



THE COUNCIL OF THE INNS OF COURT

# **The Bar Tribunals & Adjudication Service**

## **ANNUAL REPORT 2015**

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

BTAS is the body responsible for administering Disciplinary Tribunals, Fitness to Practice and other 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 last 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 2014 and 31 August 2015. All other information refers to the period 1 January – 31 December 2015.

BTAS and its sister-organisation the Advocacy Training Council are constituent parts of the Council of the Inns of Court ('COIC'), a charity that exists to advance education in the sound administration of the law, including by promoting high standards of advocacy and enforcing professional standards of conduct. COIC supports the work of the four Inns of Court who provide the majority of COIC's funds.

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

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## INTRODUCTION

2015 marked the third year since the creation of BTAS and the opening of the purpose-built facilities of the Tribunal Suite.

As becomes evident from the information and data provided throughout the Report, the overall picture of BTAS' activity in 2015 can be summarised as one of a gradual but continuing decrease in the number of hearings taking place. In some cases it is possible to identify and understand the causes of this (which, since it surely to some extent must reflect a decrease in the number of cases of suspected serious misconduct by current and future barristers, cannot be anything other than welcomed), in others the factors involved are not immediately as clear.

BTAS has consequentially taken the opportunity of reflecting on and, where appropriate, refining some of its policies and procedures to ensure they are fit for purpose and as efficient as possible. This includes revisions to the Inns' Conduct Committee Rules and the development and introduction of a new Appraisal Policy. Full details of both are provided later in this Report. Similarly, to ensure the most effective use is always made of BTAS' resources, its staff and facilities have been increasingly used to support the work of other COIC activities.

BTAS' Annual Report provides the opportunity to gratefully and publicly thank its team of staff, who have once again efficiently and dependably ensured the smooth administration and running of Tribunals and other Hearings 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), Fitness to Practise Hearings, where the BSB has concerns about the capacity of a barrister to act on medical grounds, and appeals by barristers against the outcomes of Administrative Sanctions imposed by the BSB.
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. Operationally, in 2015 BTAS has met or exceeded all the Key Performance Indicators it has set for itself, and which have been agreed and are carefully monitored by both its Strategic Advisory Board and the Bar Standards Board.

*(Case studies have been provided to illustrate the nature of the work that BTAS undertakes)*

**Case Study 1:** 'A', a barrister, was convicted in the Courts of assault by beating of two individuals. During A's arrest for those assaults, A assaulted the arresting police officer. A had also received convictions for using threatening words and behaviour, breaching a non-molestation order, and fraud by false representation.

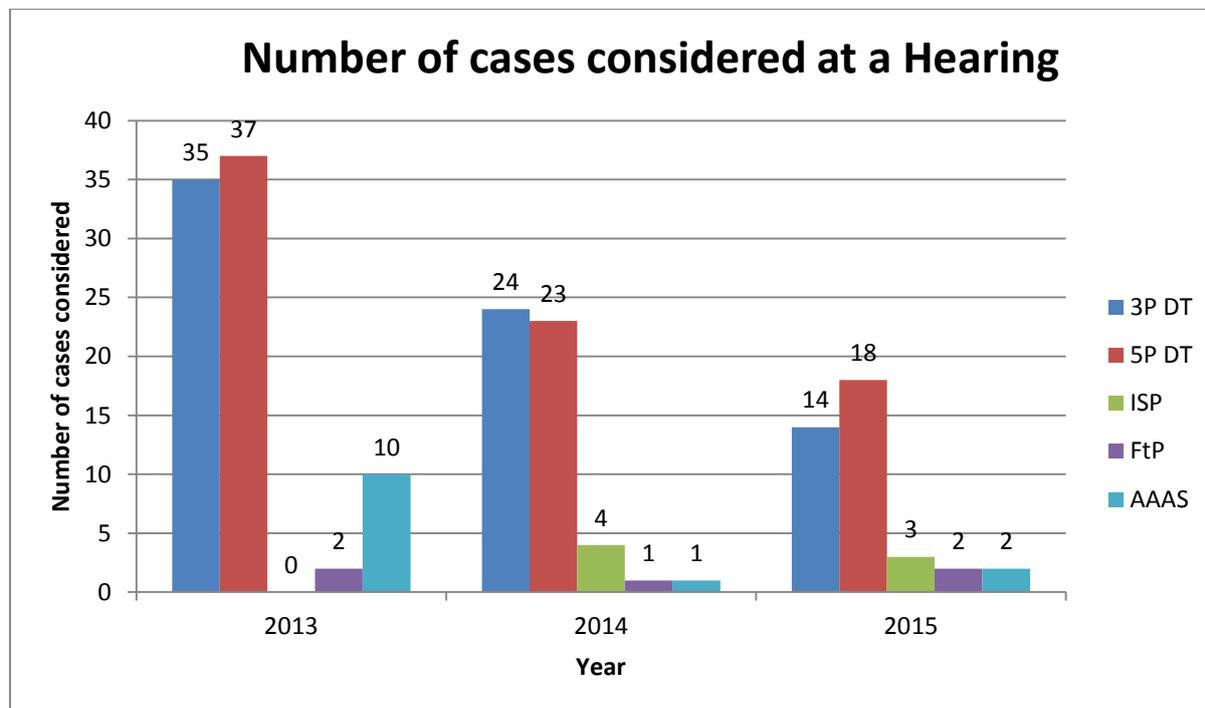
A five-person Disciplinary Tribunal was convened to consider a total of 23 charges of professional misconduct brought against A by the BSB. A did not engage with the BSB during their investigation, did not attend and was not represented at the Tribunal.

The Tribunal had to consider very carefully whether proceeding in A's absence would have been unfair to A, whilst taking into account the need to be fair to the prosecution. Having determined that A had made a deliberate decision not to engage with the disciplinary process, the Tribunal then proceeded to consider the evidence and found all charges against A proven.

The sentence of the Tribunal was that A be disbarred.

## Number of Cases considered by BTAS Panels in 2015

4. The following chart sets out the total number of Tribunals and Hearings that took place in 2015. Data is also provided for the two previous years for the purposes of comparison:



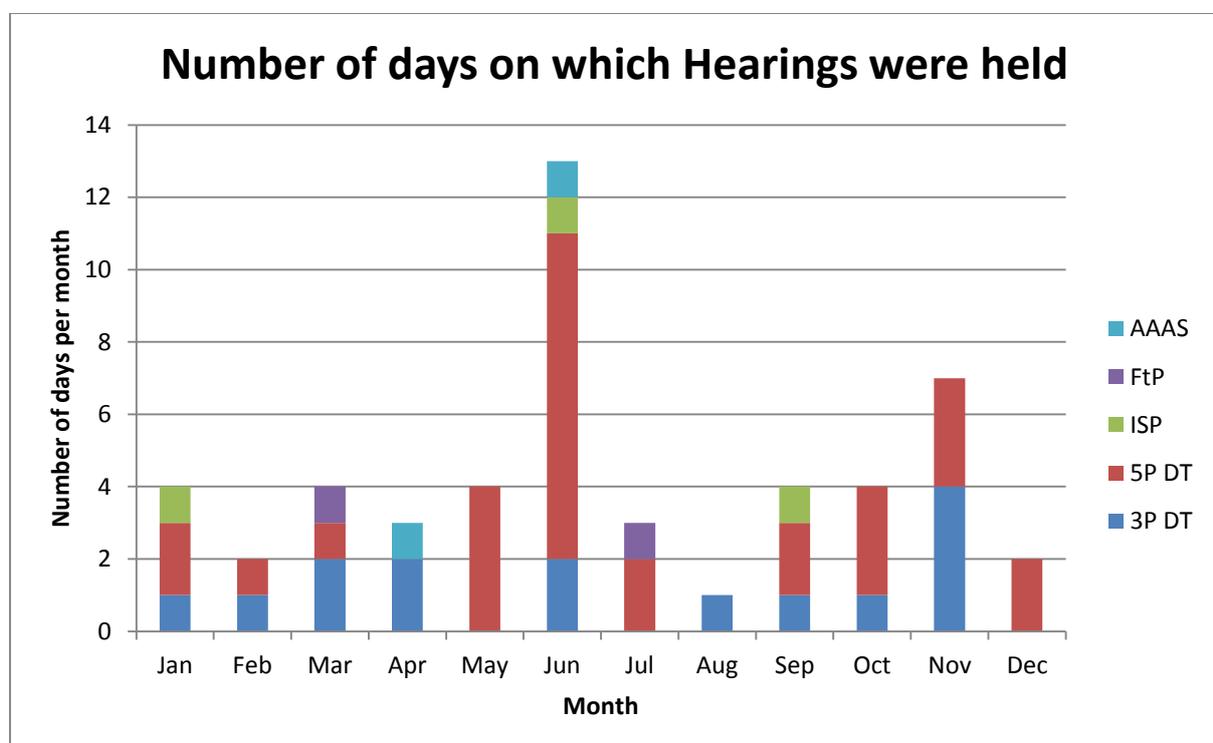
[Key: 3P DT: 3-Person Disciplinary Tribunal  
 5P DT: 5-Person Disciplinary Tribunal  
 ISP: Interim Suspension Panel  
 FtP: Fitness to Practise Panel  
 AAAS: Appeal against Administrative Sanctions]

5. 2015 clearly continues a trend of a decreasing number of cases being referred by the BSB for consideration at BTAS Hearings, averaging at about 30% year-on-year. It is not considered likely that this trend will continue indefinitely, indeed the BSB (in its own most recent Annual Report) has reported a modest (5%) year-on-year *increase* in the number of cases it received or opened which may in due course be referred onto to BTAS.
6. The reduction can be partly explained by the greater use of ‘Administrative Sanctions’, whereby the BSB has the power to impose warnings and fines

for less serious matters itself, without having to refer the case to a Disciplinary Tribunal.

