



TAB 4

Report to Convocation February 22, 2018

Tribunal Committee

Committee Members

Barbara Murchie (Chair)
Isfahan Merali (Vice-Chair)
Paul Cooper (Vice-Chair)
David A. Wright (*ex officio*)
Raj Anand
Larry Banack
Peter Beach
Christopher Bredt
Janis Criger
Marian Lippa
Baljit Sikand
Peter Wardle

Purpose: Decision and Information

**Prepared by Tribunal Counsel
Lisa Mallia – 416-947-3488**

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COMMITTEE PROCESS

1. The Committee met on February 8, 2018. Committee members Barbara Murchie (Chair), Isfahan Merali (Vice-Chair), Paul Cooper (Vice-Chair), Raj Anand, Peter Beach, Christopher Bredt, Janis Criger, Marian Lippa, Baljit Sikand, Peter Wardle and David A. Wright (Chair, Law Society Tribunal and *ex officio* Committee Member) attended. New bencher Heather Zordel was in attendance. Tribunal counsel Lisa Mallia and Joe Zaffino also attended.

FOR DECISION

RULES OF PRACTICE AND PROCEDURE AMENDMENTS

MOTION

2. That Convocation approve amendments to the Law Society Tribunal Hearing Division and Appeal Division Rules of Practice and Procedure and the forms thereunder, effective January 1, 2017, to change “The Law Society of Upper Canada” to “Law Society of Ontario” wherever it appears, to take effect at the same time any legislative amendments changing the Law Society’s name take effect.

SUMMARY

3. The Law Society Tribunal Hearing and Appeal Division Rules of Practice and Procedure, and the forms thereunder, include many references to the Law Society of Upper Canada.
4. The proposed amendments are necessary to change these references to the Law Society of Ontario to take effect when the legislative changes implementing the Law Society’s name change take effect.

TAB 4.2

INFORMATION

TRIBUNAL 2017 FOURTH QUARTER STATISTICS

5. The Tribunal's quarterly report for the fourth quarter of 2017 is set out at **TAB 4.2.1**.
6. Ongoing collection and reporting of Tribunal operational statistics assist the Tribunal to monitor issues, needs and implementation of the new model and enable the Committee and Convocation to track certain processes and statistics.



2017 LAW SOCIETY TRIBUNAL STATISTICS

Fourth Quarter Report: October 1, 2017 to December 31, 2017

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Files Opened

The Tribunal opens a file when it is issued upon the filing of an originating process that has been served on the parties. An originating process includes a notice of application, referral for hearing, motion for interlocutory suspension or practice restriction, and appeal.

Files related to the same lawyer or paralegal that are heard concurrently are counted as separate files.

NOTE – In all tables in this document, numbers in parentheses are 2016 figures.

Table 1 Number of lawyer and paralegal files opened in the Hearing and Appeal Divisions for each quarter.

	Q1	Q2	Q3	Q4	Cumulative
Total Files	38 (44)	59 (54)	41 (32)	35 (51)	173 (181)
Lawyer	23	43	27	18	111
Paralegal	15	16	14	17	62
Hearing Files	34 (41)	55 (50)	39 (31)	32 (47)	160 (169)
Lawyer	22	40	25	17	104
Paralegal	12	15	14	15	56
Appeal Files	4 (3)	4 (4)	2 (1)	3 (4)	13 (12)
Lawyer	1	3	2	1	7
Paralegal	3	1	0	2	6

Files Closed

The Tribunal closes a file after the final decision and order, and reasons if any, have been delivered or published. A file that is closed in a quarter may have been opened in that same quarter or any time prior.

Table 2 Number of lawyer and paralegal files closed in the Hearing and Appeal Divisions for each quarter.

	Q1	Q2	Q3	Q4	Cumulative
Total Files	59 (65)	56 (38)	52 (33)	23 (33)	190 (169)
Lawyer	42	40	37	15	134
Paralegal	17	16	15	8	56
Hearing Files	56 (63)	52 (34)	48 (32)	22 (28)	178 (157)
Lawyer	39	37	33	14	123
Paralegal	17	15	15	8	55
Appeal Files	3 (2)	4 (4)	4 (1)	1 (5)	12 (12)
Lawyer	3	3	4	1	11
Paralegal	0	1	0	0	1

