



Office of the
Superintendent
of Real Estate

Results of Survey on the Role and Responsibilities of Managing Brokers in BC's Changing Real Estate Landscape

Summary Report

November 2018

Introduction

The Office of the Superintendent of Real Estate (OSRE) in collaboration with the [Real Estate Council of British Columbia](#) (RECBC) and the Ministry of Finance, is undertaking work to review the roles and responsibilities of managing brokers in B.C.'s changing real estate landscape to ensure the role continues to support regulatory protections for consumers, and fosters a strong culture of professionalism among licensees.

To ensure that challenges are being properly identified and the right potential solutions are considered, this multi-phase project will include a number of different opportunities for licensees, including managing brokers, to contribute their thoughts and feedback.

On September 6, 2018, an initial information-gathering survey was launched to identify issues and challenges.

The Superintendent of Real Estate invited all licensees to participate in the information-gathering survey and sent letters to all the local real estate boards and the BCREA to encourage member participation. In addition to survey responses, OSRE received a handful of correspondence responding to the survey. All submissions were considered. A summary of highlights of the responses to the information gathering survey is presented in the following pages.

As noted, the information-gathering survey is one of several public and licensee engagement opportunities that are planned as part of this multi-phase project. A series of in-person regional engagement sessions to further explore issues, challenges, impacts and possible solutions are planned for the fall of 2018, followed by a discussion paper based on the feedback received outlining potential solutions and proposals in the spring/summer of 2019.

Survey Overview

OSRE received a total of 2,380 responses to the survey during the consultation period. OSRE requested that respondents keep individual survey responses anonymous.

Based on how respondents identified themselves (i.e. licensee, public, other), the survey presented a variety of different pathways for participants to complete:

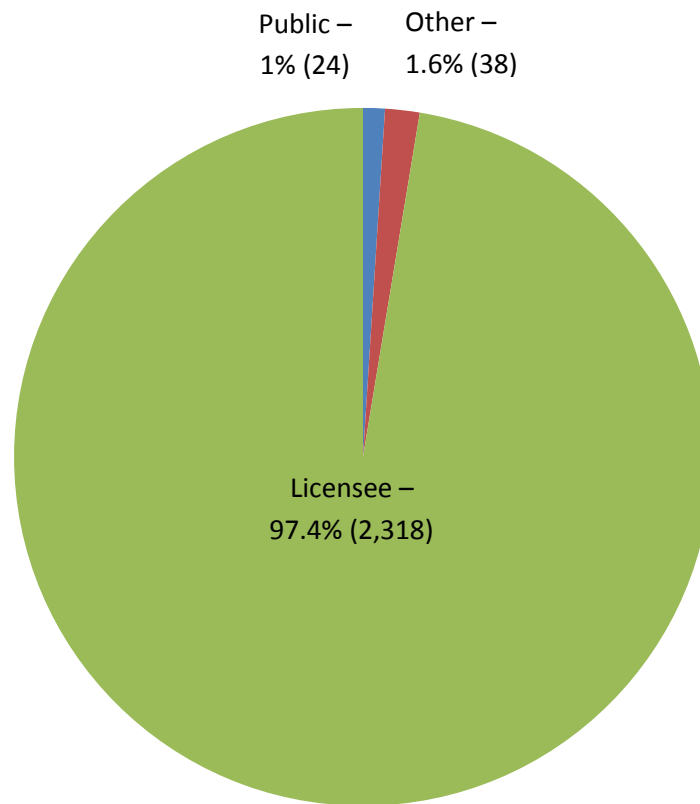
- **Public & Others:**
 - 1 demographic question on the geographic area in which they live
 - 4 general questions to identify issues/challenges, impacts, risks and potential solutions
- **All Licensees:**
 - 4 demographic questions, including the geographic region in which they work, the level and category of their licence and whether they are a member of a team
 - 3 questions about where they would seek information about correct business practices and regulatory compliance
 - 4 general questions to identify issues/challenges, impacts, risks and potential solutions
- Depending on the level of licence held, licensees were presented with additional targeted questions as follows:
 - **Representatives:**
 - 2 questions on their intention to become a managing broker
 - **Associate brokers:**
 - 1 question on whether they have previously been licensed as a managing broker
 - Associate brokers who had been previously licensed as a managing broker were also provided with an opportunity to answer questions about this experience (see the description of the questions posed to managing brokers below)

- Associate brokers who had not previously been licensed as a managing broker received 2 questions on their intention to be licensed as a managing broker
- **Managing brokers:**
 - 3 questions on the scope of their real estate practice, including the number of brokerages/offices and licensees which they supervise and whether they provide real estate services directly to clients
 - 2 questions on licensing, including the number of years that they have been licensed as a managing broker and their intention to become licensed at a different level
 - 4 questions on brokerage ownership and brokerage remuneration models
 - 4 questions on allocation of working hours
 - 3 questions on supervisory practices related to teams and delegation of management duties

Note to readers: The summary of information below, including potential solutions, primarily reflects comments received through the survey. The inclusion of issues, challenges, impacts and/or risks in this document should not be interpreted to mean that regulators are not already undertaking activities in the identified areas nor does it presuppose that any included solution or outcome is feasible or will be implemented. A recent summary of actions taken by the Ministry, the Council and OSRE is available here: https://www.recbc.ca/wp-content/uploads/IAG_report_june_2018_final_web.pdf.

Respondent Demographics

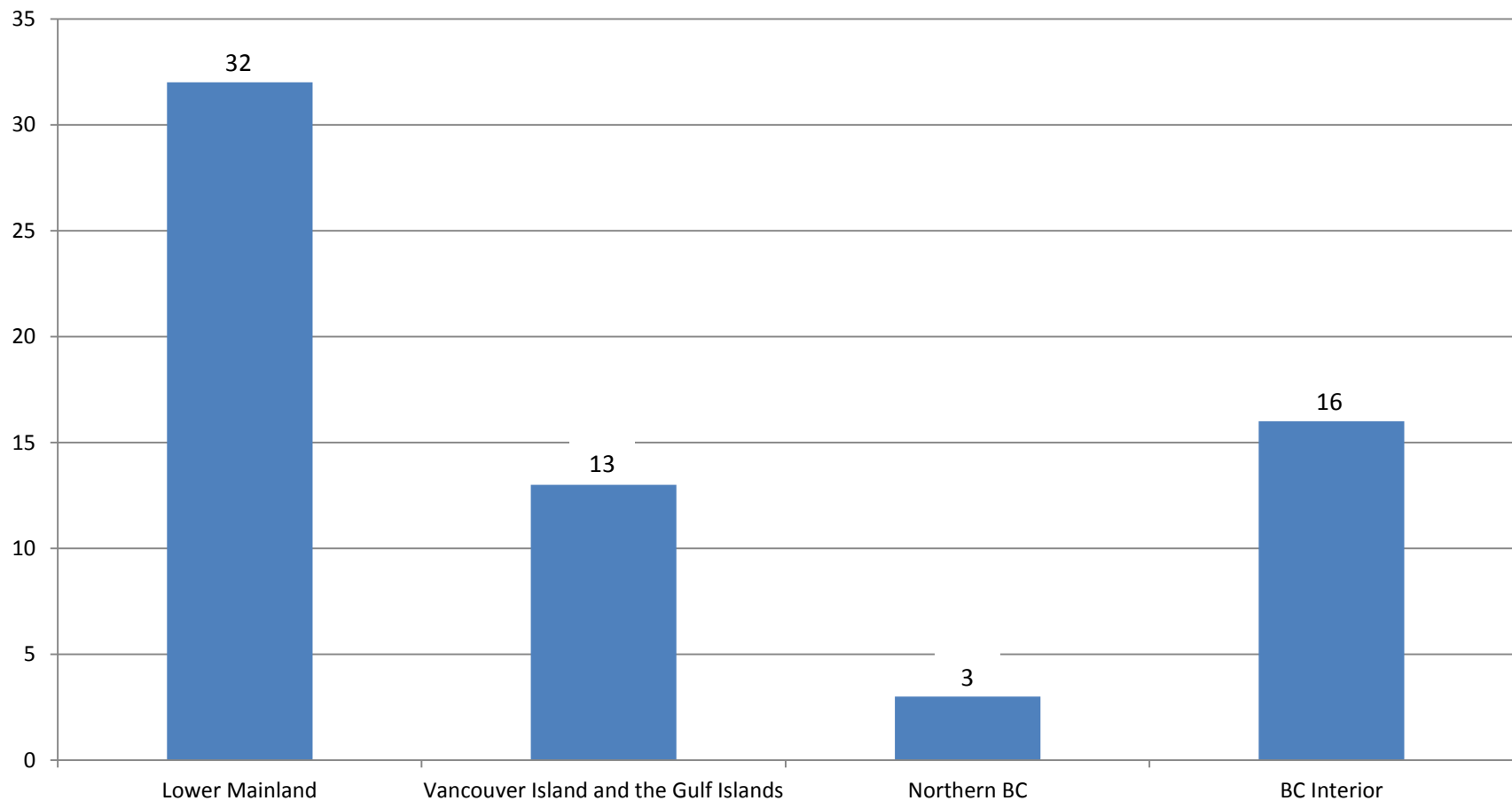
Capacity in which respondents commented on the survey:



