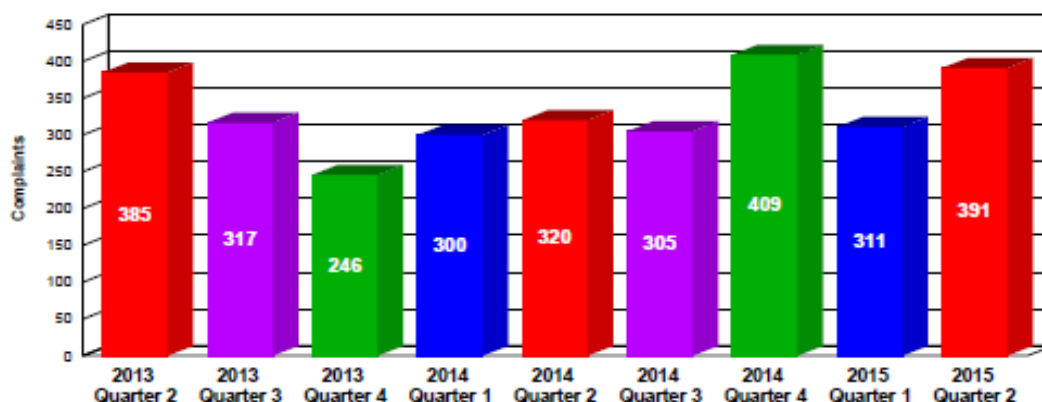
<sup>6</sup> Included are complaints closed by Complaints Resolution or transferred by the department to Discipline.



The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## 2.3 –Investigations

**Graph 2.3A: Input**



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

	Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015
<b>Complaints against Lawyers</b>	201	240	296	210	238
<b>Lawyer Applicant Cases ★</b>	12	10	2	3	11
<b>Complaints against Licensed Paralegals</b>	42	30	65	60	70
<b>Paralegal Applicant Cases ★</b>	30	6	11	11	32
<b>Complaints against Non-Licensees/Non-Applicants*</b>	35	19	35	27	40
<b>TOTAL</b>	320	305	409	311	391

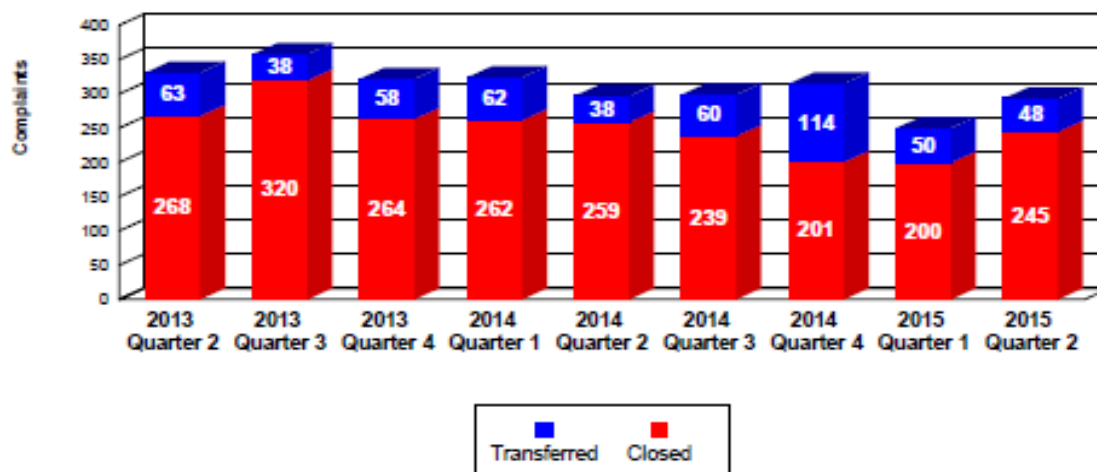
★ Applicant cases include good character cases and UAP complaints

\* 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, 2015)

## 2.3 –Investigations

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



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

		Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015
Complaints against Lawyers	Closed	166	147	122	121	162
	Transferred	31	48	90	27	26
Lawyer Applicant Cases ★	Closed	3	4	6	5	7
	Transferred	1	0	0	0	3
Complaints against Licensed Paralegals	Closed	32	51	37	48	38
	Transferred	1	11	20	17	17
Paralegal Applicant Cases ★	Closed	8	10	11	5	10
	Transferred	1	0	4	4	1
Complaints against Non-Licensees/Non-Applicants*	Closed	50	27	25	21	28
	Transferred	4	0	0	2	1
TOTAL	Closed	259	239	201	200	245
	Transferred	38	59	114	50	48

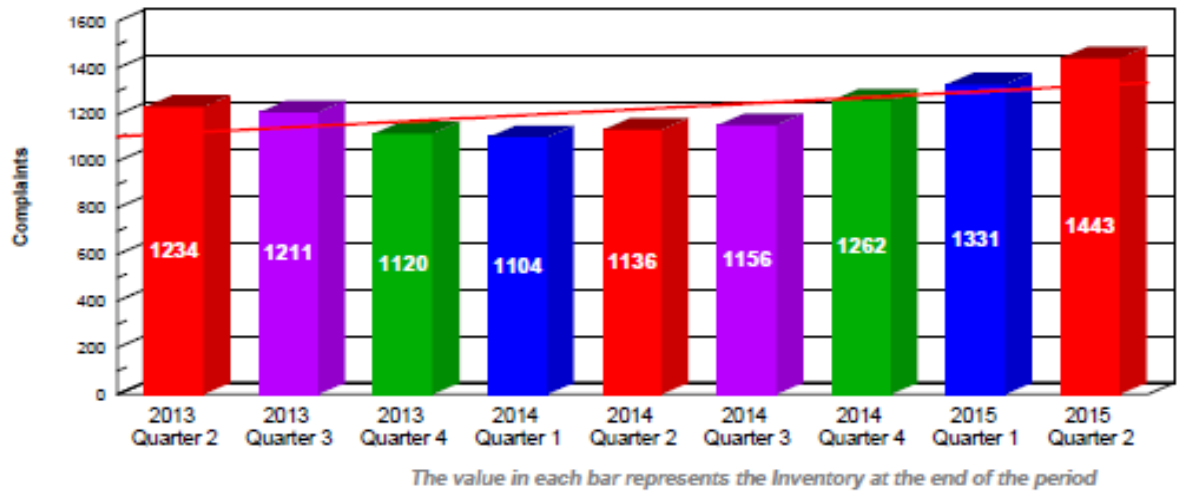
★ Applicant cases include good character cases and UAP complaints

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

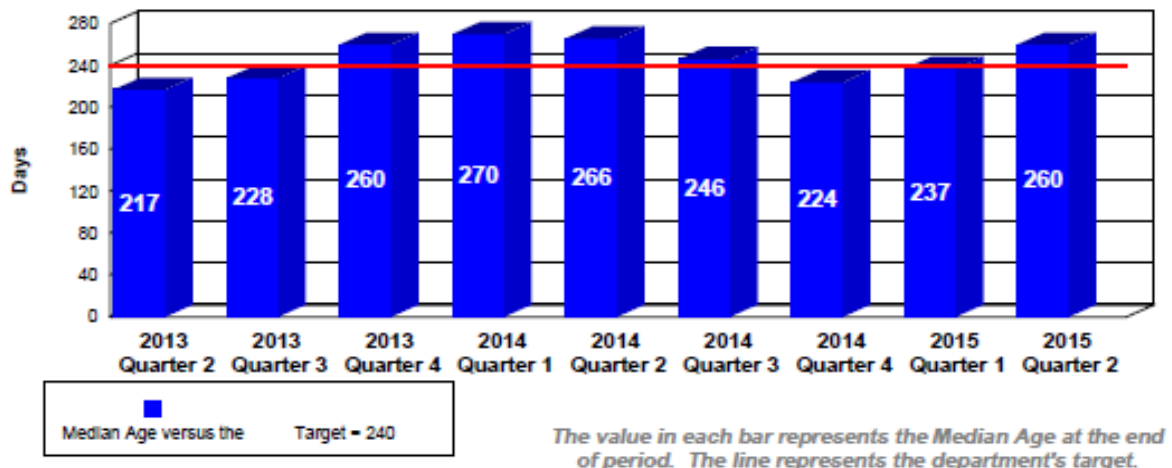
The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2015)

## 2.3 – Investigations

**Graph 2.3C: Department Inventory**



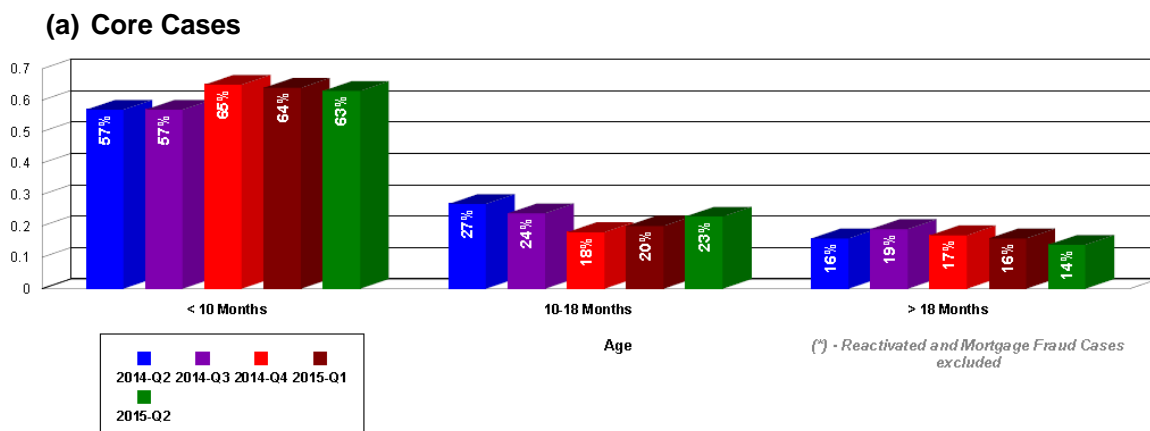
**Graph 2.3D: Median Age of All Complaints**



The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## 2.3 – Investigations

**Graph 2.3E: Aging of Active Complaints**



	<10 months	10 to 18 months	>18 months
<b>Q2 2014</b>	549 cases involving 433 subjects	256 cases involving 178 subjects	160 cases involving 120 subjects
<b>Q3 2014</b>	540 cases involving 395 subjects	223 cases involving 180 subjects	180 cases involving 124 subjects
<b>Q4 2014</b>	693 cases involving 451 subjects	193 cases involving 152 subjects	181 cases involving 119 subjects
<b>Q1 2015</b>	740 cases involving 476 subjects	226 cases involving 186 subjects	185 cases involving 125 subjects
<b>Q2 2015</b>	787 cases involving 548 subjects	284 cases involving 190 subjects	183 cases involving 121 subjects