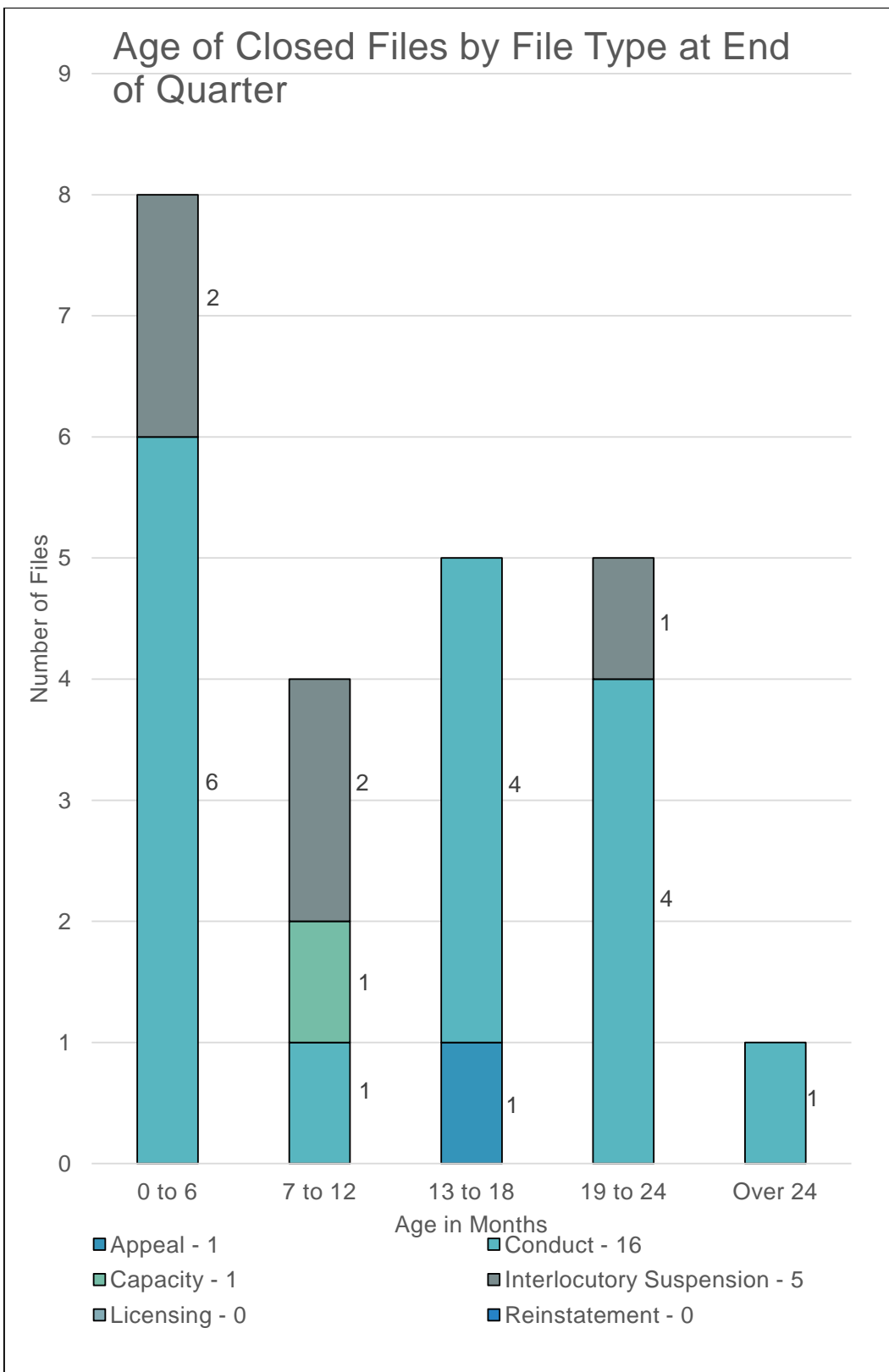


Figure 1 Number and age of files closed in each file type.

Open Files at the End of Each Quarter

Table 3 Number of lawyer and paralegal files that were open at the end of each quarter.

