



THE COUNCIL OF THE INNS OF COURT

# **The Bar Tribunals & Adjudication Service**

## **ANNUAL REPORT 2014**

Welcome to the Annual Report of the Bar Tribunals and Adjudication Service ('BTAS').

BTAS is the body responsible for administering Disciplinary Tribunals, Interim Suspension Hearings and Fitness to Practice Hearings for barristers. It also organises Inns' Conduct Committee Hearings to consider the conduct of applicants to, and students of, the Inns of Court before they are called to the Bar.

This Report forms part of our commitment to openness and accountability in all we do, and is intended to provide a summary of all key developments and data on our activities over the year. We hope you find it both interesting and informative.

As the Inns' Conduct Committee conducts its business in accordance with the academic year, please note all information in this Report refers to its actions between 1 September 2013 and 31 August 2014. All other information refers to the period 1 January – 31 December 2014.

If you would like any further information about BTAS please visit our website at [www.tbts.org.uk](http://www.tbts.org.uk).

## CONTENTS

Introduction .....	3
Disciplinary Tribunals and Other Hearings Report .....	5
The Inns' Conduct Committee Report .....	16
The Tribunal Appointments Body's Report .....	30

## INTRODUCTION

2014 has been a year of both consolidation and change for BTAS.

The new processes and policies introduced in 2013 (following the recommendations of the Browne Review) are now well-established in use and by and large have proven to work well. Similarly, there has been no change to the membership of the Disciplinary Panel, with no need to recruit any new members or clerks to the Panel. The Tribunal Suite itself continues to demonstrate itself to be a good venue, successfully hosting two Hearings simultaneously for the first time in December.

On 1 July 2014 BTAS became a key part of a completely new charitable organisation – the Council of the Inns of Court. On that date COIC became an independent legal entity, governed by its Board of Trustees (made up of representatives from each of the Inns), and responsible for the work of both the Tribunal Service and its new sister-organisation the Advocacy Training Council. 2014 also saw the establishment and first meetings of BTAS's Strategic Advisory Board (the 'SAB').

The SAB is itself a recommendation of the Browne Review, and it acts a source of independent advice, support - and challenge - to BTAS. As well as scrutinising BTAS' performance (by looking at how promptly BTAS is able to arrange Hearings for cases referred to it, for example) it is already providing considered and highly valuable advice on issues including the development of the appraisal process, and new Rules for the Inns' Conduct Committee.

2014 also saw the recruitment of a number of individuals to key roles in the BTAS team, foremost amongst them being the appointment in March of His Honour Stuart Sleeman as Chair of the Disciplinary Tribunal Service. The Chair's role is to act as a professional lead, providing oversight and expertise to support the continuing development of Tribunal processes and activities. Hayley Addison joined the BTAS administrative team in January and since then has ably supported the work of the Inns' Conduct Committee. A permanent Registrar, Andy Russell, was appointed in June to continue the work of the Interim Registrar, Wendy Harris, who stepped down in March, and whose efforts during her time in the post transformed BTAS into the organisation it is today. Finally, a special acknowledgment must be made to Margaret Hilson,

who has once again efficiently and dependably ensured the smooth administration and running of the Tribunals throughout the year.

As always, BTAS would like to sincerely thank and acknowledge the efforts of all those involved with its activities. Well over a hundred individuals assist BTAS with its work; including serving as panellists or clerks at Hearings, and acting on committees or working groups. Many of these do so on a pro-bono basis and their contribution is deserving of special recognition.

1. BTAS organises Disciplinary Tribunals for barristers facing charges of professional misconduct by the Bar Standards Board. It maintains an independent Panel made up of barrister, lay and QC members who hear the cases and, if appropriate, determine the appropriate sanctions to be imposed. Disciplinary Panels are made up of three persons, or for the most serious cases five persons. BTAS also administers Interim Suspension Panels (which take place when the BSB believes that it is in the public interest that a barrister be immediately suspended, rather than be allowed to continue to practise while arrangements are made for a Disciplinary Tribunal to be convened, hear and judge their case) and Fitness to Practise Hearings, where the BSB has concerns about the capacity of a barrister to act on medical grounds.
2. BTAS and its Panel are wholly independent of the Bar Standards Board. Its relationship with the BSB is governed by a Service Agreement which defines the standards and performance expected by one party of the other.
3. Throughout 2014 BTAS has continued progressing its response to the recommendations in the Browne Review of the Disciplinary Tribunal Service, conducted in 2012. Of the 82 recommendations for change set out, only six remain to be completed, compared with 25 at the end of 2013. Implementation of the six remaining recommendations is well on track, leading the Bar Standards Board to state:

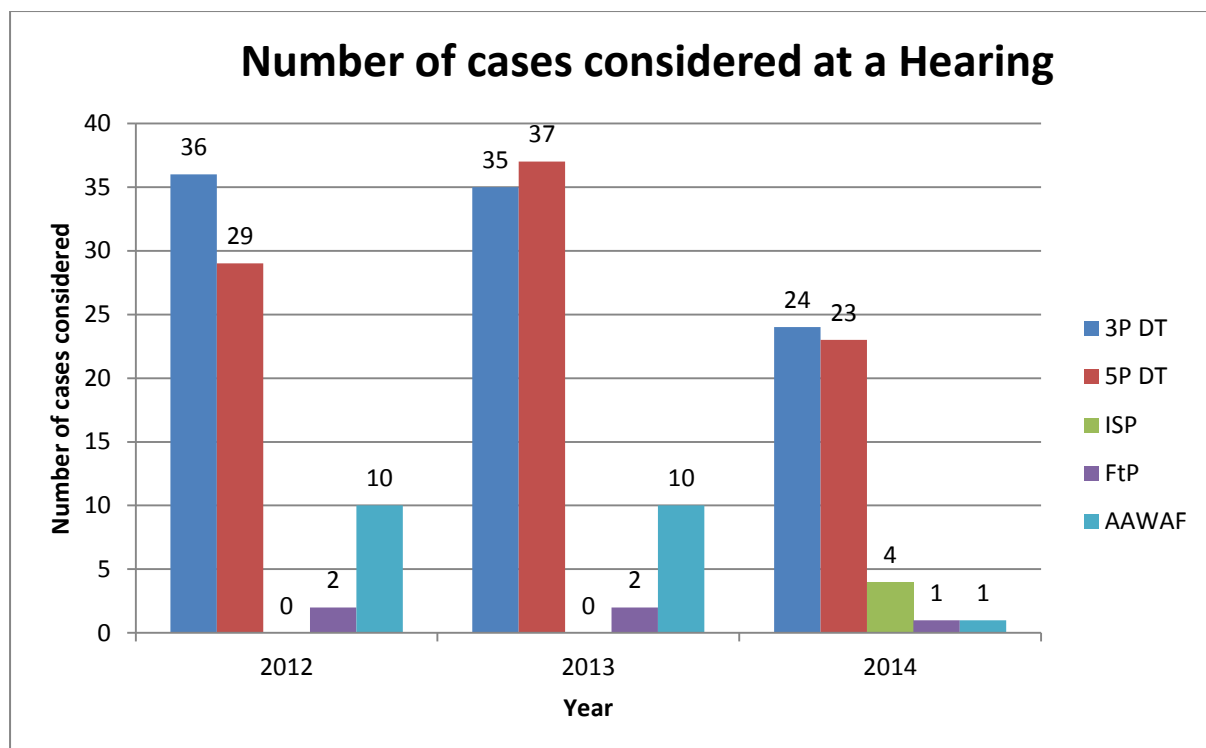
*“We are pleased with the continuing progress being made in the implementation of the Browne Review. The arrangements, which are now largely in place, represent a significant step in assuring the public and the profession that the disciplinary arrangements for the Bar of England and Wales are open and transparent.[BSB Press Release, 28 November 2014].”*

4. Operationally, in 2014 BTAS has met or exceeded all the Key Performance Indicators it has set for itself, and which have been agreed and are

monitored by both its Strategic Advisory Board and the Bar Standards Board.

### Number of Cases considered by BTAS Panels in 2014

5. The following chart sets out the total number of Disciplinary Tribunals, ISP and FtP Hearings that took place in 2014. Data is also provided for the two previous years for the purposes of comparison:



[Key: 3P DT: 3-Person Disciplinary Tribunal  
 5P DT: 5-Person Disciplinary Tribunal  
 ISP: Interim Suspension Panel  
 FtP: Fitness to Practise Panel  
 AAWAF: Appeal against Warning and Fine]

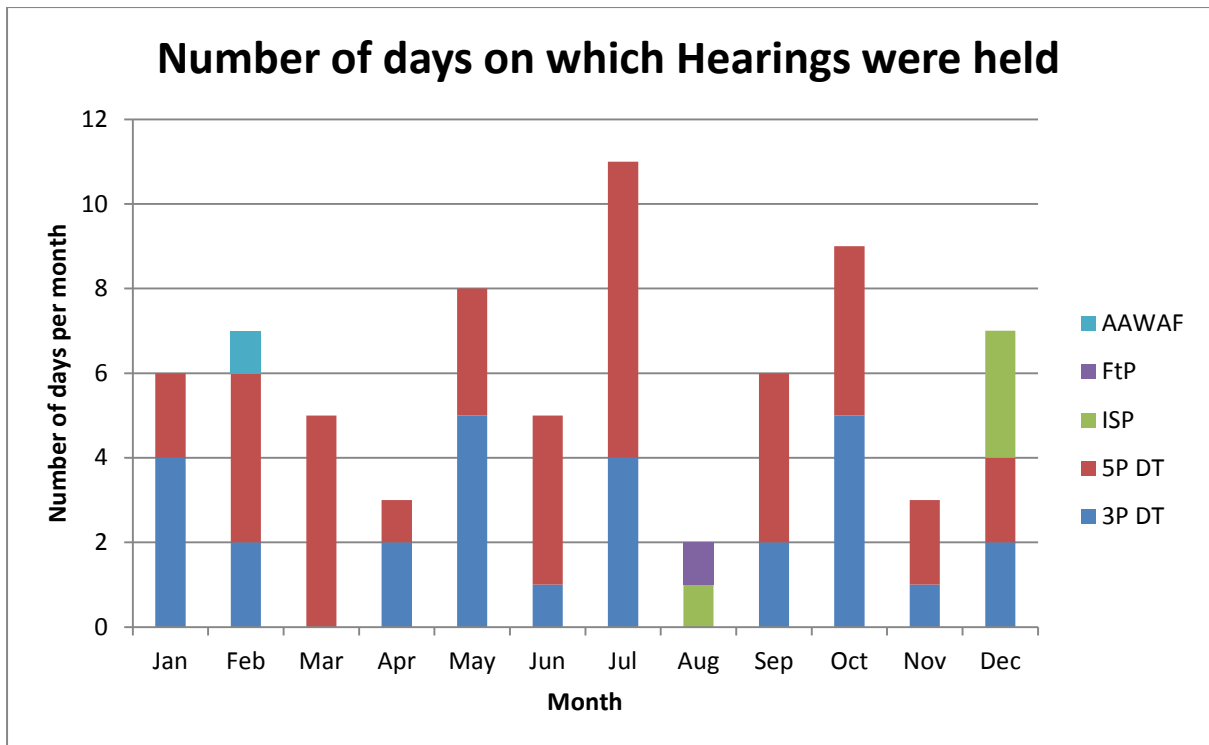
6. 2014 is clearly characterised by a notable drop in the number of cases being referred by the BSB for consideration at a BTAS Hearing, from 84 in 2013 to 53 in 2014, amounting to a 37% reduction year-on-year.