### Number of Days on which Hearings were held in 2015

- While many cases can be concluded within one day, others are more complex and are scheduled 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:

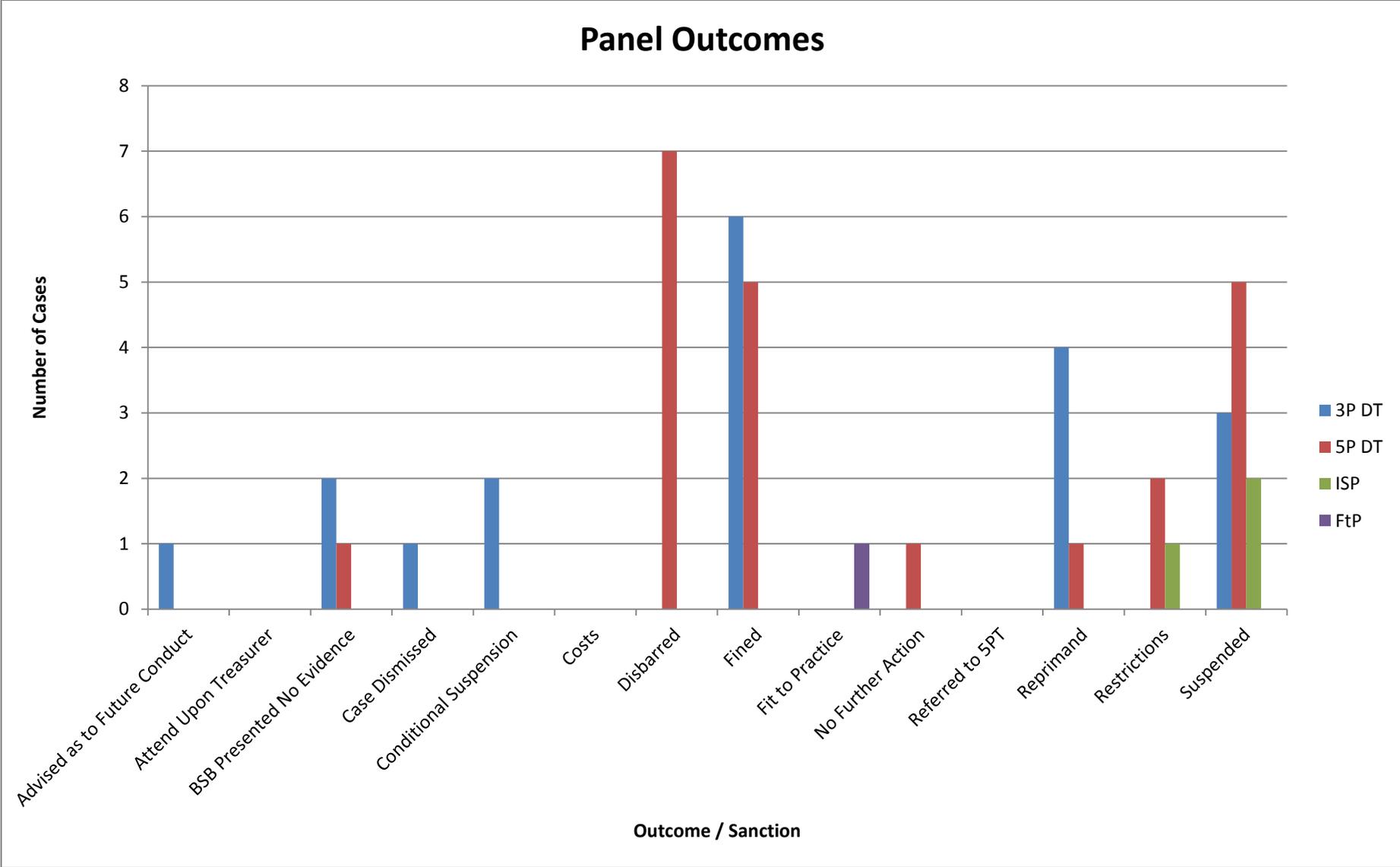


- In 2015 Hearings took place on a total of 51 days, representing an average of 1.3 days per case. This compares with a total of 72 days and an average of 1.4 days per case in 2014.

### Panel Outcomes in 2015

- The Chart below sets out information on the outcomes of all Tribunal and other hearings heard during the course of 2015:

# Panel Outcomes

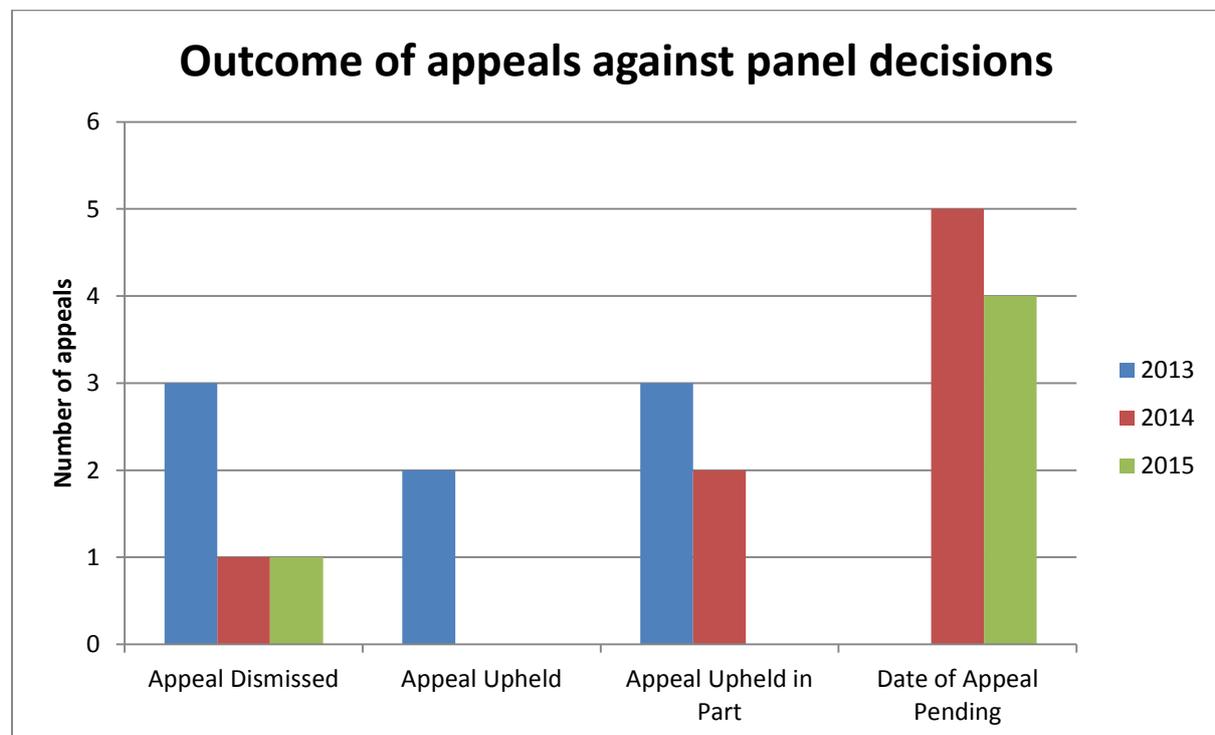


*[Please note that in a number of cases in 2015 Tribunals imposed multiple sanctions (e.g. a fine and suspension) which to aid comprehension have been represented separately on this chart. The effect of this is that the total number of panel outcomes in the chart does exceed the number of panels in 2015].*

10. In 2015, 7 of the 39 Hearings (18%) resulted in the defendant’s disbarment. This compares with 2014, when 17 of the 53 Tribunals (32%) resulted in disbarment. As only 5-Person Disciplinary Tribunals can impose a sanction of disbarment, it is appropriate to highlight that this equates to 39% of such Hearings in 2015 resulting in an outcome of disbarment. In 2014, the comparable figure was 74%.

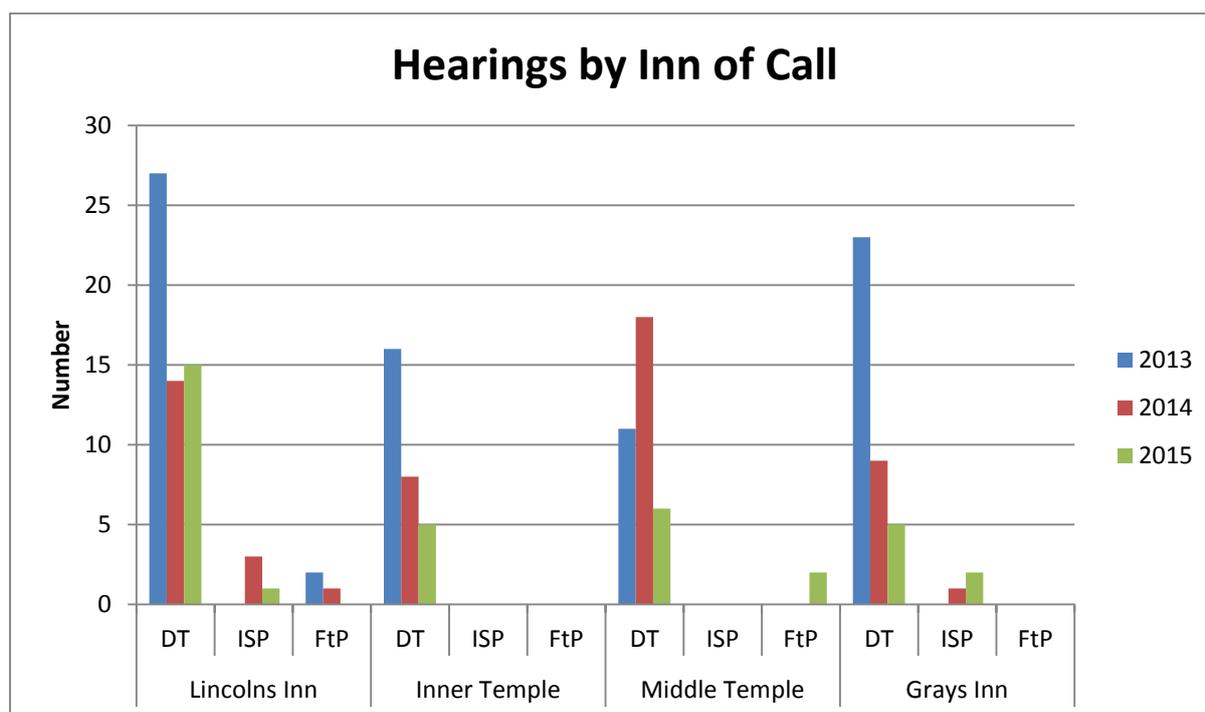
### Outcomes of appeals against the decisions of Disciplinary Tribunals in 2015