	Q1	Q2	Q3	Q4
Total Files	162 (142)	165 (163)	153 (160)	164 (176)
Lawyer	129	131	120	122
Paralegal	33	34	33	42
Hearing Files	145 (125)	148 (146)	139 (147)	148 (162)
Lawyer	116	117	109	111
Paralegal	30	31	30	37
Appeal Files	17 (17)	17 (17)	14 (13)	16 (16)
Lawyer	14	14	11	11
Paralegal	3	3	3	5

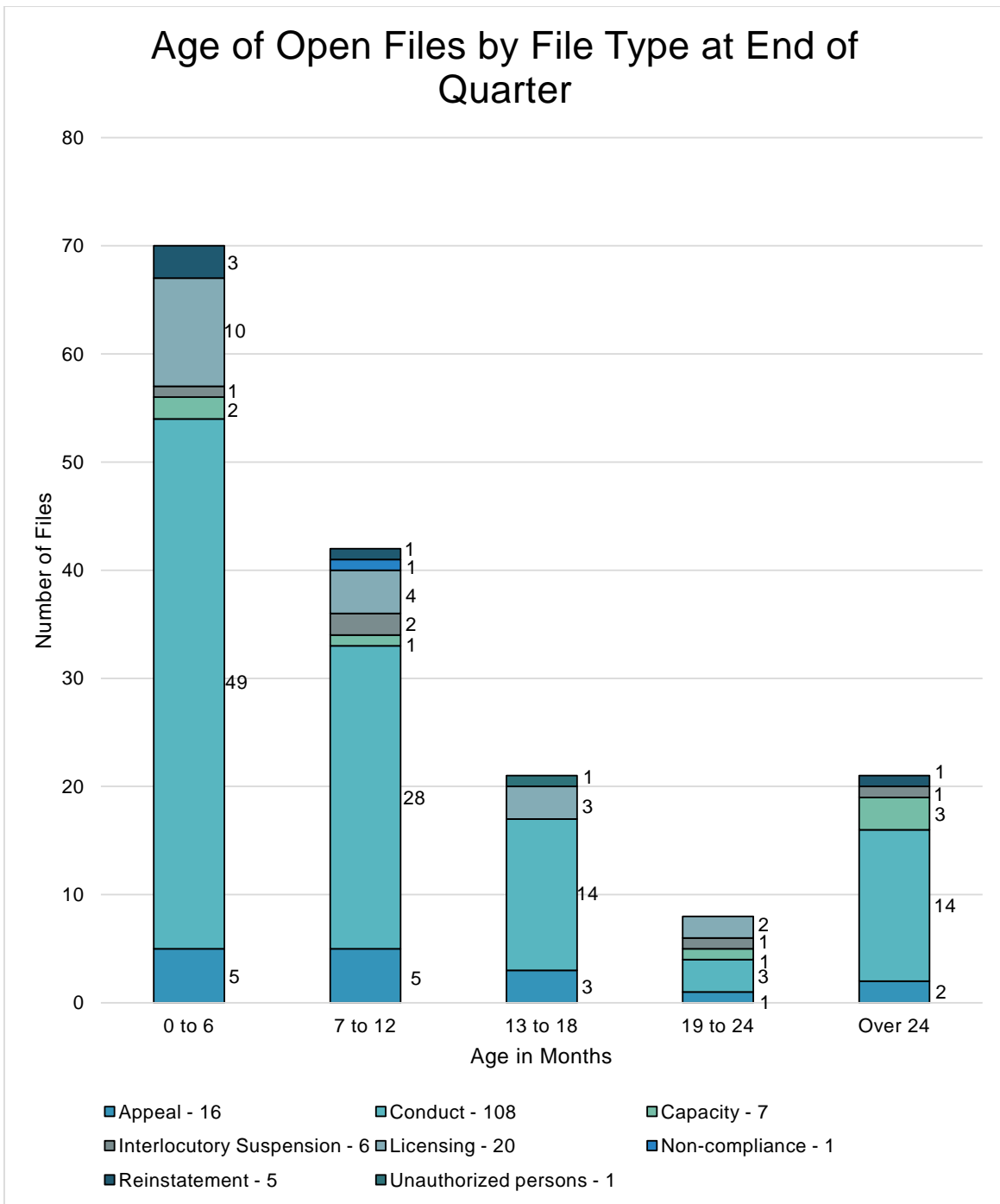


Figure 2 Number and age of open files in each file type.

Summary Files Opened and Closed

A summary file is a proceeding that is first returnable to a hearing panel and bypasses the PMC in accordance with s.2(1) of O. Reg. 167/07. These files are typically heard by a single adjudicator.

This data is a subset of the information in Table 1 and Table 2.