7. This can be partly explained by the introduction of 'Administrative Sanctions', whereby the BSB now has the power to impose warnings and fines itself, without having to refer the matter to a Disciplinary Tribunal (see [https://www.barstandardsboard.org.uk/media/1590719/140505 -  
\\_administrative sanctions - imposing warnings and fines -  
\\_leaflet colour - final pdf.pdf](https://www.barstandardsboard.org.uk/media/1590719/140505_-_administrative_sanctions_-_imposing_warnings_and_fines_-_leaflet_colour_-_final_pdf.pdf) for further information). The overall impact of this change is that BTAS is likely to get fewer, but proportionally more complex and serious cases.
8. Similarly, the BSB has itself recently reported a marked annual fall (from 175 to 108) of the number of internal complaints it is handling. These cases are where the BSB itself initiates an investigation into a barrister's conduct, and the drop coincides with the change from the BSB's previous requirement for all barristers to annually submit a record of their CPD, to one of occasional 'spot-checks'. A reduction in the number of cases being considered by the BSB must inevitably lead to a reduction in the number of cases then passed by them to BTAS.
9. 2014 is also marked by an increased number of Interim Suspension Panels, from 1 in the last 6 years (in 2009) to four in 2014.

#### **Number of Days on which Hearings were held in 2014**

10. While many cases can be concluded within one day, others are more complex and are arranged to take place over several days, while others have to be adjourned and be concluded at another date. The following chart sets out the number of days (broken down by month) on which Hearings took place:



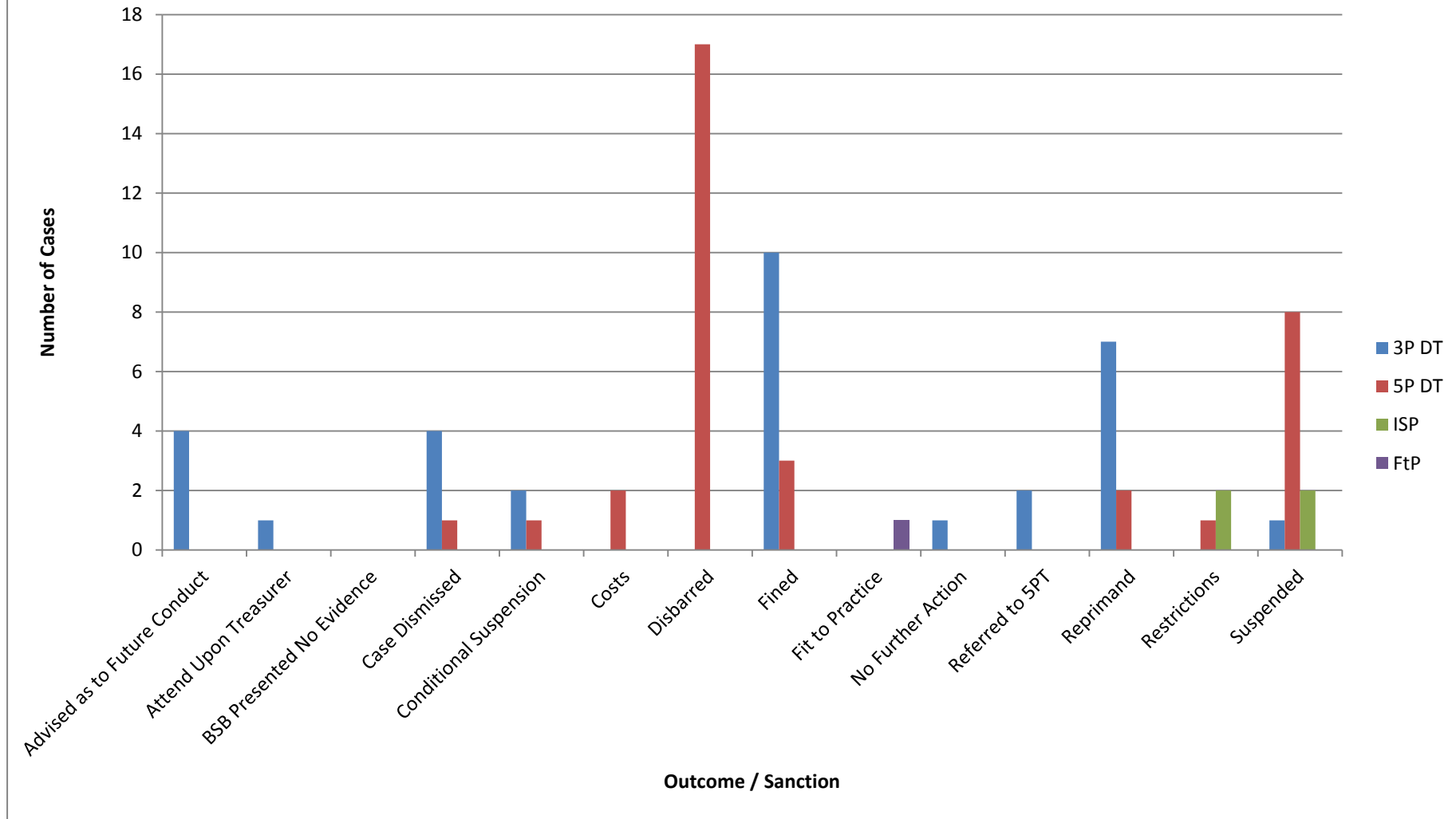


11. In 2014 Hearings took place on a total of 72 days, representing an average of 1.4 days per case. These figures however include one day where three 5-person Disciplinary Tribunals took place consecutively (in each case the defendant did not attend and was not represented) and a further day where two Interim Suspension Panels were heard simultaneously. Comparable data for 2013 is unfortunately not available so trend information cannot be presented.

### Panel Outcomes in 2014

12. The Chart below sets out information on the outcomes of all Disciplinary Tribunals, ISPs and FtPs heard during the course of 2014:

## Panel Outcomes

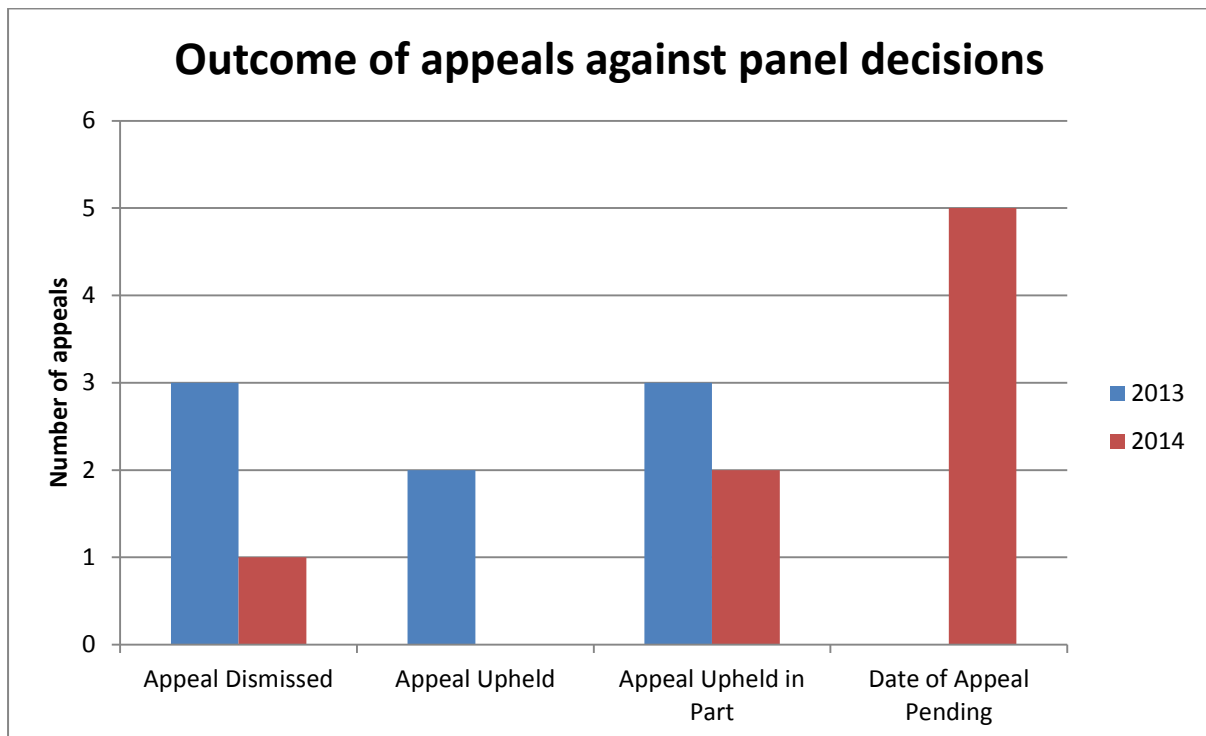


*[Please note that in a number of cases in 2014 Tribunals imposed multiple sanctions (e.g. a fine and suspension) which to aid comprehension have been represented separately on this chart. The effect of this is that the total number of panel outcomes in the chart does exceed the number of panels in 2014].*

13. In 2014, 17 of the 53 Tribunals (32%) resulted in the defendant's disbarment. This compares with 2013, when 15 of the 84 Tribunals (18%) resulted in disbarment. As only 5-Person Disciplinary Tribunals can impose a sanction of disbarment, it is appropriate to highlight that this equates to 74% of such Hearings in 2014 resulting in an outcome of disbarment. In 2013, the comparable figure was 44%.