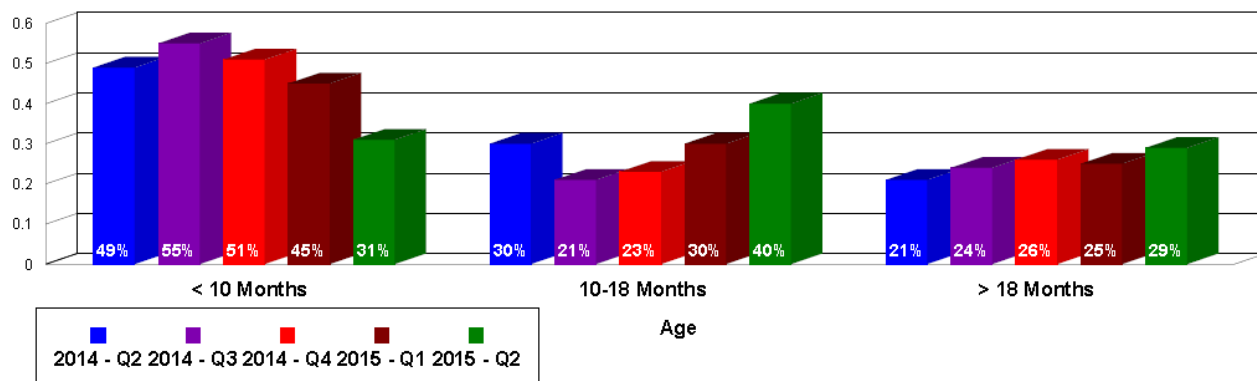
While the department strives to reduce the proportion of cases in the older time frame and to increase the proportion of cases in the youngest time frame, it is recognized that there are cases that are older than 18 months in Investigations for the following reasons:

- 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.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## 2.3 – Investigations

### (b) Mortgage Fraud Cases



	<10 months	10 to 18 months	>18 months
<b>Q2 2014</b>	49 cases involving 41 subjects	30 cases involving 24 subjects	21 cases involving 19 subjects
<b>Q3 2014</b>	61 cases involving 46 subjects	23 cases involving 19 subjects	26 cases involving 21 subjects
<b>Q4 2014</b>	57 cases involving 41 subjects	26 cases involving 23 subjects	29 cases involving 26 subjects
<b>Q1 2015</b>	46 cases involving 32 subjects	31 cases involving 28 subjects	26 cases involving 23 subjects
<b>Q2 2015</b>	30 cases involving 25 subjects	39 cases involving 31 subjects	28 cases involving 25 subjects

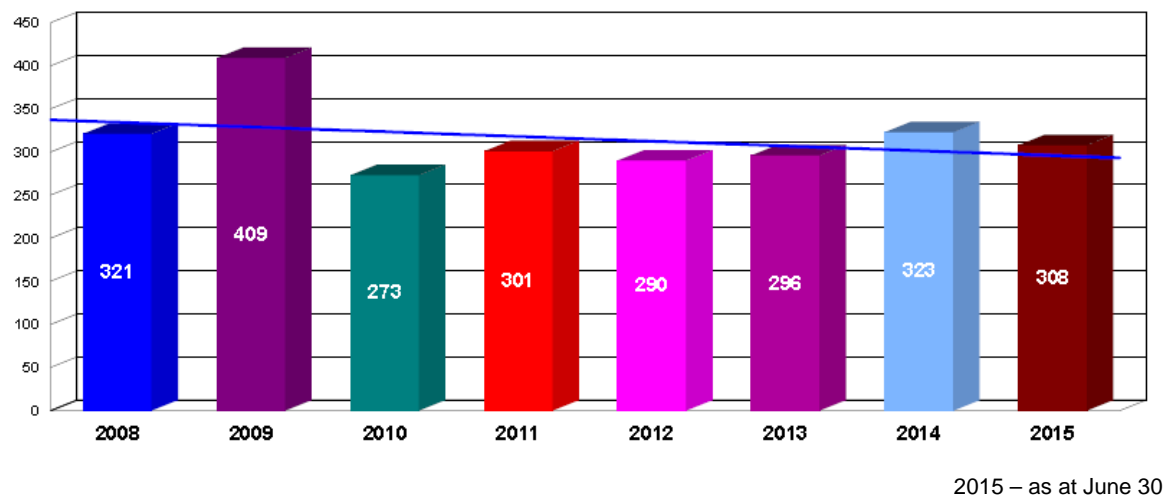
As noted above, the department strives to reduce the proportion of mortgage fraud cases in the older time frame and to increase the proportion of cases in the youngest time frame. However, it is recognized that there will always be mortgage fraud cases that are older than 18 months in Investigations 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, 2015)

## 2.3 – Investigations

**Graph 2.3F: Median Age of Completed<sup>7</sup> Complaints**



<sup>7</sup> Included are complaints closed by Investigations or transferred by the department to Discipline.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## 2.4 – Unauthorized Practice (UAP)

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

Quarter	New	Closed	Transferred for Investigation	Active at end of Quarter
<b>Q1 2013</b>	71	29	59	11
<b>Q2 2013</b>	60	26	51	5
<b>Q3 2013</b>	69	27	46	9
<b>Q4 2013</b>	60	20	41	11
<b>Total for 2013</b>	<b>260</b>	<b>102</b>	<b>197</b>	<b>11</b>
<b>Q1 2014</b>	64	26	51	6
<b>Q2 2014</b>	52	15	38	7
<b>Q3 2014</b>	44	13	21	20
<b>Q4 2014</b>	63	23	44	21
<b>Total for 2014</b>	<b>223</b>	<b>77</b>	<b>154</b>	<b>21</b>
<b>Q1 2015</b>	45	22	37	11
<b>Q2 2015</b>	60	16	47	8

**Graph 2.4B: Unauthorized Practice Investigations**

	New Investigations	Closed <sup>8</sup> Investigations	Inventory at Quarter End
<b>Q1 2013</b>	59	62	128
<b>Q2 2013</b>	51	36	143
<b>Q3 2013</b>	46	58	129
<b>Q4 2013</b>	40	31	137
<b>Totals: 2013</b>	<b>197</b>	<b>187</b>	
<b>Q1 2014</b>	51	66	122
<b>Q2 2014</b>	38	82	82
<b>Q3 2014</b>	21	29	74
<b>Q4 2014</b>	44	29	90
<b>Totals: 2014</b>	<b>154</b>	<b>206</b>	
<b>Q1 2015</b>	37	26	101
<b>Q2 2015</b>	46	31	115

**Graph 2.4C: UAP Enforcement Actions**

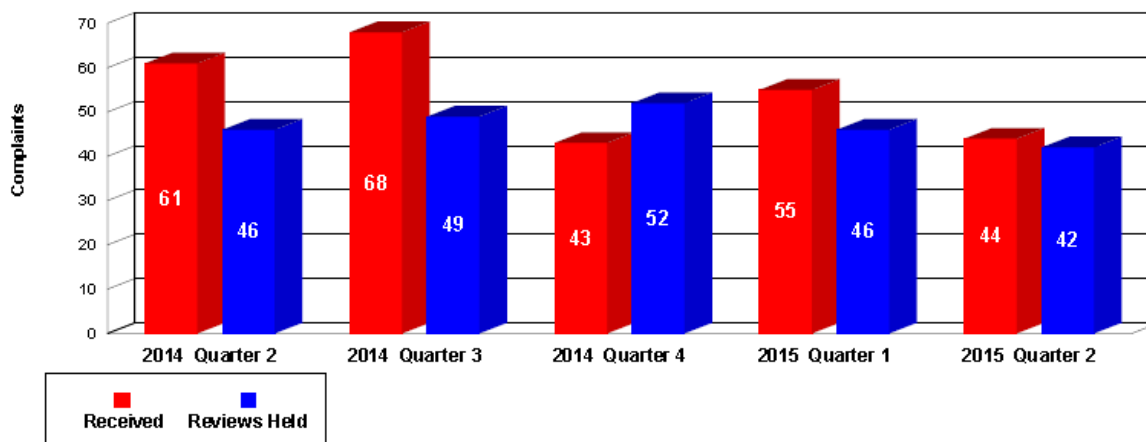
There were no new UAP enforcement matters commenced in Q2 2015. As at June 30, 2015, there was 1 active UAP matter.

<sup>8</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, 2015)

## 2.5 – Complaints Resolution Commissioner

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



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

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

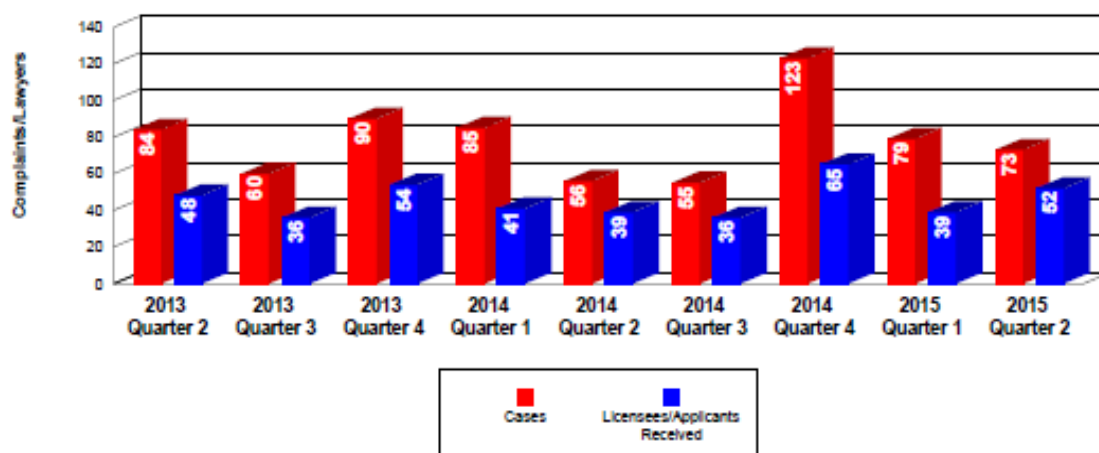
Of the 40 decisions rendered in Q2 2015, the Commissioner referred 1 file back to Professional Regulation. While satisfied that the decision to close was reasonable, the Commissioner referred the case back citing procedural concerns.