Table 4 Number of lawyer and paralegal summary files that were opened and closed in each quarter.

	Q1	Q2	Q3	Q4	Cumulative
Total Summary Files Opened	7 (10)	19 (13)	6 (3)	17 (14)	49 (40)
Lawyer	4	12	1	10	27
Paralegal	3	7	5	7	22
Total Summary Files Closed	12 (16)	19 (14)	21 (9)	8 (3)	60 (42)
Lawyer	8	14	13	5	40
Paralegal	4	5	8	3	20

Open Summary Files at End of Quarter

Table 5 Number of lawyer and paralegal summary files that were open at the end of each quarter.

	Q1	Q2	Q3	Q4
Total Summary Files	13 (13)	22 (13)	8 (8)	27 (20)
Lawyer	10	16	5	20
Paralegal	3	6	3	7

Number of Lawyers and Paralegals Before the Tribunal

Table 6 Number of lawyers and paralegals before the Tribunal at various proceeding stages.

Stage	Q1	Q2	Q3	Q4	Yearly Total
Proceeding Management Conference (PMC)	49 (58)	56 (52)	53 (61)	49 (60)	134 (157)
Lawyers	40	44	40	37	104
Paralegals	9	12	13	12	30
Hearing	64 (43)	53 (49)	50 (35)	46 (55)	180 (147)
Lawyers	49	41	36	35	133
Paralegals	15	12	14	11	47
Appeal Management Conference (AMC)	5 (6)	1 (6)	4 (4)	9 (4)	12 (14)
Lawyers	4	1	4	7	9
Paralegals	1	0	0	2	3
Appeal	3 (3)	2 (8)	3 (4)	3 (2)	9 (14)
Lawyers	3	2	2	3	8
Paralegals	0	0	1	0	1

Number of Files and Frequency Before the Tribunal

Files heard on more than one occasion by the Tribunal within a quarter are counted each time the file proceeds before the Tribunal.

Table 7 Number of files before the Tribunal and number of times files were considered by the Tribunal.

Stage	Q1 Files	Q1 Times Considered	Q2 Files	Q2 Times Considered	Q3 Files	Q3 Times Considered	Q4 Files	Q4 Times Considered	Total Files	Total Times Considered
PMC	49 (64)	71 (96)	59 (55)	101 (72)	58 (60)	87 (84)	50 (92)	86 (92)	146 (176)	345 (344)
Lawyer	40	60	46	79	44	69	38	69	115	277
Paralegal	9	11	13	22	14	18	12	17	31	68
Hearing	70 (51)	92 (57)	56 (56)	67 (68)	56 (38)	73 (50)	52 (61)	59 (77)	204 (174)	291 (252)
Lawyer	54	74	44	53	41	53	39	45	151	225
Paralegal	16	18	12	14	15	20	13	14	53	66
AMC	5 (6)	9 (10)	1 (6)	1 (11)	4 (4)	4 (4)	5 (10)	9 (14)	12 (14)	23 (39)
Lawyer	4	8	1	1	4	4	2	7	9	20
Paralegal	1	1	0	0	0	0	3	2	3	3
Appeal	3 (3)	3 (4)	2 (5)	2 (5)	2 (4)	2 (5)	3 (2)	3 (2)	11 (14)	10 (16)
Lawyer	3	3	2	2	1	1	3	3	10	9
Paralegal	0	0	0	0	1	1	0	0	1	1

Total Hearings Scheduled and Vacated

The number of hearings scheduled in each quarter is listed below. Files scheduled on more than one occasion within a quarter are counted each time the file is scheduled. A hearing is counted as scheduled when the date the hearing is to proceed falls within the quarter. A hearing is counted as vacated when it does not proceed on the scheduled date. A multi-day hearing is partially vacated if it proceeded on only some of the scheduled days. Reasons for vacated hearings are noted in Table 9. The number of hearing calendar days is noted in Table 11.

Table 8 Total hearings scheduled and vacated per quarter.