### **Outcomes of appeals against the decisions of Disciplinary Tribunals in 2014**

14. Barristers have the right of appeal against the decisions and sentences imposed by Disciplinary Tribunals. The Chart below sets out the numbers of challenges made to the outcomes of Disciplinary Tribunals in 2014, with numbers for 2013 provided to aid comparison:

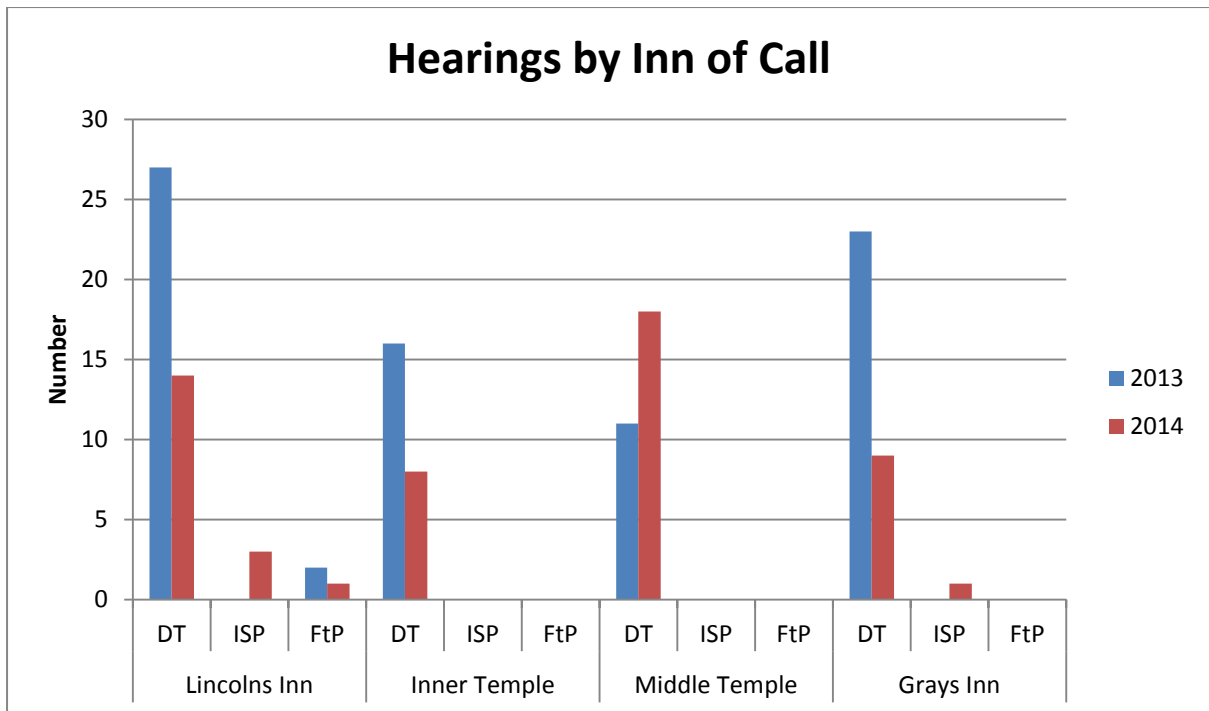


15. In 2014 the same numbers of appeals were lodged against the decisions of Disciplinary Tribunals as in 2013. As the number of Hearings over the same period has fallen, this represents a very small proportional increase, which perhaps becomes more significant when it is considered that two of the 2013 appeals were submitted by the BSB themselves, whereas all those in 2014 were submitted by defendants.
16. It would be premature to try and state whether this still very modest increase represents a trend, not least because the numbers are extremely low so the variance may purely be a statistical anomaly. Moreover data on the long-term trend is not known (so it may be that 2013 was in fact disproportionately low).
17. Comments that can be safely made at this stage are that January 2014 marked a change, so that appeals against the decisions of Disciplinary Tribunals are no longer submitted to the 'Visitors of the Council of the Inns of Court', but lodged at the High Court in accordance with the Civil Procedure Rules, and while this has not changed who can appeal or on what grounds, early indications suggest this may have resulted in speeding the progression of appeals to their conclusion.

The increased number (both in proportion and in real terms) of Tribunals imposing a sentence of disbarment seems likely in itself to lead to a greater proportion of appeals.

### **Hearings by Barrister's Inn of Call**

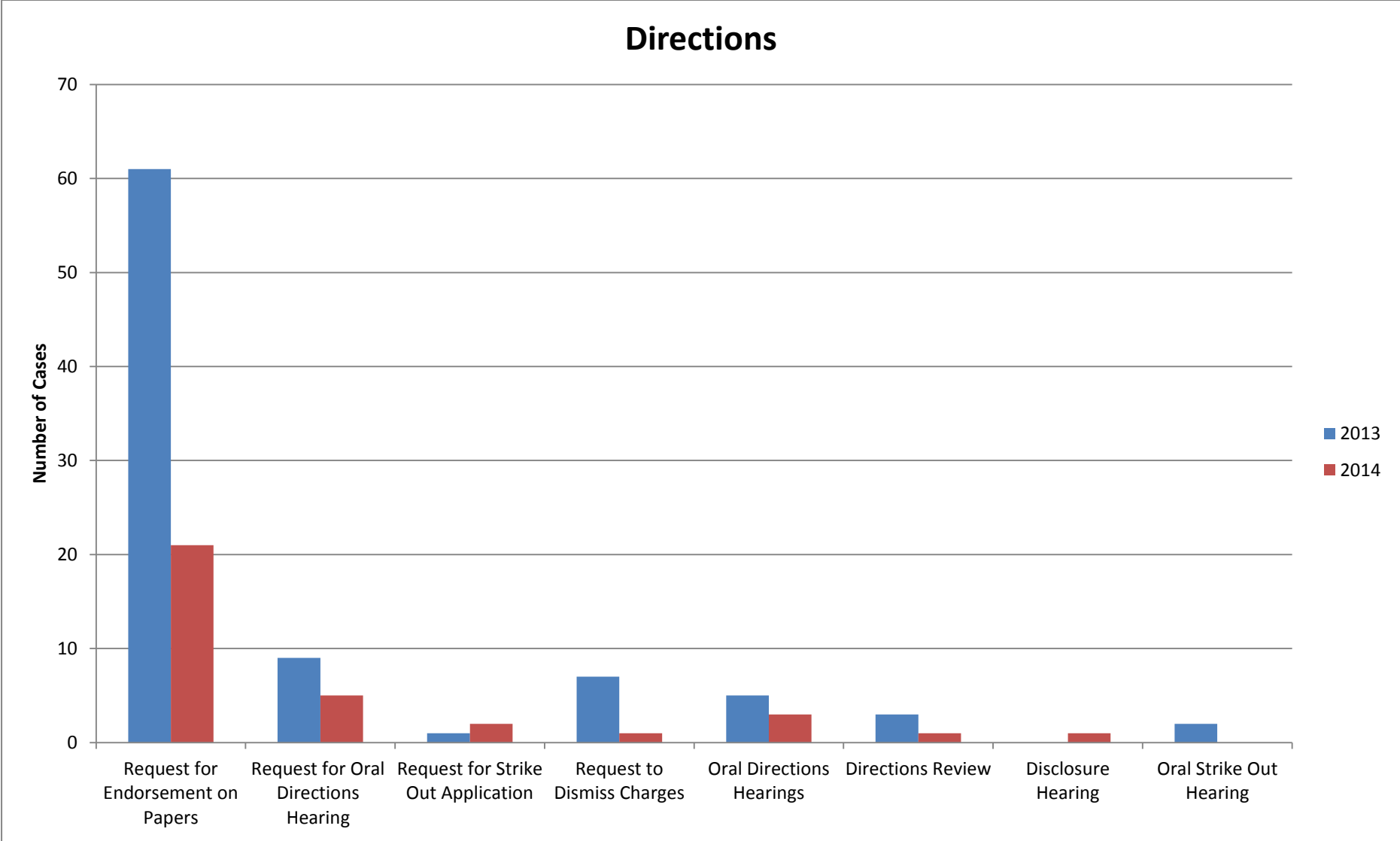
18. The following chart sets out data on the number of Hearings broken down by the barrister's Inn of Call in 2014, with figures for 2013 provided for the purposes of comparison.



## Directions

19. In addition to the Hearings themselves, BTAS is also responsible for arranging the giving of Directions by appointed Judges or QCs, establishing the conduct and timetable for Hearings to both parties where necessary. The following chart sets out data on the number and type of Directions given in 2014, with figures for 2013 provided for the purposes of comparison:

# Directions



20. The clear reduction in Directions being requested (both orally and on the papers) from 2013 to 2014 is likely to have a twofold explanation; firstly it is in part a product of the overall reduction in the number of Disciplinary Hearings taking place; and secondly the 2014 BSB Handbook introduced the use of Standard Directions in all cases, unless Special Directions needed to be agreed between the parties.

### **Disciplinary Tribunal Panel Costs 2014**

21. Panel members and Clerks are entitled to claim reasonable expenses, and in some cases fees, for their attendance at Hearings. Full information about the fees and reimbursement of travel and subsistence expenses for Panellists can be found in the Expenses Policy on the BTAS website. In the interests of transparency and openness, information on payments to Members and Clerks of the Panel in 2014 were as follows:

#### **Hearings Costs**

Fees to lay members for attendance at hearings	£28,500
Fees to clerks for attendance at hearings	£11,640
Expenses to lay members for attendance at hearings	£6,881
Expenses to barrister members for attendance at hearings	£1,333
Expenses to judicial chairs for attendance at hearings	£3,668

#### **Training Costs**

Fees to lay members for attendance at training	£7,800
Fees to clerks for attendance at training	£0
Expenses to lay members for attendance at training	£2,346
Expenses to barrister members for attendance at training	£517
Expenses to judicial chairs for attendance at training	£1,109

## Policy Development

22. January 2014 saw the launch of BTAS's new Sentencing Guidance for Panellists, which is intended to promote consistency and transparency in the sanctions applied at Disciplinary Tribunals. A Working Group was then established in late 2014 to review and augment this guidance so as to extend its application from individual barristers to legal entities (crudely, barrister 'companies'), in preparation for the introduction of BSB-regulated entities from April 2015 onwards. The publishing of the revised *Sentencing Guidance* in 2015 will of course also need to be backed up with additional training and development for Panellists in what could amount to a step-change in the nature of the cases being considered by Disciplinary Panels.

Initial indications from the BSB suggest that the majority of entities approved and regulated by the BSB in 2015 will be single-practitioner, with more complex multi-employee entities following at a later date. Thus, in 2015 at least, the impact of newly BSB-regulated entities on BTAS is expected to be minimal, and not result in any significant change in the number of Hearings taking place.