11. Barristers have the right of appeal in the Administrative Court 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 2015, with numbers for the last two years provided for the purposes of comparison:



## Hearings by Barrister's Inn of Call

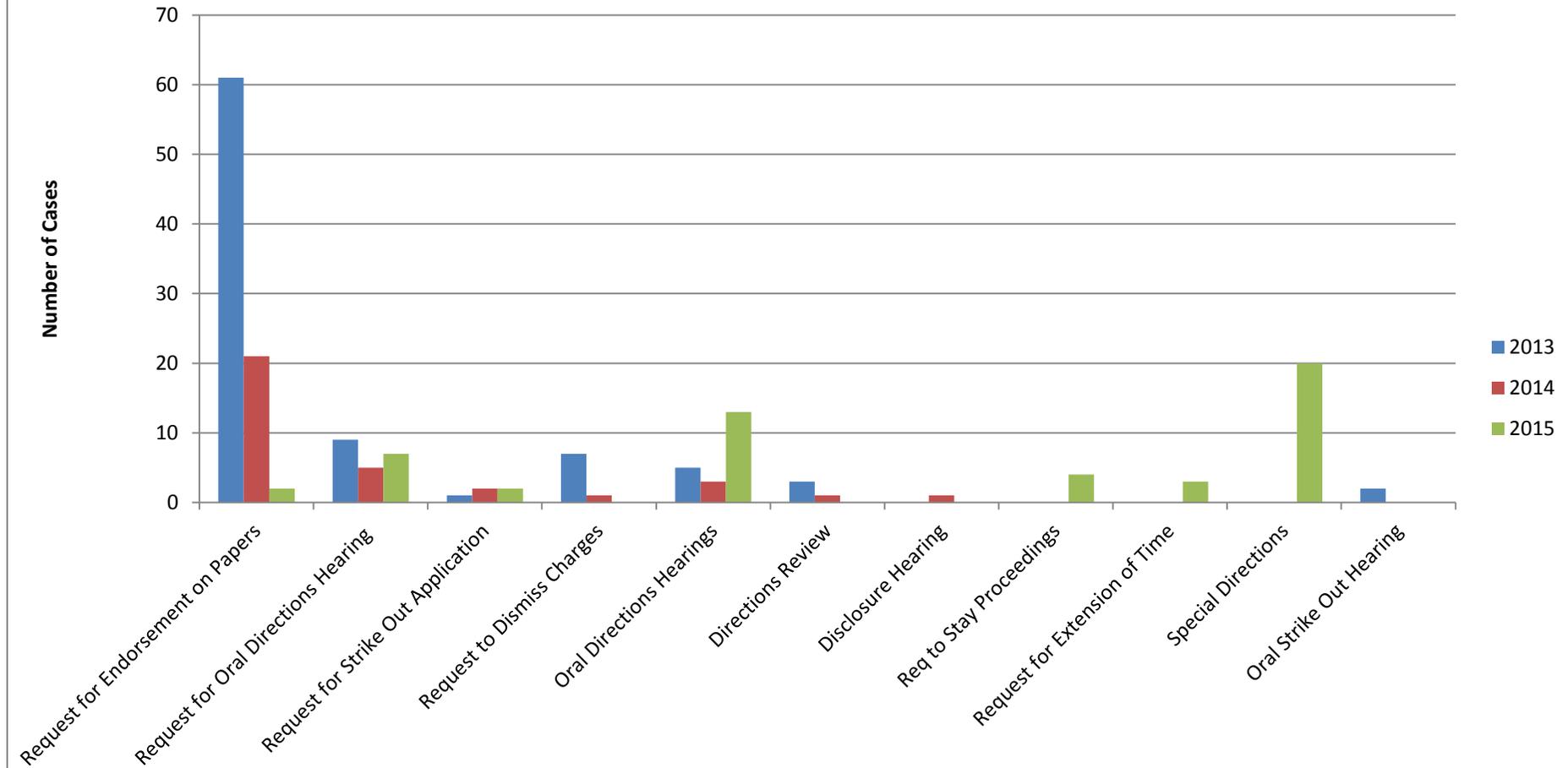
12. The following chart sets out data on the number of Hearings broken down by the barrister's Inn of Call in 2015, with figures for the last two years provided for the purposes of comparison.



## Directions

13. 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 2015, with figures for the last two years provided for the purposes of comparison:

## Directions



14. The overall reduction in Directions being requested is no doubt a product of the overall reduction in the number of Hearings taking place. What is perhaps not immediately apparent is that this chart also indicates a sudden and significant increase in the ‘behind the scenes’ complexities of administering Tribunals.
15. From January 2014 onwards the BSB Handbook anticipated the use of ‘Standard Directions’ in all cases, with ‘Special Directions’ only required where agreement cannot be reached between the parties on the conduct of the hearing. However in 2015, in over half of all Tribunal cases, the parties could not reach agreement, and a Judge had to consider submissions and then order Special Directions to be put in place. In over a third of all cases a Directions Hearing had to take place before matters could be finalised and the case then proceed for consideration at a Disciplinary Tribunal. Neither these hearings (nor the attendant increase in submissions and correspondence from the parties) are reflected in the other charts setting out the levels of BTAS activity.

### **Disciplinary Tribunal Panel Costs 2015**

16. 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 2015 were as follows:

#### **Hearings Costs**

Fees to lay members for attendance at hearings	£22,500
Fees to clerks for attendance at hearings	£8,340
Expenses to lay members for attendance at hearings	£6,910
Expenses to barrister members for attendance at hearings	£875
Expenses to judicial chairs for attendance at hearings	£1,455

In addition £2,424 was paid as fees and expenses to lay members of the Panel observing Inns' Conduct Committee Hearings, as part of their preparatory training for taking on responsibility for this role at a future date (*see the ICC Report for further information*).

## **Policy and Future Developments**

17. In 2015 BTAS successfully delivered its first hearings via Skype. Such hearings take place, with the agreement of both parties, when a defendant is unable to travel to the Tribunal Suite and a hearing would otherwise not take place. In such cases, the place where the defendant would normally sit is replaced with a large screen and webcam, and the use of Skype enables both parties and the Panel to see and hear one another in real time. The advantage of Skype software is that it is free to download and easy to use, and compatible with virtually all internet-enabled devices. This avoids the need for the use of more complex video-conferencing facilities which are often prohibitively expensive for the defendant, while the advantages from BTAS' point of view is that no additional equipment or expertise needs to be purchased or hired, so that BTAS can deliver such hearings self-sufficiently with virtually no notice or prior arrangements needed.
18. The fitness for purpose of the Tribunal Suite facilities were tested and found fully appropriate when BTAS handled its first case with a vulnerable witness in 2015. In this case the use of screens and the careful management of movement meant that a defendant and a witness took part in a hearing in the Tribunal Suite for two days without meeting or seeing one another, even when both present in the same room.
19. The role of BTAS's Strategic Advisory Board was again fundamental to the success of its activities during 2015:
  - a. **Development of a new Appraisal Policy.** All members of the BTAS Panel are subject to robust selection, training and regular

appraisal policies as a key and mandatory requirement of their role. It became clear that the original format for appraisal – a one-on-one meeting after a Tribunal - was not satisfactory for a number of reasons. These included the facts that (i) Panellists were only being appraised (at most) once every two or three years; (ii) that the face-to-face format was not facilitating full and frank discussions; and (iii) that the decrease in the number of hearings compared to the size of the Panel meant that it was operationally impossible for all Panellists to be appraised within their term of office.

The SAB developed a new process that removed the requirement for face-to-face meetings and instead instituted an approach focussed on 'continuous monitoring'. In summary this requires all members of the Panel to reflect on and then submit an assessment of their own and their co-panellists' performance after each and every Tribunal. This assessment is based around the key competences required of all Panel members, and the system enables the prompt identification of concerns, potential training needs and examples of good practice that can be shared.

- b. **Submission of Responses to BSB Consultations.** The SAB assisted BTAS and COIC with their response to the BSB's Consultation on Reforms to the Disciplinary Tribunal Regulations. The SAB's membership of lay, panellist and legally qualified members enabled a balanced and insightful response to be developed, which stressed the importance of transparency in all proceedings, the need to balance the rights of defendants with the public interest, and the strengths of a system which is based around the mutual accountability of the profession.
- c. **Revisions to the Inns' Conduct Committee Rules.** In the same way members of the SAB advised COIC when the revisions to the ICC Rules were being finalised. The SAB's input was directly responsible for a number of key changes which were subsequently

accepted by COIC and included in the final version sent to the BSB for approval. In particular this included the addition of a burden and standard of proof, which the SAB felt was vital, both so that the Panellists hearing the cases would be in no doubt and consistent in their decision-making, and so that it would be transparently clear to those whose cases were being concerned at an ICC hearing exactly how the final decisions were reached.