The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 – June 30, 2015)

## 2.6 – Discipline

**Graph 2.6A: Input<sup>9</sup>**



### Detailed Analysis of New Cases Received in Discipline

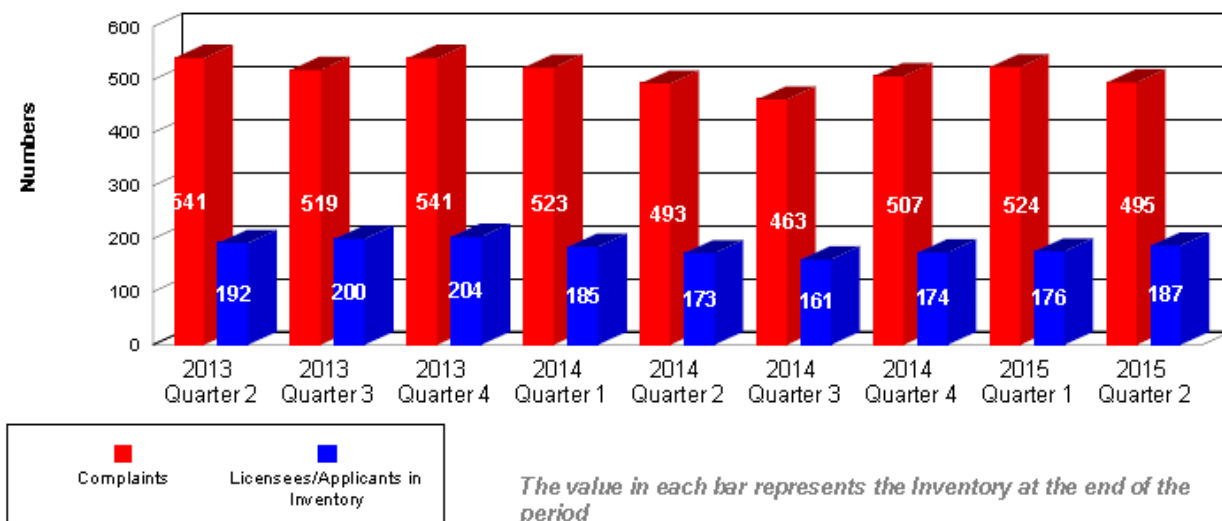
		Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015
<b>Lawyers</b>	Cases	72	46	49	100	49	45
	Lawyers	32	33	33	52	26	32
<b>Lawyer Applicants</b>	Cases	0	1	0	0	0	3
	Lawyer Applicants	0	1	0	0	0	3
<b>Licensed Paralegals</b>	Cases	12	8	6	20	29	20
	Licensed Paralegals	8	4	3	10	12	13
<b>Paralegal Applicants</b>	Cases	1	1	0	3	1	5
	Paralegal Applicants	1	1	0	3	1	4
<b>TOTAL</b>	Cases	85	56	55	123	79	73
	Licensees & Applicants	41	39	36	65	39	52

<sup>9</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.

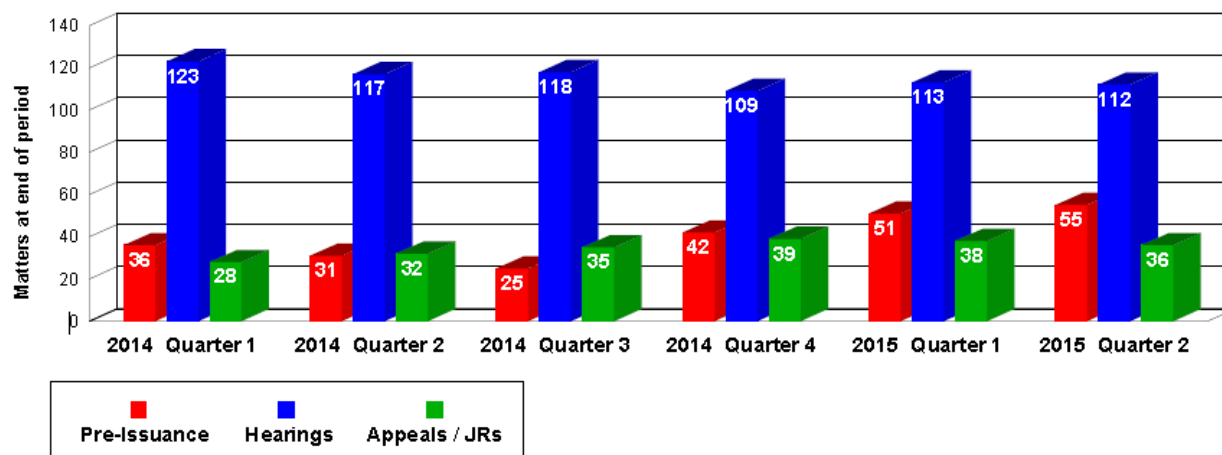
The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 – June 30, 2015)

## 2.6 – Discipline

**Graph 2.6B: Department Inventory<sup>10</sup>**



**Graph 2.6C: Inventory of Discipline Matters<sup>11</sup>**



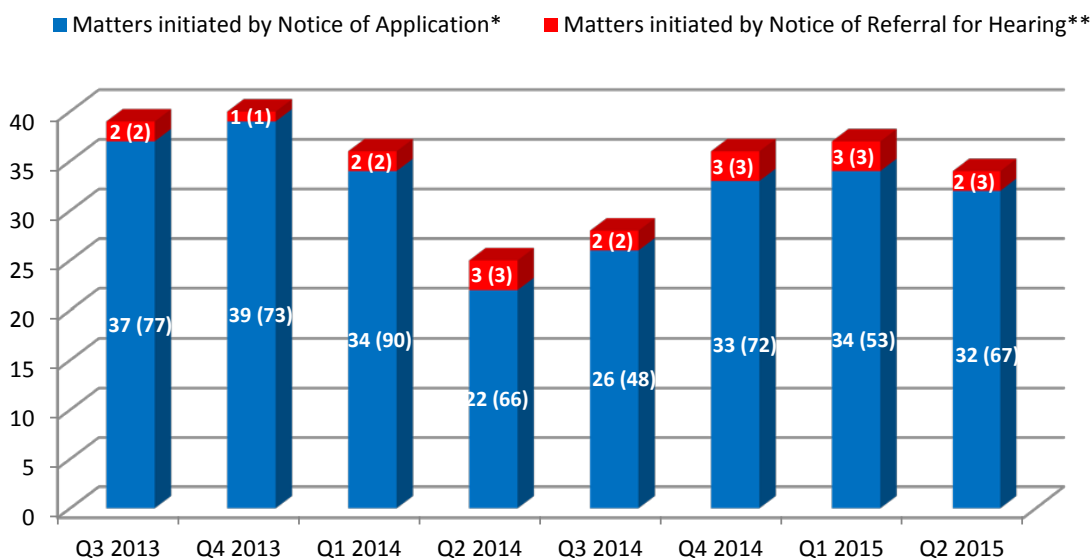
<sup>10</sup> Consists primarily of complaints and lawyers/applicants that are in scheduling and are with the Hearing Division or on appeal. Note that a lawyer/applicant who has more than one matter will only be counted once.

<sup>11</sup> A licensee may have more than one matter ongoing at a time (e.g. a licensee may have an ongoing hearing before the Hearing Division and a judicial review in Divisional Court).

The Law Society of Upper Canada  
 The Professional Regulation Division  
 Quarterly Report (April 1 to June 30, 2015)

## 2.6 – Discipline

**Graph 2.6D: Notices Issued in the Hearing Division**



\* Matters which are initiated by Notice of Application include conduct, capacity, non-compliance and competency matters. Also included in this category are interlocutory suspension/restriction motions.

\*\* Matters which are initiated by Notice of Referral for Hearing include licensing (including re-licensing matters), reinstatement and restoration matters.

The numbers in each bar indicate the number of notices issued and, in brackets, the number of cases relating to those notices. One notice may relate to more than one case. For example, in Q2 2015, 32 Notices of Application were issued (relating to 67 cases) and 2 Notices of Referral for Hearing were issued (relating to 3 cases).

With respect to the 32 Notices of Application<sup>12</sup>/Notices of Motion for Interim Suspension Order and 1 Notice of Referral for Hearing (licensing matter) which were issued in Q2 2015:

- 82% were issued within 60 days of PAC Authorization;
- 91% were issued within 90 days of PAC Authorization.

<sup>12</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 to June 30, 2015)

## 2.6 – Discipline

**Graph 2.6E: Completed Matters in the Hearing Division**

		Q1 2014	Q2 2014	Q3 2014	Q4 2014	Q1 2015	Q2 2015
<b>Conduct Hearings</b>	Lawyers	30	21*	23	30	14	20
	Paralegal Licensees	10	6	4	3	6	4
<b>Interlocutory Suspension Hearings/ Orders</b>	Lawyers	2	3	2	4	2	4
	Paralegal Licensees	-	-	-	3	1	-
<b>Capacity Hearings</b>	Lawyers	1	-	-	1	2	1
	Paralegal Licensees	-	-	-	-	-	-
<b>Competency Hearings</b>	Lawyers	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-
<b>Non-Compliance Hearings</b>	Lawyers	-	1*	-	-	-	1
	Paralegal Licensees	-	-	-	-	-	-
<b>Reinstatement / Terms Dispute</b>	Lawyers	2	-	1	1	1	2
	Paralegal Licensees	-	-	1	-	-	-
<b>Restoration</b>	Lawyers	-	-	-	-	-	-
	Paralegal Licensees	-	-	-	-	-	-
<b>Licensing Hearings**</b>	Lawyer Applicants	-	1	-	1	2	-
	Paralegal Applicants	1	2	1	-	3	1
<b>TOTAL NUMBER OF HEARINGS</b>	Lawyers*	35	25	26	37	21	28
	Paralegals*	11	8	6	6	10	5
	<b>TOTAL</b>	<b>46</b>	<b>33</b>	<b>32</b>	<b>43</b>	<b>31</b>	<b>33</b>

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

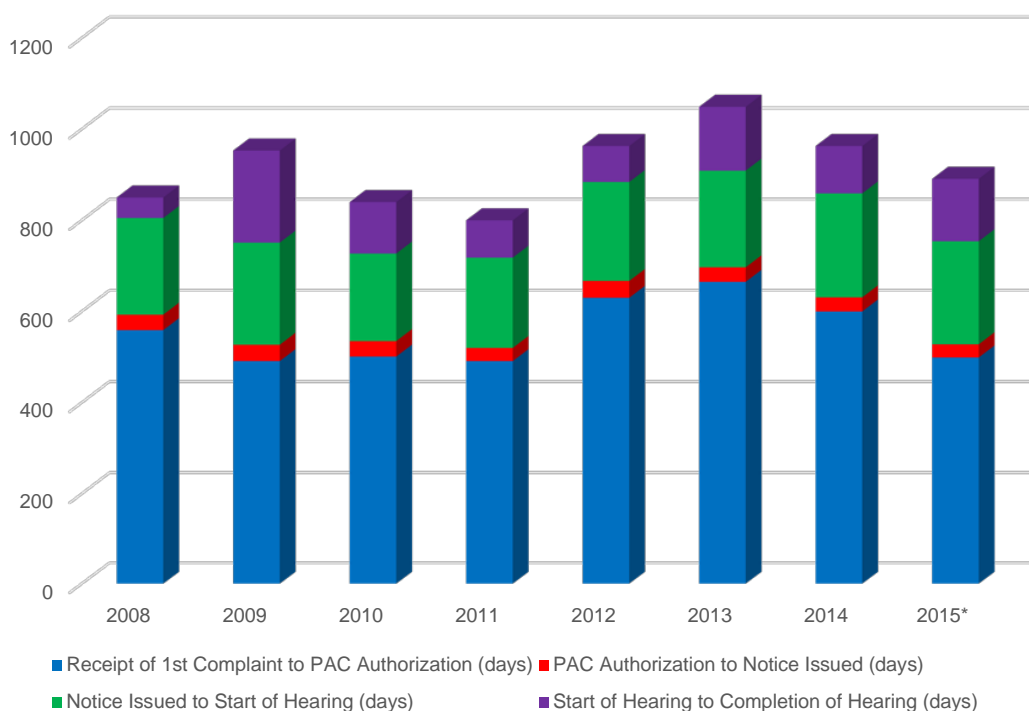
\*\* including Readmission

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 to June 30, 2015)

## 2.6 – Discipline

**Graph 2.6F: Age of Completed Matters in the Hearing Division**

	Total Completed Hearings	Date 1 <sup>st</sup> Complaint Received to Date Hearing Completed	Total Completed Hearings less Completed Mortgage Fraud Hearings	Date 1 <sup>st</sup> Complaint Received to Date Hearing Completed
<b>2008</b>	108	847 days	100	770 days
<b>2009</b>	102	841 days	98	813 days
<b>2010</b>	131	833 days	117	727 days
<b>2011</b>	114	770 days	102	652 days
<b>2012</b>	110	940 days	92	693 days
<b>2013</b>	123	1031 days	103	805 days
<b>2014</b>	135	896 days	126	797 days
<b>2015*</b>	66	823 days	62	690 days



	2008	2009	2010	2011	2012	2013	2014	2015*
Receipt of 1st Complaint to PAC Authorization (days)	559	491	501	491	630	665	600	499
PAC Authorization to Notice Issued (days)	34	36	34	29	37	32	31	29
Notice Issued to Start of Hearing (days)	212	224	192	198	217	212	228	226
Start of Hearing to Completion of Hearing (days)	45	202	113	82	79	140	104	137

\* to June 30, 2015

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 to June 30, 2015)

---

## 2.6 – Discipline

### Graph 2.6G: Appeals and Judicial Reviews

The following chart sets out the number of appeals filed with the Appeal Division, the Divisional Court or the Court of Appeal in the calendar years 2010 to 2014 and the first half of 2015.