23. In 2014 BTAS was pleased to be asked by the Bar Standard Boards to play an active part in their review of their *Disciplinary Tribunal Regulations*, which commenced in Autumn 2014. Representatives of lay, barrister and QC members of the Panel, as well as the Chair of the Disciplinary Tribunal Service, are attending the meetings of a BSB Working Group and have been able to share with the BSB their experiences and feedback as 'users' of the current Tribunal Regulations.



24. This is the Report of the Inns' Conduct Committee (**ICC**) for the year from 1 September 2013 to 31 August 2014.

### **Chair**

25. Margaret Bickford-Smith QC resigned as Chair of the ICC with effect from the end of January 2014. She had led and directed the ICC safely through a period of considerable administrative change. Grateful thanks are recorded to Margaret for her tireless efforts on behalf of the ICC, both as Chair and member, in this and previous years.

26. Heather Rogers QC, previously Vice-Chair of the ICC, was appointed Interim Chair with effect from February 2014.

### **Personnel**

27. Since January 2014, Hayley Addison has provided sterling support to the ICC. She has carried out a wide-range of administrative tasks with efficiency, energy and goodwill. She has played a key role in the implementation of changes to improve the operation of the referral process. It is appropriate to record her invaluable contribution in this Report.

28. The ICC has also had the benefit of the work and expertise of the BTAS Registrar this year. Wendy Harris was dynamic in relation to looking at the role and operation of the ICC (prior to her departure at the end of March 2014, she made a major contribution in relation to the establishment of the Review Group mentioned below). Since taking up his appointment as Registrar in June 2014, Andy Russell has provided invaluable support and input in relation to ICC matters.

## **Review of the ICC**

29. Early in 2014, an ICC Review Working Group was established to consider matters relating to the ICC, including the ICC Rules. The ICC had not been the subject of the review undertaken in 2012, at the behest of the Council of the Inns of Court (COIC), which had focused on the Bar Disciplinary Tribunals (BDT). However, the Report had referred to the ICC in relation to some specific issues (common to both the BDT and ICC). A thorough review of the ICC was appropriate and necessary.
30. The ICC Review Working Group is chaired by HHJ Jeff Blackett (who had been the first Chair of the ICC). Its members include the ICC Interim Chair (Heather Rogers), the Sub-Treasurer of Middle Temple (Guy Perricone), the Head of Education at Gray's Inn (Quinn Clark), the BTAS Registrar (now, Andy Russell; initially, Wendy Harris) and the BTAS Administrator (Hayley Addison). Special thanks to the Group, especially HHJ Jeff Blackett, the Chair, are recorded for their careful and thorough work in considering the ICC's role, structure and rules.
31. The work of the ICC Review Working Group continued beyond the end of the academic year which is the subject of this Report. At the date of writing, draft amended Rules are being finalised, with a view to their being approved by COIC and then submitted to the Bar Standards Board (BSB) for approval (in February 2015). The approval of the BSB is required for any amendment to the ICC Rules.

## **ICC Rules: amendment**

32. In January 2014, the new BSB Handbook came into force. The Handbook, which constituted a thoroughgoing change to the Code of Conduct for barristers, included new Bar Training Rules (Part 4 of the Handbook), which replaced the Bar Training Regulations. That change meant that amendments were needed to the ICC Rules, to bring them into line with the new provisions. Referrals to the ICC, in relation to both applicants and students, take place under the Bar Training Regulations/Rules.

33. Amendments to the ICC Rules were approved by the BSB in February 2014: a copy of the ICC Rules, as amended, can be found at <http://www.tbta.org.uk/policies-guidance-and-publications/rules-2/rules-for-the-inns-conduct-committee/> or provided upon request of the BTAS Administration. The ICC Rules included transitional provisions (see Rule 52). The referral process, in relation to applicants and students, has proceeded smoothly over this change in the governing rules.

### **ICC Statement of Principles and Guidelines: draft amendment**

34. The ICC Statement of Principles and Guidelines was overdue for review. Gordon Catford, a barrister member of the ICC, considered the existing Statement and provided a revised (and improved) draft. Particular thanks are offered to him, for undertaking this exercise. The draft Statement was circulated to all ICC members for comment. At its meeting on 13 January 2015, the ICC approved the new Statement of Principles and Guidelines.

### **Meeting of the ICC**

35. The ICC did not meet this year, due principally to the fact that there has been an ongoing review. A meeting took place on 13 January 2015.

### **ICC: the referral process**

36. *Referrals by the Inns –*

In order to assist the Inns in submitting referrals to the ICC (in good order and in good time for them to be considered), from April 2014 a Schedule of all Screening Panels for the remainder of the year was produced. This proved to be of practical assistance to the Inns and the ICC administration in the course of the year to end August 2014. Dates for Screening Panel for the year September 2014/2015 have been set in advance.

Referral forms, introduced and improved over the course of the year, have also proved to be of practical assistance. The form has a “drop-down box”,

which enables the Inn more easily to identify the matter(s) being referred. This has assisted in seeking to ensure that there is uniformity in practice and approach on the part of the Inns to the referral process. Items for further improvement have been noted and acted upon.

### *37. The Screening Panel –*

From February 2014, ICC Screening Panel decisions have been made by a two-person panel, consisting of the Interim Chair and a lay member. Screening Panel meetings are attended by Hayley Addison, as Administrator, and Mary Kerr, Under-Treasurer of Lincoln's Inn. Particular thanks are recorded to Mary, who has provided invaluable help and insight (from the perspective of the Inns and more generally). Her contribution, which has required a substantial commitment of time from her already busy schedule, has been greatly appreciated.

The involvement of a lay member in the process at the Screening Panel stage has enhanced the process. The feedback from those involved (including the lay members and Interim Chair) has been positive. It is suggested that this should continue in the future.

### *38. Panel Hearings –*

There has been no material change to the procedure for Panel hearings. It has been noted that there is a need to ensure that any Panel which adjourns a matter (for whatever reason) must ensure that the adjournment is for a fixed period. A new date for the next hearing, or next step, should be set. This will ensure that matters are resolved appropriately. The Screening Panel keeps under review the progress of matters that have been referred to Panel Hearings: Hayley, as Administrator, reports the outcome or progress, on an ongoing basis. This, again, has been a practical improvement to the work of the ICC.

## **Referrals to the ICC 2013/2014**

**39. Referrals from the Inns:** During the 2013/2014 year of operation, **63** individuals were referred to the ICC by the Inns. There was a high number

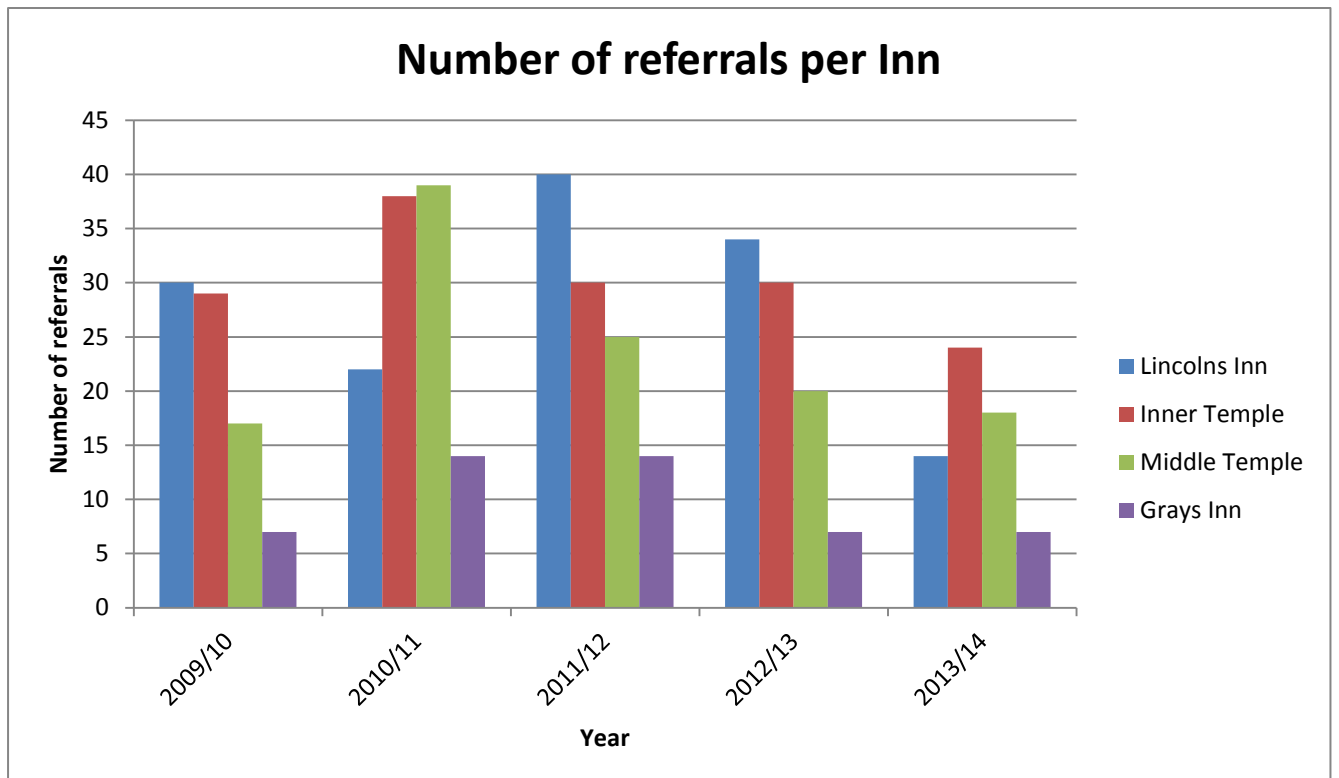
of referrals late in the ICC year (in July 2014), with the result that – given the difficulty of arranging Panel Hearings in August - consideration of **9** matters (6 applicants, 3 students) was deferred into the 2014/2015 year. (Consideration is being given to fixing provisional Panel Hearing dates, with a view to avoiding that difficulty in summer 2015).