**Case Study 2:** 'B' a barrister, acted for a lay claimant under the direct access scheme (whereby members of the public can go directly to a barrister without having to involve an instructing solicitor).

The lay claimant subsequently complained to the Legal Ombudsman ('LeO') about B. B did not co-operate with the LeO's investigation, and the Tribunal determined that B had also failed to provide the lay claimant with a copy of the required Client Care letter (mandatory in direct access cases) and had also received several thousand pounds from the lay claimant in breach of the prohibition on barristers handling client money.

The Tribunal accepted that some of the charges were not the result of deliberate misconduct, and that there were a number of mitigating circumstances. Nonetheless it concluded that B represented a risk to the public in providing public access representation, and accordingly suspended B from carrying out any direct access work for 6 months and fined B a total of £1,000.

20. This is the Report of the Inns' Conduct Committee (**ICC**) for the year from 1 September 2014 to 31 August 2015.
21. The ICC is responsible for considering applications for admission to an Inn of Court where there is any matter which might affect whether the applicant is a 'fit and proper' person to become a practising barrister. It also considers disciplinary cases against any student member of an Inn of Court. The ICC's role is referred to in the Bar Training Rules (Part 4B of the Bar Standards Board "Handbook") and its procedures are set out in the ICC Rules. The ICC also publishes a Statement of Principles and Guidelines.
22. Applicants wishing to join an Inn of Court must disclose information about themselves, as required in their Admission Declaration. This includes information about criminal convictions, bankruptcy proceedings and disciplinary matters. Student members of an Inn are also subject to obligations to disclose matters to their Inn, including as required in their Call Declaration and by the Bar Training Rules. Where a relevant matter is disclosed, the Inns must refer it to the ICC for consideration. An ICC 'Screening Panel' considers whether the matter referred needs to be considered by an ICC 'Hearing Panel'. All ICC Panels include lay and legal members.

### **Chair and Vice-Chair**

23. Heather Rogers QC continued to act as Interim Chair of the ICC throughout this period.
24. Gordon Catford was elected Vice-Chair by the ICC in January 2015.
25. It is fully appropriate that grateful thanks be acknowledged to both these individuals for the considerable time and efforts they have devoted to the work of the ICC in 2014-2015. The Chair and Vice-Chair have in turn asked

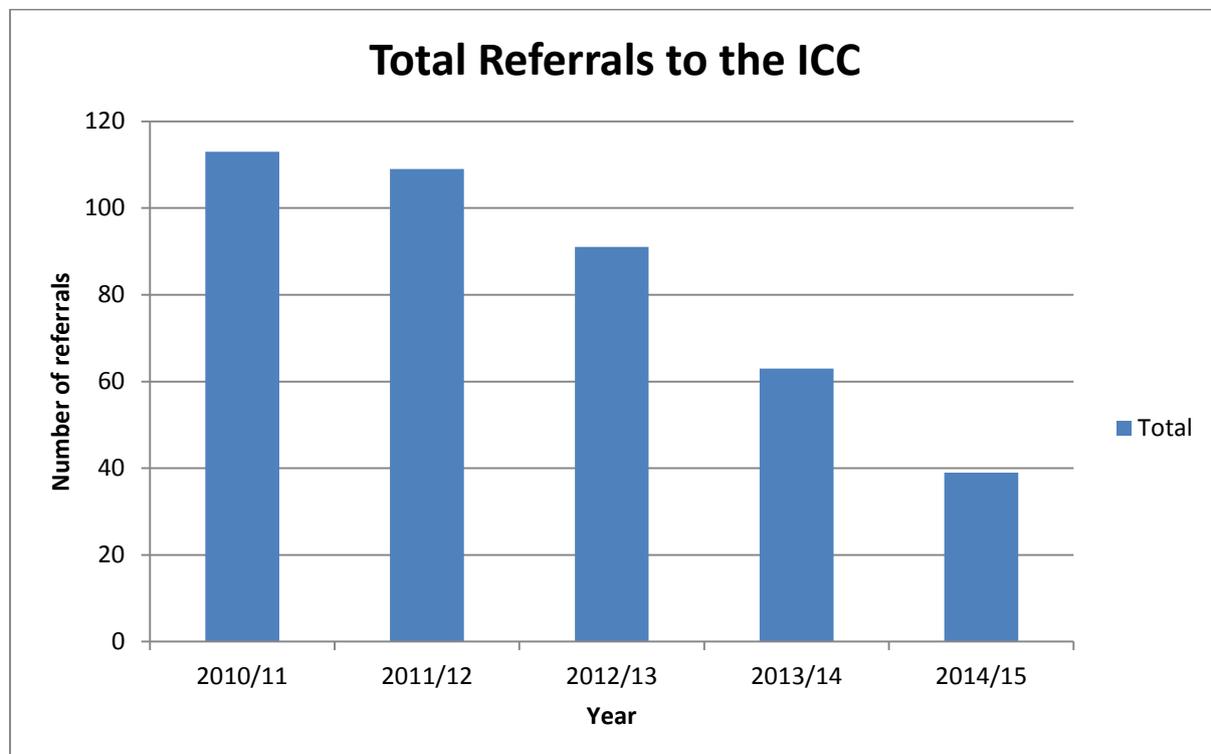
that thanks be recorded to Hayley Addison for her efficiency and tireless efforts in her work as administrator of the ICC throughout the year.

### Meeting of the ICC

26. A meeting of the ICC took place on 13 January 2015.

### Referrals to the ICC 2014/2015

27. During the 2014/2015 year of operation, **39** individuals were referred to the ICC by the Inns:



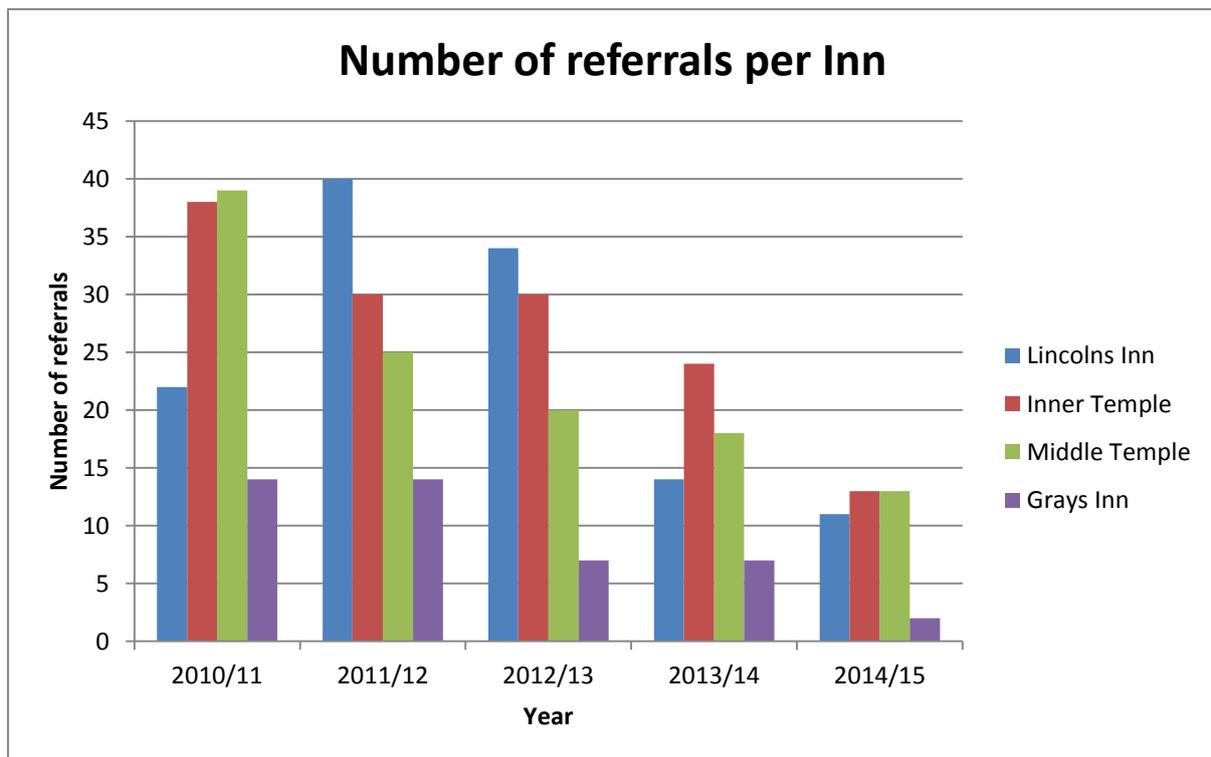
28. This figure shows the continuation of a downwards trend. The reasons for this are not clear, and insufficient data is available for a meaningful analysis, but the following factors may (in isolation or combination) be applicable:

- a. An equivalent year-on-year reduction in the number of applicants to, and students members of, the Inns.
- b. Some degree of self-selection by potential applicants to the Inns, so that decreasing numbers of those with 'referable' circumstances are