Quarter/Year	Appeal Division	Divisional Court	Court of Appeal
2010	27	3 appeals; 2 judicial reviews	4 motions for leave
2011	18	6 appeals, 2 judicial reviews	2 motions for leave
2012	23	4 appeals; 5 judicial reviews	2 motions for leave
2013	20	3 appeals; 3 judicial reviews	
2014	23	14 appeals; 5 judicial reviews	4 motions for leave
2015 1 <sup>st</sup> Quarter	6	1 appeal; 1 judicial review	3 motions for leave
2 <sup>nd</sup> Quarter	1	1 appeal; 0 judicial reviews; 1 leave motion*	0 motions for leave; 1 appeal
Total	7	2 appeals; 1 judicial review; 1 leave motion	3 motions for leave; 1 appeal

\* motion for leave to appeal a cost decision

As of June 30, 2015, there are 11 appeals pending before the Appeal Division, 1 appeal in which the Appeal Division has reserved on judgment, 2 appeals that have been adjourned sine die and 3 appeals in which costs or penalty decisions remained outstanding.

With respect to matters before the Divisional Court, there are 9 appeals, 1 motion for leave to appeal regarding a cost order and 5 judicial review matters pending. There is 1 motion for leave to appeal and 1 appeal pending in the Court of Appeal.

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 to June 30, 2015)

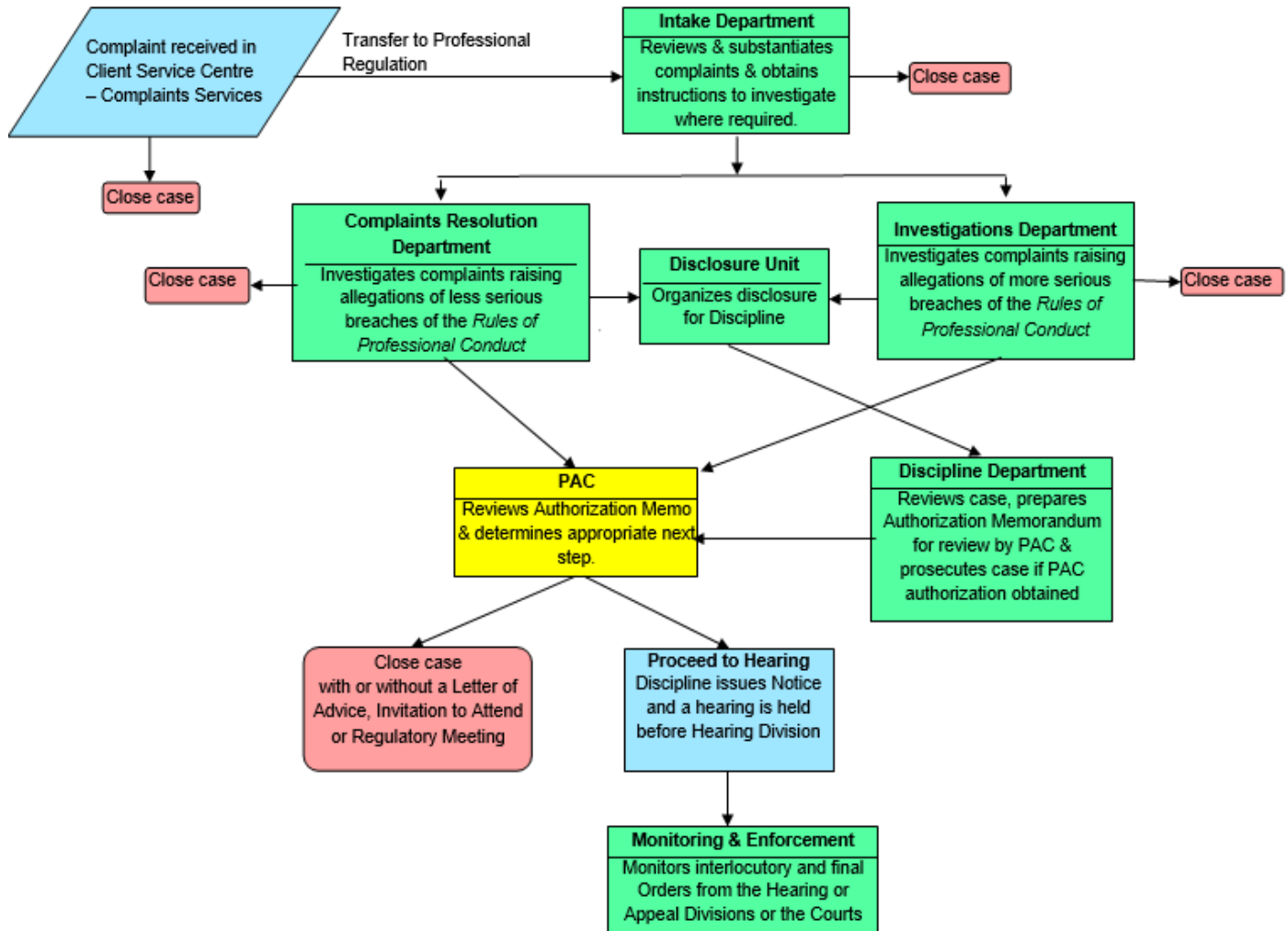
---

## **SECTION 3**

## **APPENDICES**

The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 to June 30, 2015)

## The Professional Regulation Complaint Process

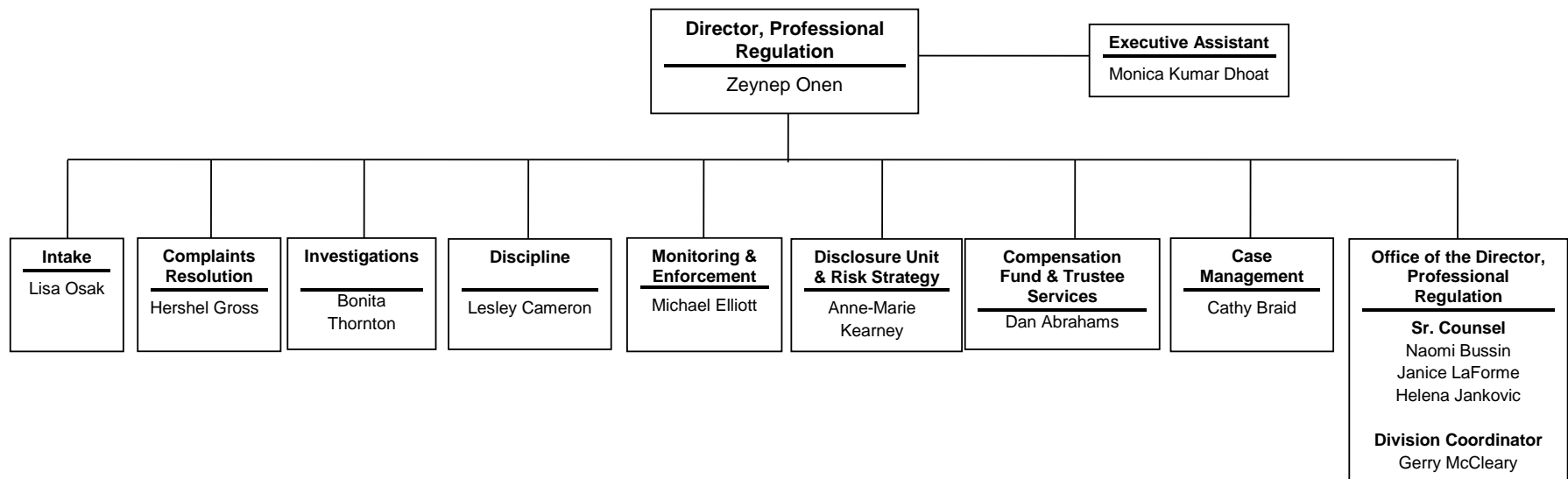




The Law Society of Upper Canada  
The Professional Regulation Division  
Quarterly Report (April 1 to June 30, 2015)

---

## PROFESSIONAL REGULATION ORGANIZATIONAL CHART



## FOR INFORMATION

# ALTERNATIVE BUSINESS STRUCTURES WORKING GROUP REPORT – NEXT STEPS

## INTRODUCTION

53. This status report from the Alternative Business Structures (ABS) Working Group (“Working Group”) provides Convocation with the initial conclusions and intended next steps of the Working Group as it continues its study of ABSs in Ontario.<sup>1</sup>

## SUMMARY OF INITIAL CONCLUSIONS AND NEXT STEPS

54. On September 27, 2012, the Working Group’s Terms of Reference were reported to Convocation. The Terms of Reference appear at [Tab 2.5.1](#). The Terms of Reference provided, amongst other things, that the Working Group would:
- a. inform itself on developments in Canada and abroad including on new and existing alternative legal service delivery models and structures;
  - b. develop a set of criteria to assess and prioritize new models and structures;
  - c. determine the range of legal service delivery models and financing arrangements that should be explored;
  - d. identify legal services delivery models and regulatory changes that should be considered by the Law Society for possible implementation based on initial assessment of their impacts and consultation; and
  - e. report the results of its work to Convocation, including, as appropriate, proposals and recommendations for next steps.
55. In September of 2014, the Working Group released a Discussion Paper on potential models for ABS in Ontario. In the Discussion Paper, the Working Group introduced the following four models (“the Four Models”):

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;

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;

---

<sup>1</sup> The ABS Working Group members are Susan McGrath (Co-Chair), Malcolm Mercer (Co-Chair), Marion Boyd, Ross Earnshaw, Carol Hartman, Jacqueline Horvat, Brian Lawrie, Jeffrey Lem, Jan Richardson and Peter Wardle.

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; and

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.