40. The **54** individual referrals dealt with by the ICC in 2013/2014 were as follows:

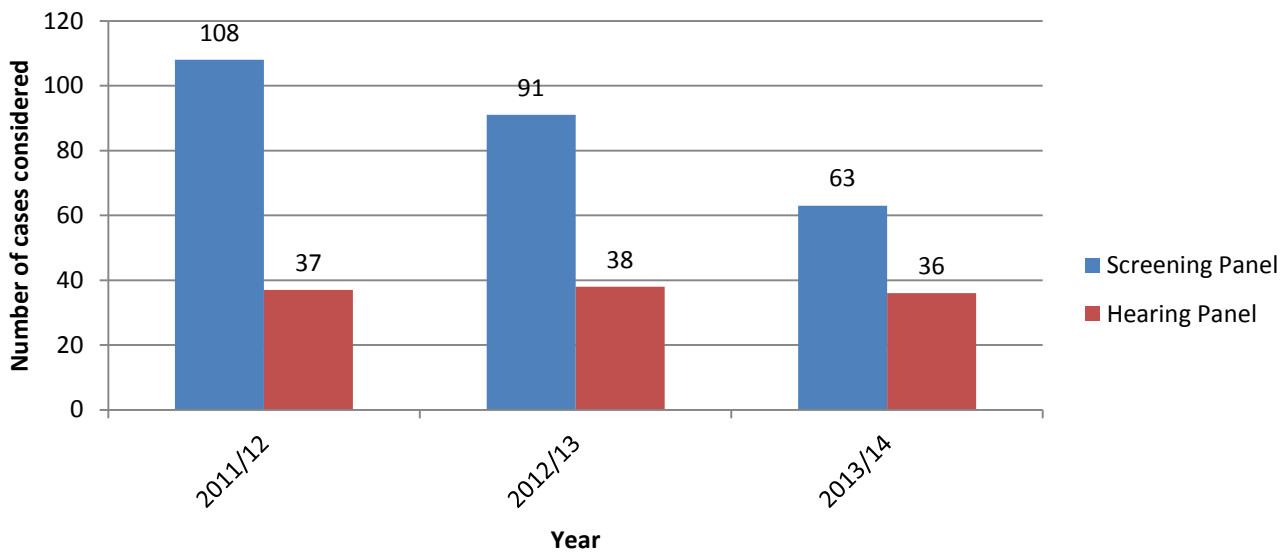
- (1) **40** were applicants to join an Inn. As to these:
  - (a) The Screening Panel found in **25** instances that a referral to a Panel Hearing was not required in order to determine whether the Applicant was “fit and proper”. Each of these Applicants was returned to the Inn to which they had applied, to be admitted as a member.
  - (b) **15** were referred to an ICC Panel Hearing.
    - (i) **8** individuals were found to be “fit and proper”. Accordingly, they would be admitted as a member of the Inn to which they had applied.
    - (ii) **6** individuals were found not to be “fit and proper”. Accordingly, the referring Inn would not admit them as a member.
    - (iii) **1** individual, who was applying for re-admission to an Inn after having been expelled, withdrew the application. The Panel considered it appropriate that no further step was required in the circumstances of that case.
  
- (2) **14** were student members of an Inn. Of these:
  - (a) In **2** instances, the Screening Panel found that it was not necessary to refer the person to a Panel Hearing. The Inn was so informed. No further action was required in either case.
  - (b) **12** individuals were referred to an ICC Panel Hearing.
    - (i) In **1** instance, the Panel determined that a “Serious Matter” had not been proved.
    - (ii) In **6** instances, where a Serious Matter was determined, the individual was expelled from their Inn

- (iii) In the remaining **5** cases, where a Serious Matter was determined, another sanction (short of expulsion) was considered appropriate.

41. The BTAS office has compiled comparative data, which is set out in the Tables below.



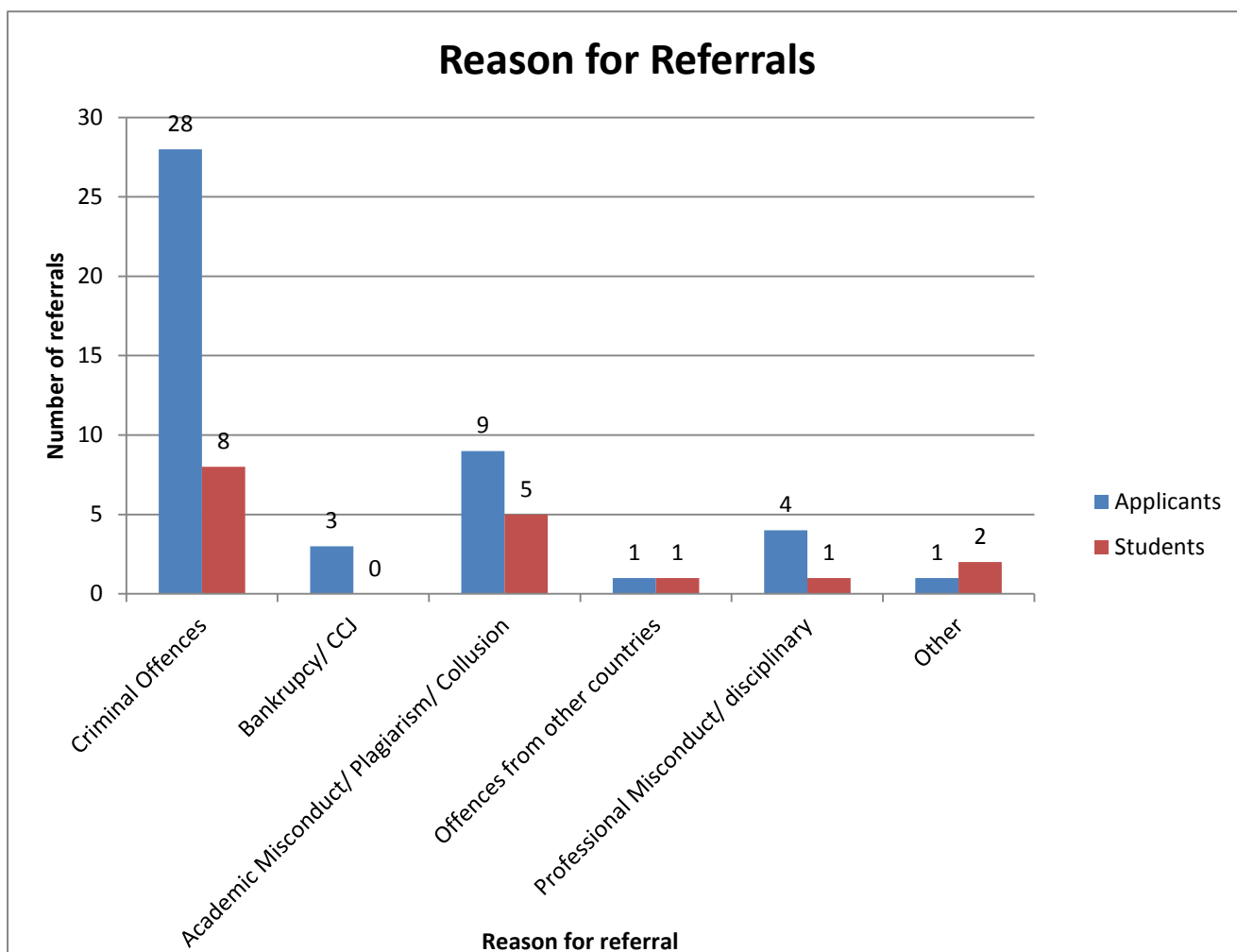
## Number of cases considered at a Screening/ Hearing Panel



42. As the above Table shows, the number of Panel Hearings has remained broadly consistent over the last three years, although there has been a significant drop in the number of matters being referred by the Inns to the ICC. Compared to 2011/2012, the number of referrals has dropped by 42%.

43. The reason for the reduction in the number of referrals is not clear. It may be that the Inns are able more easily to filter out matters which do not need to be referred to the ICC (the introduction of the referral form, mentioned above, may have played a part in that process). Further, a change to the Rehabilitation of Offenders Act 1974, with effect from 31 May 2013 (through the Rehabilitation of Offenders Act Exceptions Order), which has affected the position in relation to the declaration of convictions, may also have been a contributing factor. The need for clarity in relation to what matters need to be declared to the Inns (by applicants, in particular), which was identified last year, remains important.

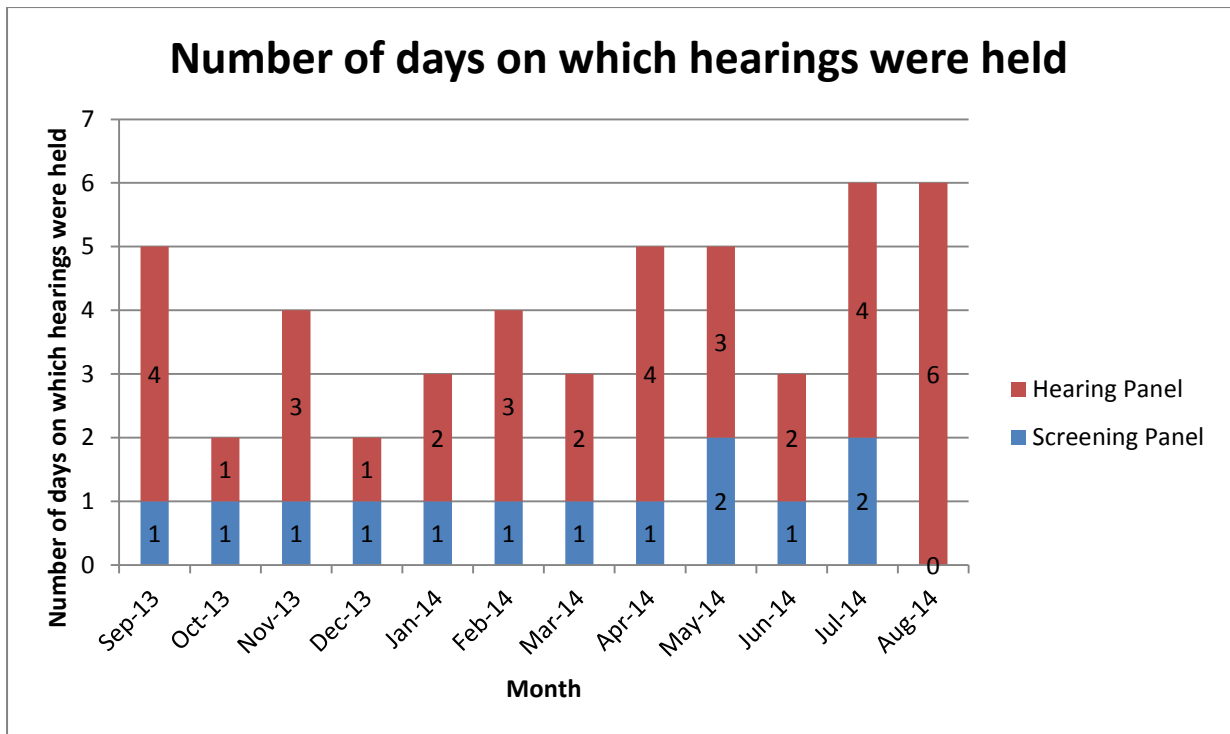
44. The Table below gives a break-down of referrals to the ICC by subject-matter, in relation to applicants and students:



45. As in previous years, the majority of referrals related to the commission of criminal offences or to academic misconduct/plagiarism.