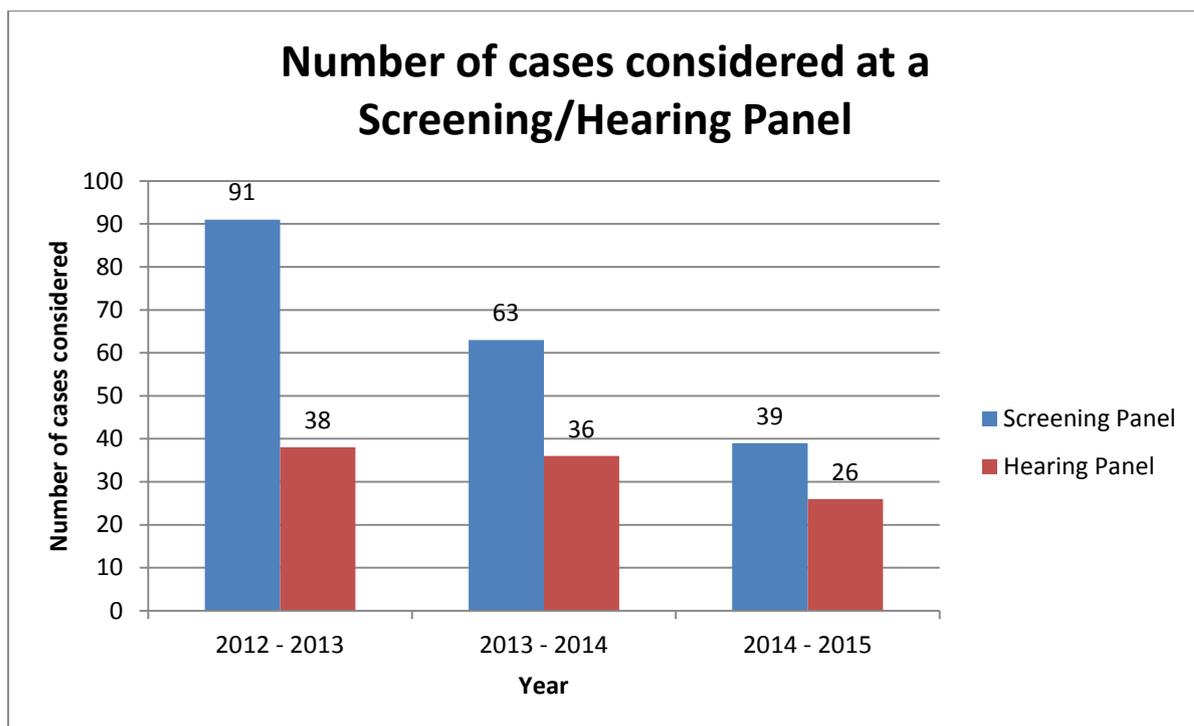
choosing to submit applications that must inevitably be considered by the ICC.

- c. Increasing levels of failure to declare 'referable' circumstances to the Inn, either by accident or design. Applicants and students of the Inn are of course made fully aware of the need to disclose all relevant matters and of the potential consequences of any failure to do so. No evidence has come to light to suggest that this is a factor, though this will be kept under review.

29. It is clear that the decrease in the number of referrals is a trend consistent across all four Inns of Court. This arguably rules out one further explanation for the decline, namely, a failure by the Inns to refer such cases to the ICC. Any human or process error would seem likely to affect referrals from one or two Inns disproportionately, and have sudden effect, rather than being evident across all four Inns consistently over several years:



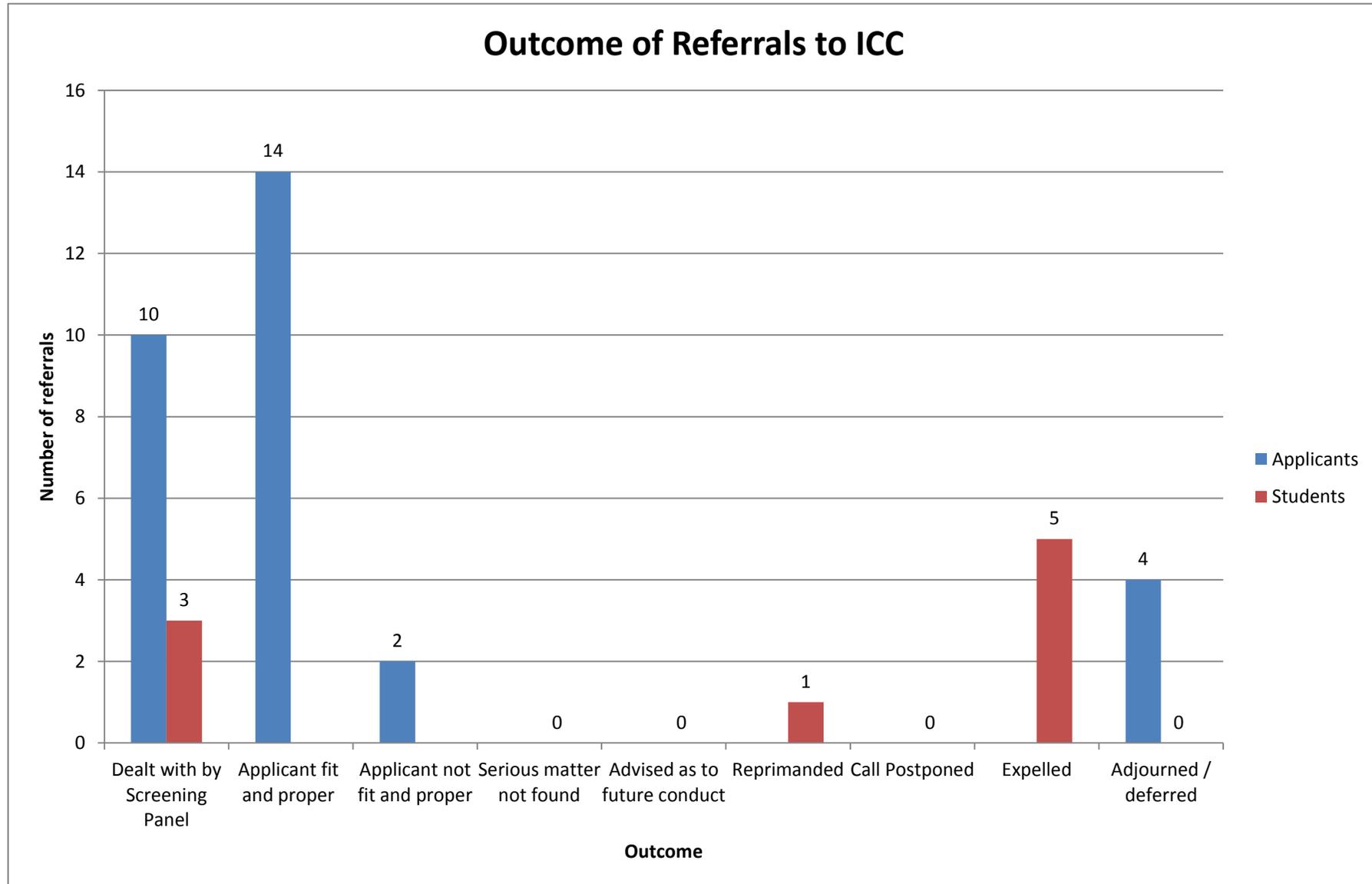
30. The reduction in the total number of cases referred to the ICC in 2014-2015 inevitably reduces the number subsequently referred to a Hearing Panel for consideration:



31. Of the 26 cases considered by a Hearing Panel, nine (25%) were received in July and August 2015. The holiday period (particularly during the August legal vacation) meant that it was not possible to organise sufficient Hearing Panels so that these cases could be concluded within the same ICC year (i.e. by 31 August 2015).

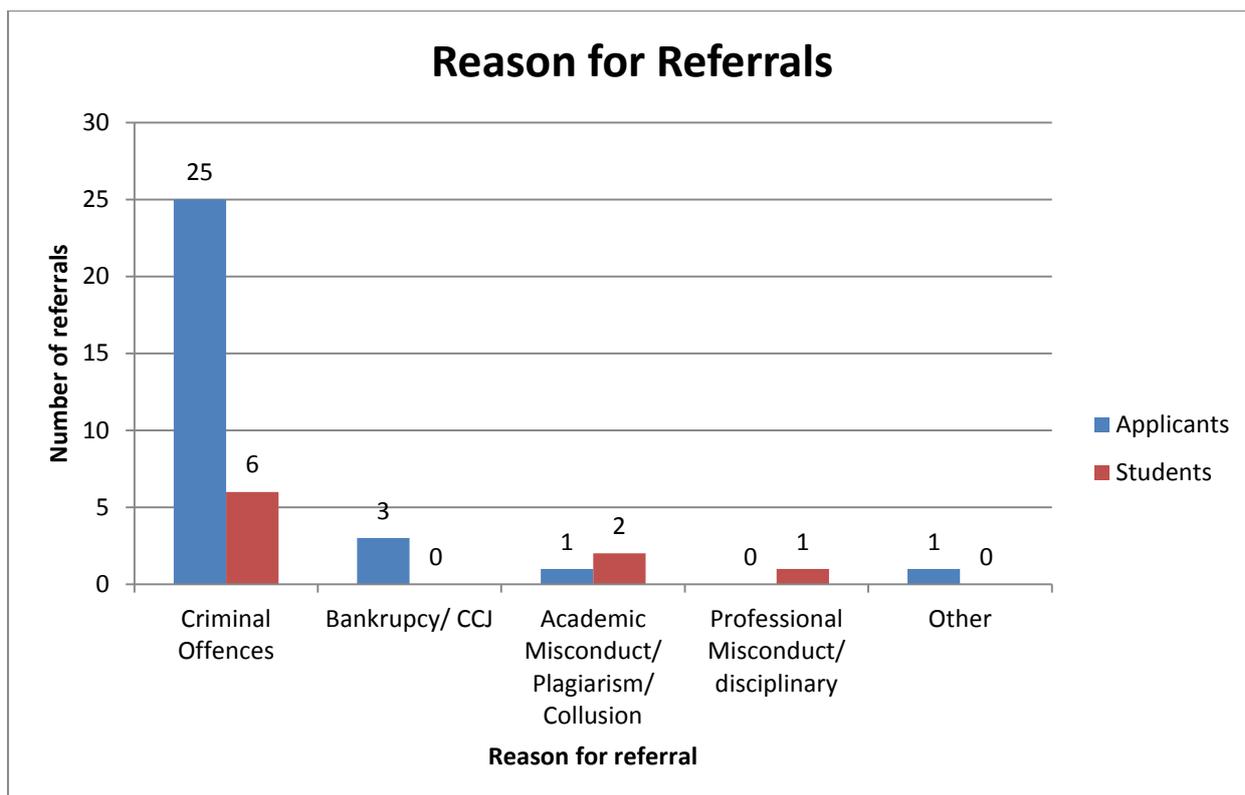
32. The outcomes of the **39** individual referrals dealt with by the ICC in 2014/2015 were as follows:

## Outcome of Referrals to ICC



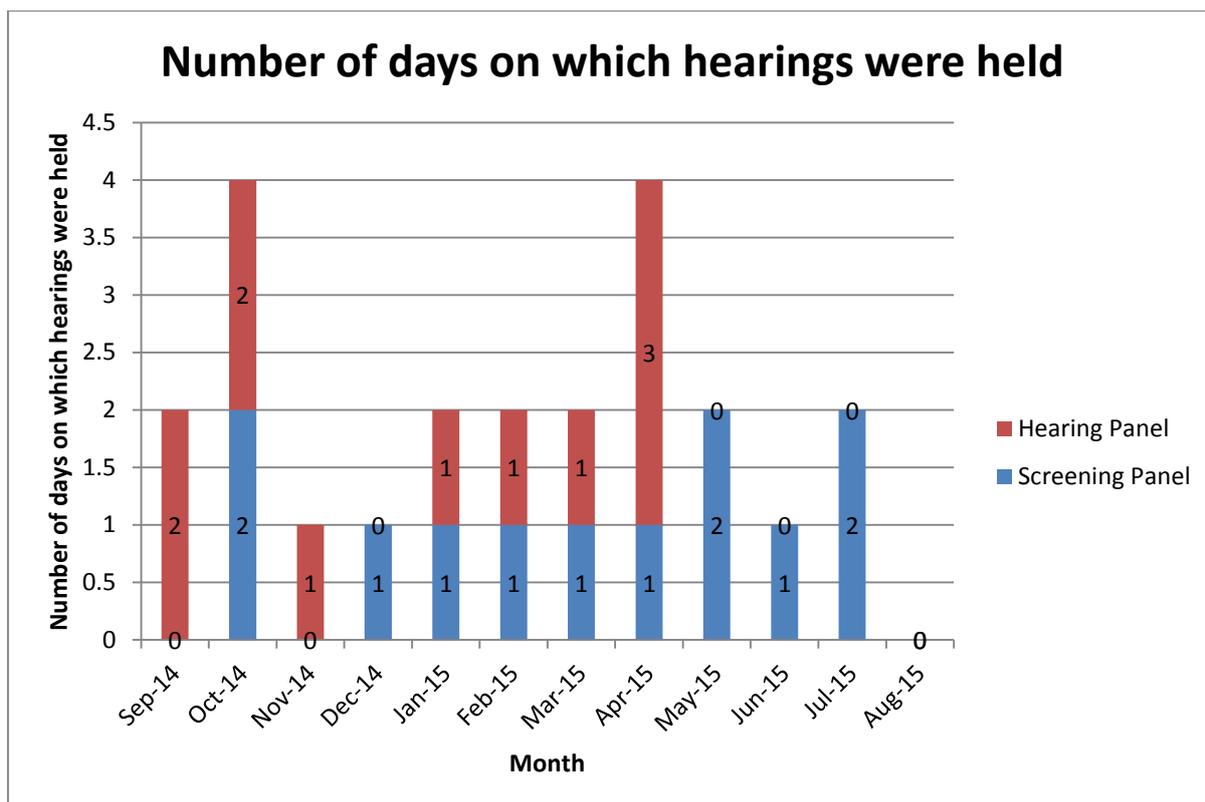
- (1) **30** were applicants to join an Inn. As to these:
  - (a) The Screening Panel found in **10** instances that a referral to a Hearing Panel was not required in order to determine whether the Applicant was 'fit and proper' to become a practising barrister. Each of these Applicants was returned to the Inn to which they had applied, to be admitted as a member.
  - (b) **20** were referred to an ICC Hearing Panel.
    - (i) **14** 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) **2** individuals were found not to be 'fit and proper'. Accordingly, the referring Inn would not admit them as a member.
    - (iii) **4** individuals had their referrals adjourned or deferred into the 2015-2016 ICC year.
  
- (2) **9** were student members of an Inn. Of these:
  - (a) In **3** instances, the Screening Panel found that it was not necessary to refer the person to a Hearing Panel. The Inn was so informed.
  - (b) **6** individuals were referred to an ICC Hearing Panel for determination.
    - (i) In **5** instances, where a Serious Matter was found proved, the individual was expelled from their Inn.
    - (ii) In the remaining **1** case, where a Serious Matter was found proved, the student was reprimanded, but remained a member of their Inn.

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



34.As in previous years, the majority of referrals related to the commission of criminal offences. However, previously another significant proportion of referrals related to academic misconduct (amounting to 22% of all referrals in 2013/14) whereas this has decreased in 2014-2015 to 8%. Given the low numbers involved this may simply be a statistical anomaly, and this will be monitored in future years.

35.The following Table sets out the number of Screening Panels and Hearing Panels which took place each month. Over the course of 2014/2015, there were **12** Screening Panels and **11** Panel Hearings. Both Screening Panels and Hearing Panels often consider more than one individual referral.



### Applications for review of ICC decisions

36. An applicant or student who is dissatisfied with the outcome of a referral to the ICC may apply to the Bar Standards Board (**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.

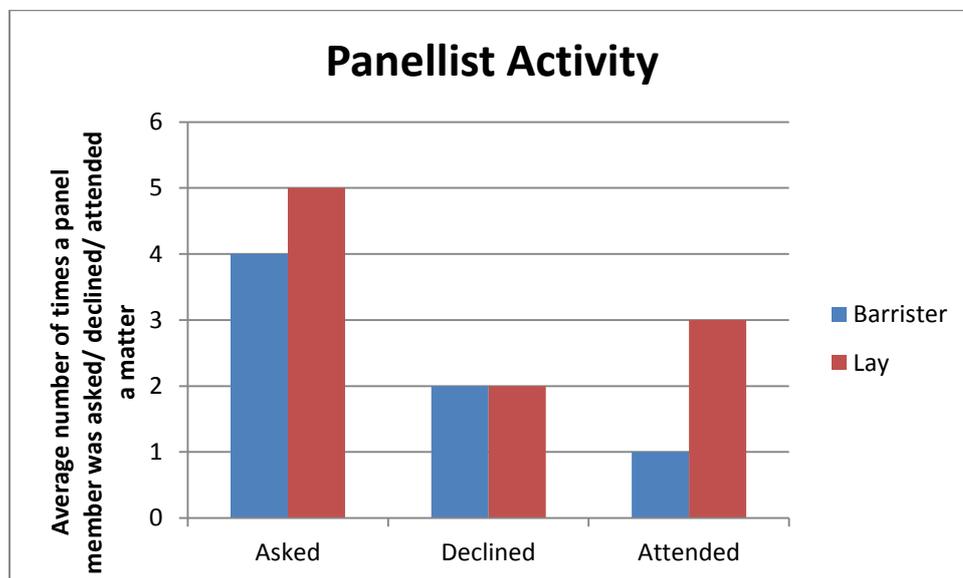
37. In 2014/15 **no** applications for review were submitted to the BSB. This compares with 5 in 2013-14. Information as to the applications for review to the BSB in previous years is set out in last year's Annual Report for the ICC (paragraphs 49-54).

### ICC Membership

38. Grateful thanks are recorded to each of the members of the ICC, whose care and commitment in participating in Hearing Panels and otherwise in dealing with matters referred to the ICC, which takes considerable time and energy, is much appreciated.

39. Thirteen panel members were due to complete their second term of appointment in August 2015. As it is intended (subject to Legal Services Board approval) for all ICC matters in future to be heard by Panels made up of members of the Disciplinary Tribunal Pool, it was agreed to extend these 13 members' appointments for as far as permitted under the existing ICC Rules rather than recruit any new members onto the ICC at this stage. 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/>.

40. The chart below sets out the extent of the involvement of existing ICC members in Panel Hearings during the 2014-2015 period:



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).

**Case Study 3:** When applying to become a Member of one of the Inns of Court, 'C' declared several previous criminal convictions. These included possession with intent to supply a Class A controlled drug, and theft with an article with a blade or point in a public place.

The ICC Panel noted that the offences were committed while C was still a teenager, but that C had not offended subsequently in the more than 10 years following the convictions. They recognised that C had got involved with a 'bad crowd' in their childhood and made some very serious mistakes, but since then C had made a determined effort to put their past behind them and pursue a worthwhile life. This was demonstrated by C providing a number of excellent character references, all from persons who were fully aware of the detail of the convictions. The ICC panel agreed that C could now with confidence be regarded as a fit and proper person to become a practising barrister.

### Future Developments – Revisions to the ICC Rules

41. In July 2015, the ICC asked the BSB to approve revisions to the ICC Rules. These were approved by the BSB in October 2015, which subsequently passed them to the Legal Service Board (**LSB**) for ratification. At the time of writing, no decision has been made by the LSB and so the existing ICC Rules continue to have effect.
  
42. The revisions to the ICC Rules were developed by a Working Group, with input from the Inns of Court; they were reviewed by external solicitors and by the lay and legally-qualified members of the BTAS Strategic Advisory Board; and they were reviewed and approved by the members of the ICC and the Board of Trustees of the Council of the Inns' of Court (**COIC**). As noted above, they have been approved by the BSB. The key changes proposed can be summarised as follows:
  - (a) To reform the ICC so as to be an executive committee responsible for policy and standards (and no longer responsible for hearing individual cases).
  - (b) For members of the Disciplinary Tribunal Pool to be delegated responsibility to hear ICC matters (both on the grounds of operational efficiency and because members of the Pool are already subject to rigorous selection, training and appraisal mechanisms)

- (c) To incorporate changes within a clear statement of the procedure to be followed in ICC cases, including:-
- (i) To introduce and specify a burden and standard of proof (the civil standard – ‘more likely than not’).
  - (ii) To provide for hearings to take place in private (generally), but with provision for a public hearing (a) where the applicant or student so requests or (b) where the matter under consideration relates to a barrister seeking readmission to an Inn, having been previously disbarred (following a public hearing).