N = 2,380

Public/Other Demographics

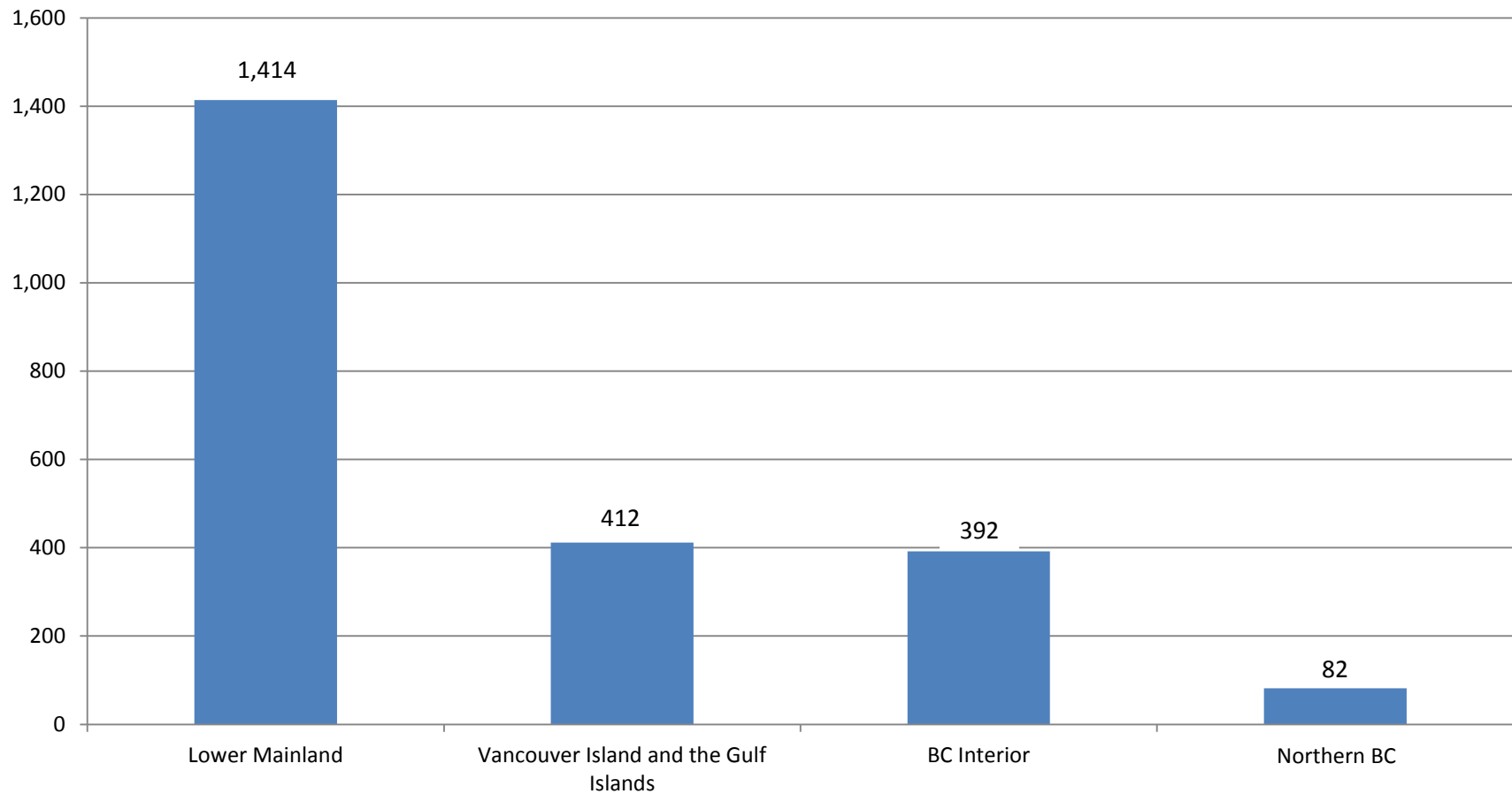
Region of the province that best describes where members of the public and those identifying themselves as “other” who responded to the survey live:



N = 64

Licensee Demographics

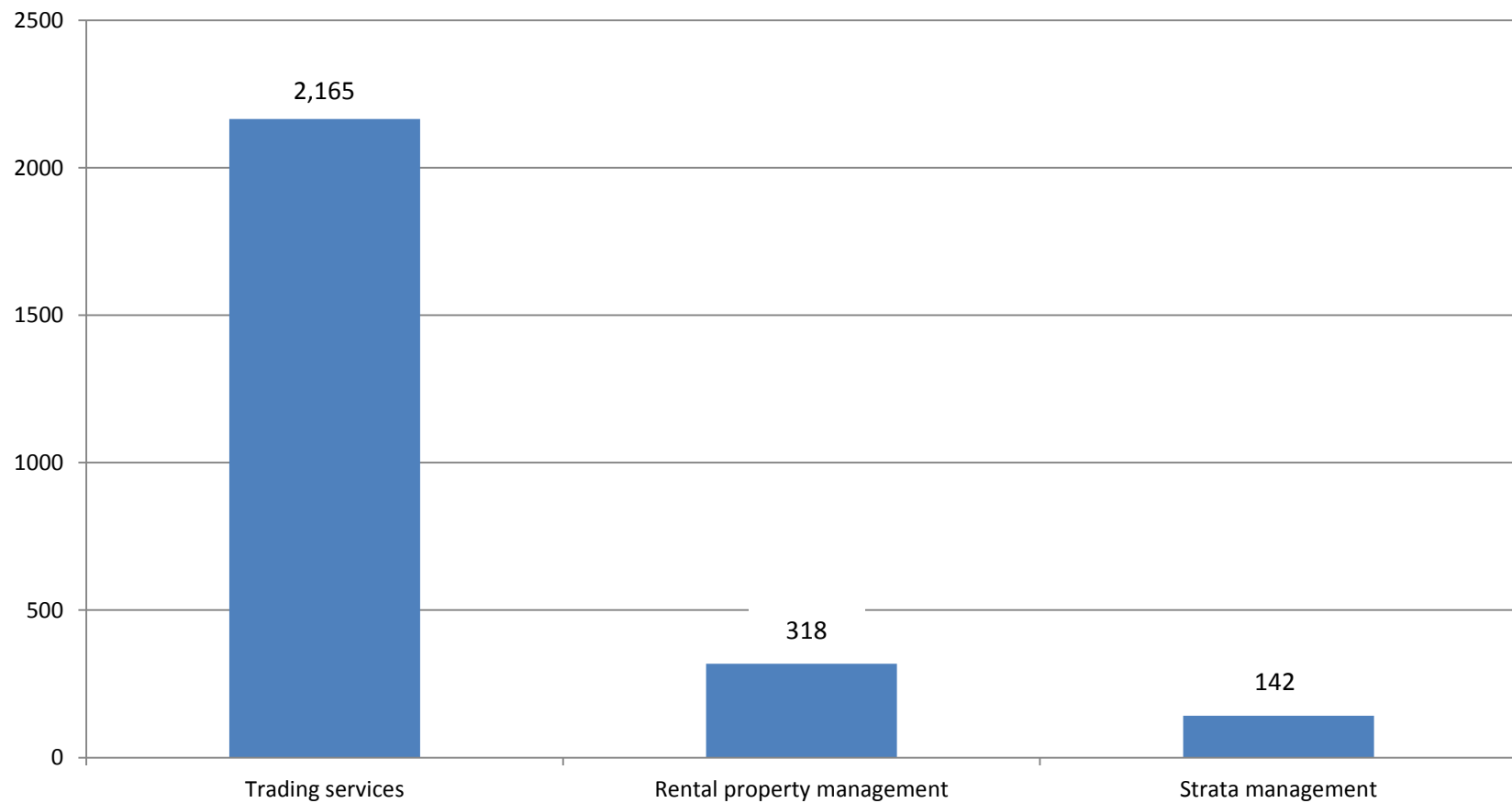
Area of the province in which licensees who responded to the survey primarily work:



N = 2,300

Licensee Demographics

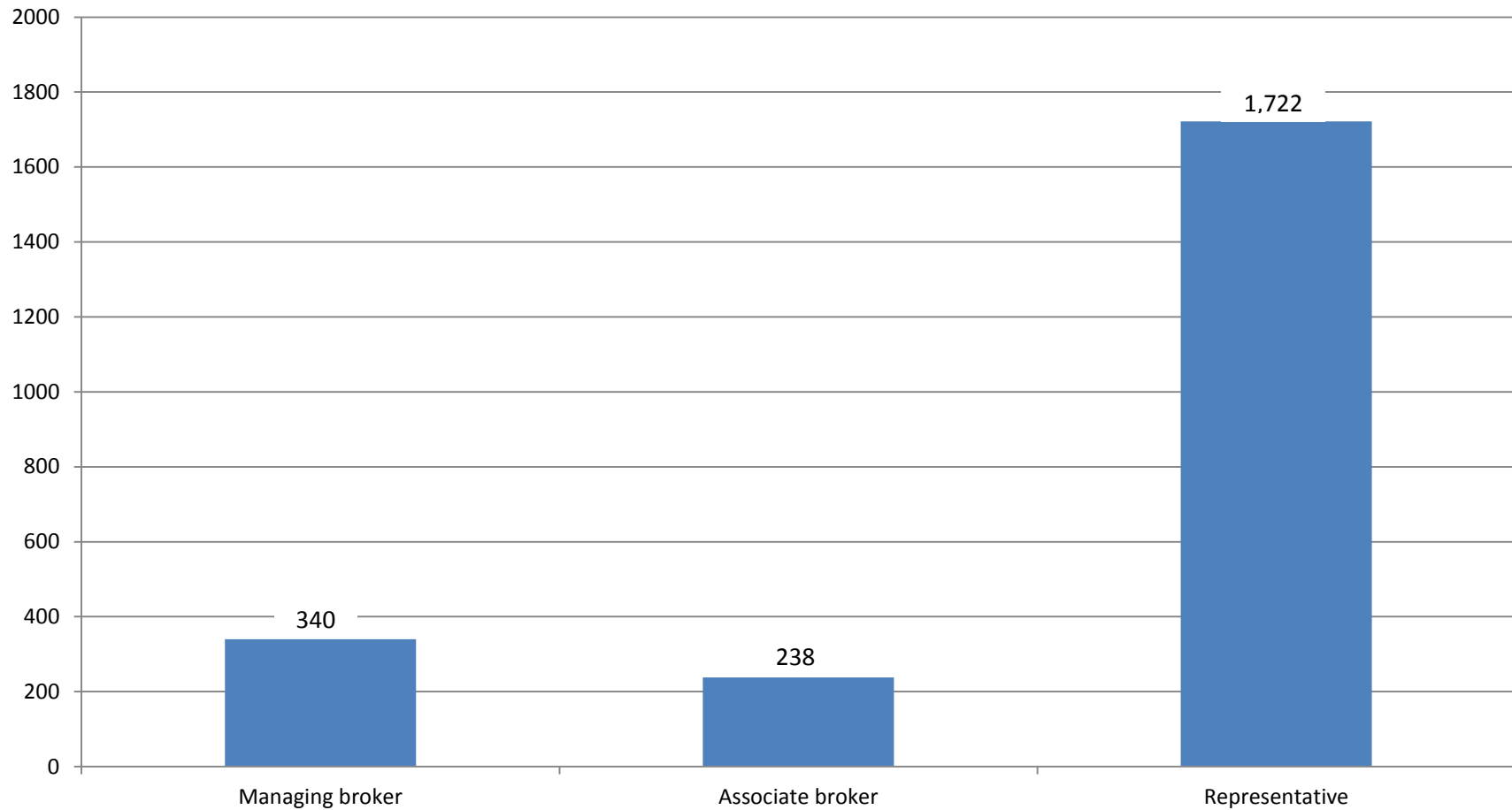
Category of licence held by licensees who responded to the survey:



N = 2,300

Licensee Demographics

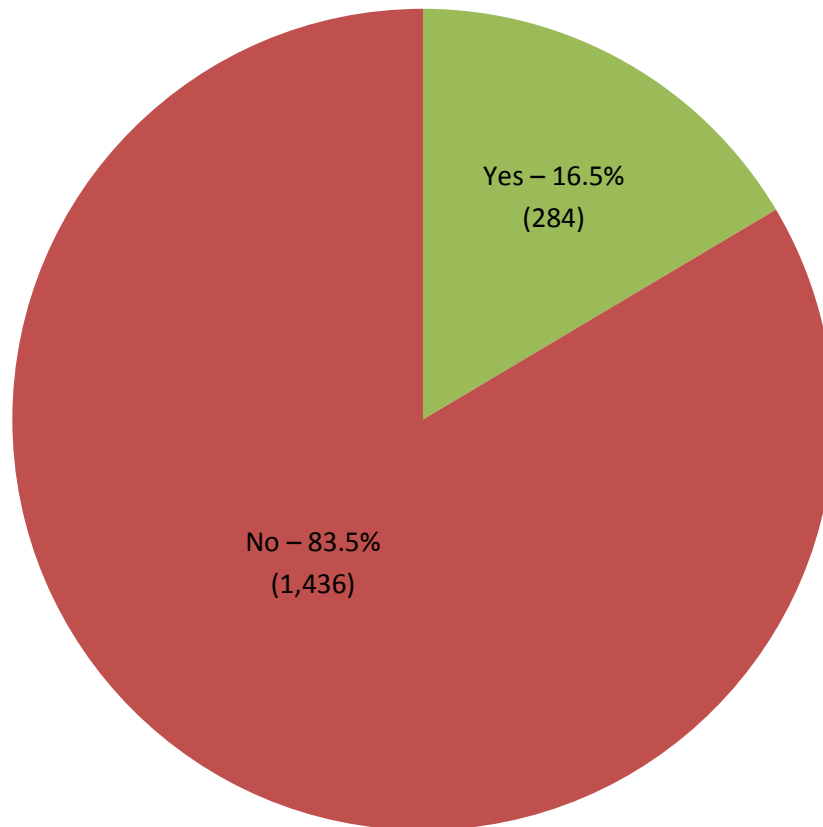
Level of licence held by licensees who responded to the survey:



N = 2,300

Representative Survey Questions

Responses from representatives regarding intentions to become licensed as a managing broker in the next five years:



N = 1,720

16.5% of representatives indicated that they intend to become a managing broker in the next five years. The top reasons cited by this group are:

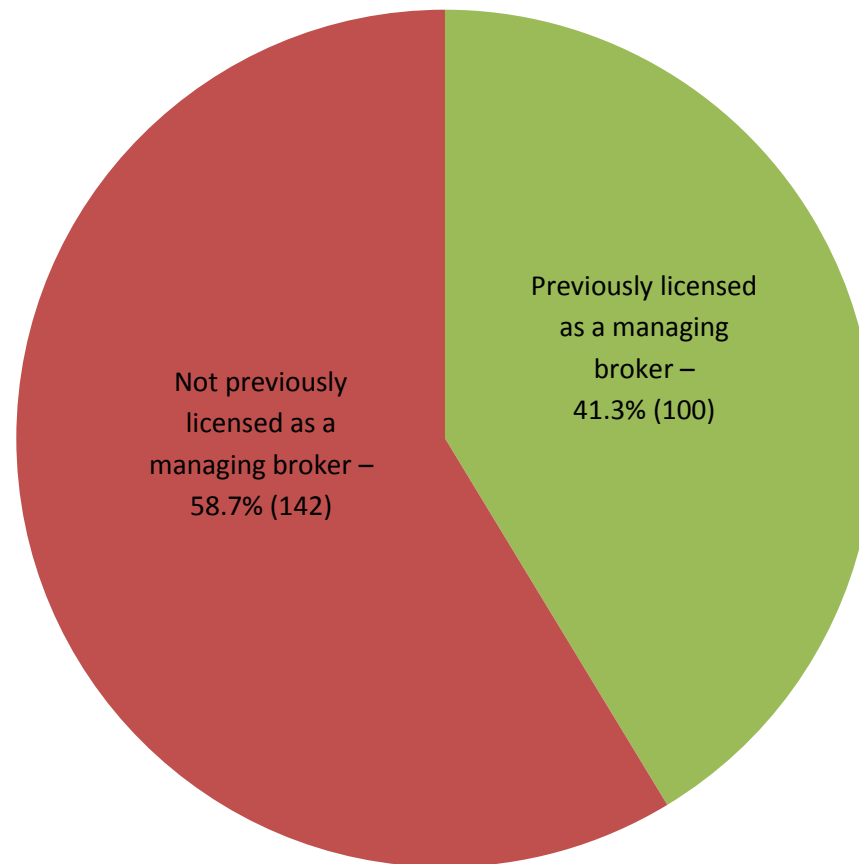
- *Open my own brokerage*
- *Deepen my knowledge*
- *Advance my career*
- *Use my leadership skills to benefit others*
- *Make a positive change in the real estate industry*

83.5% of representatives indicated that they do not intend to become licensed as a managing broker in the next five years. The top reasons cited by this group are:

- *Do not want to take on the associated risk/liability*
- *Not interested*
- *Enjoy serving clients*
- *Near retirement*
- *Want to maintain my current income*

Associate Broker Survey Questions

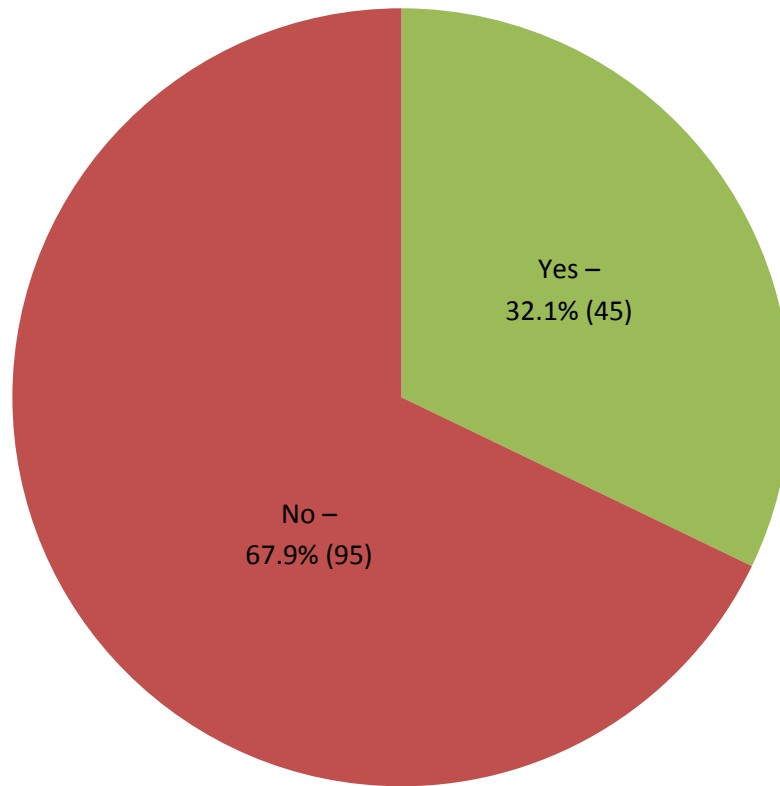
Associate brokers who have previously been licensed as a managing broker:



N = 242

Associate Broker Survey Questions

Responses from associate broker regarding intentions to become licensed as a managing broker in the next five years:



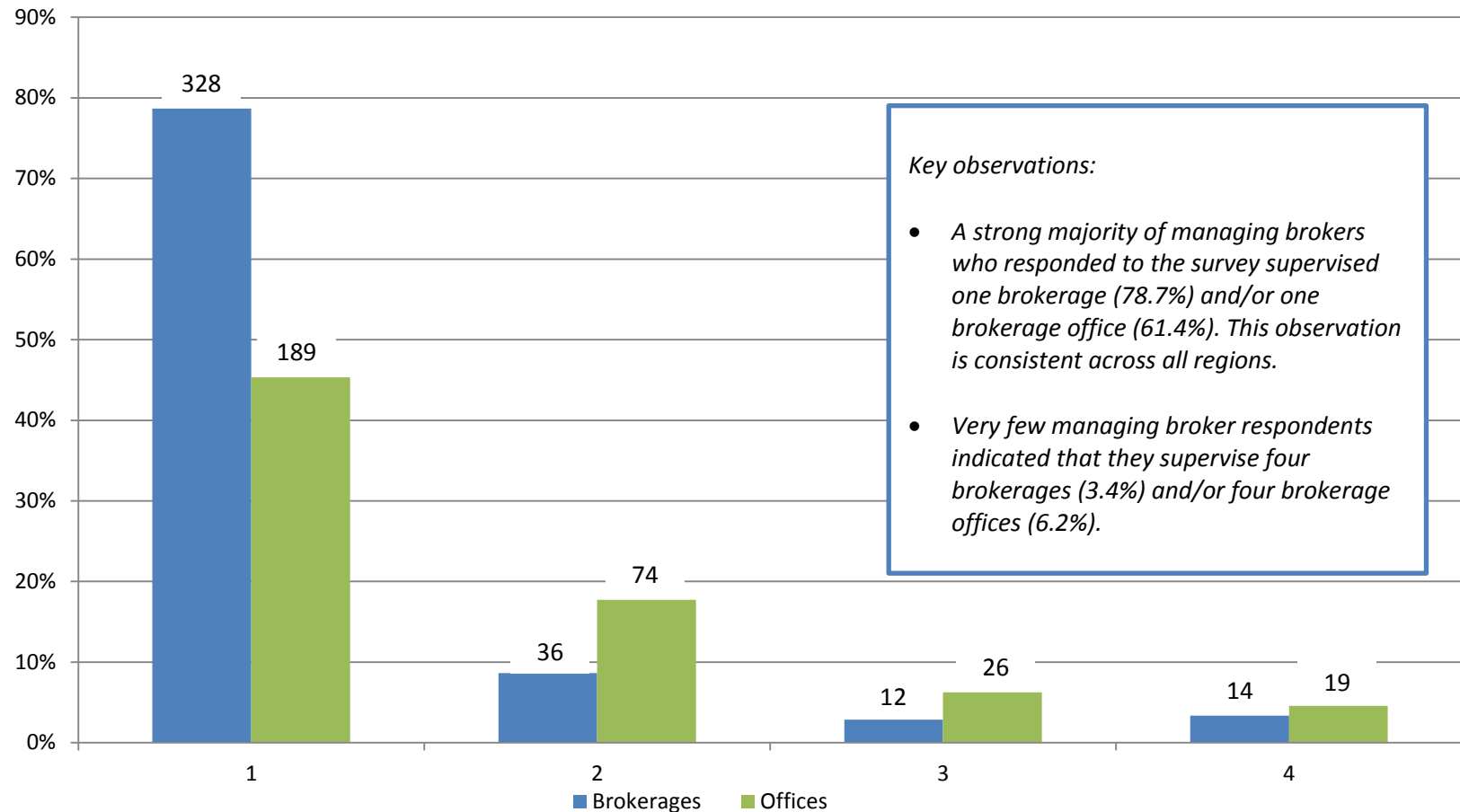
N = 140

Among those associate brokers who have not been previously licensed as a managing broker, 67.9% indicated that they do not intend to become licensed as a managing broker in the next five years. The top reasons cited by this group for being licensed as an associate broker (and not a managing broker) are:

- *Became licensed as an associate broker only to deepen knowledge*
- *Became licensed as an associate broker to increase career opportunities*
- *Changed mind, no longer want to become a managing broker*
- *Became licensed as an associate broker to hold secondary employment (licensed under former Real Estate Act)*
- *Had equivalent training*

Managing Broker Survey Questions

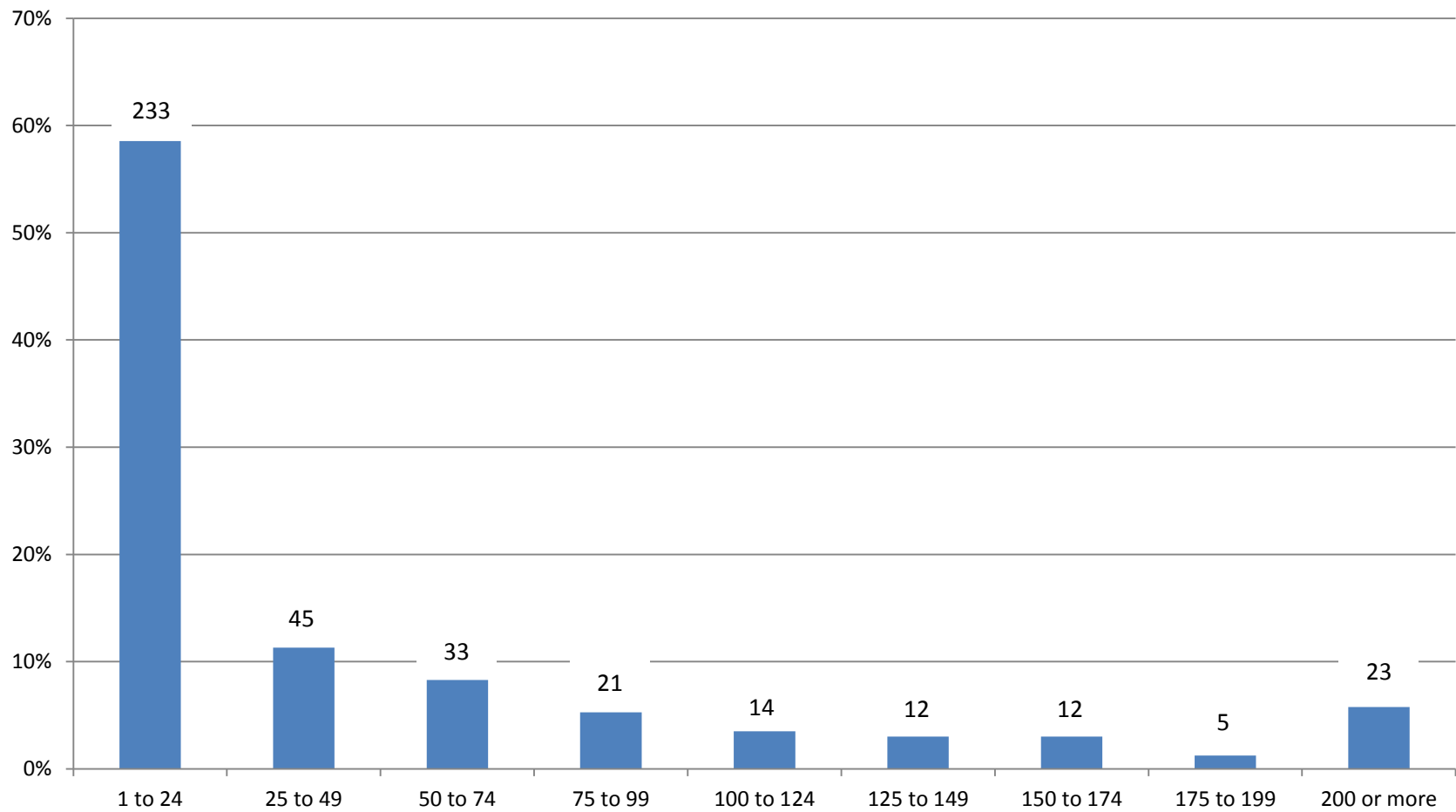
Number of brokerages and/or offices in relation to which managing broker respondents were licensed:



Brokerages N = 417; brokerage offices N = 308

Managing Broker Survey Questions

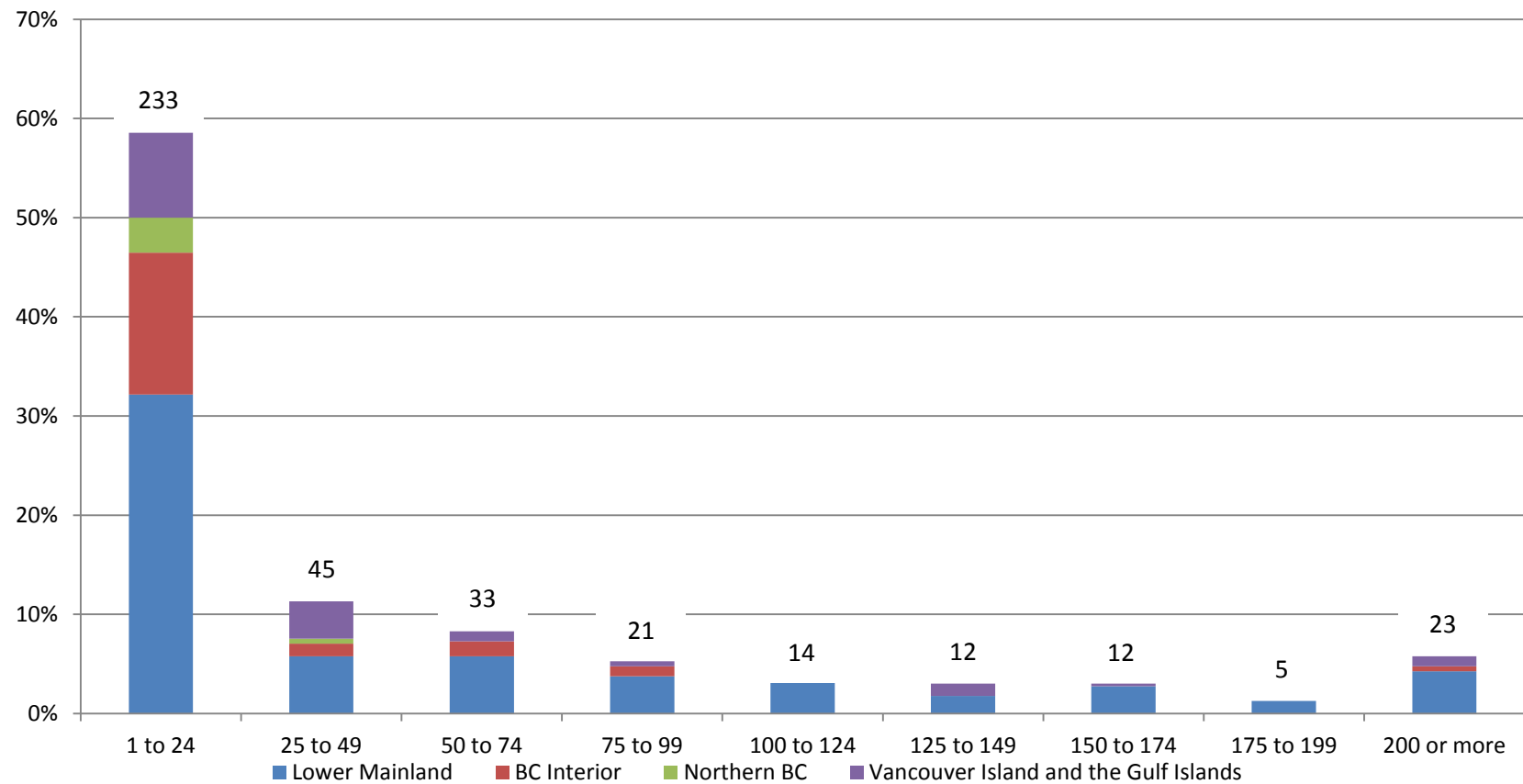
Number of licensees supervised:



N = 398

Managing Broker Survey Questions

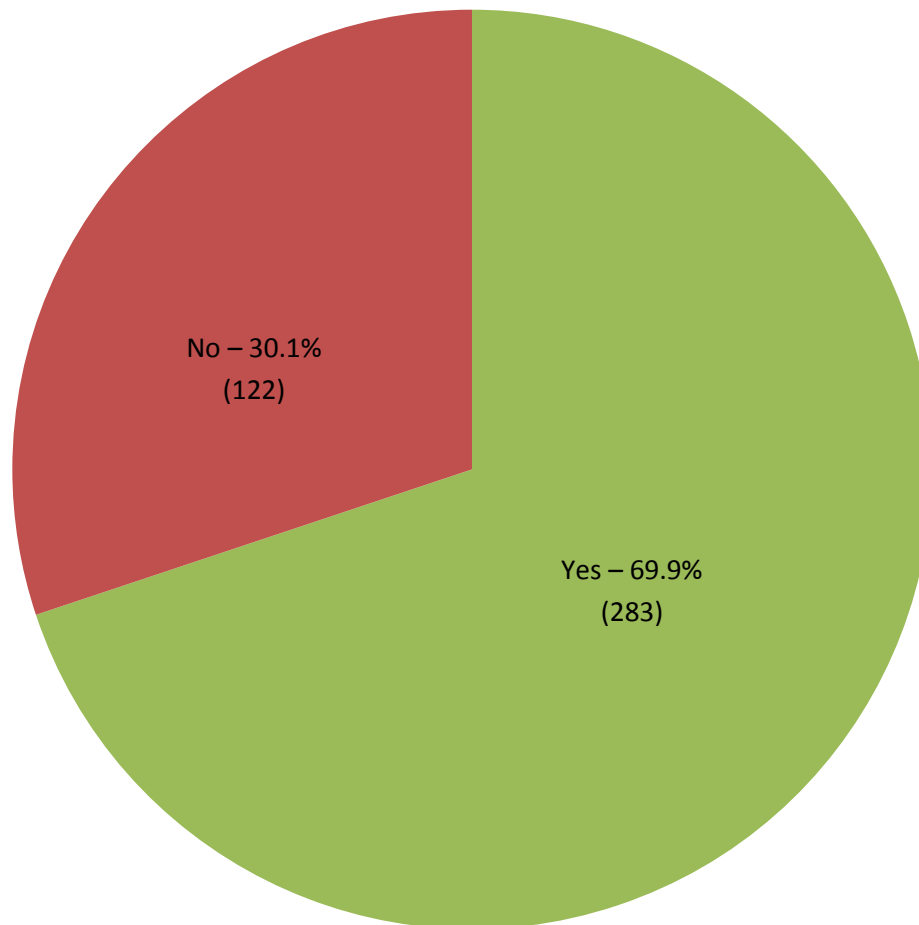
Number of licensees supervised by geographic region:



N = 398

Managing Broker Survey Questions

Managing brokers who also provide services directly to clients:



N = 405

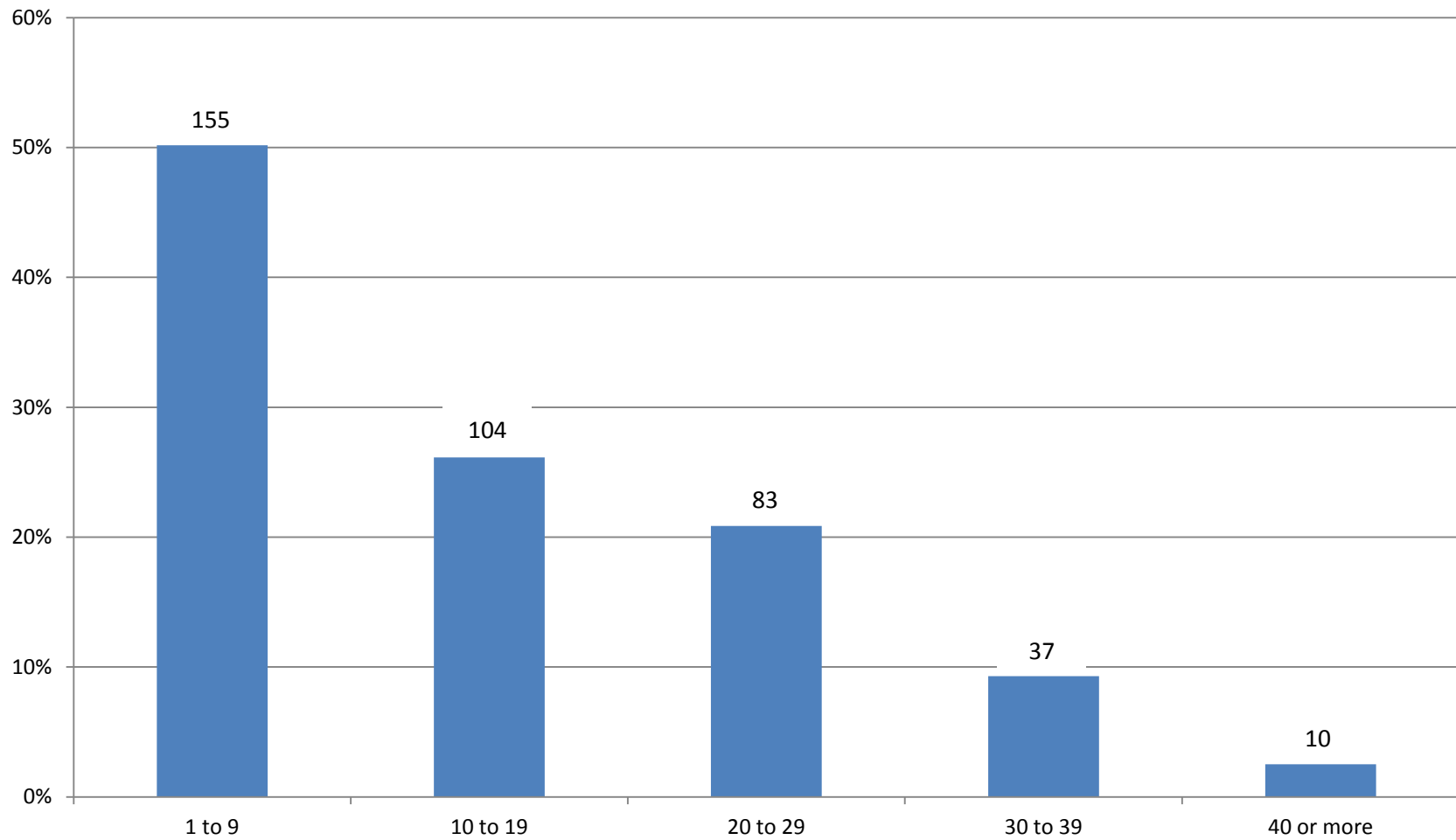
Regional Differences

Across the province 70% of managing brokers provide services directly to clients. However, regional results vary, as follows:

- 86% of managing brokers in Northern BC
- 74% of managing brokers in the BC Interior
- 73% of managing brokers on Vancouver Island and the Gulf Islands
- 66% of managing brokers in the Lower Mainland

Managing Broker Survey Questions

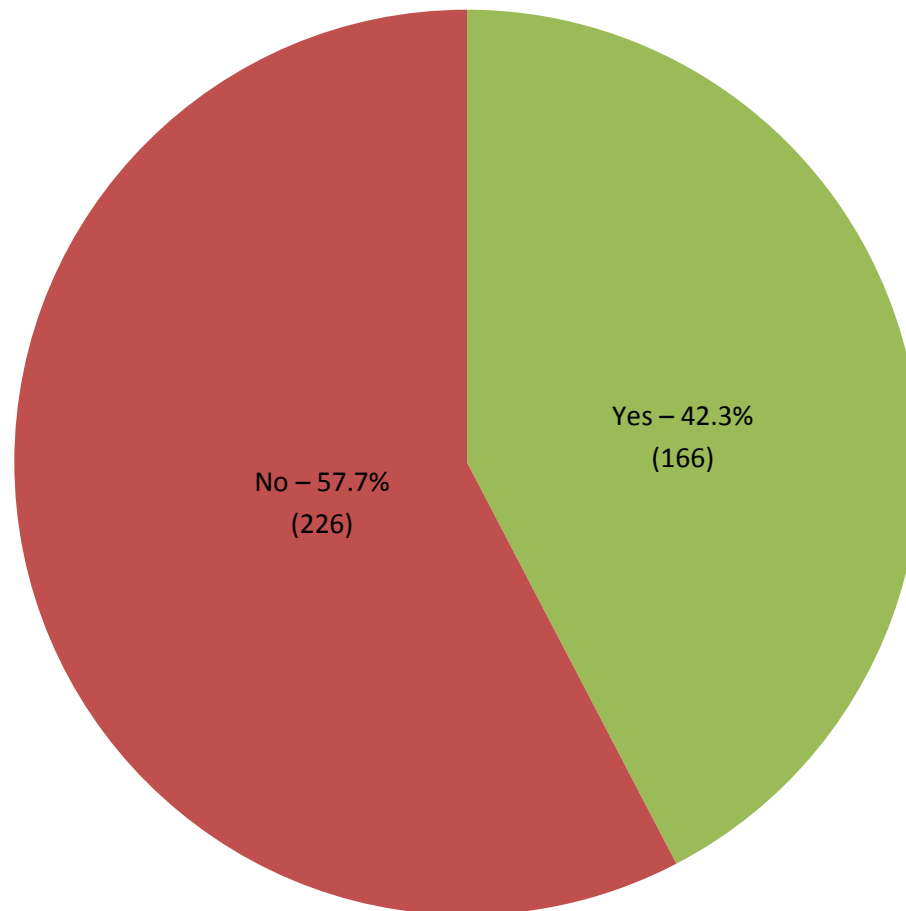
Number of years licensed as a managing broker:



N = 398

Managing Broker Survey Questions

Managing brokers' intentions to retire or become licensed at a difference level in the next five years:



N = 392

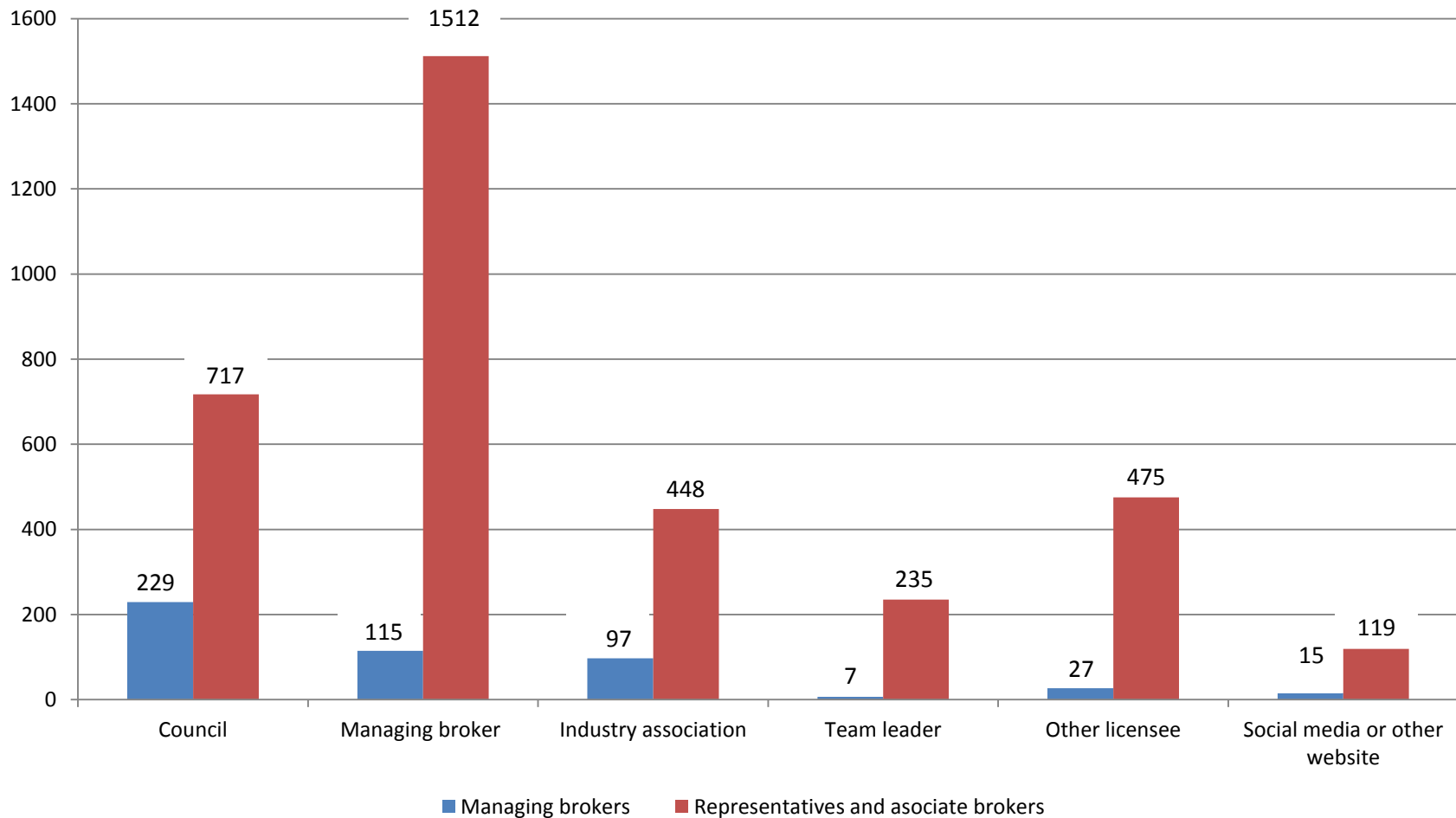
Regional Differences

Across the province, 42% of managing brokers plan to retire or become licensed at a different level in the next 5 years, compared to:

- 54% of managing brokers in Northern BC
- 41% of managing brokers in the BC Interior
- 34% of managing brokers in the Lower Mainland
- 31% of managing brokers on Vancouver Island and the Gulf Islands

Licensee Survey Questions

Where do licensees seek information and advice on correct business practices and regulatory compliance:



Managing brokers, N = 283; Representatives and associate brokers, N = 1,769

Survey Feedback

All respondents were invited to respond to four general open-ended questions, which were intended to help:

1. identify the most important issues and challenges to consider in reviewing the role and responsibilities of managing brokers;
2. understand how those issues and challenges impact the ability of managing brokers to fulfill their regulatory duties;
3. identify any risks associated with the issues and challenges related to consumer protection and regulatory compliance; and
4. seek potential solutions that would assist managing brokers in fulfilling their regulatory duties and reduce the risk of harm to consumers.