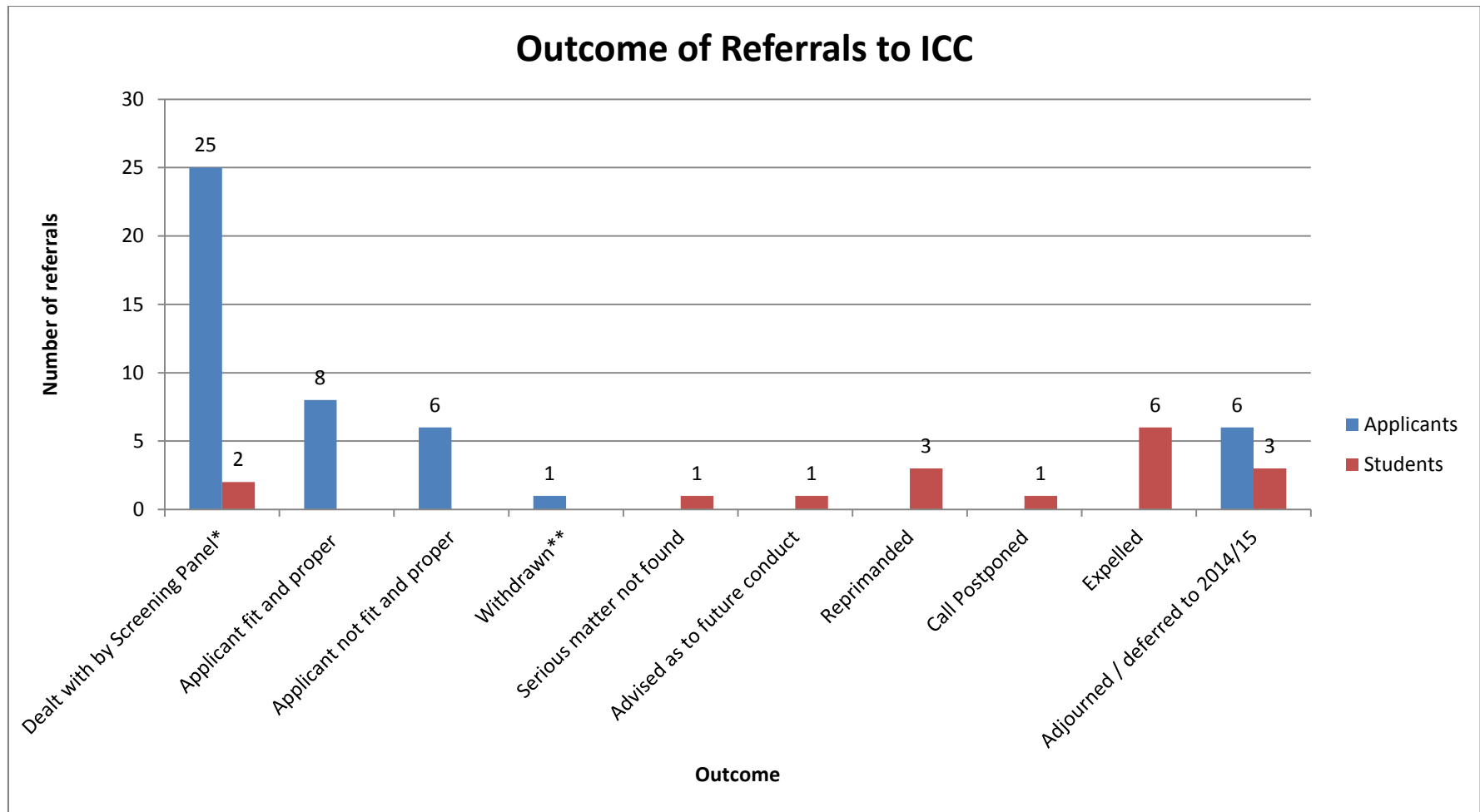
46. The following Table sets out the number of Screening Panel and Panel Hearings which took place each month. Over the course of 2013/2014, there were **13** Screening Panels and **35** Panel Hearings. A Panel Hearing might consider more than one individual referral.





47. Having looked at the previous year, which showed a “spike” in the number of referrals by the Inns in May and July, two Screening Panels were fixed for each of those months, to ensure that referrals could be put before a Screening Panel swiftly. This worked well in practice. The higher number of Panel Hearings in August 2014 was a consequence of the increase in the number of referrals which needed to be considered at a Panel Hearing. As noted above, the practicability of fixing additional Panel Hearings (provisionally, in case needed) for late July/early August 2014 is under consideration.

48. The following Table gives a summary breakdown of the results (overall) of referrals to the ICC:-



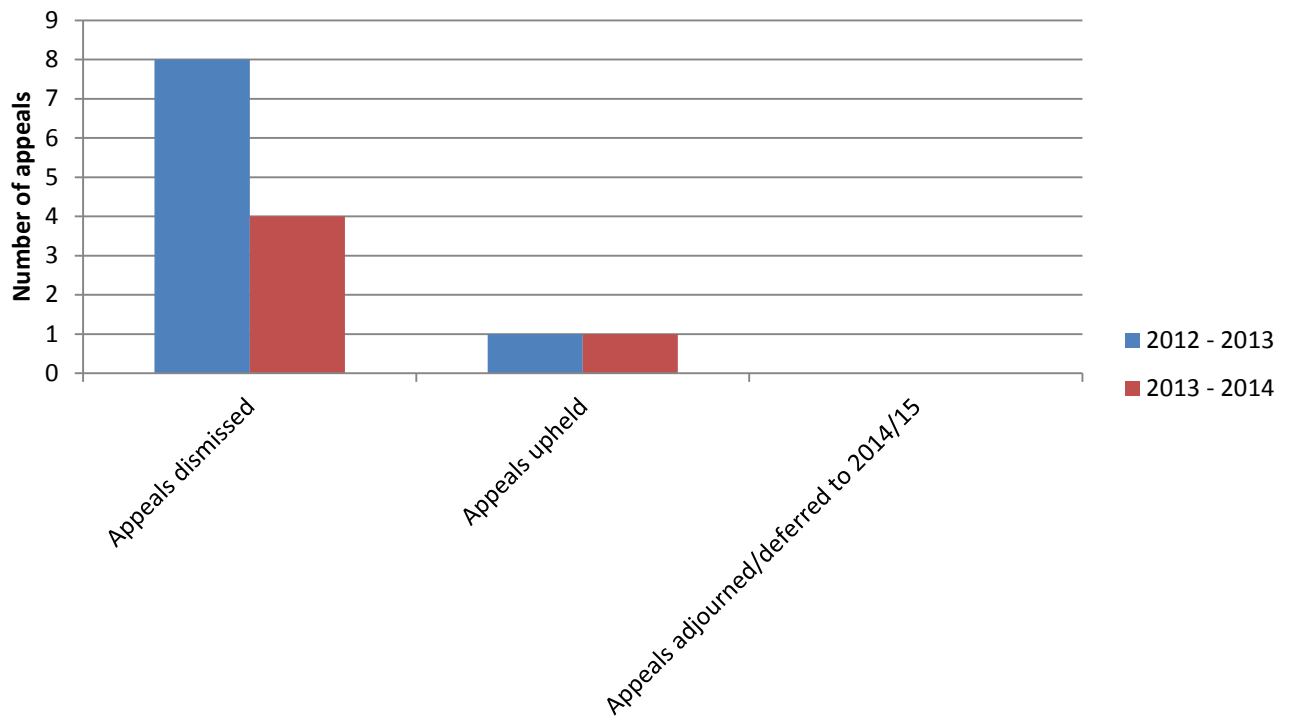
\* See Paragraph 40(1)(a) and 40(2)(a) above

\*\* See Paragraph 40(1)(b)(iii) above

## **Applications for review of ICC decisions**

49. An applicant or student who is dissatisfied with the outcome of a referral to the ICC may apply to the BSB for a review of the ICC decision. Applications for review are dealt with, on the basis of consideration of documents submitted to it, by the BSB's Qualifications Committee.
50. In 2013/2014, there were 5 applications to the BSB for review. In each case, the BSB asks the ICC whether it wishes to comment on the application. Responses are drafted by the Chair, having consulted with the Panel Chair (and, if appropriate, other Panel members).
51. In 4 (of the 5) cases, the BSB upheld the original ICC decision. In 1 case, the application for review was successful: the BSB took into account additional information provided by the applicant (not available to the ICC Panel) and, on the basis of the information before it, concluded that the applicant was "fit and proper".
52. The ICC Chair considers the outcome of the applications for review to the BSB, informing the Panel Chair (in each case) of the outcome. Should the outcome of any BSB review identify any issue requiring further consideration or action, that would be identified.

## Outcome of appeals against panel



53. The Interim Chair and Administrator carried out a review of the outcome of applications for review to the BSB since the ICC began operations. The data is summarised in the Table below. It can be highlighted that of the 28 applications for review considered, only 3 decisions have been overturned.