43. The Tribunal Appointments Body ('the TAB') is the Body responsible for appointing barrister, lay and QC members of the Disciplinary Tribunal Pool; 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.
44. Members of the TAB are themselves subject to appraisal. During the course of 2015 seven members of the TAB successfully underwent appraisal and were accordingly reappointed as members of the Body for a second term of three years.
45. Members of the Disciplinary Tribunal Pool and Clerks serve at Hearing Panels convened to hear Disciplinary Tribunals (both three and five-person Panels), Interim Suspension Panels, Fitness to Practice Hearing Panels and Appeals Against Administrative Sanctions (imposed by the Bar Standards Board). At the present time they have no involvement with conduct matters before the Inns' Conduct Committee (ICC), which is the responsibility of an entirely separate Panel.
46. The TAB conducted a large-scale recruitment exercise in 2012, leading to the appointment of an entirely new Pool in early 2013. As the vast majority of these Panellists remained eligible and very willing to act in 2015, no recruitment of new Panellists was required during the year.

### **Reappointments to the Panel in 2015**

47. Twenty five members of the Pool completed their first term of office in the first few months of 2015 (these individuals had been appointed for an initial term of two years). Having first considered their continuing eligibility, completion of mandatory training, and confirmed that they had satisfactorily taken part in the appraisal process, the TAB recommended to the President of the Council of the Inns of Court that twenty four of these

Panellists be reappointed for a second term of three-years, as required by the terms of the *Appointments Protocol*. This recommendation was subsequently accepted and approved by the President. The twenty-fifth individual elected to step down from the Pool at the end of their first term of office due to the pressure of other professional commitments.

### **Panellists and Clerks in 2015**

48.As at 31 December 2015, the Disciplinary Tribunal Pool was made up as follows:

- 26 Barrister Panel Members
- 31 Lay Panel Members
- 13 QC Panel Members
- 12 Clerks

49.The following individuals stepped down from the Pool during the course of the year:

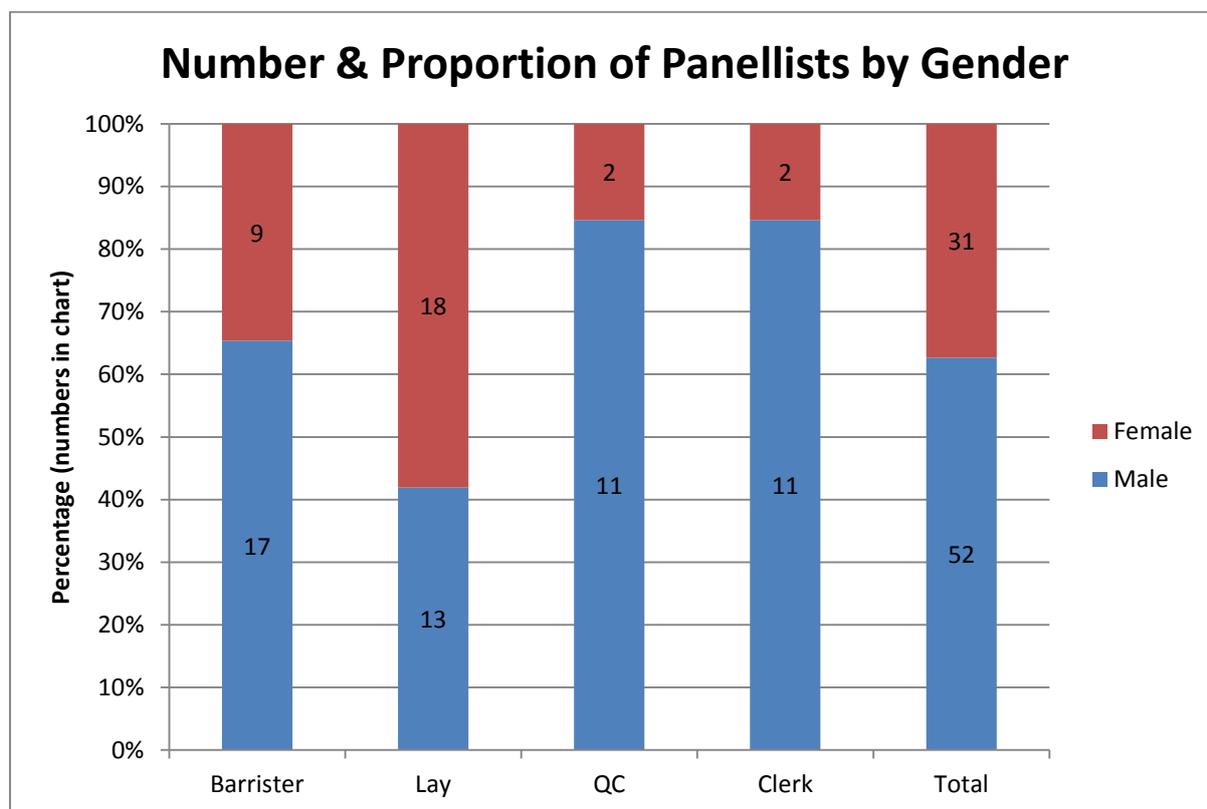
- Lay Panel Members: Bernard Herdan, following his appointment as a member of the Board of the Office for Legal Complaints.
- QC Panel Members: David Hunt QC, upon his appointment as Treasurer of Gray's Inn; and Miss Eleanor Laws QC, due to other professional commitments
- Clerks: Jacqueline Lean and Roddy Abbott, due to other professional commitments; Rhiannon Lewis, due to leaving the Bar and moving overseas; and Simon McCrossan, following an appointment as Head of Public Affairs in a charitable organisation.

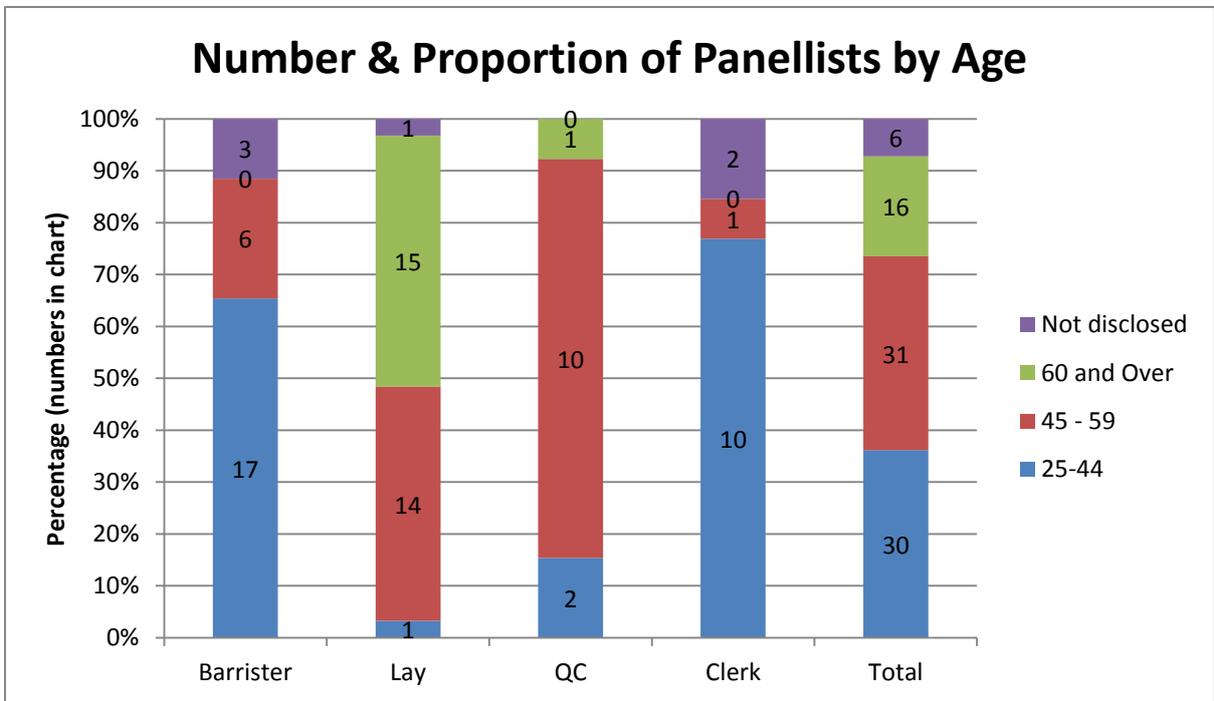
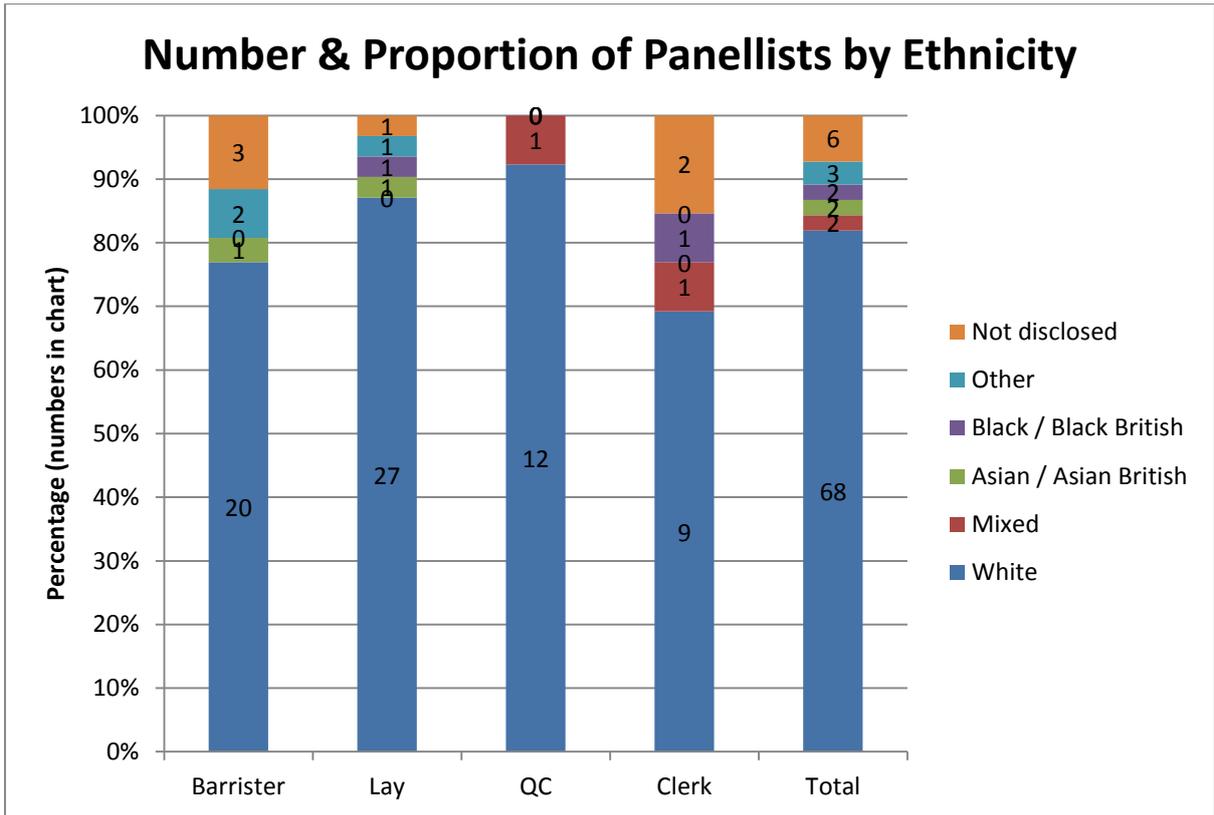
The TAB would like to record its sincere appreciation for their efforts over the years, and wish them every success for the future.