	Q1	Q2	Q3	Q4	Cumulative
Number of hearings scheduled¹	109 (86)	82 (81)	85 (67)	80 (97)	356 (331)
Lawyer	90	66	62	64	282
Paralegal	19	16	23	16	74
Number of hearings completely vacated	28 (25)	18 (19)	20 (14)	21 (20)	87 (78)
Percentage of hearings completely vacated	26% (29%)	22% (23%)	24% (21%)	26% (21%)	24% (24%)
Lawyer	25	16	15	19	75
Paralegal	3	2	5	2	12
Number of hearings partially vacated	7 (4)	9 (13)	7 (7)	7(10)	30 (34)
Percentage of hearings partially vacated	6% (5%)	11% (16%)	8% (10%)	9% (10%)	8% (10%)
Lawyer	7	9	7	7	30
Paralegal	0	0	0	0	0
Number of appeal hearings scheduled²	4 (8)	3 (7)	3 (5)	3 (2)	13 (22)
Lawyer	4	3	2	3	12
Paralegal	0	0	1	0	1
Number of appeal hearings completely vacated	1 (2)	1 (1)	1 (0)	0 (0)	3 (3)
Percentage of appeal hearings completely vacated	25% (25%)	33% (14%)	33% (0%)	0% (0%)	23% (14%)
Lawyer	1	1	1	0	3
Paralegal	0	0	0	0	0

¹ This includes PMC motion hearings.

² This includes AMC motion hearings.

Reasons for Vacated Hearings

A hearing may be vacated for more than one reason. These tables show the number of times each reason resulted in a vacated hearing. In these tables, L represents lawyers and P represents paralegals.

Table 9 Reasons hearings were vacated per quarter.

Reasons Hearings Were Vacated	Q1 (L)	Q1 (P)	Q2 (L)	Q2 (P)	Q3 (L)	Q3 (P)	Q4 (L)	Q4 (P)
Agreed Statement of Facts expected / concluded	2						2	
Matter abandoned / withdrawn		1	1			1		
Matter amended					1			
Matter proceeded in writing instead	1		1					
Motion heard instead	1			1			2	
Panel conflict	1							
Panel unavailable		1	1					
Party / representative / witness unavailable / ill	7	1	5		7		9	1
Party / representative unprepared	4		1		1	1		
Party subject of other proceeding	2		1			1		
Party to obtain / provide evidence			1		1	1	2	
PHC proceeded instead					1		2	
Representative removed / new	6		3	1		1		
Time needed to make submissions					1			1
Time needed to retain representative	2				1		1	
Time needed to review disclosure			2		1			
Time overestimated / matter concluded					1		2	

Table 10 Reasons that portions of hearings were vacated per quarter.

Reasons Portions Of Hearings Were Vacated	Q1 (L)	Q1 (P)	Q2 (L)	Q2 (P)	Q3 (L)	Q3 (P)	Q4 (L)	Q4 (P)
Agreed Statement of Facts expected / concluded					3		2	
Matter abandoned / withdrawn					1			
Matter proceeded in writing instead					1			
Motion heard instead	1	0						
Panel unavailable			1					
Party / representative / witness unavailable / ill	2	0			1		1	

Reasons Portions Of Hearings Were Vacated	Q1 (L)	Q1 (P)	Q2 (L)	Q2 (P)	Q3 (L)	Q3 (P)	Q4 (L)	Q4 (P)
Party / representative unprepared	1	0						
Time needed to make submissions							1	
Party subject of other proceeding			1					
Representative removed / new	1	0	1				1	
Time needed to review disclosure					1			
Time overestimated / matter concluded	2		6				1	

Calendar Days Scheduled and Vacated

The number of hearing calendar days scheduled is listed below. Multiple hearings are often scheduled on each calendar day. A vacated calendar day is a day on which no scheduled hearings or appearances before the PMC or AMC proceeded. The day an adjournment request is heard is not counted as a vacated calendar day. For example, if a request to adjourn a three-day hearing was granted on the first day, only the remaining days are counted as vacated. Or, if one hearing was vacated, but other hearings proceeded on the same day, that day is not counted as vacated. Some hearings and appeals were heard on the same calendar day.

Reasons for vacated calendar days are noted in Table 12.