56. Based on its work to date, the Working Group does not propose to further examine any majority or controlling non-licensee ownership models for traditional law firms in Ontario at this time. Such non-licensee ownership levels do not appear to be warranted based on current information when the potential benefits to such external ownership levels are weighed against the regulatory risks and regulatory proportionality. However, the Working Group will continue its mandate by exploring and assessing other potential ABS options.
57. There are further legal service delivery models and financing arrangements that remain to be explored and assessed for possible implementation. Specifically, the Working Group believes that more limited non-licensee ownership models for traditional law firms merit further study, and that there are certain tailored ABS models which should be considered in depth, based on criteria identified by the Working Group and in consideration of the responses to its September 2014 Discussion Paper.
58. Accordingly, the Working Group will continue its work by:
  - a. Informing itself on on-going developments in Canada and abroad on new and existing alternative legal service delivery models and structures, financing arrangements, and the related regulatory processes;
  - b. Considering the level, if any, and nature of non-licensee minority ownership of law firms and entities, including those offering enhanced multi-disciplinary services, that should be permitted;
  - c. Considering the nature, if any, of franchise arrangements that should be permitted;
  - d. Considering whether there may be an opportunity to develop an access to justice focused ABS framework (sometimes called ABS+) to enable civil society organizations, such as charities, not-for-profits, and trade unions, to become owners of entities in order to facilitate access to legal services;
  - e. Considering how the Law Society may facilitate innovation in the delivery of legal services by permitting alternative business structures where legal services are not generally being provided by lawyers and paralegals with the goal of enhancing access

to justice for Ontarians and regulating more effectively and efficiently and in proportion to the Law Society's regulatory objectives; and

- f. Considering the criteria that should be considered when determining whether a particular business structure should not be permitted taking into account regulatory risk and advancement of the public interest.
  - g. Consulting further with the professions and other interested parties at the appropriate time including on:
    - i. the appropriate level and nature of minority ownership that might be generally permitted;
    - ii. the appropriate types of franchise agreements that might be available;
    - iii. a possible framework or frameworks for permitting majority external ownership for civil society entities delivering services dedicated to facilitating access to legal services; and
    - iv. a possible framework or frameworks for permitting alternative business structures in areas not generally being served by lawyers and paralegals.
59. The Working Group will continue to report to Convocation through the Professional Regulation Committee with information updates on its continued study and consultation. If appropriate, any proposals for consideration will also be brought to Convocation for its consideration.

## BACKGROUND

60. As reported to Convocation in its earlier reports, the term "alternative business structures" may be used to refer to any form of non-traditional business structure, as well as alternative means of delivering legal services, and may include, for example:
- a. alternative ownership structures, such as non-lawyer or non-paralegal investment or ownership of law firms, including equity;
  - b. firms offering legal services together with other professionals; and
  - c. 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.
61. The Working Group was created in 2012 to study business structures and law firm financing, which was identified as a priority by Convocation for the 2011-2015 benchers term. As Convocation's April 2012 work plan for this priority highlighted, rapid changes in legal regulation, and the emergence of ABSs in other jurisdictions prompted consideration

by the Law Society of ABSs and law firm ownership and financing.

62. Since then, the Working Group has engaged in an extensive review of the issues related to ABS by:
- a. engaging in an ongoing fact-finding exercise that has included studying reports and scholarly articles, and meeting with ABS experts from various jurisdictions, including Australia, England and Wales and the United States;
  - b. meeting with members of the professions (Summer 2013);
  - c. commissioning a paper by Professors Edward M. Iacobucci and Michael Trebilcock of the University of Toronto Faculty of Law entitled *An Economic Analysis of Alternative Business Structures for the Practice of Law* for a symposium on ABS (October 2013);
  - d. holding a symposium on ABS attended by lawyers and paralegals from diverse practices and regions (October 2013);
  - e. seeking input from the professions on potential models for ABS through the release of a Discussion Paper (September 2014);
  - f. meeting with numerous legal groups, organizations and associations (August 2013 to February 2015); and
  - g. considering the over 40 responses received in response to its Discussion Paper and reporting on the call for input in February 2015.
63. A selection of background reading materials, the Iacobucci and Trebilcock paper, the webcast of the October 2013 ABS Symposium, the September 2014 Discussion Paper and responses and previous reports of the Working Group to Convocation can be found on the Law Society's ABS webpage at <http://lsuc.on.ca/abs/>.

## DISCUSSION

### Criteria for Analyzing ABS Options

64. As the Working Group reflected on the responses to the Discussion Paper and considered next steps, it returned to the criteria, established to guide its study of potential models for ABS, which are set out in the Working Group's February 2014 Report to Convocation (the "February 2014 Report"). The criteria, which are considered below, are as follows:
- a. Access to justice: Any structural and related regulatory changes concerning alternative business structures should be reviewed to determine their effect on access to justice. Solutions that provide potential improvements for access to justice should be given more weight on that basis.
  - b. Responsive to the public: In promoting access, the new structures and processes should be responsive to the needs of the public for legal services including greater flexibility in cost, location and availability of legal and other services with appropriate quality and adequate financial assurance of legal services.

- c. Professionalism: The fundamentals of professionalism, including independence, confidentiality, avoidance of conflict of interest, and candour should be safeguarded in any move to liberalize ownership and structure.
  - d. Protection of Solicitor-Client Privilege: Any change proposed to implement alternative business structures must not jeopardize the protection of solicitor-client privilege.
  - e. Promote Innovation: New business structures and processes should be designed to promote innovation which may include, among other things, the adoption of technology and/or other business processes that will enable them to adapt to the legal services marketplace and to better serve the public.
  - f. Alignment of requirements with new directions taken: The Law Society's current rules and by-laws should be aligned with the objective to promote innovation and flexibility in the provision of legal services to the public. Rules and other requirements should be proportionate to the significance of the regulatory objectives.
  - g. Orderly Transition: The preferred alternative business structures or related solutions options should be amenable to an orderly and thoughtful transition to new regulatory models. Any plan for new structures or service models should be inclusive, responsible, and mindful of any necessary disruptions that may be occasioned.
  - h. Efficient and Proportionate Regulation: Any changes should improve the Law Society's ability to effectively protect and promote the public interest in competent and ethical practices, including appropriate responses to client complaints. Restrictions on who may provide legal services should be proportionate to the significance of the regulatory objectives.
65. The Working Group reviewed these criteria and determined that they remain relevant and appropriate, with two modifications. First, the Working Group considers that "competence" "integrity", and "service to the public good through client relationships and responsibilities to the administration of justice" should expressly be included among the indicia of "professionalism".<sup>2</sup> Second, it concludes that paragraph f. should be removed as innovation and proportionality are already stand-alone criteria.
66. As a result, the revised criteria to evaluate ABS are:
- a. Access to justice
  - b. Responsive to the public
  - c. Professionalism

---

<sup>2</sup> Chief Justice of Ontario Advisory Committee on Professionalism "Elements of Professionalism", online at: [http://ojen.ca/sites/ojen.ca/files/sites/default/files/resources/third\\_colloquium\\_jim\\_varro.pdf](http://ojen.ca/sites/ojen.ca/files/sites/default/files/resources/third_colloquium_jim_varro.pdf), at page 10.

- d. Protection of Solicitor-Client Privilege
- e. Promote Innovation
- f. Orderly Transition; and
- g. Efficient and Proportionate Regulation.

67. As the Working Group indicated in its February 2014 Report, “not all criteria will apply to all options, or they may apply at different stages of the ABS project, however, where relevant, they are of assistance to ensure a comprehensive analysis.”<sup>3</sup>

#### **The Four Models**

68. In the September 2014 Discussion Paper, the Working Group set out the Four Models as options for consideration as permissible regulatory structures, and issued the Discussion Paper to obtain feedback on whether the Law Society should undertake any change respecting ABS, particularly with respect to the degree to which non-licensees should be permitted ownership in the business structure and/or the extent to which non-legal services might be provided to clients within the business structure.
69. The Four Models, which were presented to stimulate discussion and which were not exhaustive,<sup>4</sup> offered different options on ownership levels and multidisciplinary practice, which are the two major policy issues arising in the consideration of ABS. Each of the Four Models would either permit minority ownership by non-licensees up to 49% or unrestricted ownership. Two of the models would permit the provision of both legal and non-legal services.

#### Non-Licensee Ownership Issues for Consideration

70. There are two main potential benefits to external ownership that the Four Models sought to explore: increased access to expertise, and increased access to capital.
71. New non-licensee owners can bring new expertise in areas such as marketing, new client development, design, project management, information technology or strategic planning.
72. Permitting non-licensee ownership increases access to capital. As the Working Group’s prior Reports to Convocation note, with increased capital should come the increased ability to:
- a. Invest in talent by hiring new licensees and non-legal staff, and/or rewarding key employees, including non-licensees;
  - b. Expand (through opening of new locations, acquiring other firms, and/or entering new practice areas);

---

<sup>3</sup> February 2014 Report to Convocation at para. 90.

<sup>4</sup> Discussion Paper at page 22.

- c. Invest in knowledge management, technology, and business process innovations to enhance quality and/or scale operations; and
  - d. Otherwise market and professionalize the business processes of law.<sup>5</sup>
73. Franchise arrangements offer similar opportunities by allowing access through the franchise system to legal, technological, business and marketing expertise, processes and brand by franchise fee payments rather than through equity investment. Currently franchise arrangements are not permitted in Ontario under either the *Law Society Act* or the By-Laws. Traditional franchise arrangements involving non-licensee ownership likely offend various professional conduct rules, such as, for example, referral fee and fee sharing rules.
74. In England and Wales, Quality Solicitors provides an example. The potential benefits of franchise systems for licensees and the general public were first raised at the summer 2013 meetings with the professions and its October 2013 ABS Symposium.<sup>6</sup> The franchise model was expressly recommended by one response to the Discussion Paper.
75. However, as the Working Group recognized in its February 2015 Report to Convocation, most responses to the Discussion Paper expressed major concerns about introducing certain types of ABSs in Ontario, such as publicly listed law firms and other types of firms owned or controlled by non-licensees. Some were opposed to majority or unrestricted non-licensee ownership, but would consider relatively small minority ownership levels.
76. There were many different rationales provided by the professions as to why law firms with greater than 49% non-licensee ownership levels should be rejected for Ontario. The concerns and risks identified by the responses included the following:
- a. External ownership emphasizing profits over professionalism (with detrimental effects potentially including decreases in pro bono initiatives, commoditization of legal work eroding the quality of the work, downloading significant responsibilities onto lower cost clerks or junior counsel, etc.);
  - b. Difficulties preserving client confidentiality and solicitor-client privilege due to pressure by non-licensee owners to learn about the firm's cases;
  - c. Increased risks of conflicts, including conflicts inherent to the structure of certain ABSs when they are owned by non-licensees (such as the example provided by Nick Robinson of the inherent conflict of having an insurance company own a law firm practicing in insurance related areas);<sup>7</sup>

---

<sup>5</sup> February 2014 Report to Convocation at paras. 127-128.

<sup>6</sup> Iacobucci and Trebilcock, *An Economic Analysis of Alternative Business Structures for the Practice of Law*. Paper commissioned by the Law Society of Upper Canada for the Alternative Business Structures symposium held on October 4, 2013, online, <<http://lsuc.on.ca/uploadedFiles/ABS-report-Iacobucci-Trebilcock-september-2014.pdf>> at page 23.