50.Full details of the membership of the 2015 Pool is available at (<http://www.tbta.org.uk/about-us/who-we-are/panel-members/>).

## Composition of the Pool in 2015

51. The following charts sets out information about the composition of the Pool by gender, ethnicity and age (as at 31 December 2015). While no recruitment of new Panellists took place in 2015 the proportions will be slightly different from those in the 2014 Report due to the small number of individuals stepping down from the Pool:

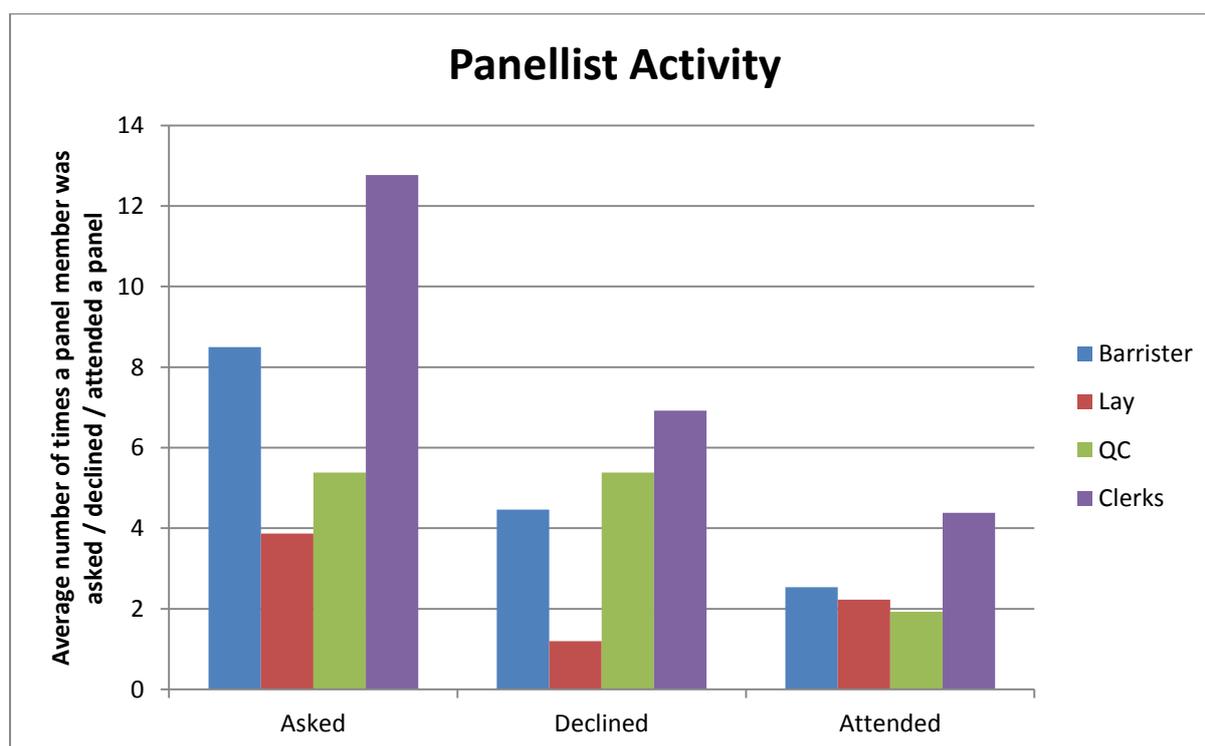




52. Three Members of the Pool consider themselves disabled, and in all cases BTAS has made reasonable adjustments to enable them to act.

## Panellist Activity in 2014

53. Given that a total of 39 Hearings took place in 2015, and that there are 70 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).

54. While some Hearings are complex cases and can last for several days, it is equally possible for others to be concluded in a matter of hours. The average length of a Hearing in 2015 was 1.3 days, which means that the data in the chart above is not unrepresentative of the total average contact time Panellists had with BTAS Tribunals during the year.

55. It should be understood when considering the chart above 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.
56. The size of the current Pool, when recruited in 2012, was based on the assumption that there would be many more hearings taking place than at present. This is because the BSB subsequently changed its procedures enabling it to deal with less-serious matters (such as the requirement to report CPD activity) itself, under the 'Administrative Sanctions' procedures.
57. While the TAB's priority is ensuring that the Pool 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. The TAB 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 were to return to previous levels, or the size of the Pool is reduced.
58. As reported in the Inns' Conduct Committee Report, subject to approval from the Legal Services Board, revisions to the ICC Rules will mean that responsibility for considering the conduct of applicants to, and students of, the Inns of Court will transfer from the membership of the Inns' Conduct Committee itself, to the members of the Disciplinary Pool. If and when this comes into effect there will be some uplift in the activity levels of Panellists.
59. The TAB will be taking this data carefully into account when determining the future numbers of new Panellists to be recruited as members of the Disciplinary Tribunal Pool.

## **Panel Training**

60. In preparation for the transfer of responsibility for Inns' Conduct Committee Hearings (see para 58 above), 18 Panellists attended ICC hearings as observers in 2015 to familiarise themselves with the different procedures and approach used during these hearings. Observations will continue to take place in 2016, with numbers of observers at each Hearing limited to avoid any disturbance to the cases taking place.

61. A programme of joint induction (for new Pool members) and refresher (for existing Pool members) training is being developed and will be delivered during 2016 to ensure all Pool members are fully up to date and familiar with the policies and practices applicable to their roles.

## **Future Membership of the Disciplinary Pool**

62. During 2015 the TAB approved a number of measures with regard to the future membership of the Disciplinary Pool:

63. To increase the frequency and volume of turnover in Pool membership, the TAB agreed to reduce the standard term of office for members of the Pool from four to three years.

64. To achieve the aim of a 'balanced' Pool, consistently made up of both new and experienced members, the TAB agreed that new members must be recruited to the Pool every three years. Ultimately, and after a transition period, the intention is that the equivalent of half the Pool will be renewed every three years (with members serving two three-year terms).

65. To avoid the current Pool becoming 'stale', the TAB agreed that the first of these triennial recruitment exercises should commence in 2016. This decision was made fully cognisant of the fact that the existing members of the Pool could be offered second terms that would avoid the need for any additional recruitment taking place until 2019. The TAB felt that this proactive intervention was necessary given that otherwise no new members would have been recruited to the Pool for eight years, and that if no action was

taken now this would as a consequence also mean that the entire Pool would be renewed in a two or three year period and so lose all its experienced members.

66. The TAB is mindful that during the transition period the total size of the Pool will inevitably increase, given that it does not regard it as appropriate (or a good use of the time and resources spent recruiting, training and developing the current members of the Pool) for any of the current members to be prematurely discharged from the Pool where there is no suggestion that their performance at Hearings is anything other than excellent. It is however very conscious that, in the medium to long-term, the overall size of the Pool must be reduced to ensure its members have sufficient opportunities to serve on Hearing Panels to develop and maintain their expertise.

67. The TAB will accordingly carefully monitor the size of the Pool and keep this in mind when (i) deciding on the length of the terms of office to be offered to current members reappointed for a second term; and (ii) determining the final numbers of new Pool members to be appointed as a result of the 2016 recruitment exercise.

68. The 2016 recruitment exercise will be launched with adverts for barrister, lay, QC members and clerks being placed in the national press and elsewhere. Applications will be made, and shortlisting conducted, via an online application portal being developed with an external partner. Members of the TAB will then interview each and every potential new member of the Pool before confirming those to be provisionally appointed. Potential new members will be required to undergo a mandatory induction and training process before any appointments to the Pool can be confirmed (which will take place in January 2017).