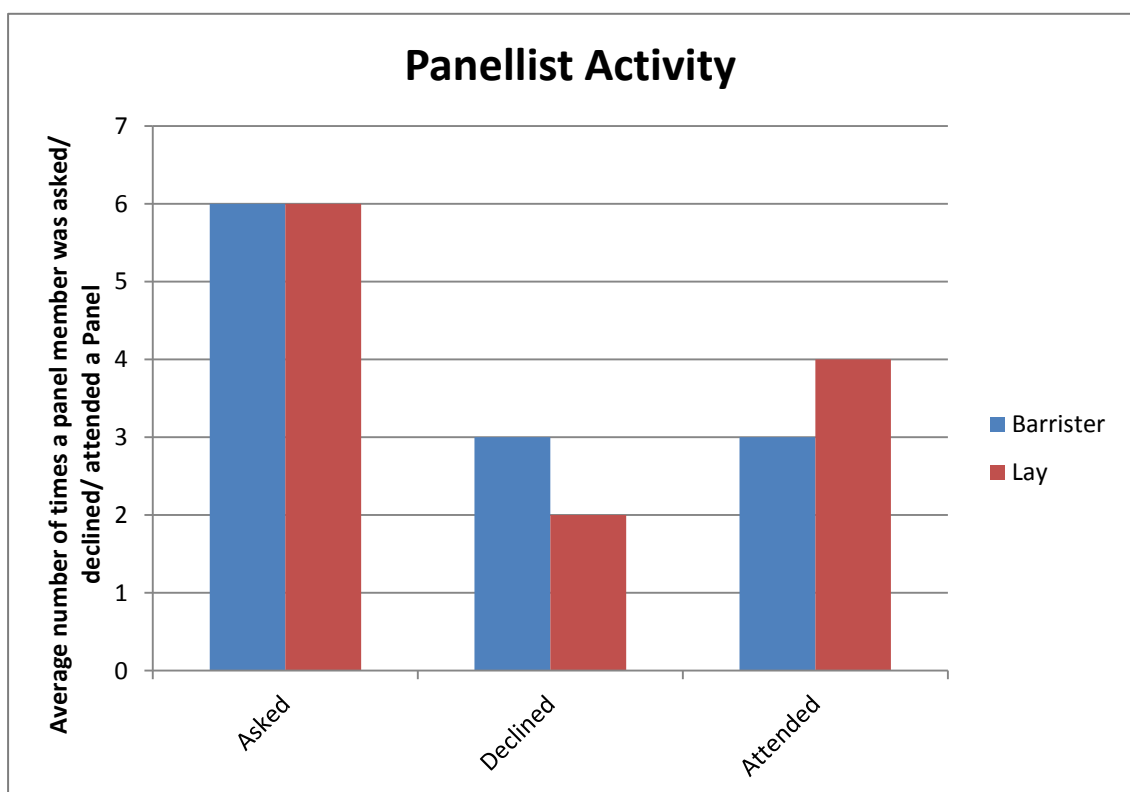
Applicant or Student	Date Considered	Decision
2010		
4x Student cases	22 March 2010 24 May 2010 (x2) 17 June 2010	Decisions upheld
2011		
3x Applicant cases	4 April 2011 31 October 2011 (x2)	Decision Upheld
1x Applicant case	11 November 2011	Decision overturned
4x Student cases	04 April 2011, 22 July 2011 12 & 20 September 2011	Decision Upheld
2012		
2x Applicant cases	29 October 2012 (x2)	Decision Upheld
1x Applicant case	29 October 2012	Decision overturned
2013		
2x Applicant cases	11 February 2013, 8 April 2013	Decision Upheld
5x Student cases	11 February 2013 8 April 2013 11 July 2013 (x2) 28 October 2013	Decision upheld
2014		
4x Applicant cases	08 April 2014 (2x) 08 July 2014 10 July 2014	Decision Upheld
1x Applicant case	23 May 2014	Decision overturned (ICC Panel decision had been 2:1)
1x Student case	08 July 2014	Decision Upheld

On 1 May and 8 May 2014 the Board of Visitors made orders dismissing appeals from two decisions of the BSB – in both cases, the BSB review had upheld the ICC decision.

54. This is an appropriate point at which to record grateful thanks to each of the members of the ICC whose care and commitment in participating in Panel Hearings and in dealing with matters referred, which takes considerable time and care, is much appreciated.

### Committee Membership

55. Five panel members were due to complete their second term of appointment in August 2014. The second term for each of these members had been for a period of three years but, since the ICC Rules allow members to sit for a period of four years, their second terms were extended, so as to expire on 31 August 2015. As a result, there were no changes to the membership of the ICC in 2013/2014. A complete list of ICC members can be found on the BTAS website at <http://www.tbta.org.uk/about-us/who-we-are/inns-conduct-committee-members/>. As for the extent of the involvement of ICC members in Panel Hearings, this is shown in the Table below:



56. The Tribunal Appointments body ('the TAB') is the Body responsible for appointing barrister, lay and QC members of the Disciplinary Tribunal Panel; and barristers to act as clerks at Disciplinary Tribunals. It is also responsible for ensuring that those appointed are fit and proper to act, both at the time they were appointed and throughout the entirety of their term of office. This latter responsibility also necessitates the TAB to monitor the format and conduct of the appraisal and training of Panellists and Clerks.
57. It should be understood at the outset that Disciplinary Tribunal Panellists and Clerks serve at Hearings convened to hear Disciplinary Tribunals (both three and five-person Panels), Interim Suspension Panels and Fitness to Practice Hearings. At the present time they have no involvement with conduct matters before the Inns' Conduct Committee (ICC), which is an entirely separate Panel.
58. The TAB conducted a large-scale recruitment exercise in 2012, leading to the appointment of an entirely new Panel in early 2013. As the vast majority of these Panellists remained eligible and very willing to act in 2014, no Panellist recruitment activity was required in 2014.
59. In 2014 the TAB was responsible for selecting and recommending an appointment for a wholly new role, the Chair of the Disciplinary Tribunal Service. This role, for which the appointee was required to be a QC or current / recently retired judicial post-holder, was established in response to one of the recommendations of the 2012 Browne Review into the Tribunal Service, which had identified the need for an experienced and respected member of the legal profession to provide guidance, advice and leadership to the Tribunal Service. His Honour Stuart Sleeman, at that time a Deputy Circuit Judge, was appointed in March 2014 following an open recruitment process, where it was agreed that he was eminently qualified for the role.

## **Panellists and Clerks in 2014**

60. During 2014, the Disciplinary Tribunal Panel was made up as follows:

- 27 Barrister Members
- 32 Lay Members
- 15 QC Members
- 17 Clerks

61. The following individuals stepped down from the Panel at the end of 2014:

- Paul Lawton, a barrister member, following his appointment as a Circuit Judge.
- Marie Lewiecki, a clerk, following her becoming employed elsewhere and not retaining a practising certificate.

The TAB would like to record its sincere appreciation for both their efforts over the years, and wish them congratulations and every success with their new roles.

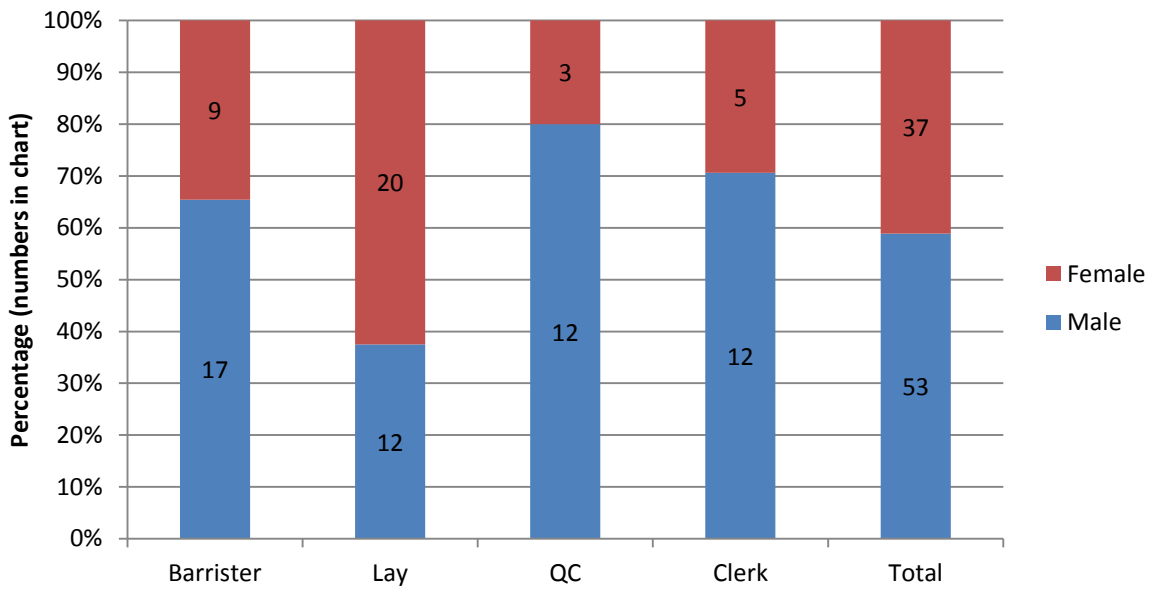
62. Full details of the membership of the 2014 Panel is available at (<http://www.tbta.org.uk/about-us/who-we-are/panel-members/>).

## **Composition of the Panel in 2014**

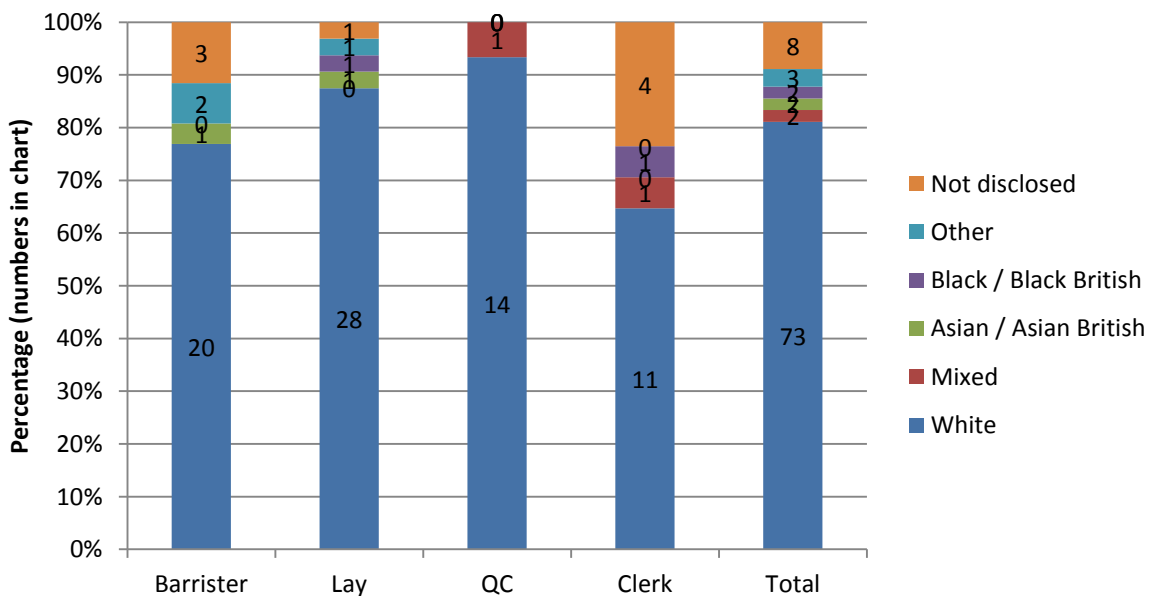
63. The following charts sets out information about the composition of the Panel by gender, ethnicity and age. Due to no recruitment taking place in 2014 this is unchanged from the previous year:

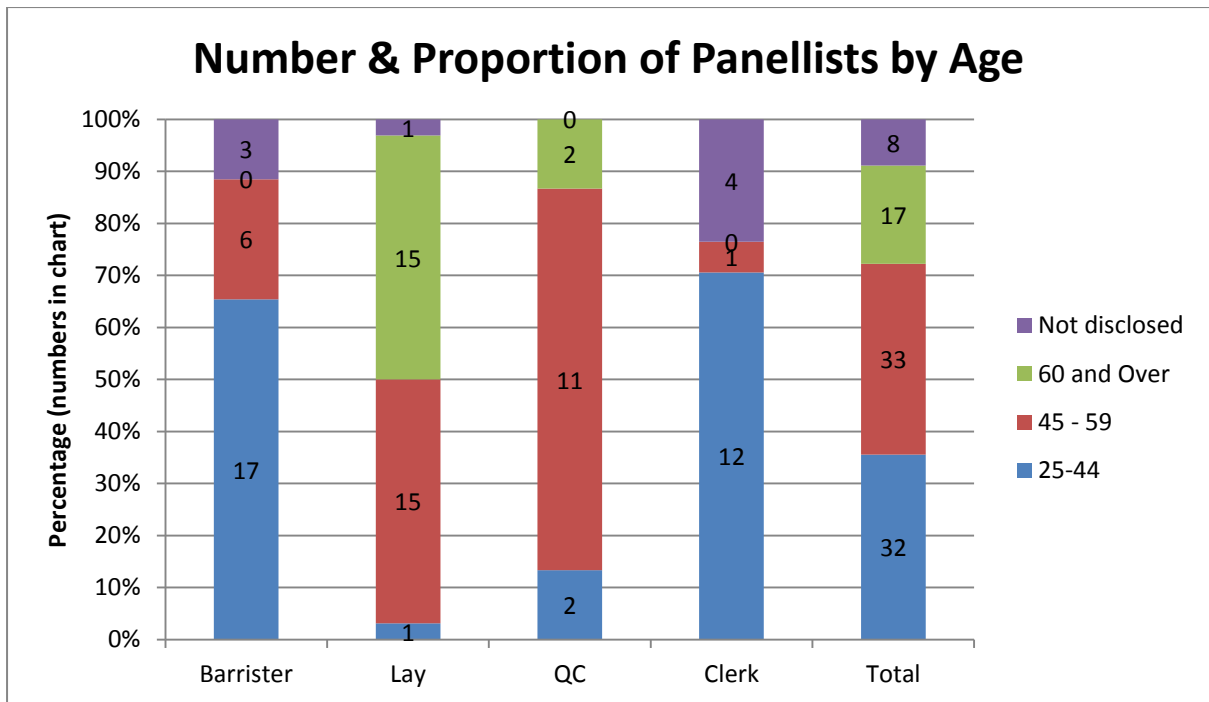


## Number & Proportion of Panellists by Gender



## Number & Proportion of Panellists by Ethnicity





64. Three Members of the Panel consider themselves disabled, and in all cases BTAS has made reasonable adjustments to enable them to act.

#### Panel Training in 2014

65. Training for Panel Members and Clerks was conducted on a number of dates in 2014, so that by the end of June all had received training in:

- BTAS's 2014 *Sentencing Guidance*
- The Bar Standards Board's 2014 *Handbook and Disciplinary Tribunal Regulations*
- Fitness to Practise rules
- Vulnerable Witnesses

66. During 2015 a programme of 'refresher' training will be devised and developed to ensure that all Panel members remain fully up to date and familiar with the policies and practices applicable to their roles.

## **Appraisals of Panellists in 2014**

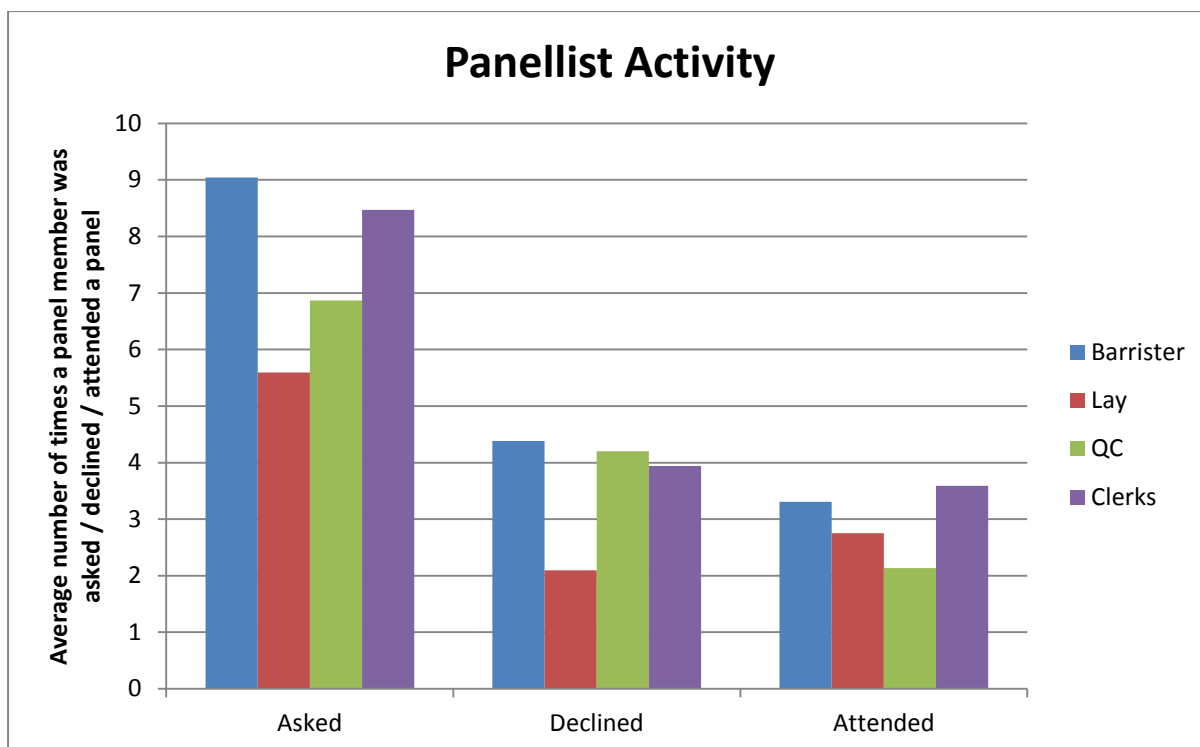
67. In June 2014 the Council of the Inns of Court approved an amendment to the Panel Appraisal policy so that the requirement for all members to be appraised between 12 and 15 months after their initial appointment was revised to become as soon as practicable following 12 months after their initial appointment.
68. The reason for this was that the entire Panel was appointed within 3 months of each other in 2013, with the consequence that all Panellists were due to be appraised within a six month timeframe in 2014. As the format of the appraisal was tied to observation of a Panellist's performance during a Hearing, and as only one such observation could be conducted per Hearing (to avoid any possibility of distracting the Panel from the case they were hearing), some 74 Hearings would have been required to take place within those 6 months for all Panellists to be appraised. In the event, there were a total of 53 Hearings in the whole of 2014, and so the inevitable conclusion was that the policy was not, and had never been, achievable in its original format.
69. The Tribunal Appointments Body, and the BTAS Strategic Advisory Board, are currently considering further, more fundamental revisions to the Appraisal Policy to ensure it is practicable and fully fit for purpose in 2015.
70. As at December 2014, appraisals have been conducted as following (broken down according to the duration of the term of office the members were appointed for) :

		Appointment expires 2015		Appointment expires 2016		Appointment expires 2017	
		<i>Appraisal Conducted?</i>		<i>Appraisal Conducted?</i>		<i>Appraisal Conducted?</i>	
Total Members		Y	N	Y	N	Y	N
Barrister	27	7	1	2	7	0	10
Lay	32	11	0	2	9	0	10
QC	15	3	3	0	5	0	4
Clerk	17	0	2	0	0	1	14

71. Additionally two members of the Tribunal Appointments Body itself were appraised during 2014.

### **Panellist Activity in 2014**

72. Given that a total of 53 Hearings took place in 2014, and that there 74 members of the Panel, the number of Tribunals which the average Panellist had the opportunity to serve in the year is inevitably relatively low. This is demonstrated in the chart below:



As well as the number of Hearings ‘attended’, the chart also sets out (‘Asked’) the average number of times members were contacted and asked to serve on a Tribunal, and (‘Declined’) the average number of times members declined a request to serve on Tribunals (due to other commitments, etc).

73. It should be understood when considering the above figures that, to encourage diverse panels, care is taken to avoid simply appointing the same individuals time after time. Therefore, individuals with poor availability may be asked a large number of times over the course of the year, whereas individuals who accept and attend (for example) the first three hearings they are contacted about in a year may not be contacted again.

74. While the TAB’s priority is ensuring that the Panel is large enough that sufficient Panellists will always be available to serve on a Tribunal whenever one needs to be convened, it is nevertheless mindful that Panellists are likely to require a certain level of activity to develop familiarity and expertise in the role. Consequently it would like to see the average number of Hearings attended per Panellist to increase from the

current 2 -3 per year. This however can only be achieved if the number of Hearings increase or the size of the Panel is reduced.

75.As reported in the Inns' Conduct Committee Report, one option currently being considered is that responsibility for serving on ICC Panels (which consider the conduct of applicants to and students of the Inns of Court) transfers from the membership of the Inns' Conduct Committee itself, to the members of the Disciplinary Panel.

76.The TAB will also take these numbers carefully into account when determining any future recruitment need for members of the Disciplinary Tribunal.

### **Future Membership of the Disciplinary Panel**

77.In the first months of 2015 all lay, barrister and QC members of the Disciplinary Panel will have completed two years of service. The current *Appointments Protocol* – which governs the appointment of members of the Panel – sets out that the current policy is that members are eligible for up to two four-year terms, subject to continuing eligibility.

78.While the term of the appointments made in 2013 were 'staggered' (with some appointed for two- or three- year initial terms) to avoid the entire Panel's eligibility to act expiring at the same time, the TAB is currently reflecting whether potential eight-year periods of Panel membership are simply too long and might lead to Panel members becoming 'stale' or bored in the role. This in part is prompted by the observation that as things stand no new appointments to the Panel are likely to be needed until 2019 at the earliest, and the Panel will not achieve the seemingly desirable balance of new and established members until sometime after that date.

79.In 2015 it will therefore be considering the merits of various models that would increase the frequency and volume of turnover in Panel membership before determining what, if any, action is appropriate.