<sup>7</sup> Nick Robinson, *When Lawyers Don't Get All the Profits: Non-Lawyer Ownership of Legal Services, Access and Professionalism*, (August 27, 2014). Harvard Law School Program on the Legal Profession Research Paper No. 2014-20, at page 21.



- d. Market consolidation, which could, among other impacts, limit the choice of the public to counsel in certain areas.

- 77. Several responses cautioned that if any level of non-licensee ownership is permitted, regulation would be required to address areas where non-licensee ownership could create high risks of conflict of interest, such as in personal injury and real estate law.

#### Non-legal services

- 78. Two of the Four Models also presented options for providing non-legal services together with legal services. Ontario is well situated to consider further liberalization of the types of non-legal services which may be provided together with services provided by lawyers and paralegals. As the Working Group previously noted,<sup>8</sup> Multi-Discipline Practices (“MDPs”) are already permitted in Ontario, enabling the combination of the provision of legal services and other professional services.<sup>9</sup> Further expanding the types of other services that may be provided to consumers of legal services would represent an incremental development.
- 79. By expanding on the MDP model, and combining it with greater access to capital, the Law Society could facilitate innovation, the development of more comprehensive and client-tailored services, and new means of addressing access to justice.
- 80. However, any Law Society effort to unlock gains from enhanced multidisciplinary structures must also consider the attendant risks, which primarily relate to avoiding conflicts of interest, protecting confidentiality and privilege, and protecting the independence of the legal service provider.

#### **Discussion of the Four Models**

- 81. The challenge in exploring ABS ownership models is how to maximize the benefits from external ownership and/or the provision of interdisciplinary services while minimizing regulatory risks. In addressing this challenge, the Working Group considered its criteria against the Four Models.

#### “Access to Justice” criterion

- 82. In its study of ABS, the Working Group has given significant consideration to the relationship between the introduction of ABS and access to justice. Its February 2014 Report considered this issue in detail, and noted, *inter alia*, the following:
  - a. Many legal needs are not being effectively met through existing business structures.

---

<sup>8</sup> June 2013 Interim Report to Convocation, footnote 2, online at <[http://www.lsuc.on.ca/uploadedFiles/ABS-report-to-convocation-june-2013\(1\).pdf](http://www.lsuc.on.ca/uploadedFiles/ABS-report-to-convocation-june-2013(1).pdf)>.

<sup>9</sup> Law Society By-Law 7, Part III, Multi-Discipline Practices, online at <<http://lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=2147485808>>.

- b. Access to justice is a matter both of the costs of legal services currently being provided and of the legal needs that are not being served (“latent demand for legal services”).
- c. Enhancing existing practices could provide the public with better access to legal services. New business models could provide the public with new means of accessing legal services.

83. The Working Group concluded that:

While it would be wrong to suggest that ABSs are a panacea, ABSs may play a part in addressing these legal needs. ABSs may also more efficiently serve these legal needs by allowing clients to better access existing legal services together with other needed services such as, for example, social work and psychological services.

Permitting new models for the delivery of legal services and the practice of law is not the sole, nor likely the most important, solution to issues of access to justice. Lawyers and paralegals will still need to spend time to provide services for their clients, with an attendant cost. ABS models, however, have the potential to enhance access by providing new means of access in addition to the current models, and by providing lawyers and paralegals with additional means to gain efficiency and flexibility, with possible impacts on cost.<sup>10</sup>

- 84. In the Working Group’s view, the potential that ABS may facilitate access to justice, even in a limited way, is a reason to continue to consider some type of ABS.
- 85. One of the access to justice challenges is that the legal nature of everyday legal problems frequently goes unnoticed by Ontarians. In enhanced multidisciplinary service settings, clients seeking assistance in non-legal areas may benefit from the “one stop shop” experience to learn about, and possibly benefit from, legal services available. Multidisciplinary ABSs could provide one avenue to attempt to address Ontario’s unmet civil legal needs challenges.
- 86. Enhanced multidisciplinary structures may also facilitate access to justice by better serving clients’ legal and non-legal needs. In family law in particular, as responses to the Discussion Paper indicated, there may be opportunities to combine family law services with related services such as financial and counselling services. These models could foster early resolution of disputes where possible, engaging legal, financial, counselling and other services as appropriate.

---

<sup>10</sup> February 2014 Report to Convocation at paras. 119-120.

87. As such, expanding the non-legal services available in a firm structure with appropriate regulatory controls could have positive access to justice impacts. This supports further consideration of interdisciplinary ABS models.
88. However, based on the experience to date in other jurisdictions, the likely access to justice impact does not appear to be sufficient to justify majority non-licensee ownership or effective control, for practices generally.
89. Professors Trebilcock and Iacobucci cautioned at the October 2013 ABS Symposium that introducing ABS options in Ontario likely would not cause dramatic change in how legal services are currently provided by law firms in Ontario.
90. Significant enhanced access to capital would not necessarily mean that innovation will facilitate access to justice. Changed ownership may not change the service delivery model. New investors may find existing well served areas of practice to be more attractive for investment than unserved or underserved areas. Investment in profitable areas of practice may simply result in shifting profits between service providers rather than cost reduction for clients.
91. The experiences in Australia and in England and Wales demonstrate that, while there have been ABSs which facilitate certain forms of access to justice, generally, non-lawyer ownership of law firms in those jurisdictions does not appear to have caused transformative change to facilitate access to justice. To date, ABS has not served as a major catalyst to spark transformative access to justice innovations by regulated entities. In fact, in many instances, non-regulated entities (such as LegalZoom, Axiom, and Neota Logic in the United States) have been major innovators.
92. The regulatory changes required to permit and the consequences of permitting non-lawyer ownership, or effective control, for any and all legal practices do not appear to be justified at least from the perspective of the potential access to justice benefits.
93. ABS is still unfolding in England and Wales, but given what the Working Group has observed to date there and in Australia, there does not appear to be sufficient evidence to warrant introducing transformative change to existing Ontario legal practices in an attempt to achieve major access to justice gains.
94. Access to justice objectives could, however, be pursued through more incremental changes. There are models arising in England and Wales in particular that might be appropriate for Ontario, and which might be achievable through some level of non-licensee minority ownership. Franchise models such as Quality Solicitors, for example, might offer access to justice and other benefits to Ontarians and licensees.

“Responsive to the public” criterion

95. Changes to law firm ownership rules could also lead to the delivery of new responsive means of delivering legal services to the public. While there are some more significant innovators, it is notable that most ABSs in Australia and in England and Wales are existing practices that have taken on limited non-lawyer ownership in order to innovate in ways that may be described as evolutionary rather than revolutionary. From this experience, it appears that innovation in legal service delivery does not depend on non-license majority ownership or control. It is not surprising that service innovation by existing practices is more likely to be gradual than transformative. On the other hand, more significant innovations do appear to be tied to substantial new investment.
96. Enhanced multidisciplinary practices could be more responsive to the public by offering new ways for the public to learn about and use legal services. The “one stop shop” model may also be efficient for consumers of legal and other services.

“Professionalism” criterion

97. The Working Group has heard concerns from some individuals that external ownership would necessarily emphasize profits over professionalism. However, the experiences in Australia and England and Wales to date show that the regulators have developed innovative approaches to safeguard the administration of justice and client interests, such as maintaining confidentiality and solicitor-client privilege, over the interests of shareholders. Similar regulatory structures could be implemented in Ontario to safeguard the unique professional obligations that lawyers and paralegals must fulfill in our justice system.
98. That said, the Working Group agrees that there is not yet sufficient evidence from other jurisdictions from which to make proper judgments about the effect of public ownership on professionalism. The Working Group is of the same view with respect to the effect of substantial market consolidation. While some consider that very large non-licensee owned law firms can deliver more effective and efficient services, others have expressed concern that professionalism will be impaired where individuals are served by such firms. The Working Group considers that the better course is to wait for further experience to develop in other jurisdictions before attempting to reach conclusions as to the effect of public ownership and consolidation on professionalism. In taking this approach, we have recognized that public ownership and consolidation appear to particularly arise in sectors, such as personal injury, where access to justice is more readily available.
99. The Working Group also agrees that the nature of the investor may affect the risk to professionalism. For example, casualty insurers in England have invested in personal injury law firms which could compromise the general approach taken in the representation of injured persons. The same issue is raised in real estate practice if other market participants, such as title insurers and mortgage lenders, were to acquire an interest in real estate practices. An inherent conflict could arise even from a minority interest in the law firm. The

Working Group therefore considers that any shift to permit some level of non-licensee ownership should be accompanied by restrictions that protect against inherent conflicts in certain areas of law. The issue of inherent conflict could also apply to franchises, if other market participants with an inherent conflict of interest came forward to establish a franchised network of legal (and possibly other) services.

100. The professionalism issues that may arise in interdisciplinary settings was addressed in the Working Group's February 2014 Report. At that time the Working Group acknowledged that an expanded MDP model may not be appropriate in all circumstances because there "may well be types of services that are inappropriate and likely to increase risk."<sup>11</sup>
101. Having benefitted from the thoughtful responses to its Discussion Paper, the Working Group remains of the view that enhanced multi-disciplinary models should be explored, with further consideration given to the types of services which might not be appropriate to offer in tandem with legal services.

"Protection of Solicitor Client Privilege" criterion

102. The Working Group notes the concerns raised that client confidentiality and solicitor-client privilege would be placed at risk in a firm with non-licensee ownership. While the Working Group continues to believe that appropriate regulatory structures can be developed to address these concerns, experiences in Australia and in England and Wales demonstrate that protecting client confidentiality and solicitor-client privilege in law firms that are majority owned or controlled by non-licensee owners requires significant regulatory resources. Based on currently available information, the benefits of broadly permitting such levels of non-licensee ownership do not appear to justify such intricate regulatory requirements.
103. The Working Group believes that further consideration should be given to whether more proportionate types of regulation might be tailored to permit structures with minority non-licensee ownership, and franchises. The Working Group queries whether such structures might enable licensees and the public to realize some of the benefits of ABS structures in a manner that protects confidentiality and solicitor-client privilege.
104. The Working Group does not have major concerns regarding maintaining solicitor client privilege in multi-disciplinary practices. The Law Society already permits Multi-Discipline Practice and Multi-Discipline Partnership models. Under these existing structures, lawyers and paralegals may form an MDP with professionals who practice a profession, trade or occupation that supports or supplements their services. This structure has not resulted in any difficulties in protecting solicitor-client privilege or client confidentiality. As noted above, however, expansion of the multidisciplinary model would require further consideration regarding how to address the risk of inherent conflicts arising, such as prohibiting some specific combinations of services.

---

<sup>11</sup> February 2014 Report to Convocation at para. 156.