Based on an analysis of these responses, five key themes have been identified:

1. Supervision
2. Teams
3. Liability and regulatory compliance
4. Pre-licensing education and qualification requirements
5. Post-licensing continuing professional education and professional development

These themes predominantly relate to trading services licensees, who represented the majority of survey respondents. In order to help ensure adequate consideration of issues and challenges relevant to all categories of real estate services, an analysis of additional themes related solely to rental property management, strata management and commercial trading services appears at the end of this section.

The following pages provide further description of each theme and a summary of respondents' answers. At the end of the summary are some preliminary observations on the feedback received.

Theme #1: Supervision

Introduction

Section 3-1 of the [Real Estate Rules](#) made under the [Real Estate Services Act](#) describes the managing brokers responsibilities. Under subsection 3-1(1) [*Supervision*], a managing broker must:

- (a) be actively engaged in the management of their related brokerage,
- (b) ensure that the business of the brokerage is carried out competently and in accordance with the Act, regulations, rules and bylaws, and
- (c) ensure that there is an adequate level of supervision for related associate brokers and representatives and for employees and others who perform duties on behalf of the brokerage.

Council's [practice advice](#) outlines the expected standards for ensuring adequate supervision. Managing brokers should be able to demonstrate that they provide the following to licensees and employees at the brokerage:

- being available to assist and advise in day-to-day activities
- provide training and guidance
- foster understanding of and compliance with regulatory requirements (e.g. promote awareness of disclosure and advertising rules, review of the brokerage procedures manual, communicate changes in the law)

The survey responses summarized under the theme of Supervision relate to the challenges faced by managing brokers in meeting the expectations of both their licensees and the Council.

Summary of Feedback

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
1.1 Ensuring adequate supervision of real estate licensees is difficult because licensees spend much of their time working independently and off-site with clients)	<p>Managing brokers commented:</p> <ul style="list-style-type: none"> • Difficult to stay abreast of licensee business activities and practices • Managing brokers are expected to be available 24/7 to answer related licensees' questions • Representatives and associate brokers consider themselves "independent" and may not be receptive to direction or advice • Hard to be proactive; may only become aware of what business practices licensees are following after the fact (i.e. when they receive paperwork for a transaction or when a consumer complains) • Unrealistic expectations on managing brokers set them up to fail <p>Representatives and associate brokers commented:</p> <ul style="list-style-type: none"> • Difficult to access their managing broker's advice in a timely manner • Not receiving sufficient support (e.g. training, guidance, mentoring, information) from their managing broker • Licensees do not bring questions or problems to the managing brokers' attention and may develop their own practices or seek the advice of other licensees 	<p>Managing brokers suggested:</p> <ul style="list-style-type: none"> • There needs to be greater hands on supervision, especially of newer licensees <p>Representatives and associate brokers suggested:</p> <ul style="list-style-type: none"> • Managing brokers should be physically present at the brokerage for a minimum amount of time or otherwise provide Council with evidence that they have established mechanisms for effective supervision and to fulfill their other regulatory duties • Licensees should be well-known to a managing broker and have an established relationship • It should be mandatory to hold regular office meetings (e.g. weekly for new licensees; monthly all-office education and coaching meetings) that include a licensee sign-in sheet and summary of topics covered which could be submitted to Council with the brokerage's annual report

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
<p>1.2 High numbers of related licensees and/or transactions at some brokerages pose supervisory challenges</p>	<ul style="list-style-type: none"> Managing broker does not engage with licensees in the office and/or attend brokerage regularly <p>Managing brokers commented:</p> <ul style="list-style-type: none"> Managing brokers may struggle to adequately balance their supervisory and other duties (e.g. trust accounts, record-keeping, business development) Managing brokers may be pressured by brokerage owners to recruit more licensees in order to maximize profit Supervision is the most significant demand on managing brokers' time <p>Representatives and associate brokers commented:</p> <ul style="list-style-type: none"> Managing brokers are too busy to provide direction. Without adequate supervision, licensees may be unable or unwilling to get help before a client is committed, and as a result licensees are more likely to make errors that impact their clients Brokerages are seen as providing little service in exchange for fees. A lack of supervision may increase unethical behaviour by licensees, accidentally or intentionally, resulting in clients getting bad advice, being taken advantage of, and financial loss 	<p>Licensees from all levels suggested:</p> <ul style="list-style-type: none"> Many licensees suggested implementing a cap on the number of representatives a managing broker can effectively supervise, with potential for delegation to associate brokers and a shift on the cap number depending on the experience level of those being supervised, brokerage discipline history, geographic location of brokerage, and volume of transactions. Many licensees suggested that imposing a limit on the number of licensees one managing broker could supervise would improve effective supervision; better oversight of licensees by managing brokers would help protect the public from mistakes and unethical business practices. Many licensees also felt that imposing a licensee limit would assist managing brokers in negotiating more favourable remuneration terms. Licensees from the Lower Mainland were most likely to recommend a maximum. Streamline record

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
<p>1.3 Managing brokers who actively provide trading services to clients face additional potential conflicts of interest when supervising related licensees</p>	<p>Managing brokers commented:</p> <ul style="list-style-type: none"> Managing brokers may neglect some of their duties to the brokerage and its related licensees when they attempt to perform multiple roles. This is a particular concern when they also supervise a large number of related licensees Managing brokers who actively provide services are better positioned to advise related licensees on industry trends or evolving business practices (e.g. as they relate to regulatory compliance) Brokerages in small communities do not generate enough revenue to support a managing broker who is not also providing services For strata managers in particular, managing brokers are driven to provide services due to a shortage of qualified licensees <p>Representatives and associate brokers commented:</p> <ul style="list-style-type: none"> Managing brokers who provide trading 	<p>keeping/paperwork (see suggestion under Issue/Challenge 3.2)</p> <ul style="list-style-type: none"> Very few licensees of any level or from any geographic region recommended a cap on transaction volumes overseen by a managing broker. <p>Managing brokers suggested:</p> <ul style="list-style-type: none"> A small percentage of managing brokers in the lower mainland suggested that managing brokers should not be actively providing trading services in order to be more available to licensees under their supervision. <p>Representatives and associate brokers suggested:</p> <ul style="list-style-type: none"> Managing brokers should no longer be able to provide trading services to free up their time to provide support, training and contract reviews. This suggestion came primarily from representatives and associates in Northern BC and Vancouver Island and the Gulf Islands, with small percentages from the BC Interior and the Lower Mainland. <p>Licensees of all levels suggested:</p> <ul style="list-style-type: none"> Licensees would benefit from

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
	<p>services are often not in the office / not available to supervise and train related licensees</p> <ul style="list-style-type: none"> • Potential for non-compliance with new agency rules where there is a lack of understanding of designated agency and what to do when a managing broker and a related licensee represent different parties in the same transaction • Perception that managing brokers are competitors, creating distrust and hostility among related licensees, including concerns that managing brokers may use their access to shared computer databases to improperly obtain confidential client information 	<p>greater education (e.g. privacy, ethics, agency). Stronger ethics education was recognized predominately by managing brokers from the BC Interior and Vancouver Island and the Gulf Islands, as well as representatives and associate brokers from the Lower Mainland.</p>
1.4 Licensee incentives reward sales volume over ethical conduct	<p>Managing brokers commented:</p> <ul style="list-style-type: none"> • Commission structures and industry awards systems focus almost exclusively on volume and not proper, ethical conduct • Awards (including the medallion system) reward double ending, incentivizing licensees to encourage consumers to be unrepresented 	<p>Managing brokers suggested:</p> <ul style="list-style-type: none"> • Brokerages should be audited annually by the regulator and compliant brokerages publicly recognized

Theme #2: Teams

Introduction

The [*Real Estate Rules*](#) made under the *Real Estate Services Act*, which set the standards of conduct for licensed real estate professionals in British Columbia, makes a single reference to “teams” in section 4-6 (5), which provides that:

If the council approves a team name for a group of related licensees, real estate advertising may also identify the group by this team name.

In practice, “teams” are more than an advertising vehicle. Regardless of whether the brokerage for which they work practices designated agency, team members act collectively as the designated agents for all of the team members’ clients. Among the benefits of teams for licensees are the ability to share certain costs (e.g. of advertising), increase overall work-life balance and distribute workload more evenly among members. They also provide a means for licensees to work together to accumulate points toward industry-based recognition and rewards programs.

Overall, 21.5% of licensees who responded to the survey indicated that they are members of teams. However, there are important regional differences in the prevalence of teams, with membership ranging from a low of 11% among licensee respondents in Northern BC to a high of 23.3% among licensee respondents from Vancouver Island and the Gulf Islands.

The survey included one open-ended question regarding the supervision of teams that was posed as part of the managing broker survey. In addition, a small number of representatives identified issues related to teams when answering general open-ended questions about issues and challenges.