Table 11 Number of calendar days that were scheduled and vacated in the Hearing and Appeal Divisions

	Q1	Q2	Q3	Q4	Cumulative
Number of available calendar days	63 (62)	63 (63)	62 (64)	60 (60)	248 (249)
Number of Hearing Division calendar days scheduled	56 (51)	61 (57)	56 (52)	54 (52)	227 (212)
Number of Hearing Division calendar days vacated	1 (5)	6 (5)	5 (6)	5 (3)	17 (19)
Percentage of Hearing Division calendar days vacated	2% (10%)	10% (9%)	9% (12%)	9% (6%)	7% (9%)
Number of Appeal Division calendar days scheduled	13 (12)	4 (7)	7 (5)	3 (11)	27 (35)
Number of Appeal Division calendar days vacated	1 (1)	1 (1)	1 (0)	0 (1)	3 (3)
Percentage of Appeal Division calendar days vacated	8% (8%)	25% (14%)	14% (0%)	0% (9%)	11% (9%)

Reasons For and Number of Resulting Vacated Calendar Days

The first figure in each quarter's column represents the number of times a panel accepted this reason. The second figure represents the number of resulting vacated calendar days. The number of calendar days vacated shown on this page may be greater than the calendar days vacated as reported in Table 11 because more than one matter may have been scheduled to be heard on the same day and all were vacated; so one calendar day may have been vacated for more than one reason and for more than one matter.

Table 12 Reasons and the number of times each was accepted and resulted in vacated calendar days.

Reasons For Vacated Calendar Days	Q1	Q2	Q3	Q4
Motion heard instead		2-2		1-1
Party / representative / witness unavailable / ill	1-1	3-3	5-4	4-4
Party subject of other proceeding		1-1		
Representative new / removed	1-1	4-6		
Time needed to review disclosure			1-1	
Matter abandoned / withdrawn			1-1	
Time overestimated / matter concluded			1-1	6-2

Parties' Adjournment Requests

The following table lists the number of adjournment requests made to the Law Society Tribunal in each quarter. Adjournment requests reported below may relate to matters scheduled to be heard during this quarter or in a subsequent quarter. In this table, L represents lawyers and P represents paralegals.

Table 13 Number of adjournment requests granted and denied per quarter by the Hearing and Appeal Divisions

Adjournment Requests	Q1 (L)	Q1 (P)	Q2 (L)	Q2 (P)	Q3 (L)	Q3 (P)	Q4 (L)	Q4 (P)	Cumulative
Granted by PMC	3 (8)	0 (1)	0 (1)	0 (2)	4(2)	0 (1)	2 (3)	0 (1)	9 (19)
Denied by PMC	0 (3)	0 (0)	1 (1)	0 (0)	0 (0)	0 (0)	1 (2)	0 (0)	2 (6)
Granted by Hearing Division	7 (4)	0 (0)	0 (11)	1 (0)	5 (6)	1 (1)	5 (6)	2 (1)	21 (29)
Denied by Hearing Division	3 (1)	1 (0)	0 (3)	0 (1)	0 (1)	1 (1)	1 (1)	0 (1)	6 (9)
Granted by AMC	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Denied by AMC	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Granted by Appeal Division	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Denied by Appeal Division	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)

Parties' Position on Adjournment Requests

Lawyer Matters

Table 14 Parties position on adjournment requests in lawyer matters for Q4.

Adjournment Requests	On Consent	Opposed	Unopposed	Total
Granted by PMC	2			2
Denied by PMC			1	1
Granted by the Hearing Division	2	2	1	5
Denied by the Hearing Division		1		1

Paralegal Matters

Table 15 Parties position on adjournment requests in paralegal matters for Q4.

Adjournment Requests	On Consent	Opposed	Unopposed	Total
Granted by PMC				
Denied by PMC				
Granted by the Hearing Division	1		1	2
Denied by the Hearing Division				

Tribunal Reasons Produced and Published

The number of reasons produced does not equal the number of reasons published because some reasons produced in a quarter may not be published or will be published in a subsequent quarter.

Table 16 Number of oral and written reasons produced and published per quarter.

	Q1	Q2	Q3	Q4	Cumulative
Number of written reasons produced	53 (41)	49 (42)	62 ³ (28)	31 (34)	195 (145)
Lawyer	41	41	48	22	152
Paralegal	12	8	14	9	43
Number of written reasons published	53 (41)	49 (42)	43 (28)	32 (34)	177 (145)
Lawyer	41	41	33	23	138
Paralegal	12	8	10	9	39
Number of oral reasons produced	28 (15)	20 (13)	11 (15)	10 (12)	69 (55)
Lawyer	20	15	8	8	51
Paralegal	8	5	3	2	18
Number of oral reasons published	14 (15)	15 (10)	18 (8)	7 (12)	54 (45)
Lawyer	8	12	14	5	39
Paralegal	6	3	4	2	15

³ Due to identified data entry issues this quarter, this number may not be exact.