“Promoting Innovation” criterion

105. A key component of ABS is the potential to facilitate innovation, both for access to justice and to enhance the delivery of legal services generally. Indeed, innovation is a necessary driver of advancing access to justice and responsiveness to the public. While many have fairly observed that transformative change has not been experienced as a result of permitting ABS, it does appear that increased innovation has occurred both by ABSs and in reaction to ABSs.
106. The recent *2015 Innovation in Legal Services Report* for the Solicitors Regulatory Authority and the Legal Services Board recently conducted the largest study of innovation of legal services of its kind. It concluded that “All else being equal, ABS Solicitors are 13-15% more likely to introduce new legal services.”<sup>12</sup> It concludes that “The implication is that the wider adoption of ABS status would be likely to increase the range of legal services on offer.”<sup>13</sup>
107. The study noted that the “major effects of innovation are in extending service range, improving quality, attracting new clients, and improved tailoring of services.”<sup>14</sup> This research therefore suggests that ABS models appear to be the structures that are more likely to bring about such enhancements to the delivery of legal services.
108. However, in England and Wales, the shift towards ABS has been resource intensive for the regulator. To date there are fewer than 500 ABS entities in a market of over 15,000 providers.<sup>15</sup>
109. Moreover, the type of innovations occurring are generally moderate. As the *2015 Innovation in Legal Services Report* noted:

Innovation is more often than not incremental in nature with very few providers consider[ing] themselves to be radical innovators [...] Overall, the impression is of a profession in which ideas for new services and new ways of working are internally generated and rarely radical in nature.<sup>16</sup>
110. Perhaps most importantly from the Working Group’s perspective, the innovation observed to date has focused on areas where legal needs are now being served. The Chair of the

---

<sup>12</sup> Roper, Love, Reiger and Bourke, *Innovation in legal services: A report for the Solicitors Regulation Authority and the Legal Services Board*, July 2015, online: <<https://research.legalservicesboard.org.uk/news/innovation-in-legal-services-2015/>> [“2015 Innovation in Legal Services Report”] at page 4.

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Neil Rose, *The innovation game*, Legal Futures, July 7, 2015, online: <<http://www.legalfutures.co.uk/blog/the-innovation-game>>.

<sup>16</sup> *2015 Innovation in Legal Services Report*, at

Legal Services Board has stated that he is “disappointed” that there has been little evidence of legal services providers trying to meet unmet legal needs.<sup>17</sup>

111. Although ABSs appear to be innovating more than their non-ABS counterparts, the Working Group is of the view that it is too early to determine whether the levels of innovation taking place in England and Wales support a shift to majority or controlling non-licensee ownership of traditional law firms in Ontario.
112. Nevertheless, the Working Group believes that there are other types of ABS models which warrant exploration and assessment. Consideration should be given to whether a shift to some level of minority non-licensee ownership can facilitate innovation by access to new expertise and additional capital. This is consistent with the observation that innovation by existing practices is likely to be evolutionary and in respect of existing service provision rather than transformative and in unserved areas.
113. It is significant that there is significant ABS innovation occurring in England and Wales involving not-for-profit organizations. For example, a trade union, the British Medical Association, and a charity are all providing legal services through ABSs.
114. Unionline is an ABS that was created by two unions, in order to provide legal services to nearly one million union members. It has a legal advice helpline, provides certain legal services in-house, and will use the unions’ existing panel law firms to serve as the ABS’s agents to deliver more complex legal services to union members.<sup>18</sup> Similarly, the British Medical Association set up an ABS to provide a “one-stop shop” to its 154,000 members.<sup>19</sup>
115. As one response to the Discussion Paper highlighted, in Australia the Salvation Army owns two firms. Salvos Legal offers commercial and property legal services. The fees from this practice support its humanitarian law practice, Salvos Legal Humanitarian. Salvos Legal Humanitarian operates as a charity, and provides free legal advice and legal services to vulnerable populations. It has provided legal service in over 7,600 cases.<sup>20</sup> It does so while recognizing client confidentiality, and taking steps to avoid conflicts of interest.<sup>21</sup>

---

<sup>17</sup> Neil Rose, *ABSs delivering on the promise of innovation, major research concludes*, Legal Futures, July 7, 2015 online: <[www.legalfutures.co.uk/latest-news/abss-delivering-on-the-promise-of-innovation-major-research-concludes](http://www.legalfutures.co.uk/latest-news/abss-delivering-on-the-promise-of-innovation-major-research-concludes)>.

<sup>18</sup> Neil Rose, *Leading trade unions make ABS play*, Legal Futures, May 23, 2014, online: <<http://www.legalfutures.co.uk/latest-news/leading-trade-unions-make-abs-play>>.

<sup>19</sup> Neil Rose, *The solicitor will see you now: British Medical Association sets up ABS for doctors*, Legal Futures, May 6, 2015, online: <<http://www.legalfutures.co.uk/latest-news/the-solicitor-will-see-you-now-british-medical-association-sets-up-abs-for-doctors>>.

<sup>20</sup> Salvos Legal, *A brief introduction*, online: <[http://www.salvoslegal.com.au/about\\_us](http://www.salvoslegal.com.au/about_us)>.

<sup>21</sup> Salvos Legal, *Humanitarian*, online: <[http://www.salvoslegal.com.au/our\\_services/humanitarian](http://www.salvoslegal.com.au/our_services/humanitarian)>.

116. Salvos Legal Humanitarian describes its clients and approach as follows:

Almost all of the people whom Salvos Legal Humanitarian act for are on Government pensions or are from low income backgrounds and have been unable to access Legal Aid. Certainly none of these people could afford a Lawyer to act on their behalf and in most cases without one, they would very likely be unable to properly fight for their rights in Court.

Salvos Legal Humanitarian has also assisted many families from war-torn and troubled nations around the world to be reunited and to come to a peaceful new home here in Australia.

The aim of Salvos Legal Humanitarian is not only to exist as a law firm. We recognise that the clients who come to us don't only have a legal need but that there are often other complicating factors in their lives.

To this end, Salvos Legal Humanitarian exists to be able to help our clients with their legal needs and to help them engage with other Salvation Army social and pastoral services, such as drug & alcohol recovery, employment assistance, welfare, counselling, financial management and aged care.

Salvos Legal Humanitarian exists to give people a helping hand when they need it most.<sup>22</sup>

117. England and Wales also permits legal franchises, such as Quality Solicitors, which provide another means of delivering legal services to clients. Quality Solicitors is a network of local law firms. It has over 200 branches, and makes services accessible through telephone and online access points and extended hours. It provides certain fixed fee services, and up front cost estimates for other legal services. It focuses on legal issues facing individuals, as well as business services.<sup>23</sup>
118. These innovations through ABSs are aimed at providing affordable, accessible legal services. The Working Group is of the view that certain types of ABS may facilitate innovation in the provision of legal services in Ontario, and that this is an important consideration for the future delivery of legal services to those who are currently not served or underserved and in circumstances where geography can affect access to services.
119. Inviting licensees to consider working with a broader range of non-licensees than currently permitted would likely also initiate and facilitate innovation.

---

<sup>22</sup> *Ibid.*

<sup>23</sup> See Quality Solicitors online at <<http://www.qualitysolicitors.com/>>.



“Orderly Transition” criterion

120. The Working Group agrees that preferred ABS models would need to be introduced in a manner that is mindful of any disruption that a new scheme may cause. Permitting majority non-licensee ownership would represent a major change, requiring significant resources to implement, including legislative reform. The Working Group considers that this criterion militates against implementation of majority or controlling non-licensee ownership levels.
121. On the other hand, some level of minority non-licensee ownership should require more gradual and less resource intensive work to implement. Moreover, and as noted above, a shift towards broader multidisciplinary practice options represents an incremental next step from the current MDP model, which should facilitate an orderly transition to a new regulatory framework.

“Efficient and Proportionate Regulation” criterion

122. As described above, the Working Group is concerned that a shift to generally permitting non-licensee majority ownership or control likely creates disproportionate regulatory complexity and risk when weighed against the likely benefits as currently observed through the ABS experiences in Australia and England and Wales to date.
123. The Working Group also has concerns that a shift to majority external ownership would, if circumstances warranted, be difficult to reverse. For example, it would be difficult, if not impossible, to replace equity investment in a publicly listed law firm, or majority non-licensee owners of a law firm. Indeed, it might not be possible to do so. Replacing minority ownership interests would not present the same degree of difficulty, and could presumably be replaced with licensee equity or with new debt financing.
124. Generally permitting non-licensee majority ownership or control would create a more complex environment with different risks including with respect to supervision, control and liability. Consideration of the issue of client protection through financial assurance would be necessary and would be potentially complex both in terms of minimum mandatory insurance levels as well as coverage where the practice ceases to operate. The burden of designing and implementing new approaches to financial assurance is a regulatory cost to be considered in the balance.
125. In addition, as described in the *Professionalism* section above, the Australian and England and Wales experiences demonstrate that when 100% non-lawyer ownership occurs, there has been significant market consolidation in the personal injury sector. However, the long term impact of consolidation, both positive and negative, is uncertain. It is difficult to imagine reversing market consolidation if the long term impact is unfavourable. Waiting for evidence to develop in other jurisdictions before making irreversible decisions appears to be the prudent course where the net advantage of broad change is not yet apparent.

126. The Working Group recognizes that while there may be opportunities to expand the range of services provided with legal services through ABSs, there may be circumstances where regulatory risk would necessitate restrictions. For example, a service that offers real estate brokerage, mortgage lending or title insurance and related legal services would create inherent conflicts with the interests of real estate clients. A company specializing in funding bail bonds also offering criminal defence services would also create inherent conflicts. However, the Working Group is of the view that there may be an opportunity to achieve the numerous benefits that may derive from offering legal services and non-legal services together to the public, in a manner that proportionately regulates the accompanying risks.

### **Summary**

127. The Working Group evaluated the Four Models in its Discussion Paper based on the criteria established to consider ABSs. Based on the above considerations, which were informed by the responses it received to its Discussion Paper, the Working Group is of the view that majority or controlling non-licensee ownership should not be examined further at this time for traditional law firms. Such non-licensee ownership levels do not appear to be warranted based on current information when the potential benefits to such external ownership levels are weighed against the regulatory risks and regulatory proportionality.
128. While the Working Group does not rule out the potential of majority non-licensee ownership or control of traditional law firms at some later date, it does not intend to address this more fundamental structural shift at this time. Rather, the Working Group considers that waiting for further evidence from other jurisdictions to develop is the better approach.

### **Exploring More Targeted ABS Models**

129. Having concluded that generally permitting non-licensee majority ownership or control of traditional law firms should not be further examined at this time, the Working Group considers it appropriate to explore and assess a subset of ABS models which might be applicable to Ontario.

#### **(a) Non-Licensee Minority Ownership of Law Firms and Entities**

130. The Working Group considers that appropriate levels of non-licensee minority ownership of law firms and entities, including those offering expanded multi-disciplinary services, should be explored and assessed. This would include considering whether introducing some level of minority ownership with appropriate regulation may facilitate ABS benefits.
131. With respect to expanded multi-disciplinary services, the Working Group believes that criteria should be established that would assist in determining which multidisciplinary structures would present unacceptably high regulatory risk taking into account the inherent conflicts and other regulatory issues that arise in specific areas of law.

132. The experience in Australia and in England and Wales is that most ABSs are traditional legal practices that have taken on minority non-lawyer ownership. Minority non-licensee ownership of traditional practices appears to be associated with increased innovation but has not given rise to regulatory issues or the issues raised by publicly owned ABSs or ABSs owned or controlled by non-licensees.
133. While the Working Group is aware of innovations among licensees who are offering new ways to meet the legal needs of individual and corporate clients, it seems appropriate for the Law Society to find ways to encourage further innovation through proportionate regulation.