Summary of Feedback

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
2.1 Managing brokers may face additional challenges to ensure regulatory compliance when supervising teams	Managing brokers commented: <ul style="list-style-type: none"> Team leaders may be supervising team members; this can be positive (delegation of duties by the managing broker) or negative (competes with managing broker for authority) Presence (or absence) of strong brokerage practices regarding supervision (e.g. training, communication) has a significant influence on regulatory compliance Managing brokers have no formal say in the creation of a team (e.g. agree to supervise them) or its membership Team leaders may disregard managing brokers' advice regarding business practices but still expect managing brokers to resolve consumer complaints and intra-team disputes Large teams may use their sales volume as a tool to gain concessions from the brokerage/managing broker 	Managing brokers suggested: <ul style="list-style-type: none"> Increase regulation of teams to: <ul style="list-style-type: none"> require team leaders to be licensed as associates or managing brokers abolish team leaders create a requirement to inform managing brokers about the creation of a team or changes to membership, or require managing brokers to consent to the creation of a team and changes to membership Prohibit teams
2.2 Large teams may operate as a "mini brokerage," creating confusion	Managing brokers commented: <ul style="list-style-type: none"> Consumers may be confused when interacting with large teams which may "look" like 	Managing brokers suggested: <ul style="list-style-type: none"> Require teams to work at the same premises as the brokerage Prohibit teams

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
among licensees and consumers	<p>legitimate brokerages (e.g. separate premises, team branding and marketing, own website)</p> <ul style="list-style-type: none"> Team members may consider the team leader to be their boss and look to them for guidance, reducing the influence of the managing broker 	<ul style="list-style-type: none"> Require managing brokers to consent to a team operating at separate premises Consumer education needed on what to expect when working with a team of licensees (e.g. privacy, ethics, agency)
2.3 There may be a lack of understanding among team members of how to comply with their duties to clients when acting collectively as a designated agent	<p>Managing brokers commented:</p> <ul style="list-style-type: none"> It is not well understood that as a team, all the team members are considered the designated agents for the team's clients. Prohibition on dual agency is driving changes to teams' business models and practices 	<p>Managing brokers suggested:</p> <ul style="list-style-type: none"> Allow teams to provide services by designated agency (e.g. allow one team member to represent a buyer and a different member of the same team to represent the seller in the same transaction) Greater regulatory guidance to licensees who are members of a team (e.g. agency, advertising, Council vs. Board requirements)

Theme #3: Liability and Regulatory Compliance

Introduction

In 2016, the maximum discipline penalty amounts the Council could impose under the *Real Estate Services Act* were amended as follows:

Former	Current	Who Discipline Penalty Applies to
Between \$0 and \$10,000	Between \$0 and \$250,000	Individual licensees or former individual licensees: <ul style="list-style-type: none">- managing brokers- associate brokers- representatives (all license categories – rental property, strata, and trading)
Between \$0 and \$20,000	Between \$0 and \$500,000	Brokerages or former brokerages

Survey comments under this theme most frequently related to who is responsible for misconduct and, as a result, who should be liable to pay any discipline penalty imposed by the Council for non-compliance. Comments discussed the processes, focus and approach used by Council in responding to complaints and imposing discipline. To increase the transparency of discipline procedures, Council has published [Complaints and Discipline Procedures](#) as well as [Sanctions Guidelines](#).

Respondents also made suggestions related to Council's audit program. Council is broadening the focus of audits beyond brokerage financial records and trust funds to include increased focus on licensee conduct.

Survey comments under this theme also relate to the difficulties of licensees to remain compliant not only with the regulatory regime under the *Real Estate Services Act*, but also regulatory requirements imposed by other provincial and federal enactments.

Summary of Feedback

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
3.1 Managing brokers are subject to excessive vicarious liability while having limited control over licensees' or brokerage owners' conduct	<p>Licensees from all levels commented:</p> <ul style="list-style-type: none"> The degree of liability on managing brokers deters licensees from taking on the role, contributing to an aging and dwindling cohort of managing brokers <p>Managing brokers commented:</p> <ul style="list-style-type: none"> Managing brokers pay is disproportionately low compared to their professional liability When managing brokers attempt to enforce regulatory requirements, licensees can easily transfer their licence (and their business) to another brokerage with less effective oversight <p>Representatives and associate brokers commented:</p> <ul style="list-style-type: none"> Brokerages and managing brokers are indemnifying themselves against vicarious liability by downloading it to licensees through contractual terms 	<p>Managing brokers suggested:</p> <ul style="list-style-type: none"> Representatives and Associate Brokers should be responsible for their own misconduct (primarily suggested by managing brokers in the Lower Mainland) Liability on managing brokers should be reduced, or adopt a nuanced approach to their liability and consider whether the managing broker did everything they could reasonably do to prevent the misconduct (primarily suggested by managing brokers from Vancouver Island and the Gulf Islands) Indemnification against vicarious liability (e.g. by brokerage or through group liability insurance) Increased compensation for managing brokers (primarily suggested by managing brokers from the Lower Mainland followed by Vancouver Island and the Gulf Islands) Impose limitations or restrictions on who can become a brokerage owner (e.g. must be a licensee and/or have a certain level of education) <p>Representatives and associate brokers suggested:</p> <ul style="list-style-type: none"> Move to a single licensing model where all licensees are responsible for

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
		<p>themselves; they may hire individuals to provide operational assistance and support. The managing broker and associate broker levels of licences would be removed from the regulatory framework. Under a single licensing model trust accounts could be handled by Notaries, Lawyers, the Real Estate Foundation or the creation of escrow firms (the shift to a single licensing model would require significant legislative amendments)</p>
<p>3.2 Managing brokers face an increasingly complex and broad range of regulatory compliance requirements</p>	<p>Managing brokers commented:</p> <ul style="list-style-type: none"> • Concern about facing harsh punishment (e.g. significant financial penalties, licence suspension or cancellation) for honest or minor mistakes • Managing brokers struggle to balance heavy workloads imposed by the various regulatory regimes that apply to real estate • Brokerages require more staff and/or the services of additional professionals to meet their regulatory duties, resulting in increased costs <p>Licensees from all levels commented:</p> <ul style="list-style-type: none"> • The emphasis on paperwork prevents managing brokers from 	<p>Licensees from all levels suggested:</p> <ul style="list-style-type: none"> • Streamline the work of all licensees to reduce the amount of paperwork required for managing brokers to review. Simplify processes and forms required under various regulatory regimes (e.g. RESA, FINTRAC)

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
<p>3.3 Licensees want regulators to be more effective at addressing misconduct</p>	<p>effectively performing their other management duties for the brokerage</p> <ul style="list-style-type: none"> Managing brokers may overlook important issues that are not evident in paperwork <p>Licensees from all levels commented:</p> <ul style="list-style-type: none"> Warning letters and small fines are simply a slap on the wrist or the cost of doing business and not effective to deter unethical conduct that harms the industry's reputation The majority of licensees are ethical Negative public perceptions of the real estate industry are, in part, the result of the regulator not being seen to have adequately and proactively addressed widely-reported instances of misconduct by a small number of licensees 	<p>Licensees from all levels suggested:</p> <ul style="list-style-type: none"> Increase penalties to be meaningful. Greater sanctions for licensees which are found to have committed serious misconduct that would harm the reputation of the industry if perpetuated. Revocation of licences should be more commonplace in situations of serious misconduct and repeated instances of unethical behaviour <p>Managing brokers suggested:</p> <ul style="list-style-type: none"> Publish guidance on how sanctions will be applied so licensees can know what to expect if they commit misconduct and the value of proper conduct

Theme #4: Pre-Licensing Education & Qualifications

Introduction

In order to be licensed as a real estate professional in BC, applicants must satisfy the qualification requirements set out in [section 10](#) of the *Real Estate Services Act*, including considerations related to age, reputation and previous professional licensing and discipline history in BC and/or other Canadian jurisdictions.

Additional qualification requirements are established in the *Real Estate Rules* and the Council's bylaws and policies. Generally, in order to become licensed as a representative, an applicant must:

- demonstrate proficiency in English,
- successfully complete a licensing course,
- successfully complete a licensing examination, and
- for applicants for a trading services licence, successfully complete an applied practice course. This requirement may be satisfied while the applicant holds a temporary license.

In order to become licensed as a managing or associate broker, an applicant must also:

- successfully complete the brokers licensing course, and
- demonstrate sufficient experience (e.g. have been licensed as a representative for two of the last five years in BC)

The Council has recently increased the requirements to obtain a licence by increasing the minimum standard on the licensing course to 70% (from 65%) and introducing a new, more stringent English language proficiency requirement for new licensees, which is now included in the Rules.

Summary of Feedback

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
4.1 Pre-licensing education insufficiently prepares representatives for their duties	Licenseses from all levels commented: <ul style="list-style-type: none"> • Licensees are unprepared and do not know enough about the regulatory framework or how to apply it when they start, leaving a significant amount of education and training on the shoulders of the managing broker, who already has competing priorities. As a result, poorly educated licensees may make mistakes, give poor advice to clients, or prepare bad contracts that put their clients at risk • Other gaps in licensee education include practical aspects of trading services (e.g. sales techniques, marketing, generating leads) • Managing brokers who are too busy may not be able to train new licensees, leaving them to fend for themselves / figure it out on their own • Concern about weak English language proficiency levels among recent licensees 	Licenseses from all levels suggested: <ul style="list-style-type: none"> • Higher entry requirements to obtain a license, such as a longer licensing course, requiring applicants to obtain a 2 year diploma in real estate services, or requiring that an applicant have a certain number of years of post-secondary education prior to applying for the licensing course • Conduct screening interview of applicants by experienced licensees (e.g. a managing broker) • Impose additional requirements on new licensees to ensure adequate training, development of ethical practices and regulatory knowledge through the development of a graduated licensing or practicum or apprenticeship program
4.2 Pre-licensing education insufficiently prepares managing brokers for their	Licenseses from all levels commented: <ul style="list-style-type: none"> • Prospective managing brokers should be required to develop strong industry knowledge through 	Licenseses from all levels suggested: <ul style="list-style-type: none"> • Higher entry requirements to obtain a managing broker's licence, such as a longer licensing course or higher number of years of industry experience

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
duties	<p>extensive experience prior to licensing</p> <p>Managing brokers commented:</p> <ul style="list-style-type: none"> Newly licensed managing brokers are not adequately equipped to fulfill their day to day regulatory duties Managing brokers require well balanced training that includes regulatory knowledge, business acumen as well as soft skills (e.g. leadership, management, communication and interpersonal skills) Managing broker pre-licensing and education requirements do not adequately equip them to work in an increasingly legalistic industry 	<p>(e.g. 5 years instead of 2 years), in addition to the higher entry requirements for representatives described above</p> <p>Managing brokers suggested:</p> <ul style="list-style-type: none"> Consider implementing an applied practice course or structured apprenticeship / mentoring program for prospective managing brokers
4.3 Concern about the existence of cheating or learning avoidance schemes in pre-licensing education	<p>Licensees from all levels commented:</p> <ul style="list-style-type: none"> Licensees learn how to pass the licensing exam without learning anything Perceived weak identification verification standards in education reflect poorly on the industry 	<p>Managing brokers suggested:</p> <ul style="list-style-type: none"> Exam that includes short answer questions and education courses that reward more than attendance <p>Representative and associate brokers suggested:</p> <ul style="list-style-type: none"> Stringent security controls for identification of course attendees and test takers. Requirements beyond an online exam

Theme #5: Continuing Education & Professional Development

Introduction

Licensees must complete continuing education and professional development activities in order to maintain their licence.

The Council's relicensing education program requires all licensees to complete a legal update course within each two-year license renewal cycle. The Council also recently introduced a bylaw that requires licensees to complete additional mandatory courses from time to time as required by the Council prior to being re-licensed. For example, this type of requirement could be used to require licensees to undertake educational upgrading when significant regulatory changes are introduced.

Industry associations may also have professional development requirements as a condition of membership. These requirements are separate from the Council's relicensing education program and are not part of the regulatory framework.

Summary of Feedback

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
5.1 Continuing education offerings for managing brokers are not sufficiently targeted to their unique role and duties	<p>Representatives and associate brokers commented:</p> <ul style="list-style-type: none"> Managing brokers may not have sufficient or current knowledge of the regulatory framework to guide and advise related licensees Representatives may lose confidence in the managing broker's guidance <p>Managing brokers commented:</p> <ul style="list-style-type: none"> Managing brokers receive the same information as other licensees and are left to their own devices to figure out how to apply it to their unique role Representatives may be left to find their own way when the managing broker cannot answer their questions 	<p>Managing brokers suggested:</p> <ul style="list-style-type: none"> Create specialized education for managing brokers, accounting for differences in issues related to category of license and geographic area Develop better resources and reference materials specifically for managing brokers
5.2 Brokerages may not provide sufficient on-going training to related licensees to ensure that they understand and comply with regulatory requirements. Similarly, brokerages do not have capacity to educate consumers about the regulatory framework	<p>Licensees from all levels commented:</p> <ul style="list-style-type: none"> Managing brokers do not have sufficient time to provide on-going continuing education / professional development opportunities at the brokerage level Consumers are unaware of what to expect from a licensee and the risks posed by engaging a 	<p>Licensees from all levels suggested:</p> <ul style="list-style-type: none"> Improve resources available to all licensees, ideally in a single, easy to use location and promote awareness of that resource Increase public education on what to expect in a real estate transaction and the role and duties of licensees

Issues/Challenges	Identified Impacts and Risks	Respondent's Potential Solutions
and how to avoid risky situations	<p>licensee who is non-compliant or out of their depth, or by being unrepresented (e.g. For Sale By Owner)</p>	<p>Representatives and associate brokers suggested:</p> <ul style="list-style-type: none"> Attendance at brokerage training meetings, especially related to any new rules, should be mandatory at prescribed intervals
5.3 Concern about the existence of cheating or learning avoidance schemes in continuing education and professional development	<p>Licensees from all levels commented:</p> <ul style="list-style-type: none"> Licensees earn credits for continuing education by mere attending courses, regardless of whether they actually learned the course content Weak standards in continuing education reflect poorly on the industry 	<p>Licensees from all levels suggested:</p> <ul style="list-style-type: none"> Consider adding tests to ongoing education courses to ensure learning and not mere attendance; consider ways to include identity verification

Additional Themes Relevant to Rental Property Management, Strata Management or Commercial Trading Services

Introduction

As previously noted, the themes identified through the survey predominantly relate to trading services licensees, who represented the majority of survey respondents.

In order to help ensure adequate consideration of issues and challenges relevant to all categories of real estate services, the following summary of themes related to rental property management, strata management and commercial trading services have been developed based on what we heard through the survey as well as feedback that OSRE has received through other general correspondence with licensees and industry stakeholders.

Summary of Feedback

Issues/Challenges	Identified Impacts and Risks	Potential Solutions
6.1 Limited support and resources (e.g. specialized knowledge, timely guidance, standardized forms) for licensees who provide real estate services other than residential trading services	Licensees commented: <ul style="list-style-type: none"> When timely guidance and resources are unavailable, licensees are more likely to inadvertently provide consumers with inaccurate advice or information 	Licensees suggested: <ul style="list-style-type: none"> Develop specialized resource material specifically for licensees who practice in the areas of strata, rental and commercial Council professional standards advisors who specialize in commercial trading services, rental property management and strata management
6.2 Current regulatory framework does not reflect the business practices used in commercial trading services	Licensees commented: <ul style="list-style-type: none"> Inappropriate restrictions and regulation of commercial services lead to impractical and undesirable results 	Licensees suggested: <ul style="list-style-type: none"> Amend regulatory framework to create a commercial license category Review regulatory framework with a commercial lens, in consultation with commercial licensees, and determine which provisions should or should not apply to commercial transactions Create a recognition in the regulatory regime for commercial trading services that are provided to "sophisticated" clients
6.3 Shortage of qualified strata licensees increases workload for everyone	Licensees commented: <ul style="list-style-type: none"> Increased likelihood of mistakes Poor records keeping practices by some strata firms 	Licensees suggested: <ul style="list-style-type: none"> Encourage members of the public to consider a career as a strata management licensee Create a two-tiered strata licensing system, that allows unlicensed

Issues/Challenges	Identified Impacts and Risks	Potential Solutions
		individuals who are following the licensing course to perform some duties
6.4 Inadequate consumer disclosures (e.g. representation, remuneration) in rental property and strata management	Licensees commented: <ul style="list-style-type: none"> Regulatory regime seen as irrelevant and not being followed by some firms 	Licensees suggested: <ul style="list-style-type: none"> Revise and develop forms and rules specifically for rental property and strata management Enforce existing requirements for consumer disclosures
6.5 Strata managers are regularly put in situations involving conflicts of interest and/or where they do not have the proper expertise to perform a task requested by strata council clients	Licensees commented: <ul style="list-style-type: none"> Increased stress and workload on strata licensees Conflict with strata council clients who may expect strata managers to act outside of their scope of duties Inadequate disclosures to clients 	Licensees suggested: <ul style="list-style-type: none"> Develop rules that prohibit a strata manager from: <ul style="list-style-type: none"> acting as a strata building caretaker acting as a supervisor of contractors and tradespeople on behalf of strata clients having an interest in a strata restoration company Develop rules that limit the amount a strata manager can receive on the wind-up of a strata corporation
6.6 Lack of applied practice course for rental property and strata management	Licensees commented: <ul style="list-style-type: none"> Licensees are inadequately prepared for providing rental property and strata management services and are forced to rely heavily on other licensees, including their managing brokers, who may not have time or who may have outdated understanding of a licensee's obligations 	Licensees suggested: <ul style="list-style-type: none"> Develop an applied practice course for rental property and strata management Rental property management course should have a greater focus on: move-in/move-out procedures, liability of tenancy applications, court procedures, Residential Tenancy Branch hearings, and a

Issues/Challenges	Identified Impacts and Risks	Potential Solutions
		reduced emphasis on the ownership of land
6.7 Council rules and advice with respect to rental property management may conflict with tenancy rules	Licensees commented: <ul style="list-style-type: none"> Perceived increased risk and liability for rental property management licensees when they must attempt to reconcile conflicting regulatory requirements 	Licensees suggested: <ul style="list-style-type: none"> Review regulatory framework, including interaction with legal requirements under all enactments related to tenancies (e.g. <i>Residential Tenancy Act</i>), with a rental property management lens and ensure there is consistency between obligations, processes and advice

Preliminary Observations

Below are some preliminary observations for each key theme based on the feedback received from the survey. These themes will be further explored in the upcoming regional engagement sessions to be held with managing brokers in the fall of 2018.

Supervision:

- Most representatives and associates want more supervision and training from their managing brokers
- Managing brokers do not have sufficient time or incentive to provide the desired/required level of guidance and accessibility/mentorship
- On average, managing brokers allocate approximately 40% of their working hours to supervision of brokerage staff
- On average, managing brokers would like to be able to spend more time on business development, followed by supervision of brokerage staff

Teams:

- Teams have evolved from an advertising vehicle into more sophisticated sales and marketing vehicles
- There are significant gaps in the regulatory framework regarding teams (e.g. limited contemplation in regulatory framework except as an advertising vehicle, limited best practices guidance in the Professional Standards Manual/Brokerage Standards Manual, no specific education or qualification requirements for leaders or team members)
- Managing brokers desire improvements to regulators' processes related to teams (e.g. changes to forms and processes for creating teams and/or recording membership changes)

Liability and Regulatory Compliance:

- Licensees want swift and decisive action by the Council against licensees who commit misconduct, and for more licences to be revoked in cases of serious misconduct, such as fraud
- Managing brokers would like to see a nuanced approach to how liability is assigned to managing brokers in cases where other licensees have engaged in misconduct

Pre- and Post-Licensing Education and Qualifications:

- There is general consensus among respondents that education and licensing requirements should be re-examined with an eye to generally increasing requirements

(Note: The Council is currently undertaking a review of licensing education that may address some of the issues and challenges identified through the survey)

Useful Links

Additional information about the project can be found on OSRE's website:

<https://www2.gov.bc.ca/gov/content/housing-tenancy/real-estate-bc/consultations/managing-brokers>

Questions or comments on the project can be sent to:

Office of the Superintendent of Real Estate

Suite 2800 - 555 West Hastings

Vancouver, BC V6B 4N6

Email: OSREpolicy@gov.bc.ca

Web: www.gov.bc.ca/osre

About Us

The Office of the Superintendent of Real Estate (OSRE) is a regulatory agency of the BC government that is mandated to protect the public interest and prevent harm to real estate consumers. OSRE provides oversight and regulation of the real estate industry in BC, pursuant to the *Real Estate Services Act*, *Real Estate Development Marketing Act* and *Strata Property Act*. Under the *Real Estate Services Act*, the Superintendent of Real Estate may oversee and direct the Real Estate Council of British Columbia and establish professional conduct requirements for real estate licensees through the *Real Estate Rules*. OSRE is also responsible for regulating the marketing of multi-unit development properties, such as condos and townhouses, and investigates allegations of unlicensed real estate activity in BC. Additional information about OSRE is available at www.gov.bc.ca/osre.

The Real Estate Council of British Columbia is a consumer protection agency responsible for enforcing the *Real Estate Services Act* and related *Real Estate Rules*. The Real Estate Council sets and enforces standards of conduct, education, competency and licensing for real estate licensees and is comprised of up to 16 individuals publicly appointed by the BC government. Additional information about the Real Estate Council is available at www.recbc.ca.

The Ministry of Finance plays a key role in establishing, implementing and reviewing government's economic, fiscal, financial management and taxation policies. The Ministry's key responsibilities include policy development, regulation and enforcement for specific sectors including real estate services. As part of this function, the Ministry is responsible for the legislation that regulates the real estate services sector, including the *Real Estate Services Act*.