**(b) Franchise Models**

134. Similarly the Working Group considers that franchise models should be explored and assessed. Like minority non-licensee ownership of law firms and entities, a franchise model may offer opportunities to traditional practices to innovate, enhance competency, enable a more dedicated focus on the practice of law rather than the business of law and encourage licensees to develop new legal services.
135. For example, a law firm franchisee may benefit from back office support, enhanced referral networks, marketing, and access to specialized expertise. Enabling licensees to access services and expertise through a franchise arrangement without effective loss of control of their practices could be in the public interest, without appearing to raise the regulatory and other issues raised by majority non-licensee ownership models.

**(c) ABS+ : Civil Society ABS Owners to Facilitate Access to Justice**

136. The Working Group also believes that an ABS+ approach which could permit greater external ownership levels to civil society entities to facilitate access to legal services merits consideration.
137. Some responses to the Working Group's Discussion Paper suggested that ABS regulation could be developed in a manner to facilitate access to justice and those most in need of legal services. One submission coined the phrase "ABS+". An ABS+ regulatory approach would build on the following statement by Nick Robinson that was adopted by many responding to the ABS Discussion Paper:

For policymakers the goal should not be deregulation for its own sake, but rather increasing access to legal services that the public can trust delivered by legal service providers who are part of a larger legal community that sees furthering the public good as a fundamental

commitment. Carefully regulated non-lawyer ownership may be a part of achieving this larger goal, but only a part.<sup>24</sup>

138. Although ABS efforts in Australia and England and Wales have not yet led to systemic transformation, there are nevertheless practices which have emerged to provide legal assistance to vulnerable persons, such as Salvos Legal Humanitarian, described above.
139. The adoption of ABS in Australia and in England and Wales was not intended to facilitate access to justice *per se*. Yet, as the Salvos Legal Humanitarian example demonstrates, ABS created an opportunity for new means of delivering legal services to marginalized, vulnerable populations.
140. The Working Group recognizes that there may be an opportunity to build on the Australia and England and Wales experience in a way that expressly seeks to harness ABS as one means of addressing the major access to justice issues facing Ontario.<sup>25</sup>
141. Specifically, the Working Group intends to consider whether there may be circumstances where permitting non-licensee ownership from the civil society sectors would open new opportunities for the delivery of legal services, or encourage new ways of delivering legal services to those who are currently unable to access legal services. The issue for the Working Group is whether certain civil society entities, such as charities, not-for-profits, and trade unions, should have the ability, subject to conditions, to own a law firm in order to better serve the needs of those they serve.
142. External ownership by particular civil society groups may be one way of leveraging non-legal networks and expertise to facilitate access to legal services provided by licensees.
143. In addition to changes in ownership levels, the “one stop shop” model, if adopted by civil society organizations, might enable those they serve to access legal services at the same time that they access other services or resources.
144. The Working Group therefore intends to consider eligibility criteria, and how an ABS+ regulatory structure could facilitate access to justice while protecting core professional values.

---

<sup>24</sup> Robinson, at page 53.

<sup>25</sup> For a description of the access to justice issues in Ontario, see generally the Working Group’s February 2014 Report to Convocation, as well as the February 2014 Report of the Treasurer’s Advisory Group on Access to Justice Working Group, online at: [http://lsuc.on.ca/uploadedFiles/For\\_the\\_Public/About\\_the\\_Law\\_Society/Convocation\\_Decisions/2014/convfeb2014\\_TAG\\_no\\_appendices.pdf](http://lsuc.on.ca/uploadedFiles/For_the_Public/About_the_Law_Society/Convocation_Decisions/2014/convfeb2014_TAG_no_appendices.pdf).

**(d) ABS+ : Promoting Innovation where legal services are not generally being provided by lawyers and paralegals**

145. Certain innovations are occurring outside what may be described as the “regulatory sphere”. The *Law Society Act* provides that, except as permitted by the Law Society, only licensees may provide “legal services” which is a broadly defined term. Section 1(5) of the Act provides that “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”. Given the broad definition of legal services and the few exceptions to the licensing requirement, the regulated sphere is very wide but is not fully served by licensees.
146. Certain services are already readily available in Ontario, but are operating outside or on the margins of the regulated sphere. As certain responses to its Discussion Paper note, major disruptive innovations occurring outside of the regulated sphere from outside Ontario are expected to eventually come to Ontario.
147. Moreover, in 2015 Ontario became the home to two legal innovation zones, which will facilitate the development of “radical” or “disruptive” innovations to the provision of legal services. Ryerson launched its Legal Innovation Zone (“LIZ”) in 2015. It is “Challenging the status quo of Canada’s legal system”. Its goal is to “foster, support and develop innovative solutions and technologies that will help make Canada’s legal system smarter, faster, better and more accessible.”<sup>26</sup> In launching Ryerson’s LIZ, Ryerson President Sheldon Levy stated “Who knows what the Uber of law will be? No one knows what that will be. But if it happens, I am absolutely sure that it will be here.”<sup>27</sup>
148. Toronto’s MaRS Discovery District launched The MaRS LegalX cluster in 2015, which it describes as follows:

The MaRS LegalX cluster team is dedicated to moving the legal sector forward through enterprises — whether startup or established corporates and law firms. Working at the intersection of high-growth ventures, technology, design and the legal industry, LegalX connects the technologists, designers, engineers and lawyers who are driving change.<sup>28</sup>
149. The Working Group is well aware of the rapid changes taking place in the legal sector, primarily due to technological innovations. Ross Intelligence, for example, is developing a

---

<sup>26</sup> The Legal Innovation Zone at Ryerson, online: < <http://www.legalinnovationzone.ca/>>.

<sup>27</sup> Will Sloan, *Right brain meets left brain at Legal Innovation Zone*, Ryerson University, May 5, 2015, online at: <[www.ryerson.ca/news/news/General\\_Public/20150504-right-brain-meets-left-at-legal-innovation-zone.html](http://www.ryerson.ca/news/news/General_Public/20150504-right-brain-meets-left-at-legal-innovation-zone.html)>.

<sup>28</sup> MaRS LegalX Cluster, online: <[www.marsdd.com/our-sectors/information-and-communications-technology/legalx-cluster/#mailinglist](http://www.marsdd.com/our-sectors/information-and-communications-technology/legalx-cluster/#mailinglist)>.

“digital legal expert” that is powered by Watson, IBM’s “cognitive computer”.<sup>29</sup> The company, which grew out of a University of Toronto / IBM student competition, now has the support of Dentons, a global law firm with offices in Ontario.<sup>30</sup> Just as disruptive technology may enter Ontario’s legal services markets, Ontario based disruptive technologies could enter Ontario’s legal services markets, and permeate globally.

150. Two issues broadly arise. The first is that the providers outside of the regulated sphere may be well positioned, if permitted, to provide legal services that are not currently being provided. The second is that the public interest may be served by allowing new providers into the regulated sphere thereby permitting supervision in the public interest. The question is what the Law Society should do to proactively consider their impacts, assess their merits for Ontario’s legal services market and the public interest implications of allowing that to happen.
151. While the Working Group reaffirms its view, first expressed in its February 2014 Report, that these issues be considered separate from consideration of ABS, there is merit in considering whether permitting alternative business structures in unserved and underserved areas usefully addresses these issues.

## NEXT STEPS

152. At this point, the Working Group has fulfilled much of the mandate established for its work under its Terms of Reference and by subsequent decisions of Convocation. It has:
  - a. Informed itself on developments in Canada and abroad on new and existing alternative legal service delivery models and structures, financing arrangements, and the related regulatory process (Terms of Reference (a));
  - b. Considered these developments in light of regulatory requirements and developed criteria to assess and prioritize these new models and structures (Terms of Reference (b)); and
  - c. Followed a Work Plan in order to conduct an initial assessment of the impacts of potential ABS arrangements that could be explored, held a high level consultation (as well as other educational and outreach initiatives), and reported its findings to Convocation (Terms of Reference (d)).
153. The Working Group has carefully considered majority non-licensee ownership and control as well as different levels of multidisciplinary and now reports its conclusions to Convocation having explored, assessed and consulted in accordance with the Terms of

---

<sup>29</sup> Ross Intelligence, online: <<http://www.rossintelligence.com/>>.

<sup>30</sup> Jeff Gray, *UofT students’ artificially intelligent robot signs with Dentons law firm*, The Globe and Mail, August 9, 2015, online: <<http://www.theglobeandmail.com/report-on-business/industry-news/the-law-page/u-of-t-students-artificially-intelligent-robot-signs-with-dentons-law-firm/article25898779/>>.

Reference in this regard. The Working Group intends to continue its work in accordance with the Terms of Reference as described above.

154. Specifically, the Working Group will monitor on-going ABS developments in Canada and abroad (Terms of Reference (a)) and continue to determine a range of legal service delivery models and economic arrangements that should be explored in more depth and the existing regulatory constraints on delivery models and economic arrangements (Terms of Reference (c)). This exploration will necessarily include consideration of the current regulatory structure and the related Rules and By-Laws regarding fee-sharing, referral fees, direct supervision and ownership restrictions, using the lens of proportionate regulation for the risk the regulatory structure seeks to mitigate.
155. The Working Group in particular will consider minority ownership by non-licensees in law practices, with attention paid to implications for certain areas of law, possible franchise arrangements, and a potential expanded multi-discipline practice scheme to be considered and discussed with the professions. In addition, the Working Group will consider majority ownership by civil society organizations focused on facilitating access to justice and discussed with civil society sectors and with the professions. The Working Group will consider potential alternative business structures in unserved and underserved areas to be considered and discussed with the professions and other interested parties.
156. The Working Group will continue to consider and apply the criteria set above and continue to pay close attention to the potential benefits and costs/risks and rewards of alternatives under consideration.

## **TERMS OF REFERENCE OF THE LAW SOCIETY OF UPPER CANADA WORKING GROUP ON ALTERNATIVE BUSINESS STRUCTURES**

On September 27, 2012, the Working Group reported its Terms of Reference to Convocation. These Terms of Reference provide that the Working Group will

- (a) inform itself on developments in Canada and abroad on new and existing alternative legal service delivery models and structures, financing arrangements, and the related regulatory process;
- (b) consider these developments in light of regulatory requirements and develop a set of criteria to assess the prioritize these new models and structures. Criteria may include access to the services by the public (access to justice), public protection (risk assessment of various models), and other principles that inform the Law Society's public interest mandate, including the requirement that standards of professional conduct be proportionate to the significance of the regulatory objectives sought to be realized; and
- (c) determine the range of legal service delivery models and financing arrangements that should be explored and examine the existing regulatory constraints on delivery models and financing arrangements;
- (d) create a Work Plan that will include identification of the legal services delivery models and regulatory changes that should be considered by the Law Society for possible implementation based on
  - (i) an initial assessment of their impacts based on the criteria developed earlier;
  - (ii) a high level consultation; and
  - (iii) report the results of its work to Convocation, including, as appropriate, proposals and recommendations for next steps.